

Legislative Assembly of Alberta

Title: Monday, April 20, 1998 8:00 p.m.
Date: 98/04/20
 [Mrs. Gordon in the chair]

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

THE DEPUTY CHAIRMAN: I'd like to call the committee to order.

Bill 25 Justice Statutes Amendment Act, 1998

THE DEPUTY CHAIRMAN: At the table we do have a set of amendments deemed A1. Would the Minister of Justice like to start?

MR. HAVELOCK: Yes. Thank you, Madam Chairman. I appreciate that the opposition may wish to make some comments, but hopefully after their comments are made, we can simply vote on them as a package. However, I would like to bring the House up to date on the discussions that we've had with the judiciary, because there were concerns raised that there had not been sufficient consultation and also that they had some outstanding concerns.

We requested comments from all three levels of court: Court of Appeal, Court of Queen's Bench, and the Provincial Court. From the Court of Appeal no comments were received, Madam Chairman, so I have to assume that there weren't any outstanding issues.

The Chief Justice for the Court of Queen's Bench expressed two concerns. One was that masters compensation was no longer fixed by statute to be the same as Provincial Court judges. However, Madam Chairman, our legal advice is that we need to set up separate commissions for the three levels of court, being Provincial Court, the judges, and the masters and the JPs. So we weren't able to simply put into the legislation or have remain in the legislation provision that tied it to Provincial Court judges' salaries. However, the department has undertaken and advised the Chief Justice that we will support that the salary be the same for masters as for Provincial Court judges at the preliminary application stage and, if necessary, at the compensation hearing.

The other concern which was raised was whether the current masters were affected by the retirement age at 70 provision to coincide with the Provincial Court judges. That's part of the changes. Our legal advice is that the bill will only apply to masters appointed under the new provisions. So those who are presently appointed can serve until voluntary retirement or I guess their death.

The Provincial Court level. Mr. Pagano, one of our department employees, met with the Chief Judge in April. At that meeting the Chief Judge indicated that no further changes were required. That did not mean that the Chief Judge at the provincial level agreed with all the provisions. Simply he felt that he had gained as many concessions as possible and was willing to live with the act as it was.

The issues which he outlined as still being a concern. He opposed term appointments for JPs. However, the act simply retains what has always been a term appointment for JPs. The Chief Judge wanted the compensation commission agreement, which we negotiated prior to the tabling of Bill 25, to be in the act though our view is that it's not necessary because it's a legally

binding document. The Chief Judge also wanted to be able to change a judge's residence based on his own decision. We, however, went with the provision where the Chief Judge would recommend to the Judicial Council for their consideration that a particular residence of a judge be changed. We felt that was more transparent and objective and again maintained judicial independence.

The final issue he raised was that the Chief Judge did not want the report of the judicial inquiry regarding the investigation of a complaint against a judge to be public. Our view was that this would impair the transparency and credibility of the complaint process; therefore the provisions require that it be public.

Also, Madam Chairman, what I'd like to do if it's appropriate is to table five copies of a couple of letters that I received. One is from the Law Society, Peter Freeman, secretary. I will just quote a brief passage in here.

We have reviewed the attachments to your letter and have no further concerns other than provisions concerning non-renewable terms for justices of the peace.

I received a letter from the Canadian Bar Association, Mr. Jim Bancroft. It basically states:

In discussions that I have had with various members of the judiciary it is my information that they are generally in favour of the changes that are being proposed.

Then he goes on to state, "My general sense is that the proposed changes substantially alleviate our earlier concerns."

Therefore, Madam Chairman, I believe that there has now been sufficient opportunity for input from the judiciary, the legal profession, including both the Law Society and the CBA, with respect to the proposed amendments. While the Chief Judge at the provincial level does not agree with all the changes we are making, nevertheless again he has indicated that he is prepared to live with the act as amended. Hopefully those introductory comments alleviate some of the concerns which the opposition members have had.

I'd also like to point out that the opposition has been very much involved in some of the amendments that have been put forward, and in fact I believe they had direct input and supported five of the amendments. The judiciary were involved with 13 of the amendments, the legal profession two, and the department six. There are also a number of consequential amendments flowing from some of the substantive changes which we have made to the bill.

So with those introductory remarks, I am hopeful that we can pass this through Committee of the Whole this evening. We need to keep in mind, Madam Chairman, that we are required to put these changes into the act this session because the Supreme Court decision in Wickman indicated that we had to make these changes no later than September 18. Therefore, we are faced with some legal, some practical, and some time constraints. I would certainly welcome any comments from the opposition, and hopefully we can move forward.

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

MS OLSEN: Thank you, Madam Chairman. I just want to be reassured that this is all one amendment, A1.

THE DEPUTY CHAIRMAN: The last sitting day that we dealt with this, we deemed it amendment A1 as a package.

MS OLSEN: Okay. And that didn't include specific amendments being handed out. This is it; right? Okay. Fine.

I would like to take this opportunity just to comment on a number of the changes that we had requested given the review of this bill and the reason for the amendments being that there was not adequate consultation. That then indeed required certainly 14 pages of amendments coming in between the requests that we made and requests of different members of the legal community and, as you've heard, the Chief Judge. I will, however, say that the ADM from the Department of Justice worked with us, along with legislative analyst, Peter Pagano, and we really appreciated their co-operation in working towards achieving a much better bill, a bill that is going to be able to reflect the consultation that has now occurred. Certainly a number of folks have now made some positive comments.

Now, we haven't satisfied everybody's needs, and certainly that's not going to happen with this amendment. By the sounds of it, the minister is not prepared to move on a couple of things, that being the term limits for a justice of the peace and that those justices will have to abide by a 10-year hiring and nonrenewable term.

I am concerned, and I would like if the minister could tell us why we will not have in statutes that masters that are existing now are grandfathered under this legislation, because that's important.

The other thing was the issue of the salary remaining the same as a Provincial Court judge, and I'm just wondering why. You know, if that documentation, a letter or the agreement, could be tabled in the Legislature as well in relation to the masters not having their salaries fixed by statute and the minister's comments that they will support that salary remaining the same as Provincial Court judges, that would be helpful. I would appreciate the tabling of some documentation in relation to that.

8:10

Our concern in relation to the amendment that's been set out under – and I'm going to go to page 1, Bill 25, the left-hand column: “The Court of Queen's Bench Act is amended by this section.” That's section 1(1). We had requested that the minister remove the issue regarding the code of ethics and put that back in perspective. What was there is:

The Lieutenant Governor in Council

(a) may make regulations respecting conflicts of interest and a code of ethics for masters in chambers.

We indeed wanted that section to be left as it stood, and the change is satisfactory.

The Lieutenant Governor in Council shall make regulations respecting the remuneration and benefits to be paid to masters . . .

and that this indeed be part of what the Judicial Council was involved with.

Our next concern of course was under 32.2(1), and that was our biggest concern, that concern being that as it stood, the judicial councils established under section 1 consist of persons appointed in accordance with the regulations. That was a problem, and I'm satisfied with the amendment that's here. It's actually an amendment that we fully supported, and that was because, you know, a justice may be appointed and a judge sit on a council involving a JP, and certainly we wanted to ensure that we went back to looking at who the council consists of and that it was very clear where the lines were. Under section 32.2(1) we're happy to see that that's back in the legislation. The bill had deleted this section, and we wanted this in statute. That was a satisfactory amendment to us as well.

There are a number of other amendments in here. Very important was section 32.4(1).

Where a complaint is referred for a judicial inquiry, the Lieutenant Governor in Council shall establish a judicial inquiry board consisting of one or more judges of any court in Alberta or may, if it is in the public interest to do so, appoint one or more judges from any other court.

Again, we felt that could be construed possibly as interference from the minister in relation to judges in this particular section, so it was really to ensure the independence of the inquiry that would occur under this section. So we're satisfied with that.

Certainly the consequential amendments are made: “appropriate judicial council” now changed to “Judicial Council.”

Then we requested under compensation commissions, section 6.2, a limit in this particular section, and that's been achieved. Again, the Justice of the Peace Act amendment on this, 3(1) and then 3(2): certainly we expressed concern for membership on this committee being set by regulation, and again we are very concerned about the issue of regulations being used to sort of circumvent other processes. So we're happy to see that amendment go in.

Now I've heard some discussion in relation to, certainly as we discussed earlier, the age limit and clearly would like to see that in statute. I don't know why, again in relation to the grandfathering, we wouldn't put that there.

Some members expressed concern under section 2.3(1) on page 9 of the minister's table of concordance about this particular section creating a new level of court. That's been a fairly contentious issue, and I've had a number of lawyers call in relation to that. There's still some concern that because things can be set out in regulations – and I realize they have in the past – this still may occur. So it would be, I think, appropriate, before regulations are brought into force under this act, that the minister consult with the appropriate people.

On page 10 of this amendment package we wanted the Judicial Council to set the conflict of interest and code of conduct. That was important to us again, because we want to see the independence here. Again the Judicial Council is important and not something that we should be leaving to the minister or regulation. So we're happy that that one's in there.

Of course this particular section, section 6, is repealed by section 6.3. There's an error in that particular section, and we're glad to see that the minister put that in there, again another amendment reflecting an error that was in the drafting apparently.

We move to page 12 of these amendments. We were concerned about section 7(a)(ii)(f.1), “respecting the establishment of a nominating committee.” A nominating committee was to be set by regs. We wanted in the statute not by regs. Now the Judicial Council will handle the function of the nominating committee. We're happy with that particular point as well. We have to remove any potential interference or what could be perceived to be interference out and away from the minister for his own good just so nobody, you know, misinterprets his good intentions with all of this. So that's a safety factor for the minister there.

Madam Chairman, there are a number of amendments to this particular act. Given that we have to bring in a number of amendments – well, they almost are as bulky as the actual bill. Those amendments were certainly in relation to the independence of the courts' judicial compensation. I don't see any amendments to the compensation issue. However, I'm satisfied, with the co-operation that we have undertaken and as I had sent a letter to the Minister of Justice today asking him to table those documents that would assure us that those members from the three levels of court were satisfied, that we now have had adequate consultation.

8:20

I certainly hope that we don't have to go through another session where we've got as many amendments to a bill as we do to the bill itself. I think the other aspect of that is that we must consult those people on these particular issues that we're dealing with that this affects and impacts. You know, we've gone through the bill numerous times, and I'm satisfied that the amendments that exist that have been put forward at this point will satisfy for the most part the issues brought forward by the legal profession, by ourselves, by the judges.

I'll leave off with the amendments, and anybody else who wants to speak to those amendments may.

THE DEPUTY CHAIRMAN: The hon. Minister of Justice.

MR. HAVELOCK: Thank you, Madam Chairman. I appreciate the comments from the hon. Member for Edmonton-Norwood. I'd just like to respond a little bit with respect to the consultation issue. Briefly, I'd like to go through what the chronology was with respect to the Wickman decision. We need to recall that on September 18 of last year the Supreme Court of Canada rendered its decision on Wickman. The case essentially decided three primary items: government could set salaries only after review every three to five years by a Judicial Compensation Commission; the Provincial Court must control its sittings, not the government; and Provincial Court judges may not be removed except for cause and only after an inquiry by an independent body. Those were three of the key recommendations arising from that decision.

When the decision came out, Madam Chairman, the primary focus of the parties – and that includes the judiciary – was to clarify the initial ruling and to establish the compensation commission. There was a lack of clarity with respect to the first decision which came out in September, and that ruling was not clarified until February 10 of 1998. Discussions pertaining to the establishment of the compensation commission commenced in early October of '97 and finally concluded with the signing of an agreement on March 3 of '98. The commission's final report is expected on June 19, '98. That commission was recently appointed. We should not forget that such discussions impacted the drafting of Bill 25, and that led to one of the delays in us getting it before the House.

Second, Madam Chairman, there was a challenge to the authority of JPs launched in Calgary on January 13 of 1998, and that also required a substantial redrafting of the bill. Finally, due to the Supreme Court direction that the compensation commission report prior to September 18, we did not have the luxury of entering into a lengthy preconsultation phase. There are a number of reasons for that. The legislation had to be introduced by early March to allow sufficient time for passage. There had been some consultation prior to introduction, as noted earlier, with respect to the commission. Due to time constraints the legislation was originally drafted to ensure compliance with the Supreme Court ruling through regulation while allowing for further consultation. After discussing the matter with members of the judiciary, they indicated quite clearly a preference to have a number of the provisions which would be dealt with through regulation instead dealt with through legislation, so we introduced those changes. Quite frankly, input from all interested parties was invited and acted upon through the introduction of amendments in this House on April 8, and those are the amendments we're debating right now.

Thus, Madam Chairman, I certainly would have preferred a

lengthy consultation process before introduction of the bill. The difficulty is that due to legal, time, and practical constraints, it just wasn't possible. Nevertheless, I believe we have responded with diligence to the concerns raised, and hopefully that will alleviate some of the concern with respect to why there wasn't extensive consultation beforehand. Plus I would also suggest, having served as Minister of Justice for a year now, that I find that when you're trying to define things with lawyers, for example, unless there is something in writing before you, it makes it very difficult to move the item forward. So if nothing else the tabling of the bill generated discussion. We did receive the input, and again I think we've reacted quite favourably to most of it. The opposition party certainly helped, quite frankly, in making this a better bill.

The bottom line is whether there is enough consultation. Preintroduction or postintroduction doesn't really matter to me. The key is whether or not we wind up with a good piece of legislation, and I think we have with these amendments.

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

MS CARLSON: Thank you, Madam Chairman. I'm happy to rise and speak to these amendments. I have a few problems with what the Minister of Justice has just said. I think it does matter to everyone if you bring in a flawed piece of legislation and have to do all kinds of consultation and bring forward all kinds of amendments prior to it possibly being passed.

As I read these 14 pages of amendments, Madam Chairman, there are 34 different amendments here. I mean, that's practically longer than the original bill is, and we're talking about something as important as the justice statutes. I find it inconceivable that a minister would have the nerve to bring a bill into this House that's this flawed.

You say you didn't have enough time for consultation, and I say that's not a good enough excuse. And it is an excuse. For him to stand here and make a comment that it's difficult to generate discussion amongst lawyers and you need something in writing before them . . .

MR. MITCHELL: All they do is talk.

MS CARLSON: That's exactly right. All they do is talk.

You don't have to have a bill in the House. You could have had a draft piece of legislation that you brought before people for discussion purposes before bringing it to this stage in here. There's no doubt certainly that had the minister given this priority, he had lots of time to bring something in that was a lot less flawed than what this is. If he didn't have enough time to bring it in in this sitting in the spring, I suggest, Madam Chairman, that we could have come back here in August so that he could have met his September deadline. That would have given him all kinds of time. Your colleagues would have really liked you.

MR. HAVELOCK: Yours too.

MS CARLSON: No. We're ready to come back. We're ready to stay here. We could prolong it until August if that's required. That's not a problem.

MR. MITCHELL: We'll stay here until Jon gets something right, and that will be forever.

MS CARLSON: There you go. I'll tell you, that's forever. There's no doubt about it. It's going to take a lot longer than August to get there.

He says he would have preferred a lengthy consultation. Madam Chairman, he had lots of opportunity to do that. He had lots of options in terms of not bringing this bill forward right now. Even look at what he's talked about here in trying to defend his actions in having brought forward 34 amendments. He says that there's a final report being commissioned in June and that bringing forward this bill then brought forward lots more discussion which impacted some of the changes. Well, why would you do that? If you're trying to do a good job and if you're trying to economize in terms of time, what you would do is do the right thing first of all. You wouldn't bring in a piece of garbage like this, send it out for discussions, bring in lots of amendments, and then say: oh well, it's good enough to get us through to September.

But we know what's going to happen here. We know that when you bring in 34 amendments in the first instance, we're going to be right back here next spring with the Miscellaneous Amendments Act and you're going to have a whole bunch more amendments to be brought in here.

MR. HAVELOCK: No, we aren't.

MS CARLSON: Yes, you will. He's saying that's not going to happen. I guarantee you're going to have more amendments on this next year.

MR. HAVELOCK: I never want to see this bill again.

MS CARLSON: Well, we're going to see amendments to it. Yeah, we'll never see this bill again, but we're going to see it under another form, miscellaneous amendments.

MR. HAVELOCK: How do you know that?

MS CARLSON: Because I know you, and I know what's going to happen here.

DR. TAYLOR: How well do you know him?

MS CARLSON: Enough to know that he can't bring a good piece of legislation into this House.

THE DEPUTY CHAIRMAN: Hon. member, how about the amendment we have at hand? Can we stick to the amendment deemed A1, please?

MS CARLSON: I am talking about the 34 amendments that are just the prelude to the next set of amendments that we're going to see. For sure I would like the Minister of Justice to guarantee to us in this House that after that final report comes out in June there won't be a single change – a single change – that is required to this act again. He can't do it, Madam Chairman. He can't do it because he knows it isn't true. He knows that this is flawed from beginning to end. There are lots of problems with this bill. That he brings forward 34 amendments that marginally increases the efficiency of the bill . . .

MS OLSEN: He couldn't take it. He had to go.

MS CARLSON: Well, there you go. I can't help it if he can't stand and take it, but that's the way it goes. Then he didn't even

address one of our major concerns, which was what was happening with the justices of the peace. That's for sure probably going to come in in amendments later on, because that will be something, I'm sure, that is addressed in June and, if not then, then by this September deadline that he's got.

8:30

I can't imagine that with the kind of resources he has and the access to legal help – well, maybe I can. Let's just think about what happened the last time he went out for legal help and brought a change into this House that he had to withdraw and eat his words on. So maybe it is true. Maybe he didn't have the ability himself to get the proper kind of background on this bill. Certainly there's got to be somebody over there who could help him out on this, Madam Chairman. He's got a whole committee helping him with it. Certainly one of those people there could have addressed this in the kind of fashion where we would have seen some sort of legislation brought into this House that wasn't completely flawed and where we're not going to be taking a look at more amendments soon down the road.

I'd like to remind this minister of some other instances when we've seen bills before this House where a number of amendments were required. I'd like to remind him about Alice Hanson's bill, the domestic violence bill – I think it was Bill 214 – that was brought in I believe in 1996. That was her bill, and the government side co-operated to some extent in terms of the amendments. After we got up to about 15 amendments, the government suddenly changed their tune and said: way too flat of a bill, way too many amendments; can't pass it; have to bring it back another time completely rewritten. They refused to pass it, Madam Chairman. In fact, it was hoisted by one of the members on the government side, who's with us here this evening, for the very reason that they said it was too flawed because it required too many amendments. Well, it didn't require half the amendments to find a joint piece of ground to work on that this bill has. I would suggest that this bill is equally as important as that other bill was.

No doubt the minister is concerned that what happened to that bill would then happen to his if he withdrew it at this time and brought it back in a redrafted fashion. Here we are still waiting some four years later for the domestic violence bill to be brought forward, Madam Chairman, and it still hasn't been. It's sitting on that Order Paper. It is ready to be passed. We certainly have agreed to what's in that bill. It seems that the government is appearing to have agreed to what's in that bill, yet they don't have the courage to bring it forward on this floor to be passed.

So is that why he's brought in all these amendments here tonight instead of actually withdrawing the bill and redrafting it in a proper fashion? Is he afraid that if he does that, it isn't going to be passed? Is he afraid that we would come back here in August, debate the bill, and not pass it in terms of meeting his deadline in September? Maybe that's the reason why you did it, because you've seen your own government stall a bill in the very same process on a very important issue that came under the mandate of it. [interjection] You don't like that? Well then, stand up and tell us why he brought in such a flawed bill that wasn't properly consulted on and had 34 amendments.

THE DEPUTY CHAIRMAN: I'd just like to see some relevance here. You have mentioned a lengthy amendment. Could we please talk about it?

MS CARLSON: The relevance is 34 amendments, which means

there's a flawed piece of legislation. I was comparing that, which is a very fair thing to do in terms of relevance, to another piece of legislation that came into this House that didn't have nearly as many amendments and was withdrawn on that very basis, on the very basis that it was flawed and with that many amendments couldn't go forward. I would suggest that the Minister of Justice should do the same thing with this bill. Until he can get it right – and that may take forever, Madam Chairman; there's no doubt about it – it should not hit the floor of this Legislature. If that means we have to stay until the September deadline or if that means we have to come back in August, then that's the way it is. He can talk to all of his colleagues about why they've got to cut their summer holidays and come back and address this piece of legislation which his department couldn't properly address in the first place.

Thirty-four amendments is absolutely appalling. There's every kind of change in here that you could possibly mention. Some parts of it have been deleted. If you take a look at page 6, we see some of the amendments in here that have now, on reflection, been found to be not justified, not correct, improper, all kinds of things like that, so they've deleted them. Then we see some amendments in here that add things to the bill. Why? Because they were omitted in the first instance because they didn't give it enough time, didn't give it enough scrutiny, didn't talk about it enough.

Then we see some things that were tightened up, like on page 13, where they've changed things like “may” to “shall.” “The Minister of Justice and Attorney General or a person authorized by the Minister may, on the appointment of a judge”: how is it that he could not know that that isn't the proper wording in this instance, that what he should have said was “shall, on the appointment of a judge”? Even I understand that, and I don't have any kind of legal background at all. How can it be that it went through the Minister of Justice, went through his department, went through all of the people who scrutinized this bill, and still came through like that? Many instances of amendments like that where he had to tighten things up that easily, if they'd taken the time to properly scrutinize the bill, wouldn't have been necessary. Some of it, Madam Chairman, is absolutely just plain sloppy.

If you take a look at page 14, we see all kinds of instances where words should have been capitalized, Madam Chairman. Now, how can it be that, once again through the kind of scrutiny this minister should have given to this bill, he does things like not capitalize the Judicial Council? Clearly he knows how these things are to be referred to and what the proper tense is. Certainly when I bring a bill forward into this House or any of my colleagues brings a bill forward into this House, we give it every possible scrutiny. You don't find spelling errors, you don't find lack of capitalization, and you don't find these kinds of tightening up that are required just like this.

Without even any full debate or discussion on them, we find that there are all kinds of flaws in here. So I have to say, Madam Chairman, that I am not very impressed with what I see before me. I think that were the people of Alberta to know it takes 34 amendments to even come close to bringing forward a proper bill in this regard, they would not be very impressed with the performance of this minister.

Thank you.

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

MR. MacDONALD: Thank you, Madam Chairman. I, too, have

a few comments regarding these amendments to Bill 25. We talked earlier about the independence of the judiciary, the conflict of interest. This Bill 25 and the Court of Queen's Bench Act is amended. Well, we're talking about making regulations respecting conflict of interest and a code of ethics for masters in chambers. This is very important whenever we look at the entire scope and the scrutiny, not only in this province but across the country, that the judiciary is presently under.

Now, Madam Chairman, from at least the time of John Locke in the late 1600s, adjudication by impartial and independent judges has been recognized as an essential component of all civilized societies. Impartiality is the fundamental qualification of a judge and the core attribute of the judiciary. A common theme for the various classes of conflict of interest is the idea of divided loyalties and duties. In the judiciary the potential for conflict of interest arises when the personal interest of the judge or those close to him or her conflicts with the judge's duty to adjudicate impartially, given that judicial impartiality is concerned both with impartiality in fact and the perception by a reasonable, fair-minded, and informed person.

Now, in judicial matters the test for conflict of interest must include not only actual conflicts between the judge's self-interest and the duty of impartial adjudication but circumstances in which such a person would reasonably apprehend or comprehend a conflict of interest. We cannot allow with this bill and with this many spur-of-the-moment amendments any further erosion of public confidence in our judicial system. It just can't happen, because this is what this country is founded on. Judicial independence is the right, Madam Chairman, of every Canadian, of every Albertan. A judge must be and must be seen to be free to decide honestly and impartially on the basis of the law and the evidence, without external pressure or influence and without fear or interference from anyone.

We must remember that there cannot be any fear of reprisal on behalf of any Canadian or any Albertan in regards to a decision that he or she, a judge, may make. Judicial independence is not the private right of judges either but the foundation of this judicial impartiality. It's a constitutional right of all of us regardless of whether we're Canadian or whether we're in this province and we're talking about Albertans. Independence of the judiciary refers to the necessary individual and collective or institutional independence required for impartial decisions and decision-making.

8:40

I look through this bill, I look through these amendments, and I hear the debate, but every one of the hon. members in this House, Madam Chairman, must understand what the public perception is. We have the legislative process and we have the judicial process, where they do or do not meet, and when we discuss these amendments, we are in effect discussing that. The public will say: you go to the Legislative Assembly and you collectively make a law with your colleagues. The judiciary through a complex set of rules – this bill is a small portion of that complex series of rules – is to adjudicate and be the judges. The public must have confidence in the system. They do not need to hear any more evidence of this erosion of confidence that we are encountering now in this province.

I am quite concerned that in the drafting of this legislation we have so many second thoughts. We didn't get it right, and as my hon. colleague said, suspicions have to be increased because of this. In motor car racing this bill would be yellow-flagged because of so many amendments.

With those comments, Madam Chairman, I shall cede the floor to another hon. member from either side of the House.

Thank you.

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

MR. SAPERS: Thank you, Madam Chairman. Now that I have everybody's permission to participate in this debate, I would like to communicate a message through you, Madam Chairman, to the Minister of Justice and Attorney General for this province. The amendments that have been brought in by the minister rescue this bill and make this bill applicable to the Supreme Court decision.

By the way, in case there is any doubt, I am speaking in favour of these amendments, because what these amendments do is save the Minister of Justice from horrible embarrassment. If the Official Opposition had not been vigilant in reading Bill 25 in its initial form and being horrified by the contents of that bill – and, Madam Chairman, you may recall the vigour of the debate at second reading – then the Minister of Justice would have had this deeply flawed bill, this bill that purported to resolve an issue that was before the Supreme Court of Canada, and then after that version of the bill had been passed into law, this jurisdiction would have been the laughingstock of the legal community, not because of omissions but because of things that were done in that bill that shouldn't have happened.

Now, I don't want this to sound harsh in terms of the staff in the Department of Justice. I don't want the minister to think that this opposition member is comfortable with the notion that it was the public service that did a disservice to this Assembly, because that's not the case at all. I happen to believe foursquare that it is entirely – entirely – a political process once it comes into this Chamber, and that means that as elected members it's our responsibility, and as members of the Executive Council ministers must take responsibility. I don't even want this to look like I'm pointing the finger of blame solidly at the head of the Minister of Justice, Madam Chairman, because what it really is is a joint and shared responsibility by all members of cabinet because it is this cabinet that has engineered the decimation of the public service, that has thinned out the public service, that has demoralized the public service and created a crisis of competence within the public service. Those public servants are scrambling to try to do almost an impossible task, and that is to keep up with the political will of this government with fewer people, with fewer resources, and in impossible working conditions. I think that if we have to look at why Bill 25 was flawed and why it had to be rescued with this package of amendments, it's because of that, and I regret that. Alberta's public service is a fine public service. It is staffed by men and women of the highest calibre, and it has always been at the forefront of the civil service in this country except since 1993. From 1993 to this date it has been a downhill slope. That downhill slope is not the creation of any one man or woman; it is the artifact of a collective ideology which doesn't believe in the public service.

So with those comments, Madam Chairman, I will say that I am glad the Minister of Justice listened to the concerns of the Official Opposition, of the bench, of the bar. I am glad the Minister of Justice asked his department to meet with members of the Official Opposition. He did keep us abreast of what was happening; they kept checking back with us. That has been a good process, and I will say it's a process that some of his other cabinet colleagues may want to embrace, particularly the Minister of Advanced

Education and Career Development. You know, we could save him from bringing in deeply flawed legislation like Bill 35 with the ridiculously high tuition cap of 30 percent. If he'd only consulted with us first, we could have saved him the embarrassment of having to accept our subsequent amendments to reduce that to a 20 percent cap. But I do digress.

So I would hope that cabinet takes a page out of the Minister of Justice's book and understands the process of give and take in debate in this Assembly and recognizes that by no means does the government have a monopoly, not even close to it, on good ideas, and that the Official Opposition plays a critical, crucial, and fundamental role in this democracy in Alberta.

Thank you very much.

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

8:50

MR. MITCHELL: Madam Chairman, I am going to speak to this in my new state of mind from my new chair. This is a great chair over here. I'm a little closer to the Speaker, so I can't be as creative as I once was. Nevertheless, I have a couple of things I'd like to say.

I was, I guess the word would be shocked . . .

MR. SAPERS: Stunned.

MR. MITCHELL: I wasn't stunned.

I was shocked almost two weeks ago when the minister rose, and obviously his staff had done a lot of work to put together the amendments, for which they should have been congratulated, yet it seemed that he hadn't quite done the groundwork that he needed to do. It wasn't clear as to whether or not he had actually consulted the justices, the judges, who were involved and whose lives would be affected so directly by this legislation, and in particular, whether he had actually received the authorization from the masters, which he implied at least that he thought he had received. In the flurry of that confusion, that was evident in the minister's department and statements and lack of a definitive and direct answer, it was apparent to me that he reacted in a way that he shouldn't have reacted, and that was to blame his staff for not having briefed him properly or not having done the groundwork properly.

I just want to make the point here, Madam Chairman, that in fact ministerial responsibility would dictate that he should never blame his staff. The minister is ultimately responsible. In fact, if he took that responsibility strongly and to heart, I think he wouldn't be having the difficulties that he's having in this House trying to manage a bill and prepare a bill, which should be really as simple as this bill could be.

I am concerned that he couldn't be definitive about whether or not he had consulted with judges, the appropriate hierarchy within the judicial community, to determine whether they were happy with this piece of legislation and these amendments in particular. I am concerned that he wasn't prepared to support these amendments in the way that one would think a Justice minister, having had the difficulties he's had, would want to be prepared and not open himself to more ridicule and more suggestions of being less than capable of doing what he needs to do as Justice minister, but I didn't see that then. I understand that he has consulted now and that we have a more definitive expression of support from the judges, the masters, that these amendments will meet their needs, and that is, to some extent, reassuring.

I would prefer, however, that he not rush this piece of legislation in the way that he has and that in fact he just take out of this piece of legislation that portion which applies to the Supreme Court ruling to which he has to accommodate our legislation. It would be much, much easier for him to get that through this House. We would have much more sense that he had been able to capture and do that fully and properly. The breadth of this bill, given the clear difficulties the Justice minister has had in undertaking this portfolio and managing this portfolio, makes us think that there probably are problems in here, which time to analyze and consider would reveal, which could be anticipated.

Instead, the minister wants to perhaps try to recover a bit, demonstrate to his caucus that he could actually get through some amendments. That would be an assessment or an improvement, and we're reluctant . . . [interjection] I know, I know. He gave me a standing ovation, and I'll tell you, I appreciated that. In fact, he reminded me of it, and that's why I'm being so mellow tonight, why I'm being so forthcoming and forgiving of this minister.

I'm going to vote for this, but I'm going to do it reluctantly, and I'm doing it in the sense of giving him a second chance, or a 19th chance. We're going to give him the 19th chance to get something right, and I'm hoping it's this. I am hoping it's this, even if it takes him 34 tries. I don't know if this is longer than the bill, but if it isn't, it is certainly substantively more significant than the bill itself. I'm voting for it, and I'm hoping against hope that he's finally got something right.

[Motion on amendment A1 carried]

THE DEPUTY CHAIRMAN: On the remaining clauses of the bill, are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed?
Edmonton-Norwood, I'm sorry.

MS OLSEN: I was standing up and you went on to the remainder of the amendments. [interjections] Now, we can get the Blues.

THE DEPUTY CHAIRMAN: You were standing up for a division?

MS OLSEN: No. I wanted to speak to the bill itself in committee.

THE DEPUTY CHAIRMAN: I will recognize you. Go ahead.

MS OLSEN: Thank you, Madam Chairman. I appreciate that. I was standing, and I was waiting.

I just want to review some of the issues surrounding this bill. I understand that this bill was brought forward in an attempt to satisfy a Supreme Court decision in relation to the compensation commission being set up for the judges, to review their compensation. Now, we understand that that has to occur by September 18, not December 18, unless the minister has got another date that we're not aware of.

I am concerned somewhat that the legislation still doesn't bind the minister at all for judicial compensation. However, given that there is a task force and this has to be addressed by the 18th of September, I think this is the section of the bill that absolutely

must be in legislation. The rest of the bill where we have this horrendous number of amendments, it's just beyond me as to how we got to this point. I think that the legislation itself is not something we need to go ahead with. As a matter of fact, I do understand that although we have the amendments and I support the amendment package, I really do not support the whole notion of bringing forward this piece of legislation prior to the task force and the Justice Summit, as it may or may not be, and the recommendations coming out of those particular areas. I think this undermines in a major way the outcome of the judicial review that the chief justices are on and certainly that the president of the Law Society is on, and I look forward to the recommendations coming out of that.

One of the recommendations coming out of that I'm sure won't be elected judges or term limits for judges. But we see here in this legislation that the minister won't back down from prescribing in legislation term limits for JPs. I think that's still an issue, and I would like to see if the task force is going to review appointments of judges and those kinds of issues. I was hoping that would also include the masters and the JPs. That would have been the appropriate thing to do to ensure that everybody who works under the provincial system is identified, especially at that level.

The other thing is that I would like to see the minister also give certainly to the masters a letter confirming salary and the changes, if he would table that document in the Legislature. As I said before, because it's no longer fixed by statute, it needs to be dealt with. I also know that this particular piece of legislation did not receive consultation, and I guess that's the biggest concern I have.

9:00

We spend days and days in this Legislature; I believe we're on day 43 right now. Our job is to ensure that we have the best piece of legislation passed in whatever area it is that legislation is being brought forward. I feel somewhat concerned to know that there are many members on the other side who obviously didn't get an opportunity to read this legislation and maybe weren't even interested in it but didn't realize the ramifications this had. This was not just a housekeeping piece of legislation, and they didn't recognize the ramifications this had to the entire justice system.

Sometimes I'm not sure that even the Justice minister understands the ramifications of legislation within the justice system, because it's been shown on a regular basis that he's not quite sure. I, too, am a little bit concerned that the Justice minister in this particular regard has on the record chastised his ADM. You know, that's not the way we need to do business. We as legislators are responsible for everything that comes forward, and I do not feel it is in the best interest of anybody, any employee within the public service, to have a minister chastise them and have that available in *Hansard* for everybody to see. I think the minister was shirking his responsibility. He's the man that's responsible. He's the guy that has to accept responsibility for it and quit blaming other people for his own mistakes. Certainly I understand that the people who worked with us in putting forward these amendments have been more than helpful and took into consideration everything we've had to say. I certainly don't buy the argument by the minister either that there wasn't time to consult.

I think one of my colleagues mentioned putting forward a draft piece of legislation. Now, let me tell you, we did put a draft piece of legislation through on Bill 19, and the hon. Member for Calgary-Currie did a tremendous amount of consultation, went through a consultation process for that piece of legislation. That piece of legislation turned out to be a good piece of legislation

with our help and with the help of the public and with the help of the stakeholders. That is the appropriate way to bring forward a good piece of legislation and have something move forward with the co-operation of the opposition. That's not what happened in this bill. This bill just came forward at the whim of the Justice minister. It went much further, much further than anybody intended it to. I think it went much further than the minister actually was aware of, and that's because I don't think he played a huge part in preparing this piece of legislation. I make him responsible for that.

If we are to move forward and ask the public to have more confidence in this justice system, then the public must be able to have confidence that the Justice minister is doing his job and that the Justice minister understands absolutely everything that is put forward in legislation that affects him. If he doesn't, then he shouldn't be bringing anything forward. I would also like to point out that we did get a tremendous amount of feedback, not only from different people in the legal profession but certainly at different levels within the system. I would like to say that I am aware that some of the masters feel there certainly wasn't appropriate consultation on this bill, there certainly wasn't any intent to satisfy the needs of everybody.

I guess the other thing that concerns me is that existing masters are to be grandfathered, and that is not in any legislation and not in any amendment. It doesn't exist. We're to take the word of this Justice minister that they will indeed be grandfathered. Well, how can we take the word of a Justice minister that certain people within the levels of court are going to be grandfathered – that is, the masters – when we have 14 pages of amendments that have come through? How do I know that this Justice minister isn't going to be moved and that another Justice minister isn't going to say: “Well, no, we're not going to keep this agreement. This is only a letter. It's a comfort letter”? We don't know that, so it would be appropriate to see that in the statute, and something more than a letter would be appropriate.

I think overall I would suggest that this type of amendment needs to be given a tremendous amount of thought. We not only have amendments to the Court of Queen's Bench Act but to the Provincial Court Judges Act and the Justice of the Peace Act, and I think when we're putting forward this many amendments and we want to change this many laws, we ought to be talking to the people who are impacted. We're not talking to the JPs because we don't really care, we're not talking to the judges because we can't, and we're not talking to the masters because we can't. I'm not sure what direction the minister will take next time, but I certainly think he has competent people around him, and those competent people should certainly be dealing with all the issues that are in a piece of legislation, putting forward all the questions and trying to get all the answers. Does this work for the different levels of court? Does this work for the profession? Does it strengthen what we're trying to achieve? Does this meet the criteria of court cases? Is this a positive piece of legislation?

The other thing is that again – and this is not the first time in this 43 days that we've seen an attempt to have law passed by regulation. This government is very consistent and puts forward far too often different clauses and different sections and subsections within bills that will allow them to make changes through regulation. Quite frankly, the Legislature is the place to debate those issues, and that is where that should happen. We don't need all these little regulations to come through without debate and consideration given, without consultation, without anybody knowing what's going on.

At this point again I make my pitch for the standing committee to be struck, and that's the Committee on Law and Regulations. This committee has not met in 10 years, yet we see a chairperson consistently appointed to that committee. If there has ever been a time – well, I'm on the committee, and, gee, I've been here a year and I've yet to participate. I could probably be here another 10 years, as long as this government is sitting on that side, and never participate. I think that is a huge problem. It bypasses the Legislature; debate doesn't occur. Quite frankly, with the number of bills brought through with the government's desire to govern by regulation, I think now, more than any other time, is when this Legislature needs that committee to sit. I would encourage the Justice minister, because I would assume that's under his portfolio, to do the right thing by convening this committee when we talk about regulations, and we're going to have lots of them come out in different bills. We were talking the Railway Act and the number of regulations there. Then we were talking about the livestock act and the delegated administrative organizations and different NGOs that have all sorts of regulations attached.

9:10

Now we have something that I feel is just absolutely critical, and that is for an all-party review as they do at the federal level, hon. Madam Chairman, that we have all the Justice bills, all of them, reviewed by an all-party committee. We know we're not going to get that out of this government, but I would certainly like to see every regulation that comes forward through this bill and other bills debated and discussed by the Committee on Law and Regulations, to see that that committee meets and the hon. member from, I believe, Banff-Cochrane actually has an opportunity to chair a committee she's supposedly chairperson of.

Given those comments, not to be lost is the fact that the member did provide copies of letters; he did meet with us or have his department meet with us, very competent people. Quite frankly, they've done their job. I would like to see this Minister of Justice pull up his socks and start doing his job, not blame those public service employees who are trying to keep him on the straight and narrow.

With that, hon. Madam Chairman, I will take my seat and let another member speak.

THE DEPUTY CHAIRMAN: Before I call any more members, could I have unanimous consent of the committee to revert to Introduction of Guests?

HON. MEMBERS: Agreed.

head: **Introduction of Guests**

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

MR. DICKSON: Thank you very much, Madam Chairman. I'm pleased to introduce people I see in both the members and public galleries. These are folks that I won't introduce by name but who just a short time ago attended a public meeting at the Inn on 7th, focused on concerns around Bill 37. They're here to see the process of the Assembly this evening, presumably in anticipation of coming back when the bill that's of top-of-mind importance to those folks comes back on Tuesday evening. So I'd like to encourage all those people to stand, rise in the Assembly, and receive the customary warm welcome of the Legislative Assembly.

Bill 25
Justice Statutes Amendment Act, 1998

(continued)

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

MR. DICKSON: Thank you very much, Madam Chairman. Speaking to Bill 25, I want to start off by saying that just before we broke for the Easter break, there was an exchange recorded in *Hansard* between this member and the Minister of Justice. He had come in at that time with this big, fat amendment package and with a concordance. I specifically asked the Minister of Justice who he had consulted with, because his representation in introducing an amendment package was that he had basically talked to the court and they had signed off. I don't have the appropriate *Hansard* page in front of me. That was the representation made by the Justice minister in this Assembly. Well, the minister, to his credit, didn't force further debate that night, and the matter was held over to today.

[Mr. Shariff in the chair]

In the intervening time I had an opportunity to spend a little time in Alberta courthouses speaking with masters and justices and Provincial Court judges, speaking with lawyers acting for those groups. Imagine my astonishment and surprise, after the Minister of Justice stood in this House and said that the judiciary had signed off, Mr. Chairman, to find that there were masters in chambers, judges who knew nothing about the amendment package. Imagine my surprise to find, for example, that the mandatory retirement age of masters was introduced without a master's even knowing. There are only six and a half masters in the entire province. I specifically asked the Minister of Justice whether the masters (a) were aware of the amendments and (b) consented to them. I'm disappointed to report that contrary to what was represented in the Assembly just before the Easter break, there is not a particularly high level of awareness among many members of the judiciary in terms of the import of Bill 25 and in terms of the amendment package.

Now, Mr. Chairman, I give you an example. We have a provision here for a 70-year mandatory retirement age. One would think that before you bring in a mandatory retirement age for masters, for example, there might be some express consultation with those masters. What if in fact you have a master who's over the 70-year range and in fact doing an extremely effective job as a master?

In any event, Mr. Chairman, I think that what we have is an unsatisfactory way of passing something as important as Bill 25. The reason we're here to deal with Bill 25 is because in the past this provincial government hasn't understood the role of an independent judiciary. They haven't understood how important the appointment process is. They haven't understood how important the compensation process is for judges.

The fact that the Minister of Justice brought in Bill 25 and then within two weeks brought in 10 pages of amendments just leaves me wondering what kind of process we have in terms of making laws in this jurisdiction. What kind of thorough review do we do? What kind of consultation with all affected parties? We have about 70 members of the Court of Queen's Bench. I'm not sure of the total number of Provincial Court judges we have or justices of the peace. When you're dealing with something which directly affects those vitally important elements of our justice system, you

don't just check with the Chief Justice or the Chief Judge or the Chief Justice of the Court of Appeal. I have an expectation that you put a package together. You ensure that every one of those members of the bench sees the package. You afford reasonable opportunity for those people to be heard, to raise questions, to raise concerns. Obviously that didn't happen here.

What happens to the debate in terms of whether a mandatory retirement age is appropriate? Has anybody in this Chamber addressed that? If you have a master who is 71 years old, has got 30 judgments pending, is doing an absolutely splendid job writing sound judgments, why wouldn't we have the flexibility in our system to recognize that?

9:20

Mr. Chairman, I want to acknowledge that I've had people from the Minister of Justice's office phoning me, writing me, faxing me, offering to meet to discuss amendments. The Minister of Justice has himself phoned me to solicit a comment on amendments. I appreciate all of that effort, but I think that if I've learned anything from this process it's that it's not a satisfactory model for lawmaking to bring in a bill and when time is short and you have many issues competing for attention on the public agenda, the government then solicits feedback and brings in amendments in volume as big as the initial bill itself. It's not adequate.

This maybe is the time when we look at the federal model. They have an all-party committee, a Justice Affairs Committee. They typically vet justice bills before they come into the House. We could have avoided a whole lot of time. We could have avoided a lot of the aggravation that's been experienced. I expect the Minister of Justice has experienced some aggravation on this bill. I waited for him the other day to say that he's learned from this whole process, that he's going to make a commitment that on any bills as long as he's Minister of Justice, he's going to find a better form of consultation before the bill gets first reading, not after it clears second reading.

I might also use this to say that we used to have a seventh master. We don't now. We have six and a half masters in chambers. When you look at the volume of civil litigation taking place in Edmonton and Calgary, I think there's a need for a seventh master in chambers. The Calgary masters do a circuit throughout all of southern Alberta. In fact the Calgary masters come to Edmonton to sit. It makes sense that there should be a seventh master.

I continue to have concerns with the idea of a masters judicial council. It used to be quite simple. Masters were paid 80 percent of what Queen's Bench justices received. The masters were covered by the Judicial Council for the Court of Queen's Bench. Was it a question of it not working, Mr. Chairman? Is there some evidence that that particular process was unsatisfactory? If there is, I haven't heard it. Surely it's up to the minister that propounds a change to make the case for it, and in some of the elements of this bill we simply haven't seen that done here.

The other comment I have to make is that there has been lots of communication, what I call back channel communication, between the minister and representatives of the court and members of the courts, and I'm reminded of what every first-year law student learns in contracts. It doesn't matter what the car salesman tells you; it doesn't matter what the condo salesman tells you. If those representations aren't written into the contract, those representations are absolutely worthless. I just have to say how uncomfortable I am as a legislator with a process where representations are made that aren't reflected in the bill. If there

is an intention to grandfather the existing masters, that ought to be provided for in express wording in Bill 25. It's not there.

[Mrs. Gordon in the chair]

I have all of those concerns. I continue to have the concern that the Justice minister is about to embark on some broad consultation, and what's been suggested to me by members of the bar is that we make a mockery of the consultation by going much further in Bill 25 than was required to meet the Supreme Court of Canada requirements, the Supreme Court of Canada decision.

So I have those concerns; I have those disappointments. I want to record them now and indicate that we just have to find a better way of passing legislation when it impacts people and an independent judiciary the way Bill 25 impacts them. We've got to find a process for better consultation before first reading, not follow the model that's being pursued here.

Thanks very much, Madam Chairman.

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

DR. PANNU: Thank you, Madam Chairman. I, too, would like to speak on Bill 25 and the package of amendments that's before us that was proposed by the Minister of Justice. When I first read Bill 25, it exacerbated my concerns which had developed over the last year that I have been part of this Legislative Assembly and which were caused by statements made by the Minister of Justice as well as, of course, other members on the other side of the House about the poor job the justice system was doing in this province. There had been created an impression certainly in my mind by what had been said by members on that side of the House, particularly by the Justice minister, that there was something seriously wrong with the system of justice in the province and that therefore the government needed to take radical and drastic actions to remedy what it saw was wrong with the justice system.

When I read this bill, the overarching impression I got from it was that the intention of changes proposed to various existing acts by way of Bill 25 was meant to limit the independence of the judiciary and to bring under direct executive political control the justice system as a whole. That to me was a grave message that was writ large in the pages of Bill 25.

Democracy, Madam Chairman, our kind of democracy, parliamentary democracy, rests on certain assumptions about the relationship between the three parts, sectors of the system of governance that we have inherited from the British model, the sort of balance of relationships between the executive, which is the political representation through majority government, the Assembly, the legislative wing of the governance system, and the judiciary, or the justice system, as part of this triad we call democratic political governance. Relations between these three must remain autonomous, mutually independent of each other, yet the three must be integrated into a system so that the system works as a whole, effectively and efficiently.

What this bill seemed to suggest was that there was a perceived need by the Minister of Justice to change that balance that had been achieved historically in this province and in this country among these three elements of our system of democratic political governance. If this bill had gone through unamended, a grave injury would have been caused to the system of democratic governance that we all so cherish in this province and in this

country. I say that all of us, without exception, are committed to the principles of democratic governance. But this bill certainly is so deeply flawed that had it gone through, it would have caused, as I said, a very serious injury to that whole system of justice and the system of democratic governance.

9:30

This set of amendments that has been brought in by the Minister of Justice after delayed but necessary consultation certainly makes the bill much more acceptable in the amended form than in its original form. The point has been made already that one cannot but wonder how such a flawed bill, such as Bill 25, could have been brought before the Legislature. Then the minister realized that he needed to make a very large number of amendments in order to satisfy himself, to satisfy the legal community, the judicial community, and the citizens of this province, in order to assure all citizens of this province that the system of justice in this province will remain and must remain independent of direct political tinkering or control by the executive authority in the government, which is the cabinet, under the chair of the Premier, in which the Minister of Justice plays of course a very critical role in maintaining the integrity and neutrality of the judicial system.

The first reading of the bill – the reading of the original bill, that is – had almost on every page used the R word, regulation. Everything was going to be done by regulation. The minister or the cabinet or the Lieutenant Governor in Council would be able to make radical changes to the way the judicial system works or is organized simply by regulation, without having to go through the legislative process or without prior and genuine and extensive and comprehensive consultation with all the stakeholders in the system of justice. So the amendments as brought before us, that we have just considered tonight, do address many of the flaws that caused me initial concern and seem to serve to assure me that the independence and neutrality of the judicial system will be by and large maintained, although several problems with respect to the details of the amendments still remain.

I want to compliment the Minister of Justice, however, for deciding to consult with the opposition parties after having heard from us that the bill as presented was so deeply flawed that we weren't willing to give it serious treatment in the Legislature if he wasn't going to listen. So he did listen after all and took the suggestions back. Certainly I can say on behalf of my little caucus that Mr. Pagano and other members of the staff of the Department of Justice did spend time with me going over in detail the concerns that we had. We had them communicated in written form, and one by one they took each of our concerns seriously and assured us that mutually arrived at understandings through that dialogue, through that negotiation will be reflected in these amendments.

I must say that most of the concerns that I had as an amateur – I'm not a lawyer – serious as they were, were taken seriously and by and large have been addressed. So I'm pleased about the fact that the staff of the Department of Justice was more than generous in the way they listened to our concerns and were prepared to accept most of the suggestions that we had made which, in their view, seemed quite reasonable. Similarly, I'm pleased that the minister was able to report tonight that now he has the Law Society and the judicial community and the justice community in general far more satisfied with the bill as amended than they were when they weren't even consulted, of course.

Such a radical dilution of the powers of the judiciary and of such important parts of the Judicial Council simply should not have been contemplated, but they were. However, I think it's a

matter of relief that many of those contemplated changes as reflected in the initial act are now behind us. So in light of the amendments, I'm generally supportive of the bill as amended.

So with those remarks, Madam Chairman, I'd take my seat and have other members speak to the bill if they so wish.

[The clauses of Bill 25 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 39

Financial Administration Amendment Act, 1998

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

MR. ZWOZDESKY: Madam Chairman, could I just clarify that it's 35 that is up next?

THE DEPUTY CHAIRMAN: No. We're going to 39 first.

MR. ZWOZDESKY: There's a change in plan?

THE DEPUTY CHAIRMAN: Yeah, a change in plan. So we have before us Bill 39, The Financial Administration Amendment Act, 1998.

MR. ZWOZDESKY: Okay. Let me just get my stuff together here. So we're not doing 35, as anticipated; we're doing 39. All right. In that case I'm also ready. Thank you. In fact, I'll do up my tie for this special occasion, even though during committee we tend to relax a bit, Madam Chairman.

Nonetheless, I'm very, very happy to speak to Bill 39 at this stage of committee, which is a much more freewheeling aspect of debate. I want to begin, Madam Chairman, by reflecting on some comments I made earlier this afternoon when I referenced a particular section of Bill 39, that being the section that referred to amendments arising out of clause 81.1 of the Financial Administration Act, 1996. In particular, I'm referring to subsection (9)(i), where we talk about the Alberta Treasury Branches. At the time of speaking to it during second reading, Madam Chairman, I in fact had questioned why it is that we're amending section (i) when in fact section (i) does not exist in the bill.

If you have a look at section (d) on page 2 of Bill 39, you would notice that an amendment is called for in subsection (9)(i) of the original Financial Administration Act. So we did the honourable thing. I had one of the pages bring me the Financial Administration Act just to verify what it was that was being amended, and nowhere could we find a section (i). So I queried that in a polite fashion to the hon. Treasurer or his counterpart saying: how can we be amending a section that does not in fact exist? Actually, I spent the next couple of hours poring over other legislation that had been presented to this House, and lo and behold, in amendments contained in the Alberta Treasury Branches Act, you will find a reference to the Financial Administration Act, section (i), so that circuitously, if you will – and this

would all be proper – the Financial Administration Act does actually have a section (i). It's just that the statutes that we have access to here in the House are not up to date yet. I'm told that within two years they normally are brought up to date. So I wish to withdraw that question because I now have found the answer for myself and am satisfied as to what it means.

That having been said, I do not need to take up the House's time nor the Treasurer's time nor anyone else's time in trying to answer that question. Therefore, I shall continue on with other aspects of Bill 39, that being the Financial Administration Amendment Act, 1998, as proposed by the Provincial Treasurer.

9:40

Madam Chairman, I've already spoken about this bill this afternoon. Just for purposes of clarification, the bill is somewhat housekeeping in nature – at least to a degree it is – in that it provides for the extension or the life span, as I've said, of a number of provincial agencies, corporations, foundations, and other committees that are all at the behest of the House and to a larger extent at the behest of the various ministers who sit on the front bench. Those particular provincial agencies do, for the most part, need to be reviewed. Sunset clauses need to be monitored, and from time to time there's a matter of a need to update which ones we want to continue and which ones have fulfilled their mandate and therefore need not be continued.

Secondly, there is this new section that is added under 81.1 of the new bill that amends the Financial Administration Act which basically narrows down the scope of definition of what provincial agencies are that are included within the broader definition of committees and foundations and so on that report to the various ministers. In particular, it also attempts to establish which committees and in particular which ministerial advisory committees are exempted from the sunset provision. That has me a little bit concerned, and I'll spend the bulk of my time dealing with that particular matter.

We know that there are dozens and dozens of these ministerial advisory committees, and I'm sure the bulk of them perform very valuable services to various ministers in all capacities in all the various departments. But I'm sure that there are also some that are being continued rather ad nauseam. What I mean by that is that there are perhaps some of these ministerial advisory committees that need not exist anymore and that should be reviewed and should fall within this particular act and not be exempted from it so that on a periodic review, such as five years or whatever time period is required or desired, all of these ministerial advisory committees can be subjected to the same kind of monitoring and scrutiny and review that the ones which are included in the act already are. That, in my view, Madam Chairman, would certainly tighten up a lot of the process. I actually counted up some of the numerous committees that are exempted from this particular bill, and I think there's 20, 40, 60 or more that are not included here.

I recall that at the peak of committee creation by the previous government of 1993, there were so many ministerial advisory committees, for example in the Department of Health, that some people actually made up bumper stickers. Do you remember that, Madam Chairman? They actually made up bumper stickers saying: honk if you're on one of the Health committees. It just pointed out what the public was feeling about the extent to which the government had gone in creating all of these subcommittees. I don't think anybody in the House today would argue that it was a bit superfluous and that there were too many of them. I would think that some of them have since been concluded. But the point

I'm trying to make is that I think it's wrong to not include them within the sunset provisions of this act. So as the evening goes on, we'll speak a little bit more about that.

The final thing here with Bill 39, just to reiterate, which I can support is the effect of extending the life of the Seniors Advisory Council for Alberta, a very important council, in fact, that provides significant support services as well as significant advice to the minister on seniors' needs and on seniors' issues. After all, these are the people who built this province, and I think we should bend over backwards to help out those seniors, who have done so much for those of us who are fortunate to be a little bit younger.

Actually, I'll be turning 50 this year myself, Madam Chairman, so I will soon be stepping into that realm of seniordom myself. Seniordom. That's it. Well, at least I'll be eligible for the seniors' golf tour if nothing else.

Madam Chairman, I know that you heard from a couple of other speakers with respect to the comments the Alberta Financial Review Commission made in reference to these funds and agencies that are sponsored by the government. The comments really were along the same lines of what I've just been saying, and that is that at some point there needs to be a complete and thorough, rather exhaustive review of the dozens of ministerial advisory committees, ministerial task forces, and other job groups whose job it is to provide senior advice, as it were, to the ministers.

As part of their comments, the Alberta Financial Review Commission, I think correctly, has identified that there's a need for more efficiency in the system. There's a need to avoid the overlap and the duplication of effort. Most importantly, there's a need to demise committees, such as some of those that are not included under the sunset provisions, that have fulfilled their particular task yet for some strange reason are not included within Bill 39 and are not subjected to the review of sunset. That having been said, the government did enact the Financial Administration Amendment Act of 1993, I note, which sunsetted all of the agencies starting January 1, 1999. This bill before us today actually has the power to elongate the life of at least some of those particular provincial agencies.

Now, the other aspect of the governance that I want to comment on that is directly relevant to Bill 39 is the Regulatory Reform Task Force, that was established not long ago, wherein all of the ministries are being asked to review the rules and regulations that in fact govern these various committees or agencies or foundations or corporations of the Crown. In actual fact, something in the order of 120 regulations were repealed and another 140 regulations were amended, so you have some feel, Madam Chairman, for how extensive this review process of regulation reform for task force work has been.

In fact, I can understand that the government has done somewhat of a thorough job in certain parts of it, but unfortunately they did not include the many other committees that report only to ministers, and I think that is a shortcoming. For example, in the area of Advanced Education and Career Development, some of the committees that could have been included within the sunset review would be the Alberta Council on Admissions and Transfer as well as the Alberta Apprenticeship and Industry Training Board, to cite you two current examples. Now, I'm not saying, "Let's go out there and cut them off at the knees." I'm simply saying, "Make them subject to the sunset review that all the other agencies and commissions and corporations are." What would be wrong with that? I suspect nothing. But they're not referred to here.

9:50

Similarly, in the case of health care we have 24 ministerial committees. Twenty-four. Now, I know that they all perform, or have performed at least, a very vital service to the Minister of Health and to his predecessor, because we're talking about committees like the advisory committee on AIDS, the Alberta Association of Optometrists Practice Review Board, the Alberta Breast Screening Policy Council, the Health Workforce Rebalancing Committee, the Midwifery Regulation Advisory Committee, the Physical Therapy Council, and on and on, concluding with the Rural Physician Action Plan Co-ordinating committee. I for the life of me don't know if these committees still have a reason to exist or not, but the formal way of answering that question would be to include them within the sunset provision, and then we would all know.

The minister I'm sure would be the first one to say: "Here's a committee that has fulfilled its job. They've done a great job, and now we can curtail their activities and save taxpayers the money." We don't need to have any more people sitting on those boards. We can save the expense money. We can save whatever honoraria money is being paid out, if any. I don't know which ones are receiving honoraria and which ones aren't. You get the point, Madam Chairman. There are cost savings that could be had if the committees were reviewed on a regular basis such as three or five years or whatever life span we want to affix to that, and then move on from there.

Similarly, the other large area is Environmental Protection. Environmental Protection has something in the order of 20 ministerial advisory committees that should be included within this act: the Advisory Committee on Environmental Protection, the Alberta Forest Conservation Strategy Steering Committee, the Alberta Water Resources Commission, the Buffalo Bay/Horse Lake advisory committee, the Land Surveyors Act, et cetera, et cetera. Again I stress: I'm not criticizing these committees, because I would suspect that they have performed and perhaps still do perform a very important function to the minister of environment, who may feel he needs abundant advice from these committees to help him sort out his daily duties. I can understand and I can even support that. What I don't understand and don't support is why they haven't been included within the sunset provision of Bill 39, and that is a very serious question.

We have to ask ourselves if the various boards of directors, if the various members serving on these committees are in fact drawing the types of expenses and the types of not salaries but honoraria or whatever you call them that are not only acceptable and palatable to Alberta taxpayers, but are we getting the kind of bang for our buck that one would expect as a result of the currency, the contemporary nature, so to speak, of their existence? Or should those particular committees at least be reviewed and demised? For all we know, perhaps the ministers on the front bench do in fact do that. All I'm saying is that it doesn't seem to come through this House, and quite frequently we don't know which ones are going on and which ones aren't.

So that having been said, Madam Chairman, I want to again emphasize that I certainly do support the intent behind this legislation, but I am concerned about the very narrow definition that is being affixed to the provincial agencies that are subject to the sunset requirements. I would strongly urge the House to consider amending that section to include a broader scope. That in my mind, hon. ministers in particular, would really be an exercise of your OATH, which the Provincial Treasurer and I know full well, since I first introduced him to the acronym: O for

openness, A for accountability, T for transparency, and H for honesty. That's the OATH. I think you have a wonderful chance here to exercise that. You know what? The public will go wild with envy and rage, saying: yes, there goes an open and accountable, honest minister and, along with him or her, an open, accountable, and honest government. So we would open the process up to include a review of all of these various committees.

I don't know if anyone else wishes to speak to Bill 39 at this stage. If you wish to speak to Bill 39, you may. If not, then I will soon move an amendment. There is no one else that wishes to speak to Bill 39?

MR. DICKSON: No. We're going to restrain ourselves.

MR. ZWOZDESKY: You will restrain yourselves so that I can get on with this critical amendment.

With that in mind, Madam Chairman, I would ask that Bill 39, the Financial Administration Amendment Act, 1998, be amended as follows and as I am about to circulate. Shall I do that now?

THE DEPUTY CHAIRMAN: Yes.

MR. ZWOZDESKY: I shall? All right.

It's very brief, and as it's being circulated, perhaps I'll just read it into the record for purposes of clarification.

THE DEPUTY CHAIRMAN: That would be fine, hon. member.

MR. ZWOZDESKY: It's a very straightforward and, in my view, necessary amendment to make. I am suggesting, then, that Bill 39 be amended as follows. Section 2(a) is amended in proposed section 81.1(0.1) by striking out the word "or" at the end of clause (a), by adding the word "or" at the end of clause (b), and by adding the following after clause (b), which we will call (c),

- (c) a board, council, committee or other body established by
 - (i) an Act of the Legislature,
 - (ii) the Lieutenant Governor in Council, or
 - (iii) a Minister of the Crown.

So in totality if the amendment were to be read in the context of the particular phrase that exists, Bill 39, section 2 would read as follows:

- 81.1(0.1) For the purposes of this section, "Provincial agency" means
- (a) a Provincial corporation
 - (b) a Provincial committee
 - (i) that is created, continued, or established by the Act and whose name is established by the Act, or
 - (ii) that administers money, or
 - (c) a board, council, committee or other body established by
 - (i) an Act of the Legislature,
 - (ii) the Lieutenant Governor in Council, or
 - (iii) a Minister of the Crown.

That, Madam Chairman, would be the entire amendment, and you may number it as you wish. As soon as I receive your direction, I'd like to speak to the amendment.

THE DEPUTY CHAIRMAN: We will deem this amendment A1.

MR. ZWOZDESKY: Thank you. Then speaking to the amendment now – and I'm grateful to you, Madam Chairman, for allowing me this wonderful opportunity – I want to just raise a couple of additional points. I hope not to take too long, hon. members, but I would like to note here why I think, again, that it's important to allow this amendment to go through because it's a little broader ranging in its coverage. I mean, we're not talking

about something that's going to potentially harm the government or something that is any threat to the government or something about which other people might say: well, this is going to bring the government down. That's not what this is about at all. What this is about is simply to expand the coverage with respect to sunset provisions; in other words, with respect to the life span of various committees that the government creates, and more particularly the ministers create. All of that is being done, Madam Chairman, against the backdrop of providing an opportunity . . .

Chairman's Ruling Speaking Time

THE DEPUTY CHAIRMAN: Hon. member, there was still some remaining time from your first time allotment, so maybe if you don't mind, I'll see if there's someone else, and then we can come back. Is that all right? We didn't change the clock. Is there anyone else who wishes to speak to the amendment?

Go ahead, hon. member.

Debate Continued

MR. ZWOZDESKY: Thank you, and again I say that I hope not to be too long. I'm timing myself to try to stick to that particular guideline.

What I was going to say is that we want to make sure that there are accommodations within the bill as it sits to provide for a comprehensive review of all the committees and subcommittees and task forces and ministerially appointed bodies possible in order to provide things like a cost-benefit analysis for purposes of all members and in order to provide for a larger scrutiny and a larger overview, as it were, of what the functions of these various committees are and an explanation from time to time of which ones need to be demised and which ones need not be demised and, on the contrary, which ones need to be in fact extended. So the sunset provisions are important to back up that review process. What we're looking for is some ability for the bill itself to provide justification, if you will, for why certain committees have to be continued and for why other ones perhaps need not be continued. That is the essence and the crux of the matter before us.

10:00

I wanted to just state very briefly that in doing some research on this, Madam Chairman, I did harken back to earlier times, which certainly predate my time as a member in the House, to a quote that emanated from a paper that was actually put together by the Health critic at the time. It said:

"An Alberta Liberal government will establish sunset dates for every program. Well ahead of the sunset date, the program will be reviewed with an eye toward whether the program is still relevant to public need or overall government priorities."

Now, that to me is a very sensible statement. It's a sensible idea. I know the government has on occasion accepted ideas from the opposition, in particular from the Alberta Liberal opposition. Here again is a nonthreatening suggestion, that I think the general Assembly would agree is in need of at least some discussion and hopefully in need of being embraced.

I also think that some of the questions that have to be posed with respect to the larger aspect of sunset review provisions and sunset review mechanisms have to deal with answering questions like: is the agency that is being studied a fundamental core requirement for the business of government or not? Secondly, an examination of what it is that this agency or this committee provides by way of a common good, service, or that type of public good delivery and service. Thirdly, we should be asking

ourselves about these committees and whether or not taxpayers should continue to be responsible for their ongoing, perhaps never-ending funding. Or are some of the agencies able to be concluded and demised and in the process save Albertans thousands and thousands of dollars?

These are questions that I would think ministers ask themselves anyway. I'm hoping, at least, that they do. All I'm asking is that it be crystallized in a more formal way in the bill, and that's what this amendment in fact talks about. Otherwise, we have no way of really knowing whether or not the sunset provisions are working or not working to the satisfaction of Albertans. They may well be working to the satisfaction of certain ministerial members – and I can appreciate that – but I think we have to serve the larger public on all legislation, not just certain ministries.

In that regard, I know there was some restructuring done within government to appoint certain committees that had as part of their mandate the review of business plans for the period we're now in, 1998 to 2001. I know, for example, that the hon. Treasurer has several of those review committees going on, and I think they're good committees. They perform a vital service. The point about how those committees were struck and how they are being reviewed is all under the purview of the so-called standing policy committees. Now, the difficulty with the standing policy committees is only the fact that they are one-party committees and they are not all-party committees. At some stage I would wager to say that the current government or a subsequent government will open up that process of standing policy committees, that review things such as my amendment talks to, and will allow other than just government members to sit in on at least part of that discussion. That's why this amendment is important to have, Madam Chairman. It creates an openness about the sunset process and in turn about the ministerial advisory committees, which would become subject to the sunset provisions. It should be an all-party decision, and it should be something that the government would rush to embrace, I would hope.

The final point in this respect is with regard to the various agencies of the Crown. Madam Chairman, when I say "agencies," I'm talking about the whole nine yards here. I'm talking about corporations and foundations, committees and task forces and other autonomous or semiautonomous or arm's-length organizations who, in fact, over the period of their longevity have acquired a wide array of assets. It's very possible that there are hundreds of thousands of dollars in assets being controlled, if not owned, by these particular agencies.

So we need to take a look at how those assets would then be disposed of, and that again is something that would come about once a sunset provision is invoked. But the fact that it would come through the formal system of the Legislature means there would be greater scrutiny, hence greater accountability and hence greater applause for government – don't you think? – because they would be opening up their particular thinking and their particular method of operandi, and that would please Albertans enormously. It would certainly please all members of this House; I know that.

One other very critical point here that this amendment would include are the so-called revolving funds, which have also not been included under the sunset provisions of section 81.1 of the Financial Administration Act. We need to understand, Madam Chairman, as we study the amendment, that revolving funds are established by government to provide for the acquisition or the impartation of services and/or materials to other branches within the same government or, if they wish, to the public. In short, the revolving funds were in fact set up within departments to provide

services or to sell materials to other branches of government or to the public.

I note that the Auditor General had some comments in that respect, and that in particular is why I brought this amendment forward. I was thinking that if the Auditor General is concerned about the revolving funds, then so, too, should we as an opposition be, particularly me as the opposition watchdog on Treasury and finance matters. Therefore, this amendment is well placed to serve not only the needs of the public but also the concerns as expressed by the Auditor General. I'll just read you very quickly what he said in his 1995-96 comments, that being the Auditor General:

The government should be able to fully cost its programs and services without the expense of operating revolving funds . . . A draft plan from the Deputy Provincial Treasurer indicates that the usefulness of the funds will be assessed by Ministries as consolidated planning and reporting evolves and alternatives become available. Unfortunately, based on the present time frame in the plan, this may not be done until March 31, 2006. This means that the government will continue to incur needless administrative costs for a long time.

I know, Madam Chairman, that as the Treasurer reviews this amendment and the implication it has, if he can't accept the entire amendment, he'll certainly have the opportunity to tell us why not, but he could certainly address the revolving funds, particularly given what the Auditor General said in his 1995-96 comments, because it would save taxpayers a great deal of money if he were to act on the Auditor General's comments. Failing that, then at least the revolving funds could somehow be brought under this act and reviewed with a view to sunseting them if necessary, perhaps not all at once, perhaps on a staggered basis. There are a number of ways that could be done, hon. members, but at least it could and should be reviewed.

We note that the 1998 budget still contains a number of revolving funds. One of them is correctly so. In Public Works, Supply and Services there is a revolving fund. Another one is the Community Development revolving fund. A third one is the Education revolving fund. Another one is the administration revolving fund, and a final one is the Transportation revolving fund. I would suspect that the sponsor, that being the hon. Treasurer, or someone else from the front bench for that matter could at least provide some explanation or some justification for why it is that revolving funds would not be included within this amendment act and, more particularly, why they are specifically exempted from it. In my view, they should be included for review and for monitoring. That is why this amendment is critical, because it opens it up to any

board, council, committee, or other body established by

- (i) an Act of the Legislature,
- (ii) the Lieutenant Governor in Council, or
- (iii) a Minister of the Crown.

That's what the amendment is all about. It's very straightforward, but the ramifications are much more inclusive.

I would just say this: that is my opinion on it. Now, if I stand to be corrected, I'm willing to take the correction and the criticism. I would just like somebody from government to stand up and tell me specifically why revolving funds should not be. I may be missing something. I've never been in government. One day I'm looking forward to that opportunity, but until I get there, I would certainly like somebody from the government to at least explain to us what it is that prevents the revolving funds from being included. You know what, Madam Chairman? Being the balanced and sensible individual that I hope I am able to say I am, I would accept that explanation, but until there's an explanation,

I will continue to suggest that they be included there.

10:10

The very last point I have here is with respect to why Bill 39, in the definition it now has with respect to the provincial agencies it covers, specifically sunsets only those particular provincial agencies that administer money. There are many other agencies that do not administer money; they simply provide advice and sustenance to government. But this narrow definition as it exists in Bill 39 at the moment is restricted to those particular agencies that are in charge of administering money. I would suggest that if the amendment I've presented would be accepted, it would again cover a much broader field, and I think that is an important factor to consider.

I would point out for all hon. members that according to the research I and my team have been able to do on this matter, these boards and agencies and advisory councils that have been established within government, at least according to the 1996-97 report, cost us somewhere in the neighbourhood of \$5 million. Now, that's perhaps a drop in the bucket in terms of the \$13 billion, \$14 billion, \$15 billion budgets that we normally see in the government, but \$5 million is a large chunk of change, and I think there should be a little greater openness and somewhat greater accountability of all of them.

Madam Chairman, I promised to be as brief as I could, so I would simply say that when the Financial Administration Act was amended a short while ago under a different bill – I think it was called Bill 31, and I think the Provincial Treasurer had the pleasure of sponsoring that bill. It was called the Provincial Agencies Continuation Act. That legislation would have extended some 29 provincial agencies from December 31, 1998, through until December 31, 2003. In speaking to that particular bill, I recall the Provincial Treasurer stating, and I think I'm quoting him here:

The purpose of this . . . was to allow for a full overhaul, as it were . . . and to recognize that sometimes government may get into just continuing things for the sake of continuing them. Empires can be built up and turf can be established, and there can be, as we've found even in the last few years, certain elements of government operations which continue just because they're there and, in fact, do not get the opportunity to have a thorough analysis.

That comes out of *Hansard* of the province of Alberta, June 11, 1997.

Madam Chairman, I couldn't agree more with the Provincial Treasurer. I think he's exactly right with that comment. That is why this amendment is important and necessary, and I would ask all members to support it, and if they can't support it, then please give me a few reasons, hon. members, why you cannot support it. Alternatively, I would take my chair at this stage and ask all hon. members to respond resoundingly in favour of this particular amendment, which would help the cause of openness, accountability, transparency, and honesty and, I believe, is a very good move.

Thank you for your attention, hon. members.

[Motion on amendment A1 lost]

[The clauses of Bill 39 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 35
Colleges, Technical Institutes and Universities
Statutes Amendment Act, 1998

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

MR. SAPERS: Thank you, very much. Madam Chairman, we have had some debate at second reading on Bill 35, and I had suggested to the minister of advanced education that he might want to take the opportunity during committee to respond to, first of all, my understanding of his hesitation to bring in a lower cap. In fact, I remember that we had an exchange, through the Chair of course, that was based on a challenge. The minister said that somehow anybody that argued against his position was arguing for a tax transfer from the poor to the wealthy. I was saying that that was poppycock. I would have suggested that it be something else, but I didn't want to be provocative.

So I hope the minister is in a position now to fully explain what was wrong with my assessment, because in fact tuition represents an exchange, and the exchange is not just between the advanced education institution and the student. It also represents an exchange in terms of society and social values. What we're saying is that we believe that tuition needs to be affordable and that the public purse gets repaid manyfold because of the tax generated by the economic activity produced as a result of the graduate gaining more permanent employment quicker, that employment usually being at a higher income level.

I know that even the Provincial Treasurer would admit that the Treasury depends on income tax. What the Treasurer's job is to extract as much money as he thinks he can get away with from the taxpayer and then spend it according to some sense of priorities. We happen to believe in the Official Opposition, Madam Chairman, that those priorities are horribly out of whack, and we would make different priorities. But in essence that's what government does. It does tax and spend.

Now, the Treasurer knows that, and I'm sure the Minister of Health knows that, although from his budget exercise sometimes we wonder how well he appreciates it. Certainly the Minister of Advanced Education and Career Development knows that. So even though he's trying to taunt me into saying something unkind about taxes, he knows that that's what governments do. They do tax and spend. It's a matter of taxing appropriately and spending appropriately, and nobody in the Official Opposition would dare take one cent more than was absolutely necessary out of the economy in the form of taxes. It's after all not the Liberal opposition that manipulated a \$2.5 billion budget surplus, which means that this government has taken 2 and a half billion dollars more out of the economy than they needed to get on with the business of government. That's a very, very sad indictment of the government's tax and spend policies.

Madam Chairman, what we're really talking about is Bill 35. So I would hope the minister will explain – and he's not giving me any indication – just what was wrong with that assessment. We believe that affordable tuition is a great investment. If the minister disagrees with that, I wish he would explain why.

The other thing that the minister and I disagreed about in second reading was the notion that the government and institutions need a backdoor escape clause. That escape clause is the one that right now suggests that any advanced education institution can

apply to the minister to be able to collect tuition fees that represent more than 30 percent of the operating costs. My suggestion during debate earlier was that, well, you know, the minister has another choice. Instead of allowing them to collect more tuition so they don't exceed that cap, they could simply roll back tuition so they don't exceed that cap. Wouldn't that be a novel idea, actually issuing a rebate? The minister nodded appreciatively when I made that suggestion earlier, and I would hope he would comment on it now.

10:20

It seems to me that this legislation does not do what the minister would really have us believe it would do, and that is to protect tuition from huge, unwarranted escalation. It doesn't do that because the 30 percent figure is too high to begin with. It doesn't do that because of the minister's own little notwithstanding clause, and it doesn't do that because, of course, we know that this government on a whim could change the law. So I would like to suggest that if this bill is to have any enduring merit, we need to look at some amendments.

I would like to move an amendment, Madam Chairman. We'll say that this is amendment A1, because there's a bunch of them. This bill needs a lot of help. We'll introduce amendment A1, and amendment A1 would in effect create a tuition advisory council. Now, the tuition . . . [interjection] I'm going to do that in a minute.

THE DEPUTY CHAIRMAN: Okay. Then we can hand them out.

MR. SAPERS: I was going to build up to it, but I'll do it now, Madam Chairman. There we go. I'll pause while this is being circulated.

Madam Chairman, I think there are sufficient numbers copied for those members who are interested, so we'll proceed. This amendment, amongst other things, creates a tuition advisory council. A tuition advisory council would be a group of individuals whose job it would be to create the definition of tuition fee and also the calculation for net operating expenditures. The bill suggests that this should be done by Executive Council, by the Lieutenant Governor in Council. We know that what this means is that when cabinet gets together behind closed doors, they'll kick around a couple of ideas and then I guess the loudest voice or whatever will win the day.

We've heard a variety of ideas from members of the executive committee about what they think tuition should be. I've heard that that ranges from zero tuition to a hundred percent of the cost. You know, this is a frightening prospect, so I'm not sure that we would want to leave this decision to the Executive Council, and particularly we wouldn't want to because it wouldn't be in public. It would be in secret. Of course, if there's one thing that Liberals abhor, it's secrecy in government. What we would like is all of the sunshine possible to come down on this decision-making.

We think that if a public advisory body of some type was structured and that body was charged with the very important task of defining what makes up tuition fees and all the other mandatory expenses students have to accept when they go into a course of instruction and also the calculation for net operating expenses, then that debate will be well-informed. It will be public. I think the minister would have a process he could be proud of. The opposition would have a process they think would be accountable, and students would have a process that they know they couldn't be hijacked by, that it would be very above and beyond question.

The amendment does give the minister some prerogative, but the basic intent of this amendment is to create this tuition advisory council and to take that away from a decision of the Lieutenant Governor in Council. We would, however, accept that the Executive Council could make up the process for the establishment of the tuition advisory council. Of course, there'll be another amendment that would say that all these regulations should be referred to the Standing Committee on Law and Regulations so that the whole process would be done in the full light of day.

You know, there's one thing that Alberta Liberals understand, and it's how to provide good, competent government. We understand that the minister has a role, that this system depends on ministerial accountability. We also understand that cabinet needs to have a say in something as important as the establishment of the tuition advisory council, but we reject the notion that they should by themselves assume that they have all the expertise they need to make those decisions on the actual calculation. So the tuition advisory council will do all the hard work, the minister will accept the recommendation, and cabinet can structure the process of how the council is established. That to me sounds like a good division of responsibilities, and it would be good, responsible government.

MS CARLSON: It's a good idea. I'll vote for it.

MR. SAPERS: My colleague indicates her support. I hope that all my colleagues in this House – because I consider all members of this Assembly my colleagues, Madam Chairman – will support this amendment, because it's very reasonable.

Now, I know that the endearing quality of this amendment may not be readily apparent. I know that all members will need a moment or two to reflect on it, so what I would like to suggest right now is that we adjourn debate on amendment A1.

THE DEPUTY CHAIRMAN: Having heard the motion by the Member for Edmonton-Glenora, are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? It's carried.

MRS. BLACK: Madam Chairman, I move that the committee 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: Bill 39. The committee reports the following with some amendments: Bill 25. The committee reports progress on the following: Bill 35. 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 10:30 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]