

## Legislative Assembly of Alberta

**Title:** Wednesday, April 22, 1998 **8:00 p.m.**  
**Date:** 98/04/22  
 [Mr. Shariff in the chair]

THE ACTING SPEAKER: Please sit down.

Before we proceed with the business of the day, may we briefly revert to Introduction of Guests?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed?

The hon. Member for Calgary-*Buffalo*.

head: **Introduction of Guests**

MR. DICKSON: Mr. Speaker, thank you very much. What I wanted to do was introduce a very large number of Albertans in the members' gallery and the public gallery who are here and particularly interested in progress on Bill 37. I wanted to thank those people for coming in and also thank them for the excellent advocacy they're doing on behalf of a strong public health care system. Would all of those people please rise and receive the warm welcome of the Assembly.

head: **Government Bills and Orders**

head: **Second Reading**

### **Bill 38 Public Health Amendment Act, 1998**

[Adjourned debate April 6: Mr. Jonson]

MR. JONSON: Mr. Speaker, I had pretty well concluded my remarks with respect to second reading on Bill 38. When I'd adjourned debate earlier, I wanted to conclude by indicating that the changes proposed in this particular bill are, first of all, to add certain efficiencies administratively and logistically as far as the operation of our overall public health surveillance system.

Secondly and I think most importantly, Mr. Speaker, the bill is designed to make sure that the public health authorities in this province have the ability to deal with any public health problem or issue or danger expeditiously. This ability or this power, if you will, is provided for in the Act for I think a very, very important purpose, and that is the overall general health of the people of the province when there is an epidemic or some other very serious public health threat to their wellbeing.

Thank you.

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

MR. DICKSON: Mr. Speaker, thank you very much. I'm pleased to join debate on Bill 38. Since I see I've left my briefing notes on Bill 38 in my office, this may be a shorter presentation than members are accustomed to at second reading. Maybe not a whole lot shorter, members.

Bill 38 is presented as another innocuous housekeeping sort of bill. When we first glance through it, it appears to be fairly inoffensive, but a couple of things come to mind that I wanted to raise at second reading and that I think would require amendment to make this bill acceptable to Albertans.

The first one I want to identify is a concern dealing with the public health appeal board. Now, I remember, Mr. Speaker, in

the Assembly three or four weeks ago seeing on my desk a report from a board that, in fact, I'd not even been aware of before. My own ignorance. I'm sure most Albertans probably are familiar with the public health appeal board, but it was new to me. When I read the report, a couple of things struck me. First was that they had an interesting mandate, because the Public Health Advisory and Appeal Board, as it currently exists, serves as an appeal board, which makes perfectly reasonable sense, but it also serves as an advisory board to the minister.

My initial reaction when I saw the report on my desk from this board was to think that it was pretty vacuous, that there wasn't much detail in it. I'm accustomed to seeing reports from the Ombudsman. I'm accustomed to seeing reports from other legislative officers where there's some meat in the report, where there's some detail, where from reading the report, you have a sense of how we're doing in terms of monitoring our health care system, our public health system. I didn't find very much of that in the report.

Then I started thinking, Mr. Speaker, how is it that in a province that has so many different agencies and boards and committees all supposedly reviewing elements of our health system - we've got the Health Facilities Review Committee. I don't remember who the current chairman of that is. It used to be the Member for Calgary-*Egmont*. I'm not sure that he's still the chairman of the Health Facilities Review Committee. Someone else has it now. But there are a host of boards that have a sort of different sliver, a different slice of responsibility to monitor our health care system. I remember, I think, saying to the Minister of Health when I saw the report: why is it that we have this agency doing a bunch of other things in terms of advising the minister as well as hearing appeals? That didn't make very much sense.

Then two other things came to mind. One is that if you look carefully at those portions of the act that are about to be repealed, you find that with this we will lose in Alberta the single office that can do own-motion investigations. When I started doing some comparisons and contrasts between the different committees and things looking at problems and monitoring our health care system, almost every one was complaint driven. Now, if in fact I'm incorrect, I earnestly invite the Minister of Health to set me straight.

What struck me was that there was a unique property to that, and we've seen the power with the Ombudsman's having a mandate to be able to do investigations. I think of the Ombudsman's investigation of day care. That wasn't because the government or the Assembly tasked the Ombudsman to do that. The Ombudsman heard so many complaints with respect to day cares that he decided to undertake that kind of investigation. That's a powerful tool in terms of keeping a big, powerful government accountable.

Now, another thing puzzles me. I am a member of the Legislative Offices Committee, and the Ombudsman came in front of us and made a pitch at the time his budget was being reviewed. Other members of that committee are here and can correct me if I misstate what happened. I understood that the Ombudsman came forward and said that we were about to change the Ombudsman's jurisdiction so that he would be what members in the opposition have always asked for: a single office where Albertans can take complaints and concerns about problems in the health care system, not have to go to the Health Facilities Review Committee or some ad hoc committee created by the Minister of Health last month, last week.

I mean, people remember when the former Minister of Health developed a reputation, fairly or unfairly. We often talked about the bumper sticker we expected to see: honk if you're on one of Shirley's committees. There was such a plethora of different task forces and so on. But that's not what Albertans want. They don't need more of a minefield. If you've had a problem with the health care system, you don't want to have to choose between 13 different phone numbers and offices, each with different kinds of jurisdictions. You want to be able to go to one place and say: the health care system isn't working for me, and I'd like it investigated and I'd like concrete recommendations to come from it.

In any event, the advice the Legislative Offices Committee received was that shortly we would have a single complaints mechanism for the health care system, and that would be the office of the Ombudsman. Well, here we are in what many of us hope will be the last few days of the spring session. [interjections] Maybe we'll be proven wrong. I know that the government members are keen on going for months yet. If indeed this is in the dying days of this very eventful session, it just seems to me that we have to find out from the Minister of Health what happened to that proposal for a single complaint office, for a single body that would be able to deal with issues in the health care system. [interjection] The minister gives me some comfort that it's coming. I don't know whether that means we're going to see that bill introduced tomorrow or whether that means it's going to be introduced in the spring of 1999 or 2000.

The point is that we're moving at a glacial pace. The complaints relative to health care services continue to pile up. Just the number of people in the gallery here this evening tells you that there are sharp, strong concerns about what's going on in health care. It's not enough just to leave this plethora of complaint review agencies. It seems to me that this is the time to deal with that. If indeed the Minister of Health is telling us that that model is almost ready, then for Pete's sake, what are we doing with that portion of Bill 38? Is this another statute that we accept, we pass tonight, and we're going to be back in the fall or next spring with another amendment statute because that's no longer necessary and we have a bunch of amendments to another statute? Anyway, that's a concern I have.

**8:10**

The Minister of Health is dead in this debate in terms of not being able to speak again. He's spoken once, so we can't hear from him on the record at second reading.

MR. PASZKOWSKI: He closes debate.

MR. DICKSON: Before closing debate, because it could make the opposition's speeches, I expect, a whole lot shorter, perhaps for a change we could have a government member stand up and speak in support of the bill in addition to the minister. The typical situation in the House is that the minister or the mover speaks, and that's the last we hear of any government defence of the statute until the closing of the debate. So I'd sure appreciate that clarification.

Now, the other concern I've got has to do with the powers of the medical officer of health. Some of this is driven by this concern. I know of a situation – and I know there's a pending lawsuit, so I want to respect the integrity of the lawsuit. There's a question and it's been alleged that the provincial government has been detaining people with HIV. I'm thinking that if you have somebody who has a severe mental disability that may be infected with HIV – there are situations where people like that have been

effectively imprisoned in a hospital; in other words, restrained without their consent, in many cases without any sort of court review, any sort of court order. Pretty scary stuff. This isn't Stalinist Russia. We do have certain rights. I have a concern when I look at some of the isolation and quarantine powers. It strikes me that we have an expansion of powers in terms of quarantining, if that's a verb, and isolating people. We have an expanded role, and I'm a bit nervous about that.

I listened to hear the Minister of Health make the case, if you will, on why this expanded sort of detention power, investigation power is merited, and I didn't hear it. Now, the Minister of Health is, I think, a cautious and a conscientious legislator. He's probably got a big research brief on that in terms of the involuntary isolation of people, but I'd like it very much if he could share that with us or have one of his colleagues – maybe the Minister of Energy, who always has lots of energy in debates in the evening, could participate in the debate and share with us some of the reasons why we want this sort of expanded role. It clearly, Mr. Speaker, is a concern now.

Some other elements seem not unreasonable. The provision of samples, information is reasonably straightforward. I note, though, that there's reference to confidentiality provisions at page 10. This would be the new section 18. Mr. Speaker, once again we have a bit of a conflict, because the minister has created a committee or a task force looking at health information and the issue of trying to reconcile two competing goals, one being protecting the privacy of patients and the other permitting exchange of personal health data. I think most Albertans are enormously apprehensive about their most personal information being shared. You know, even in serious cases of quarantine of communicable diseases people don't lose all their rights or ought not to lose all their rights. We're talking about some information which is enormously prejudicial. If information was more widely distributed that this member was suspected of having some infectious disease, I expect there would be pretty substantial prejudice that goes along with that. I'd be anxious that we address confidentiality in one place or another not by regulation, because that's what section 18 in Bill 38 would do, but confidentiality always ought to be addressed in the statute.

Mr. Speaker, I'd just share with members that the health information task force had done some focus groups. I didn't have a chance to watch the focus groups, but I think the Member for Bonnyville may have gone to one of those groups. I know the Member for Calgary-Glenmore went to one. I think what they'll confirm is how important Albertans rate confidentiality of their personal health information. Because it's so important, is it appropriate that that serious matter be addressed as it is on page 10, by way of regulation? I don't think that's adequate. I think confidentiality provisions ought to be elevated. They ought to be put in a statute where they can't be changed without debate. They ought to be put in a statute where any Albertan can find out what their rights are without having to hire a lawyer, without having to phone the Minister of Health's office. I think those elements are particularly important.

Now, the other concern with respect to Bill 38 would be that we have a fairly inconsistent approach. What we've identified is that more and more we're finding people on government boards who have conflicts of interest, and one of the problems with that is that if you have a board that has to hear an appeal and you have a member who's in a conflict of interest, what do you do? Now, I think the government has finally become alerted to this problem, and I can think of a couple of other statutes we've seen this spring

session where they provide for what happens if a board member has a conflict of interest.

AN HON. MEMBER: Is this Bill 38?

MR. DICKSON: This is absolutely on Bill 38, and I encourage members to look at page 2, part 1 of Bill 38. [interjection] Thanks for the advice, Minister of Community Development.

It seems to me, Mr. Speaker, that this ought to be the time. [interjection] Well, conflicts of interest happen. There's nothing necessarily inherently bad with that unless you don't have a mechanism to deal with it.

MRS. McCLELLAN: We do.

MR. DICKSON: Well, with respect, that provision I don't think exists. If it does, I haven't found it, Minister of Community Development. It seems to me that conflict is an appropriate thing to address in the bill, and it isn't to the best of my determination.

The other concern had to do with section 10, and this is one of the things that I'm going to propose an amendment to. It's excessively broad. It says:

Where a medical officer of health reasonably believes that a person has engaged in or is engaging in any activity that is causing or may cause a threat to the health of the public . . . the medical officer of health may by notice . . . require the person to provide [certain information].

It's much broader.

If you look at section 12, what's happening is we're broadening the ambit whereby information can be required, and in a free and democratic community, a free and democratic society I think the bar or standard before people have to divulge information under threat of coercion should be a high one. I'm not sure that's the case with the bill.

Now, as I say, I don't have my briefing notes. I remember having two or three other concerns, but I don't have them here with me. I know that some of the other members are much better prepared than I am tonight, so I'm going to surrender my seat and look forward to further debate. But I do hope the Minister of Health will share with us a stronger case for some of the changes than what he said in introducing the bill and moving second reading.

Thanks very much, Mr. Speaker.

8:20

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

DR. MASSEY: Thank you, Mr. Speaker. I'd like to make a few comments about Bill 38. I think it's clearly understandable why we have such a bill before us in the House. Many of those in this Assembly and certainly some of those in the gallery will remember as youngsters what happened when we caught measles or chicken pox at school. We were confined to our homes, and the health officer came along with a sign and tacked it up on the front door of our homes. We were effectively quarantined. They did that at that time to protect public health, to try to prevent the spread of measles and chicken pox, diseases that were extremely contagious at that time. It was an effort by the authorities to protect public health, and I think to some extent it was successful.

I suspect that the motivation for this particular bill coming forward at this time is the rather disturbing cases we hear of where people infected with a particular virus are going out and

deliberately infecting other members of the community without those people being informed that the individual is in fact a carrier of a virus such as HIV. You don't have to hear many of those stories to realize that there have to be some measures in place to protect the public from the behaviour of irresponsible citizens. On the other hand, realizing that that kind of protection is very necessary and given that we're citizens in a democracy, we have to balance that with great care and make sure that we don't move too far in terms of violating someone's privacy or doing harm to an otherwise innocent individual.

The balance in Bill 38 has some of us concerned that the privacy aspect – that is, once a person has been identified or once the officer of health has issued an order or has begun an investigation, somehow or other, no matter what the results of that investigation are, that individual will be put at a disadvantage.

Speaking at second reading of the bill, there seemed to be at least three or four principles embedded in this. Two of them I think are the most important and deserve our attention. The first of them is that a person engaging in a risky public health activity has to provide any information that is requested of that individual, and that information must be provided or that person is in violation of the act.

The second one is the principle that there has to be an individual endowed with great authority and power to act, should such individuals be free in the community, to be able to quarantine and to prevent such individuals from going to work, from attending school, and from associating with other people.

Those two principles seem to be really the heart of the bill. There are a couple of others related to administration: the one that the appeal body should be an appeal body only and that it shouldn't be an advisory committee and, the second, that there can be positions created by the government to oversee this activity. But it's really those first two principles: that those individuals engaging in risky public health activity must provide the information that's requested of them and, then secondly, that the health officer has the authority to make that individual comply with the elements of the act.

When you read the act and the portions of the act that seem to support those principles, they're very strong indeed. Section 14:

A medical officer of health who knows of or has reason to suspect the existence of a communicable disease within the boundaries of the health region in which the medical officer of health has jurisdiction may initiate an investigation to determine whether any action is necessary to protect the public health.

So broad powers, if he suspects something is going on, to initiate an investigation.

“Where the investigation confirms the presence”: where they find someone that has a communicable disease, then that officer of health has the power to carry out the measures of this act and “may do any . . . of the following.” And you look at some of the things that they can do “to suppress the disease in those who may already have been infected with it.” So the first obligation is to try to help that individual be free of the disease. “To protect those who have not already been exposed to the disease”: any action that's needed to protect the rest of the community. “To break the chain of transmission” and to prevent the chain that's causing the “spread of the disease,” and “to remove the source of infection.” So those are fairly strong powers given to a health officer to deal with an individual who is found to be infected.

Then it goes on, and I mentioned this before: by order can stop them from attending school, prohibit them from engaging in their occupation – that's a fairly heavy decision to be made in terms of its impact on a person's life – and prevent “a person from having

contact with other persons” or classes of persons. So those are fairly severe restrictions, and I think they're restrictions that most people, if they were assured the individual was infected and was not acting responsibly, would accept on a citizen's freedom.

Then it goes further in terms of decontamination of the residence or the destruction of bedding or clothing that that individual may have contaminated. So there is a wide range of measures for the health officer in this act to deal with the individual to try to contain the infection and to try to make sure that it doesn't spread further in the community. Again, I think we would endorse those but always – always – with the overriding concern with the rights of individuals not to be persecuted, not to be unfairly maligned, and not to have their lives destroyed should they be the innocent victims of being infected by a communicable disease.

My colleague from Calgary-Buffalo talked about the privacy concerns, and all of us understand what would happen to any one of us were we HIV positive and information about that became available to other members of the community, those that we work with, those that we associate with. We can all understand the severe and negative impact that would have on our lives. I think what my colleague from Calgary-Buffalo is concerned about is that that might happen, so any information that is gathered by the individuals operating under this act, any of that information, is very carefully contained and there are built-in mechanisms to make sure that that information doesn't end up on a hard drive being sold at a government auction or some other inadvertent disclosure. That's really a major concern when government has to take this kind of drastic action to protect the public.

So with those comments at second reading, Mr. Speaker, I'd like to conclude and will look with interest to the response of the government to the questions about privacy and the assurance at the committee stage of the bill that privacy will be protected by the minister or members of the government.

Thank you very much.

**8:30**

**THE ACTING SPEAKER:** The hon. Member for Edmonton-Norwood.

**MS OLSEN:** Thank you, Mr. Speaker. I, too, have a few comments I'd like to make in relation to this bill; the majority of them are around the issues of privacy. I just want to go back and reflect on the objective of this bill, and the purpose of this act is apparently to strengthen the ability to protect Albertans from the transmission of communicable diseases and to reflect the new role as an appeal body of the current Public Health Advisory and Appeal Board.

As a police officer I worked in an area that was very much visited by and that attracted, I suppose, a number of individuals who were drug addicts and who certainly may indeed have had communicable diseases. However, many of these folks, albeit they had some health problems, were not indeed criminals and were not indeed nonproductive members in society. So I am very curious in relation to the whole notion of limits and quarantines being put on anybody that public health officials choose or even for the chief medical officer to designate any disease which hasn't already been prescribed so as a disease under surveillance.

In this bill there are not any limitations on what information the chief medical officer can request and if he could request confidential patient information. You know, I look at the overall privacy implications. Now, I understand the need for public health enforcement, but I'm wondering how heavy handed we want to be

in that respect. Not long before I actually entered the Legislature, I had contact with a much publicized patient with tuberculosis. There was a broad appeal put out through the media and through the public health officer to look for this gentleman, who had indeed a public health problem and that health problem was tuberculosis. We needed to as police officers go and be tested to ensure that we were not infected.

On a daily basis, however, I would suspect that anybody working in a frontline profession – be it nurses in emergency rooms, be it police officers on the street, ambulance workers, and firemen – is often subject to the potential of being exposed to diseases that certainly we'd much rather not be exposed to. But given the nature of the job, there's not a lot you can do. So would that mean that if I was exposed to hepatitis, then I could be quarantined or that I shouldn't go to work for six or eight months until somebody finds out whether or not I really indeed have the disease? Is that productive? So I'm wondering what the limitations on these kinds of issues are going to be.

I look under another section of this bill, section 10, and it talks about “where a medical officer of health reasonably believes that a person has engaged in or is engaging in any activity” that is or may be a health risk, he can require that person must provide him with information respecting that activity. I'm wondering what implications this has. Does that mean that anybody with a sexually transmitted disease has to report every single partner they've been with or that any AIDS victim has to report?

I can tell you that I know of a couple of young women with AIDS who frequent 118th Avenue and who are prostitutes and drug addicts. I can tell you that one of these particular individuals, the moment she was arrested and given an appearance notice and then released within a half an hour, was again arrested by myself within the same operation, by the same arrest team involved in the undercover operation, in this particular prostitution sting operation. That young woman had HIV. I know that. She admitted to it. This was a way of life, and it didn't seem to matter what I did or what anybody did. That young woman was destined for the streets and was waiting out her time.

Now, my question is: do we quarantine her because she has HIV and is a prostitute? What about all of those people who came to 118th Avenue and who used her services? They may be the upstanding citizens of Riverbend or someplace in Calgary or someplace else. Trust me; they are out there. We may not know who indeed she's been with and who is, obviously, a health risk, but what about the implications of that ongoing action that she's engaging in through her prostitution activities? There are a lot more people out there who are exposed to communicable diseases that don't think twice about using the services of a prostitute, and those are many upstanding citizens in this community and other communities. So are we just going to focus on those folks, or are we going to focus on everybody? If we focus on everybody, we're including the upstanding citizens of the communities, I would hope.

My concern, then, is that if we have to report everybody that a particular individual has been with, does he have to report every particular public place he has been to and has attended? I'm wondering what sort of privacy implications that has. I think there's a balance that can be found with these diseases for sure, but I do also caution the government in relation to the number of privacy concerns there are. Many people put themselves in the position to contract a communicable disease. Therefore, you know, we have to be cognizant of the choices they make as well.

I'm wondering about section 12. It provides that a medical

officer of health can require information from a person in charge of a public place if he knows that a person suffering from a communicable disease has been frequenting that place or that the public place is contaminated. So how does he go about doing that? Does that mean that because one person who comes into a facility – and I can look along 97th Street and those areas and think of all the people who walk into the peep shows and those kinds of things and talk about, again, how we're not always looking at people that we stereotype to be in those places. There are a tremendous number of people who go and frequent these establishments that many of us in here would be surprised to find out about.

So at what point do we say: what about a private health club or a private sports facility, fitness facility, all of those kinds of things? I think that while we must err on the side of caution with public health and the public health diseases that are out there, we must also be very cautious of the implications in relation to privacy. I'm concerned that if we don't balance that, then we're going to be opening up the doors for some issues to be brought forward that I'm not sure we're prepared to deal with.

**8:40**

The other concern I have is the number of regulations that can be enacted and prescribed. You know, we've already talked about the whole issue of lack of debate in the Legislature on certain issues. Sometimes regulations get passed that should actually be statute and should be brought back to this Legislature. I find that the way this government is doing business is through regulation, and we're going to see more and more and more of that. I would, then, ask that the Justice minister have the Law and Regulations Committee meet so that we can go over those regulations and make sure there is a balance with those regulations and that all of the people, all of the stakeholders have been contacted so they know and there's agreement on certain regulations. That would prevent a lot of the heavy-handedness that one might see this government decide to go forth with.

So I would like to see the Law and Regulations Committee meet. I would like to see and encourage this government to take a second look at the public health amendment, to look very carefully at the privacy issues. When I think about information that you can't get and that you should be able to get and the information that this particular bill is making available or may indeed be able to make available through regulation, then I have some serious concerns. I'm wondering if it's selective privacy in this particular Assembly, and I would caution the government about working in that vein.

With that, I will take my seat and open up for other discussion.

**THE ACTING SPEAKER:** The Minister of Family and Social Services.

**DR. OBERG:** Thank you very much, Mr. Speaker. I found it very interesting with the last two speakers, the first speaker being a lawyer. He was talking about such issues as privacy. I guess I'm relating to this, being a medical doctor who is in the front line all the time. It would be the equivalent of having the hon. Member for Calgary-Buffalo going into a court case and having the judge come down and say: "Well, I'm sorry; I'm not going to tell you what the other person has. You have to guess. You have to defend against everything." For the hon. member who just spoke, who's a former police officer, it would be like her going into a house where they say: "Well, I'm sorry; we can't tell you if there are any weapons in there. We can't tell you if they have

past criminal records. We can't tell you any of that," purely because of privacy.

As a health care worker it is absolutely critical that we know who has what. I've delivered probably a thousand babies in the last 10 years. I need to know as a health care worker whether or not that person has AIDS. I need to know whether or not that person has any communicable diseases, because I have to take the extra precautions, as do the nurses, as does every health care worker who comes into contact with that patient.

I think that as we get into the age of exotic viruses – I'm sure everyone here has heard of Ebola virus. Mr. Speaker, how many people on that side, if their child was close to someone infected with the Ebola virus, would not want there to be a quarantine, would not want the chief medical officer of health to take some action, to have the ability to take some action to stop that so that it doesn't spread to these people in the gallery?

I think the Liberal opposition is being extremely shortsighted. The chief medical officer of health has to have some authority, has to have some powers to protect the people in the gallery, to protect the health care workers, to protect the people that are out there.

Mr. Speaker, I find it absolutely ludicrous, what they're saying.

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

**MR. WHITE:** Thank you kindly, Mr. Speaker. It's a delight to see that a member of the government would even speak to a bill. It's enlightening. It is unfortunate, however, that all he spoke of was not what was in the bill but what other people said of the bill.

Now, look; all we are delivered is this thin, X number of pieces of paper here that say very little about what truly the government intends to do. With the government's past actions on a number of bills, notably a bill that may or not be before us tonight, depending on the whim of those on the other side, we don't have a clue as to what this says. We don't know how the function of the office would perform. All we can take is what is written. It is our job to ferret out what could and could not happen.

Recognize, sir, that the only thing that this side has to rely upon are two solid weapons in the quiver. One is time, and the second one is truth. That side governs the time. I mean, I would much rather be standing here speaking on Bill 37, and as any other reasonable level of government would do if some people come, have the common courtesy to deal with the issue that the people are looking for. But oh, no. That's a little too much for this government. Oh, my. We've got to drag things out. We've got to pain people. We've got to speak to a bill tonight that may come up, a bill about electing some senator that won't even sit, over Bill 37 when we have people to look at it. I don't think so.

It's just atrocious, the kinds of things that go on here in the way of working the system, such that we are forced to speak on this bill and this bill and this bill. And for those that don't know it, any moment now, once I sit down, one might pop up on their side and say: "Oh, no; now we're finished with this. Now we're going on to another bill." There goes one of the weapons we have: dealing with the time.

Now, we do all we can to get at the truth, and if you stand up and deliver some, I would like to have known it. I mean, you're a minister of the Crown, but as opposed to dealing with it that way . . .

**THE ACTING SPEAKER:** Hon. member, you're reminded:

kindly, please, speak through the chair. Don't enter into debates across please.

MR. WHITE: Well, it's exceedingly difficult when the warning did not come to the member opposite when the member opposite was addressing my colleague here and my colleague over here. I mean, the only two speakers. I would think it would make a little sense to deal with people in the same manner.

However, dealing with the bill specifically. Public health is a matter that is near and dear to all of our hearts when you have some difficulty. In the normal course of dealing in public health, we go about our daily business and do not consider it. Public health is something that somebody is taking care of. Well, this is the somebody, and this somebody is sort of that person or body of people between the doctor, the hospitals, those kinds of things that we deal with when we specifically have an illness, and those people on another side, that we have a great deal of experts on, the environment. Those are the clean water and clean air and clean soil . . .

MR. PASZKOWSKI: The bill, the bill.

MR. WHITE: There's a strange interruption from some highway hair minister over here. I'm having a little difficulty finding the words to express the difficulty that I'm having with him.

MR. PASZKOWSKI: It wouldn't happen if you were talking about the bill.

**8:50**

MR. WHITE: Well, Mr. Speaker, the difficulty is that here's public health, which is dealing with a great deal of people that are dealing in that specific health care, and then the people that are dealing with the environment, and the twain doesn't meet. These are the people that are supposed to do that. Quite frankly, this bill limits some of the powers that the board did have. I'll read some of them that are currently to be amended out of this bill. It says:

- (i) make investigations or inquiries into,
  - (ii) collect information relating to, or
  - (iii) conduct research into
- any matter relating to the public health, and make its report in the matter.

It further goes on to say "report to the minister." Well, I suppose that's reasonable. I personally would rather have it report to the public so that we can all see it and don't have to worry about having a report published. In fact, what it says is it gives some pretty broad powers to look at these things. Yet what this act does now: under the duties of the board it says that the board "shall hear appeals pursuant to section 4." Well section 4 is all that relates to communicable diseases solely and completely.

Mr. Speaker, I'm not quite comfortable with that. I would like to have somebody whose specific job is to take care of those things that I'm not concerned about in my daily activities. I'm not an expert in air quality as it relates to human life. That's not one of the things that I've ever studied. I'd like to know that there is some soul in there in the government employ that does that specifically and knows exactly when the point is to blow the whistle and say: Mr. Minister, or public, better still, there is a problem here.

I cite a case in point. For probably about six weeks now we've heard reports trickling out of a place called Cold Lake, which is in the northeast part of our province, a very beautiful part of the

province, about the arsenic levels in the water. Now, I've heard two questions directed to the minister here, and neither of them resulted in any answer. I don't know. I can't say to those people and I can't say - it's one of the favourite vacation spots; there's some great fishing up there - whether Marie Lake has more arsenic in it or around it or in the fish in that lake, that I should not take my sons and go fishing there. Now, I'm not asking a great deal here, but I'm asking that that kind of thing be known. I would expect that this kind of person in the government employ would do just that, would be able to say that that is wrong.

Now, the member from the area asked a question. I mean, he's a government member. He stood up and he did the right thing and he asked the minister. The answer came back: well, maybe we'll check into it; we have somebody looking at it. That was Monday or Tuesday of last week. The week before that one of our members asked a similar kind of question and got the same answer.

I would like to have those that are in charge of public health - and this act affects some of them - to be able to do just that, to be able to report to the public: look, there's a problem here. Or better still, I'd much rather: no, there is not a problem here.

There is another area that I'd like to concern myself with too. Having spent a fair bit of time in other parts of the world, I found that there are, unlike in this country, a great number of repressive regimes. I'm sure the Speaker's life history would confirm that. In fact, there are places - and I remember the early stories of Aleksandr Solzhenitsyn. He was condemned at first by reason of quarantine. Later on they decided he was mentally ill and then had to be shipped off to some gulag. You read those stories in context with this bill and the powers that this member of society has, this CMO, the chief medical officer, to quarantine people.

I'll read the section that concerns me somewhat. The concerns may in fact be ill-founded just in the matter of my ignorance of how this is applied, but I read these things. Now, if I can just find exactly where the powers are. Here we are:

Where a medical officer of health knows or has reason to believe

- (a) that a person suffering from a communicable disease.

Then it goes on: in "a public place" and may contaminate others and that sort of thing. Well, that's the section where quarantine is applied.

Now, to me quarantine is, for all intents and purposes, solitary confinement somewhere. It doesn't say anything about medical help and all the rest of it, which I assume in this society would occur. But read that section in context of the countries we called the iron curtain countries, and you say: gee whiz; this is kind of scary. You can be held incommunicado for an indeterminate length of time on the suspicion that you have or the medical officer "has reason to believe." Now, there is no appeal to that medical officer of health's decision. That's it; it's done. So let's hope that there's someone on the outside that at least knows you're alive and knows you're there to retrieve you or at least make representations to someone to retrieve you, because there isn't anything contained in this bill that says that.

Now, Mr. Speaker, there's only one small area that I'd like to bring to light also. That's in the way of regulation. If they were delineated and laid out before us in bill form so that we weren't dealing with a tiny bit of paper here, we could answer all those questions that I have. I'm sure there are members of the public service that have been through every single one of those scenarios and knows, and there are regulations to that. If it was contained here so that I could say to my colleague from Lethbridge-East or I could say to my neighbour next door or I could say to one of the raging grannies in the audience: "This is what this piece of

business is about. It's all contained. It may take you a day or two to peruse it and understand it, to go through the medical dictionary to figure out some of the words, but it's all there in plain English." But it's not. It's not here.

As a matter of fact, with all the regulations that are made, this side of the House doesn't get a chance to even look at them and review them. We have to dig through that which is published, because it is in fact a secret, some kind of state secret that as an elected member on this side I guess I don't have the right to know.

Well, we do have the provisions. Those that sat in this Chamber before had a provision for that. There is a standing committee of this Legislature that is set up specifically to review this. So we don't have to take all the time here to review every one of them. There's a committee that does that. But since this government was elected, since I've been elected in 1995 . . .

DR. NICOL: Ninety-three.

MR. WHITE: Yes, 1993. I've been here a little longer than I thought.

Since that time it has never, ever sat. Now, maybe I'm naive enough to believe that, gee whiz, somebody in the past decided that that was how to do things, and they set up a system to do it. This government chooses not to do that. I think it's reprehensible how this government deals with health. And I'll say again, sir, that I would much rather be discussing Bill 37 as opposed to this.

Thank you kindly for your time.

THE ACTING SPEAKER: The hon. Member for Edmonton-McClung.

MR. MITCHELL: Thanks, Mr. Speaker. I would like to join my colleagues in expressing a series of concerns that I have and that we have about this bill.

I would first of all like to apologize on behalf of the Members of the Legislative Assembly to the people in the gallery, who are clearly here to discuss another matter, Bill 37. I would like to say that it is no coincidence that we are talking about other bills first while you are here in the stands. I am very, very sorry that that would occur. I think it's an affront to the kind of service and commitment to the people of this province that this Legislative Assembly should undertake without any question ever.

9:00

I would also like to say that we are bound to speak to this bill at this time, delaying, they would argue, our ability to get to Bill 37 sooner, because if we don't speak now we won't get another chance to speak on this bill at second reading, and it's very important that we have the opportunity.

So thank you for bearing with that, and I apologize to you that it would have to occur as it has.

This bill, Mr. Speaker . . .

THE ACTING SPEAKER: A point of order has been called. The hon. Deputy Government House Leader.

#### **Point of Order Sequence of Business**

MRS. BLACK: Mr. Speaker, clearly the order of business has been explained to the House leaders on the other side, and I think it's very unfortunate that this hon. member has tried to misrepresent the order of business that was going to be followed for this

evening. That has not been changed one bit, and I think it is unconscionable for you to mislead the people in this gallery to have them think that there's been anything changed. That was laid out between House leaders.

THE ACTING SPEAKER: On the point of order?

MR. MITCHELL: Yeah. That member has just used an unparliamentary word, has referred to me as . . .

THE ACTING SPEAKER: Sit down, please. Please sit down.  
The leader of the ND opposition.

MS BARRETT: Thank you, Mr. Speaker. With all due respect to the Deputy Government House Leader, you will note that every Thursday for the last two or three Thursdays the Government House Leader in announcing government business says: as per the Order Paper and in consultation with the opposition parties. I can tell you that the Member for Edmonton-Strathcona was never consulted about whether or not he would like to see Bill 37 come forward earlier than other bills in committee reading versus second reading, and I believe that the member who is now the Acting Official Opposition Leader was never asked his opinion either. In other words, it is our assessment that Bill 37 is deliberately being held until late this evening as a filler bill to prevent us from talking about Bill 27 in committee, which is under closure. So these people in the gallery should have, I think, an objective explanation about this, and I think the Member for Edmonton-McClung started to do just that.

THE ACTING SPEAKER: On the point of order.

MR. MITCHELL: I defer to what the party leader for the New Democrats said. I agree, and I stand very, very firm in what I said about the order of business tonight in this House.

THE ACTING SPEAKER: On the point of order, in looking at the order of business today, Bill 27 is coming before the Committee of the Whole, so the facts are that this bill is going to be dealt with today.

You may proceed with your debate, hon. Member for Edmonton-McClung.

MR. MITCHELL: Thanks, Mr. Speaker. There is a solution to this, of course. If the hon. Deputy Government House Leader would like to adjourn debate on this bill promising that it will come back for second reading and further debate, we'd be happy to go to Bill 37 right now. Let's talk about Bill 37 right now. Just adjourn debate. We'll agree to that and bring it back some other time. So there it is. [interjections]. Thank you. There it is, the true colours. It's very easy, all of you in the gallery, for the Government House Leader to right now change the order of debate. We could start Bill 37 right now, and you could sit comfortably to watch this until 12 o'clock tonight. We'd be happy to do it.

THE ACTING SPEAKER: The hon. Member for Edmonton-McClung, on the debate that's before the House.

#### **Debate Continued**

MR. MITCHELL: Mr. Speaker, I see two huge ironies – perhaps they're even contradictions – that underlie this bill. The first

irony is that it is presented by a government that wants to say and says over and over and over again that it doesn't believe in big government. What it doesn't understand is that there are two forms of big government. There is a measure of big government that can be related to empirical evidence: numbers of people in government, numbers of committees in government, numbers of cabinet ministers, numbers of MLAs, amount of money spent, numbers of laws perhaps. You could add those things up and say that a government with more of those things would be bigger than a government with fewer of those things. And really, because they lack subtlety, they think that because they cut the number of people on the public health board, they reduced the size of government.

What they forget is that there is another measurement of the size of government, and that measurement isn't as empirical and isn't as concrete. It is a measure of government that relates to how government forces itself, imposes itself on people's lives. We saw that in a classic case on Bill 26, when the government wanted to impose the notwithstanding clause on sterilization victims and take away their rights. Let me tell you; you can reduce 10, 50, 100, 1,000 people from government, and you will never reduce government as much to offset the huge, huge impact of governments on people's lives, the intervention in their lives, of a bill or an issue like Bill 26. While the intrusion that is implicit in this bill isn't as monstrous as Bill 26, the intrusion is every bit as much a part of the wedge into people's lives and their quality of life and their relationship to government, every bit as much a part of the wedge that begins a slippery slope.

So one of the real ironies in this bill is that it comes from a government that says that it wants less government but can only add up the bricks. It's not a government that can look at the broader vision, the impact, the philosophy, the sense of things that aren't as concrete and say: what does this really do in terms of the size of government as it affects the people of this province? Well, I'll tell you, Mr. Speaker, that it does a number of things that every member of this House should be very concerned about.

Secondly, there is another great irony. While this bill is reducing the ability of the public health committee to advise, to investigate, to research, it is compounding a problem that the government created – was it a year ago? – when Dr. Fanning's contract wasn't renewed. Dr. Fanning was one of the leading specialists, one of the leading experts in the world on communicable diseases, and she had a distinguished career in this province in that role, the provincial director of communicable diseases. She is now working for the World Health Organization. Expertise gone from this province because this government has such a limited view of how expertise and professionals like doctors of that calibre can provide what is needed for the public health and the health and well-being of the people of this province.

As if that wasn't bad enough, now the government restructures in this bill the public health committee. While its predecessors had the powers of advising the minister on public health, conducting research and investigations into public health, holding public hearings on matters related to public health, and conducting appeals, its successor in this bill can only conduct appeals.

So we have two great ironies. We have an irony where this government cannot understand the size of government and how you would reduce it in a way that is truly effective in reducing its unnecessary intervention into people's lives. We have a huge contradiction in the fact that it gets rid of one of the most expert people in the world on communicable diseases and then further

erodes its ability to address public health concerns by reducing the role of the public health advisory board.

[Mr. Herard in the chair]

Mr. Speaker, how do we see this? Well, too much government. We look at the role of this new chief medical officer in this bill. I should point out that the chief medical officer will be appointed by the Minister of Health. He will therefore have power over all other regional health authority appointees, and in fact the government can impose an appointee. Why is that? Because I think the government is beginning to get resistance from regional health authorities on the issue of public health administration, and they want to do something about it. They want to be able to impose their will on that area by a central chief medical officer whom they can control. What powers do they give this medical officer, Mr. Speaker? They give the medical officer powers that go well beyond anything that one would expect to be reasonable in a democratic society. The chief medical officer will literally be able to . . . [interjections] We'll go to 37 right now.

THE ACTING SPEAKER: Through the chair, please. Hon. members, through the chair, please.

MR. SAPERS: Yes, Mr. Speaker. Okay. Point of order.

THE ACTING SPEAKER: Citation?

#### **Point of Order Sequence of Business**

MR. SAPERS: The citations are the Standing Orders which dictate the order of debate in this Assembly.

Mr. Speaker, the Deputy Government House Leader was saying across the floor that we should adjourn debate. We are not going to adjourn debate on this. This is a very important bill. We are not going to give short debate on Bill 40, because that's a very important bill. Those bills deserve debate, open, honest, full, democratic debate.

We are willing to move to debate on Bill 37 because the gallery is here. There are not very many nights that the public are here in this gallery. We can debate Bill 37 now, and then we'd be happy to accommodate the government and go back and give them full debate on Bill 38 and full debate on Bill 40, but we're not going to adjourn debate on this because the government is trying to blackmail us and the public about Bill 37.

**9:10**

THE ACTING SPEAKER: Deputy Government House Leader, on the point of order.

MRS. BLACK: Mr. Speaker, clearly there has been an agreement between the House leaders on the order of business for this evening. Quite frankly, I think any kind of distortion from that is wrong, because we've agreed on it beforehand. What I think is unfortunate is that we could in fact adjourn debate on this bill, go to the next bill, and then go into Committee of the Whole. We are in second reading on bills as we have agreed to be in. I think the faster we move along, the better off it will be for everyone in here and in the galleries.

THE ACTING SPEAKER: Hon. members, it seems to me that what we have here is a dispute that probably should be resolved. I would ask that perhaps both House leaders go and have a chat



about this and come back in once they have reached an agreement, and we can continue with debate rather than the grandstanding.

#### Debate Continued

MR. MITCHELL: This chief medical officer can literally imprison people without any kind of proper judicial process, absolutely without any kind of proper judicial process. I believe there is a role for the chief medical officer to take steps to protect the public against a public health risk.

THE ACTING SPEAKER: The hon. Minister of Family and Social Services on a point of order.

#### Point of Order

##### Questioning a Member

DR. OBERG: Yes. Thank you. Under *Beauchesne* 333 I was wondering, seeing this is such an important bill to the hon. member, if he'd entertain a question.

MR. MITCHELL: Yeah, sure. Go ahead.

#### Debate Continued

DR. OBERG: Thank you, Mr. Speaker. The hon. member has been talking about the powers that the chief medical officer has. One of the critical powers that the chief medical officer has is to protect the people in these galleries from illnesses. My question is quite simply: if today an Ebola virus outbreak was in this Legislature, would you like the chief medical officer . . . [interjections] Mr. Speaker, I wasn't finished my question. The question is: if an Ebola virus were released in here at this minute, would the hon. member choose not to quarantine this building and instead let it spread to Edmonton?

MR. MITCHELL: What the hon. member's question really reflects is something about the nature of this government. The world to them is black and it is white. There is "either" and there is "or." But the world that most of these people live in is not black and it is not white; it is gray. I believe, Mr. Speaker, that any kind of responsible government, particularly a medical professional, should be able to walk and chew gum at the same time. [interjections]

DR. OBERG: Another point of order, Mr. Speaker.

THE ACTING SPEAKER: State your citation.

#### Point of Order

##### False Allegations

DR. OBERG: Standing Orders 23(h), (i), and (j).

MR. SAPERS: Which one is it; (h), (i), or (j)?

DR. OBERG: It's (h).

MR. SAPERS: No, it's not. It's actually (j).

DR. OBERG: Well, tough. DR. OBERG: Mr. Speaker, the hon. member is making allegations that I can't walk and chew gum. I'm chewing gum right at the moment, and I can certainly walk.

THE ACTING SPEAKER: Order please. Order please. Okay; this is starting to be beyond the realm of silly.

#### Debate Continued

MR. MITCHELL: To answer his question, Mr. Speaker, it is capable. A capable government would walk and chew gum at the same time on the Ebola crisis. They would certainly take steps to quarantine a person who had it, but at the same time . . . [interjections] Mr. Speaker, could you please ask the Minister of Energy – I'm trying to speak – to be quiet.

THE ACTING SPEAKER: Order please.

MR. MITCHELL: At the same time, Mr. Speaker, they would find a way to do that that didn't give the chief medical officer, who could do that, absolute unlimited power over that person's life, where they wouldn't have some recourse, for example, to the courts to make sure they were being treated fairly and honourably, one where they would specify what kind of information the chief medical officer could require, what kind of information and limits to that information, where they could specify the purview of that chief medical officer's powers, where they would specify the powers of the public health authority to investigate the broader problem of Ebola because those powers don't exist any longer.

Mr. Speaker, I'm not arguing with this minister that there should be powers to stop Ebola. I hope that last week, before this bill was presented, the government's chief medical officer people had powers to stop Ebola. Did they for the last 25 years not have those powers, and all of a sudden they're going to have them in this bill? No. They had the powers last week, but the chief medical officer didn't have unlimited power to imprison and unlimited power to ask for any information he wants to ask for without any limits. If you want less government, you don't give unelected officials the powers to delve right into people's lives without constraint. Another irony is that they're promoting a bill to elect Senators, elect Senators who will have absolutely zero power – zero power – while at the same time they're giving in many respects unlimited power over the constraints they can place on individuals in this province to somebody who isn't anywhere near elected. So he can do that.

The other point, Mr. Speaker, is that clearly a chief medical officer has to have some powers to protect public health, but nowhere in this bill do they say they should be reasonable. Even reasonable, given its legal implications, puts constraints on that officer.

Finally, Mr. Speaker, it looks like – lo and behold – we've been able to work out a change, and we have here something I can read into *Hansard*. I would like to adjourn debate. We will under agreement adjourn Bill 38 now, have three speakers on Bill 40, and then we will go to Committee of the Whole on Bill 37. Thank you.

I move the adjournment of debate right now.

THE ACTING SPEAKER: The hon. Member for Edmonton-McClung has moved that we adjourn debate on this bill. All those in favour, please say aye.

HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, say no. Carried.

**Bill 40**  
**Senatorial Selection Amendment Act, 1998**

[Adjourned debate April 9: Mr. Havelock]

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

MR. DICKSON: Thank you very much, Mr. Speaker. A couple of brief comments I wanted to make with this bill. I had the opportunity to be the campaign chair for Bill Code when he ran in the last senatorial selection, so I saw value in that legislation. At the time I saw some value in electing a Senator, but there was a vacancy then. There was a vacancy when Stan Waters won that senatorial selection race. There is no vacancy now, and the thing that makes me so angry with this bill is that the only election I know Albertans are anxious to have is to elect the men and women to the 17 regional health authority boards. That's the election people are calling for in this province. The government trashed the promise they had made on March 11, 1997, when they said to Albertans: you elect us and you will be able to elect two-thirds of the members to regional health authority boards in the 1998 municipal elections. Three months later the government repudiated that promise. How the government then could come forward and bring in legislation to facilitate an election process when there is no Senate vacancy – it's an amazing contrast, Mr. Speaker, in terms of what the people of Alberta are concerned about, what they want addressed and this government's agenda. The two just grow further and further apart.

**9:20**

There's little point in discussing the minutia of Bill 40 other than to just keep on repeating time and time again that the only election that ought to be occurring this year is the election of people to the regional health authorities, those authorities that spend 2.4 billion tax dollars, that make the major decisions in terms of allocation of health resources. Until that election happens, I think this bill ought to be put through the shredder or put in the bottom of the freezer to be resurrected when there's a genuine vacancy. Otherwise, we get back into what this government has become absolutely famous or infamous for, and that is the ability to come up with election slogans and pass them off as pieces of legislation. We've seen far too many examples, and that's what this is. This is an empty, vacuous, meaningless bill that is a thinly veiled attempt to distract Albertans from the primary issues we've got in front of us.

So those are the concerns that I wanted to raise, and I'm sure there's other debate on the bill as well. Those are my comments. Thanks, Mr. Speaker.

[Mr. Shariff in the chair]

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

DR. PANNU: Thank you, Mr. Speaker. I also want to make brief remarks on Bill 40, Senatorial Selection Amendment Act, 1998.

Mr. Speaker, I find it very hard to take this bill seriously. It's an attempt to divert attention from major issues that have been looming in this province: the issues of health care, the issues of education, the issues of social services. This bill is a diversionary tactic. This is a waste of the time of this House. This certainly is a bill which is clearly a token concession to the Reform Party's

pressure on this government. It is an attempt to cement a new kind of relationship, perhaps a pan-Canadian relationship between the Tories and the Reformers. It's no more than that. Albertans don't care about what this bill is about. It's for the Senate. There's no guarantee whatsoever if we go through this process, if one or more Senators gets elected as a result of the passage of the bill, that they will ever see the inside of the red chamber. They will never. In the meantime public revenues will be wasted on paying them while they're sitting in Ottawa waiting to be appointed.

I think if this government should enter into negotiations with the federal government, the minister of intergovernmental affairs should take the steps that are needed to be taken first. If they are really serious about this, let them start negotiations on constitutional issues with the federal government. If they reach some sort of agreement among all the partners to the Constitution, then and only then such a bill would make sense and should come back to this Legislature. To present this bill at this time and at this stage in this session of the Assembly, is to simply take time away from more important bills and from more important issues that we should be debating in this House.

I will simply close my remarks by saying that this bill is not worth the attention we are paying to it today. Let's not waste time. Let's proceed and defeat it.

THE ACTING SPEAKER: The Minister of Community Development.

MRS. McCLELLAN: Thank you. Mr. Speaker, I don't think there's a lot of matters of principle that matter more to the people of this province than the election of a Senate. I think that was made very clear when we introduced the senatorial election process.

I was frankly very surprised to hear from the Member for Calgary-Buffalo, who I think usually thinks things through fairly carefully, that he would consider that this should be put away until there's a vacancy. Now, this member and gentleman is, I think, an observant person, and he would recall that very recently there was a vacancy in the Senate. And he would recall that when that vacancy occurred, there was virtually no time allowed for anything to occur before an appointment happened immediately.

Now, if we're going to abide by the principles that Albertans have told us are important – and that is a triple E Senate obviously: elected, equal, and effective – first of all, we have to get on with the election. But we don't know when the next vacancy is going to occur. So, yeah, put this away till fall or next spring. We could have a vacancy in August. Our hands are tied again.

Mr. Speaker, I am absolutely astounded at the comments that come from across the way. This bill is an important bill to the people of this province that believe an elected Senate is important in this province. This bill states very clearly that we would have an election, that we would submit names for consideration. Therefore, if a vacancy came up, a name would be there for the consideration of the Prime Minister, who, no matter how many elections we have, still has the power of appointment.

We hear a lot about the election of regional health authorities. We hear a lot about that, but we don't hear anything about the fact that they have no taxing power, they have no power over legislation, and we throw aside a bill for the Senate, which is a level of government which scrutinizes pieces of legislation, important pieces of legislation that have affected this province very, very significantly. I am just shocked that the members of

both opposition parties treat this as a piece of garbage that could be thrown out and aside.

Mr. Speaker, we're in this session. We can be here for some time to debate all of the pieces of legislation that are important in this House. There is no one particular moment that is better than another. The agreement was made to do second reading on this bill. I consider this an important piece of legislation. My constituents in Drumheller-Chinook consider this an important piece of legislation. In fact, they would hope that each piece of legislation we bring before this House is important, whether it's government bills or private members' bills.

So again I have to repeat: this is an important principle to the people of this province. They want the Senate appointees to at least be elected for consideration from this province. In order to fill a vacancy, we have to have a name. We need the changes to this bill to effect an election. That's what the changes are in here. Mr. Speaker, this is an important piece of legislation, and I'm sure that when the hon. members reflect on their comments tonight, they won't be sending these out to all the people of the province, as they do many of the others.

MR. MITCHELL: I would.

MRS. McCLELLAN: Well, that doesn't surprise me.

Mr. Speaker, I am strongly – strongly – supporting that we proceed with this bill and that we pass this bill so that in fact the very principles the people of this province have told us are important to them can be carried out at an appropriate time, so that when a vacancy does arise for a person for a possible Senate appointment from this province, we could have the wishes of the people of this province demonstrated through an elective process to put that name forward. Again, as I say, I recognize that the Prime Minister has the last word and he will appoint who he sees fit, but at least we could present him with a name or names of Albertans that Albertans support representing them in the upper House.

9:30

So, Mr. Speaker, I encourage members to take this bill seriously, to take the wishes of the people of this province seriously, and to debate this bill, not because it's not convenient at this very moment, even though it is the order of business that was agreed upon by the House leaders at an earlier time, and give it the consideration that it so deserves.

With that, if there are apparently no other speakers at this moment – you don't want me to adjourn debate?

MR. MITCHELL: No, no. There are three opposition members and one government member still to speak.

MRS. McCLELLAN: Okay.

So with that, I will conclude my remarks and look forward to hearing from the hon. member opposite as to his consideration of this bill.

MR. MITCHELL: Mr. Speaker, I echo the concerns of the Member for Edmonton-Strathcona and the Member for Calgary-Buffalo about this bill. I think in a general way I would say that it's a silly bill. I'm not saying that the idea of electing a Senate is silly; it isn't. But this is a silly bill. The idea of a car isn't silly. The idea of a car with three wheels is silly. Now, this bill has perhaps three wheels. It may only have one wheel. It may have no wheels.

First of all, let me give you an impression, Mr. Speaker, my impression of where this comes from. This comes from a place where political tricks come from. It comes from a place where political stunts come from. The timing of this bill is not coincidental. This bill emerged after the Reform Party of Canada began to press this idea home. In fact, it was presented within days of Deborah Grey, the Member of Parliament, coming to Edmonton and having a town hall meeting on electing a Senator or Senators – we don't know, as the bill doesn't specify – using this bill's model of elections. It's quite amazing to me to see how little this government wants to deal with the federal government, to take a policy being promoted by the federal Reform Party and just holus-bolus embody it in this piece of legislation and attempt, with very, very short notice and very, very limited periods of time for consideration, to ram it through this Legislative Assembly. I'm not surprised, because we know that there is a huge contingent of federal Reform Party members in this Legislative Assembly on the Conservative side, and they are inclined to want to of course promote the Reform Party agenda. That's what they do with this bill.

Mr. Speaker, the bill is deficient in two ways. One, it is deficient because it does not pay regard to the fact that our parliamentary system has lasted for 130 years and in fact before that and that the parliamentary system in the world has lasted for hundreds and hundreds of years and has evolved through a process which has seen a very complex and delicate balance of powers and authorities intermeshed and interwoven such that that parliamentary system can work extremely effectively. In fact, it is perhaps the most successful form of government on the face of the earth in many, many respects.

What that underlines for me is that part of that process in Canada is the Senate, and of course it has historical precedents elsewhere in the world. That Senate has powers which have evolved under the notion, under the fact that they are not elected, so those powers are less intense and have less consequence for holding up government, for example, or thwarting the will of the lower House, which in most systems does take precedence. Those powers are diminished because the people who wield them are not elected. So if you just take one part of the puzzle – that is, elected versus the nature of their powers – and change one part without paying regard to the other part, what you could very well get is a system that will break down because the powers that are accorded won't change, but the powers of the power intrinsic to the individuals who wield them will have changed.

There is no regard in this process of this bill for what the consequences are, for example, of gridlock at the federal level. For a provincial government that is often so frustrated by the way in which the federal government deals with the provinces, wait until they can't deal effectively with the provinces at all because they will be in gridlock with a group of people who have intrinsic power due to election at the same time that they have powers that haven't been adjusted to acknowledge that enhancement of power on this side.

So at least if a government were to be reasonable, they wouldn't take their research and they wouldn't take their initiatives and they wouldn't take their direction from Preston Manning. They would undertake a thoughtful process, the kind of process we undertook when we had the constitutional joint all-party committee of the Legislature a number of years ago: thoughtful, across the province, hearing people's input, putting it into context. None of that has been done. What was done is that somebody saw the ad for Deborah Grey's town hall meeting and

said, "Geez, that'd be a good idea." Or maybe Preston picked up the phone and said, "Would you please do this for us?" And here we have it, half- to ill-conceived, Mr. Speaker.

Let me talk about the misconceptions in here. First of all, the bill doesn't specify how many people we'd be electing at a given time. Is it six? Is it one? Is it the top person of all the people running who would get the first position? If the first position came empty and two months later the second position came empty, would the person with the second most number of votes get the second position? That's not specified in this bill. Are there going to be constituencies? No? Well, if there were constituencies, we don't know. It's not specified in the bill which constituency would elect the first senator. Once the first senate position is filled, would the bill distinguish whether we'd have another election in anticipation of another, subsequent senate position coming open? It's not in here.

Mr. Speaker, it goes beyond that as well. What do these senators do if we don't get an opening for six or seven years?

MS BARRETT: We'll just pay them, Grant.

MR. MITCHELL: Yeah. Is that fiscally responsible?

MS BARRETT: No.

MR. MITCHELL: No, of course it isn't. The leader of the New Democrats is exactly right.

There is no budget. We don't know how much we might have to pay them. Are they going to have offices in Ottawa? Are they going to be paid for sitting there doing less than the people who are now appointed do, about which we are so frustrated, Mr. Speaker? Again an irony. It's the irony of ironies night. We have a government that on the one hand says it wants less government and less money spent on it, and now it's electing six, 10, 12 people – we don't know how many – and they're going to pay them. So when we have that election, 10 people run. Does one get paid for 10 or 12 years? Is it two? We might have two vacancies. Or is it three, or is it four, or is it five? I think we need to have some of these questions answered.

I have a lot of respect for the Minister of Community Development, and I enjoy her debate. I think she's made a passionate plea when she says that we have no time to set up an election when somebody is – well, why don't we have a bill that says that immediately the space is empty, the election will start?

MRS. McCLELLAN: It wouldn't have helped the last time.

MR. MITCHELL: Well, yes, it would have. There would have been four or five weeks. You could have had a four- or five-week campaign starting the day the place was vacant. But generally in a democratic society we don't have prophylactic elections. We don't have standby elections just in case.

The leader in the House for our party from Edmonton-Glenora made a very interesting point. He said that maybe we should have an election for Calgary-Elbow, because of course there is a suggestion that the Premier might be running for the leadership of the federal party. In fact, that would be about the same as what they're trying to do with this bill.

9:40

I know that the Treasurer wants to speak, and I bet I know what he's going to say. He's going to say that Grant Mitchell, the Member for Edmonton-McClung, is concerned about this because

he would be in the running for a senatorial position perhaps. I'm not. I'm not interested. I have no interest in going to Ottawa, period, and I want to lay that to rest before the member from the Treasury Department gets up and starts to try to promote that little myth. It's interesting that patronage would immediately come to a Conservative's mind, because it really hasn't crossed my mind. Not interested.

I will also say that this government is couching this initiative in the context of a commitment to democratic principles. Well, Mr. Speaker, it's interesting that they don't apply that same commitment to the election of RHAs. RHAs spend 25 percent of the entire budget, but they're not elected. Most of them don't get paid; do they? They don't get paid particularly. Senators are going to get paid for doing absolutely nothing.

They're committed to democracy? Why don't they make a commitment to a fall session? That's quite a democratic novelty in this province. They're committed to democracy? Why did they have 38 days in the Legislature last year? No fall session. The commitment to democracy starts with the Reform Party direction from on high and the desire to have their idea promoted at the provincial level, and the commitment to democracy stops here with a bill that is nothing more than a political stunt. It doesn't serve democracy, and it doesn't meet the needs of Albertans, who genuinely are concerned about the Senate, as we are. In fact, it diminishes the process of democracy, and it debases what this government is doing in this House.

THE ACTING SPEAKER: The Provincial Treasurer.

MR. DAY: Thank you, Mr. Speaker. I was somewhat amused by the Member for Edmonton-McClung defending himself against the accusation of wanting a job in the Senate. It wasn't even raised, but it's interesting. I would say thou doth protest too much. It was interesting because it was a former Liberal member, who stood not far from where the Member for Edmonton-McClung stood, some years ago and decried the atrocities of the Senate. As soon as he got offered the job, like the song says: whoosh; he was gone. Senator Nick is down there for the Liberals doing the job of a nonelected Senator. So it was just an interesting parallel, because Nick also protested without accusation, and now we're hearing similar protestations. So I thought that was an interesting analogy.

Mr. Speaker, the Member for Edmonton-McClung said that this system – and he's talking about the Senate system – has existed in this country and worked well for 130 years. Well, there were some people munching on burritos and wearing sombreros, along with the rest of Canada, shaking a fist at the Senate and saying: this thing is not working. Yet this member says it's working well. Nonelected people delaying legislation, having a say in legislation – and I'm not accusing just the Liberals of working this particular system. It was a federal Conservative government that appointed, if you remember, extra members to really – I stand and have always stood against the GST, although the Liberals support it. I have always stood against it. I thought it was a travesty of democracy that a federal Conservative government was able to take a terrible, terrible GST but use a Senate process, use nonelected people to try and set off the rails a democratic process, albeit the GST, which I oppose and which this government opposed.

MS BARRETT: Federal Conservatives.

MR. DAY: Listen, I said that. I'm not taking this on in a partisan way. The federal Conservatives were wrong on that particular issue, and they were wrong appointing extra Senators to try and carry the day and push that thing through. So I'm not approaching this in a partisan way.

The Senate system, Mr. Speaker, was originally begun, as we know if we look at the history, to protect the rights of property owners. Can you imagine trying to introduce a system today and tell the people: well, we're going to appoint people, nonelected people who can slow down the wheels of democracy, because we want to protect some property owners. That system would be nauseating to the democratic thinking of the day, but that's how it started. That's what was in the original inception and purpose of the Senate. For the Member for Edmonton-McClung to stand and say that it's a good system and it's working well, I think there's a real failing of understanding on his part.

All of us are agreed that the Senate needs to be overhauled.

MR. SAPERS: Speaking of agreements, will you adjourn debate now? Speaking of agreements, how about adjourning debate?

MR. DAY: You know, this guy stood here and cried and whined. By the way, I am delighted that there is an audience here tonight, because it's one of the few nights we've seen more than two Liberals in this place. So I'm glad that there's an audience here. I really am.

AN HON. MEMBER: Oh, come on. Where's the Premier?

#### Point of Order

#### Referring to the Absence of Members

MR. SAPERS: Point of order, Mr. Speaker. Make him retract it or leave.

THE ACTING SPEAKER: Okay, sit down. Please, order. Did I hear the Provincial Treasurer retract those words? Did you retract the words about the presence in the House?

MR. DAY: Yes, Mr. Speaker, I take those words back.

THE ACTING SPEAKER: Okay.

MR. DAY: Thank you for the admonition on my observation. Boy, did that get them up in a hurry.

#### Debate Continued

MR. DAY: Mr. Speaker, the Member for Edmonton-McClung talked about other parts of the world where there is a Senate. Well, in other parts of the world where there is a Senate that's working, they have elected Senators. He left that out.

All of us I think are agreed that the Senate should be equal, it should be effective, and it should be elected. We're all agreed on that. But we have this dream that somehow the federal government is all of a sudden one day going to stand up and say: hey, let's do all three, and let's do them now. It will never happen that way. It will never happen. You very rarely see in history any level of government, any jurisdiction of government yielding power, and that would be a yielding of power. It simply will not happen by some arbitrary movement of the federal government to overhaul the Senate in such a way that we have all three. It won't work.

We have to remember what the purpose of the Senate is. I

know that the member of the ND Party talks about abolishing it. The only problem with abolishing it outright is that we still have the problem that a Senate is supposed to and could correct, the problem being overrepresentation by certain highly, densely populated regions of the country. We have as many MPs in Toronto as we do in our entire province. The city of Toronto can vote out Alberta. That's the simple problem with the Senate.

We had a situation with the Canadian Wheat Board bill, which affects Alberta farmers. Because of overrepresentation you've got MPs in other parts of the country that are not affected by the Wheat Board voting on the Wheat Board, and it's affecting us right here. There's no way to stop it. No protection.

An equalized, elected Senate provides that protection in other democratic jurisdictions around the world. In the United States tiny Rhode Island is protected because it has two Senators that can stand and protect them against the massive population of the state of New York. Tiny Maryland has some of its state autonomy protected by two Senators who can stand up to two Senators from California. If you abolish the Senate, you still do nothing to replace the crushing weight of overrepresentation. It's the check and balance that is needed in a widely disparate population, a populated country like Canada.

Why, then, are we proceeding with this particular area? I want to leave this thought in members' minds as we close. What we're talking about is Albertans, Albertans electing and saying, "Here's the person we want," and then standing, yes, alone in front of the federal government and in front of the Prime Minister and saying: "Now, how dare you? How dare you use a patronage appointment?" We've heard the Member for Edmonton-McClung say he doesn't like patronage, so we know Liberals don't do that. "How dare you patronize this country and this province by putting your nonelected person in place supposedly to speak for Alberta when hundreds of thousands of Albertans have stood and said: here's the woman we want representing us, or here's the man we want to represent us?"

Mr. Speaker, one Prime Minister has already said: I'll do that. And he did it. What we have here is this head shaking that goes on, saying: it won't happen; it can't happen. It's the actions of individuals down through history standing alone in front of massive, massive opposition that have shaken that opposition to the core and made them see the rightness of doing something.

I want to conclude with an image of two people. One person, Mr. Speaker, some decades ago, an Afro-American woman in the southern states who said: I will not obey the status quo and the law about not being able to ride a bus in a certain section, and I will ride that bus, because it's my right. Now, if there'd been a committee, especially of Liberals, before that happened, saying, "This little old lady saying she's going to ride the bus - come on. That won't work." It worked. It shook the system to its core, Mr. Speaker.

#### 9:50

I want to give you another picture. A picture of a lone Chinese young man standing in front of a massive line of tanks with the barrels pointed at him. He stood there alone, and he shook that to its core.

Mr. Speaker, if we will do this, if we will elect as Albertans a person or persons to be part, the beginning, only the beginning, it will shake to the core a process of armoured tanks, of crushing democracy, that I think would be the first crack in that armour and would start the process of seeing a truly elected, effective, and equal Senate. It's the beginning. It's got to start somewhere. Let it start here.

I now move to adjourn debate.

THE ACTING SPEAKER: Having heard the motion by the Provincial Treasurer to adjourn the debate, does the Assembly agree with the motion.

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? Carried.

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

[Mr. Shariff in the chair]

THE ACTING CHAIRMAN: Before we proceed with the next item, just for the information of people seated in the gallery, this is the informal session of the House. Members are able to take off their jackets, are able to have coffee in the House, and are able to move around and sit in different chairs.

**Bill 37**  
**Health Statutes Amendment Act, 1998**

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

MR. DICKSON: Thank you very much, Mr. Chairman. I'm pleased at last to have a chance to address Bill 37 at the committee stage. I want to start off by saying that this may be one of those particularly significant moments in this legislative session where we drop the labels, the party labels, the pretence, the sophistry, and we really determine the key values of each of the 83 members in this Assembly. This is the opportunity we get to find out which Members of the Legislative Assembly, firstly, support a strong, publicly, properly resourced public health system. This is where we find out. I think it's not overstating the case to say that this is the closest we will ever have before the next election to a debate on the role of our public health care system and the extent to which we're going to permit an expanded role for commercial, for-profit, private health care.

Mr. Chairman, what I want to say is that sitting on the table at your left elbow are copies of eight amendments. I am not suggesting and I'm not sure that eight amendments are going to be able to rehabilitate Bill 37. I want to give notice to members that that's a start. There'll be six more amendments tomorrow afternoon and probably four more after that, because there were so many issues and so many problems with this bill that it cries out for amendment.

Mr. Chairman, I start off saying that this is the best opportunity MLAs will have, all 83 of us, to express on the record our concerns, our beliefs, our hopes, and our fears in terms of our health care system, one of the things we all know from constituency feedback is probably the most important issue to the people of Alberta, far more important than a Senate election, far more important than virtually any other decision and area of activity we have to deal with.

At the beginning of the legislative session back on February 3, 1998 - we'd heard rumours that the government was going to bring in a bill that would allow the government to sanction private, for-profit facilities. On February 3, 1998, I asked the Premier in question period why he was prepared to grease the wheels for an expanded role for private, for-profit medicine. I asked the Premier at that time whether he would commit to provincewide consultations before the bill came into the Assembly for debate, before it came to the stage for debate. The response

at the time - in fact, it was a nonresponse - was: that's fine; this is an innocuous bill. Well, Mr. Chairman, I want to spend a moment before I get to the amendments just testing that presumption.

Much of the concern with respect to Bill 37 has to do with the context in this province in 1998. What's the context? Well, consider some of the factors. Number one, we have a government that has been prepared to starve our public health system in terms of resources. We've got a government that has absolutely no concern about having the lowest per capita health spending in the country. At the same time that we can post a better than \$2.5 billion surplus, we can't find the money to ensure that when people get sick in this province, there's a hospital bed for them, there's an operation within a reasonable time.

[Mr. Herard in the chair]

The second problem is that we have a government that has made an expressed commitment to an expanded role for private, for-profit services, whether it's in health care, whether it's more money into private school funding, whether it's privatized liquor stores, privatized registries. You know, Mr. Chairman, an excellent point today: the Minister of Municipal Affairs acknowledged that the privatization of our registry services hasn't gone so well. We discovered that information has been leaking out, that there's been inappropriate controls to protect personal information. That's where privatization that's not properly planned takes you. That's where privatized health care takes us and exposes us.

The third problem is when the Premier and the Minister of Health tell us repeatedly: you have nothing to worry about; this is an innocuous bill. This is the same government that brought forward Bill 26, the bill to invoke the notwithstanding clause, suspend the constitutional rights of Alberta men and women. A government that couldn't adequately plan and recognize what they were stumbling into on Bill 26 would now have us believe on Bill 37 that they've done the appropriate due diligence, that they've done appropriate research, that they've done appropriate preparation. It's not credible, Mr. Chairman.

With Bill 25 we watched the government bring in a set of amendments within a week of introducing the bill, and the set of amendments were longer than the original bill. So we have no confidence in empty, hollow assurances from the Premier or any Minister of Health that suggest that Bill 37 is innocuous.

What else do we have in context when we look at this bill? HRG, Health Resources Group, took over and renovated, spent millions of dollars taking the old Grace hospital in downtown Calgary and converting it into a luxury private hospital. We know that part of the plan of HRG is not just to do Workers' Compensation Board cases. It's not just to do private insurance cases. They want a contract with the Calgary regional health authority to be able to provide insured services, and they want to slip it in, saying that when there's a particular backlog in the Calgary regional health authority, HRG is happy to help out.

That's where we start undermining and eroding, and never mind eroding. That's where we start dismantling a public health system, a system that Canadians regard as one of the most valuable assets of Canadian citizenship. Somewhere along the way, when the government talks about how we support the Canada Health Act, we believe in the Canada Health Act, we're not going to do anything contrary to the Canada Health Act, ignoring completely that it was this government that cost Alberta taxpayers over \$3 million in penalties because we continued to permit facility fees when anybody . . . [interjections]

### Chairman's Ruling Committee of the Whole Debate

THE ACTING CHAIRMAN: Hon. members, we are in committee, which means that we are dealing with clause by clause and amendments. I know it's difficult to resist the temptation to wax eloquent on many other subjects, but I'm going to try and enforce the rules, and I think the hon. Member for Calgary-Buffalo understands the rules. So if you have comments to make with respect to the clauses of the bill and weave that into your discussion, fine. But let's get on with the discussion that we're here to do, please.

MR. DICKSON: Mr. Chairman, thank you very much for the advice. I'm happy to have it.

### 10:00 Debate Continued

MR. DICKSON: In terms of the bill we're dealing with, one of the things I want to talk about is what's omitted from the bill. You know, if you look through this bill, there's absolutely not a single mention of the Canada Health Act. Why is that? Well, if we look at the preamble of the Canada Health Act, one of the things the Parliament of Canada recognized in enacting that legislation was

that continued access to quality health care without financial or other barriers will be critical to maintaining and improving the health and well-being of Canadians.

What we find in Bill 37 – we look anywhere in the bill for any express reference to the Canada Health Act, and there is none. There's no preamble that says that we accept and adopt and incorporate herein the provisions of the Canada Health Act. There's no provision in there that talks about ensuring quality access to publicly administered health services. In fact, when we look at the detail of the bill, it runs in absolutely the opposite direction. In this Legislative Assembly we must have asked something like 28 questions. The Liberal caucus and the NDs as well have asked a significant number of questions around this. We get assurances but nothing concrete.

If we turn to some of the problems with the bill – and I want to highlight some of the amendments we've got, but let's consider a couple of things that jump out when you start an examination. Right off the bat, members, if we look at page 3 and we look at the amendment to the Hospitals Act, section 2(2)(b)(1.1), the effect of (1.1) is going to be to allow an auxiliary hospital in this province run by a private insurance company. The minister didn't tell us that. The Premier didn't tell us that. But look carefully at the wording at the top of page 3, the provision that says

subsection (1) does not apply to a contract under which a resident of Alberta is to be provided with or is to be reimbursed or indemnified for the cost of standard ward hospitalization . . .

That's particularly significant, the words “standard ward hospitalization.”

. . . including authorized charges for it, provided in an auxiliary hospital.

This creates the potential for a private insurance company to take over the next hospital, whether it's whatever is left of the Holy Cross hospital, if that sale doesn't go through, or any other closed hospital facility, call it an auxiliary hospital, turn it over, and allow the private insurance company to operate that. That's exactly where this bill takes us to.

Let's look at some of the other problems. If we look at amendments to the Hospitals Act – that starts on page 2 – and we look at approved treatment facilities, we have an amazing

contradiction there. If we look at the new section 67.1, we have – actually, before I get to that, I'll go back to page 2, still talking about the Alberta Health Care Insurance Act. If we look at the new 5.01(2), consider what we've got here. For a “non-hospital surgical facility” here's what happens. If a “facility is accredited by the council of the College . . .” and then “the operator . . . has an agreement with a regional health authority,” they can then come to the minister and ask for approval. Well, let's consider that for a moment. Isn't that absolutely backwards? What are the chances the Minister of Health is going to say no if the private operator has already got the permission of the regional health authority? The regional health authorities are typically complicit with the Minister of Health and Alberta Health in everything they do. They're not genuinely independent. They're not elected.

So let's just follow the scenario through. If you've been able to get the Calgary regional health authority to enter into an agreement with you, Mr. Chairman, under the provision on page 2 of Bill 37, and you then come to the Minister of Health, what are the chances the Minister of Health is going to say: “No, even though you, my trusty appointed advisers in the Calgary regional health authority, have sanctioned this and you may have passed some minimal threshold by the college; that's okay. We're not going to approve the agreement”? Not very likely. Why wouldn't you set the threshold at the beginning, before the regional health authority could enter into an agreement with them? It makes absolutely no sense to leave the minister at the end of the approval process instead of making that at the front end of the process.

Other problems. We look at the section where we have an approved “treatment facility.” Now, this is a brand-new animal, Mr. Chairman. What we've got is the Minister of Health – you know, the current Minister of Health we've got is a great guy, but I'm not sure how long he's going to be Minister of Health. What if the Minister of Energy in a month becomes the Minister of Health? The Minister of Energy, the man who was so anxious to privatize liquor stores that we surrendered leases on prime property, and it cost taxpayers a bundle because he was more interested in his privatization crusade than maximizing the return to Alberta taxpayers. Mr. Chairman, when we look at the bill . . .

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

THE ACTING CHAIRMAN: The hon. Minister of Energy is rising on a point of order.

### Point of Order Allegations against Members

DR. WEST: Yes, under Standing Order 23(h). The hon. member made an allegation that we had lost a considerable amount of money on the leases and on the sale of the Alberta Liquor Control Board. That's just not true, and I'd like that retracted.

MR. DICKSON: Mr. Chairman, I was very careful. I didn't talk about a loss on the sale; I talked about the loss on surrender of leases prematurely before the end of the lease term. If he looks at his numbers, he will find that in fact every time you enter into a lease surrender, you lose money because you're in fact forfeiting a lease before the end of the lease term. I'm happy to have the minister try and prove that wrong. I've done the calculation, and I'm satisfied it's accurate.

THE ACTING CHAIRMAN: Hon. members, obviously we have a disagreement between members here. There is no point of order. However, I . . . [interjections]

Excuse me, hon. minister. Excuse me, hon. member. [interjections] Excuse me, hon. minister and member. There is no point of order. The hon. Member for Calgary-Buffalo did, though, I think achieve his end in using provocative kinds of allegations, and I would caution him to keep to the bill, please.

MR. DICKSON: Mr. Chairman, thank you very much again for the advice.

10:10

### Debate Continued

MR. DICKSON: Referring members to the provision in Bill 37 dealing with approved treatment facilities, you know, it's been said that Alberta modeled this bill on the Ontario Independent Health Facilities Act, an act that's some 68 pages long. The Minister of Health suggested the other day that it's absolutely irrelevant how long the bill is. Well, what is not irrelevant are the kinds of specific criteria that are set out in there. What kind of criteria do we have here before an approved treatment facility can be approved? We look at four vague, general criteria. The first rule of administrative law is that if you want to avoid abuse of discretion, you particularize the test. What are the tests here? If members look at the new section 67.4(2), what are the provisions?

Well, the first test is that you look at the need for services in a geographic area; that's number one. Number two, you look at the impact it would have on a publicly funded health system. But the third test is whether the public interest would be served in approving the application. I raised the hypothesis before that if the current Minister of Energy were the Minister of Health, would he have the same view of the public interest as this member, the same interest the Friends of Medicare would have, the same interest seniors' advocacy groups would have? I'll bet you he wouldn't. He may well say: I think the public interest would be served in approving yet another private hospital.

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

THE ACTING CHAIRMAN: The hon. Minister of Energy is rising on a point of order.

### Point of Order

#### Allegations against Members

DR. WEST: Standing Order 23(h), (i), and (j). This hon. member is using a debate which is alleging or insinuating that the present Minister of Energy, if he were the Minister of Health, would bring forth a tack or a discipline that would be counter to the best interest of the public. I think that's an infringement on my rights in this Assembly. I'm not the Minister of Health today. I'm the Minister of Energy, and those allegations should be retracted.

MR. DICKSON: Mr. Chairman, I thought I had been very clear to say – this doesn't have to be judgmental. I simply said that I believe that minister's interpretation of what the public interest would be may well be very different than a list of other groups. Others can judge whether his view is the right one and the other groups are wrong. I'm simply suggesting there would be a contrast.

Now, if he's suggesting that he would take the same view of the public interest . . .

THE ACTING CHAIRMAN: Hon. members, obviously we are dealing with an area that is completely hypothetical. I think the Member for Calgary-Buffalo fully understands the meaning of hypothetical and is using, as I believe the minister has suggested, a very hypothetical situation. I believe the hon. minister does have a point of order, and I would ask that the hon. Member for Calgary-Buffalo stick to the debate, please.

MR. DICKSON: Thank you, Mr. Chairman. Again I'm grateful for the advice.

### Debate Continued

MR. DICKSON: If I hadn't made it clear before, since this isn't question period I'm going to suggest that there may be some limited role as a useful way of promoting debate and attempting to test an hypothesis to in fact suggest – because the bill is in many respects, Mr. Chairman, an empty shell. What drives the bill is the person who exercises discretion. The point I was trying to make is that when we look at the four-part test for an approved treatment facility, it's entirely open to subjective interpretation which every member may have. Now, I'll leave the Minister of Energy alone, and I'll suggest that if we have some other minister, some raving privateer, some ideologue who absolutely believes that private, for-profit . . . If we were to have a Minister of Health whose sole *raison d'être* is to privatize, privatize, privatize, what would he view in terms of interpreting the public interest test? I'm suggesting it would be very, very different than it would be for all of us in the Liberal caucus. Many of the people sitting in the gallery today wouldn't agree with that.

Now, Mr. Chairman, what's the other criteria? I said four criteria. Let's see what kind of protection this is for public health care. The fourth one: "Any other factors the Minister considers to be relevant." There's no benchmark. There's no objective standard. There's no meaningful test.

Unlike the 68-page Ontario Independent Health Facilities Act it comes down to a four-part test for whoever happens to be the Minister of Health. Two of the parts are so absolutely subjective that they offer no protection at all, and two have a somewhat objective element. This is not adequate. In fact it allows abuse; it invites abuse. And that's precisely what you'll get.

Now, what I want to do is preview some of the amendments that I'm going to be putting forward in an effort to try and at least mitigate some of the worst problems with this bill. One of the amendments would ensure that in making a decision, there has to be input received as a result of consultations with health consumer groups and senior citizen organizations: seniors obviously, because that group of Albertans is one of the heaviest users of the health care system; people who are often particularly vulnerable; people who, many seniors, just would not be able to afford private services, don't need longer waits to be able to access necessary services. Those voices have to be heard before any facility, HRG or any other facility in this province, could even possibly be approved.

One of the other amendments would require that there be a periodic review of the statute to make sure that the minister wasn't misusing his discretion.

Another amendment would be one to ensure that before there could be any approval, there would have to be notice first in a



newspaper of general circulation in the area to be served by the treatment facility. Let's let people in that area know what's going on and give them a chance to register their concerns.

A further amendment would be to ensure that the minister couldn't go off and make a snap decision, that he'd have to give 90 days' notice before he could sanction a private hospital or a private facility.

Yet another amendment would increase the fines. If you have got private operators spending millions of dollars to renovate the Grace hospital, a fine of \$10,000 is nothing. A fine of \$10,000 isn't going to ensure compliance. We're suggesting the fine be increased to \$100,000 a day. If you're prepared to spend \$3 million renovating a facility, then the penalties have got to be commensurate, and we have to signal that this province is going to penalize people that abuse the Health Act.

Many other comments, and we'll make them later in the debate. Thanks, Mr. Chairman.

THE ACTING CHAIRMAN: Before recognizing the Minister of Health, I just want to be sure that I'm correct. You didn't move any of your amendments; you simply were previewing.

MR. DICKSON: I did not. I just previewed them, Mr. Chairman.

THE ACTING CHAIRMAN: Thank you.  
The hon. Minister of Health.

MR. JONSON: Thank you, Mr. Chairman. I would like to make some additional comments in regards to this piece of legislation, Bill 37, both to respond to some of the issues that arose during second reading and to correct some of the misunderstandings and indeed even misinformation related to the intent and process for this bill.

[Mr. Shariff in the chair]

First of all, Mr. Chairman, I want to emphasize that the clauses of Bill 37, Bill 37 itself, are not, as some members have claimed, an undermining of our publicly funded health system in this province, and it is not in any way, shape, or form an effort to expand the privatization of health care in Alberta or to create a two-tiered health system in our province. Unfortunately, there is that kind of vague fear-mongering type of rhetoric that has been used in relation to this legislation, and it is, I believe, a disservice to Albertans and an impediment to their understanding of the real intent and consequences of this bill.

Mr. Chairman, the clauses of this bill are really very simple and straightforward. It is a straightforward piece of legislation. It is a bill that has very simple and straightforward consequences, despite the best efforts of some members in this Assembly to create a different impression. Bill 37 is intended to and does give further protection to Alberta's publicly funded health system and further ensures that the same publicly funded system is not negatively impacted by the establishment and operation of a private health facility. Bill 37 provides the Minister of Health and, through the Minister of Health, the government of our province with the legislative authority to prohibit or control any private facility seeking to provide inpatient services outside of our publicly funded system. Let us be clear that right now – right now – no such legislative authority exists, and we want the legislative authority to be in place.

Mr. Chairman, the clauses of Bill 37 require that any . . . [interjections]

10:20

THE ACTING SPEAKER: Could we please have some silence? The chair can barely hear what the minister has to say.

MR. JONSON: Mr. Chairman, Bill 37 requires that any private facility seeking to provide such surgical services in our province will need to obtain both accreditation from the College of Physicians and Surgeons of Alberta and formal approval from the Minister of Health. Under today's law such facilities would be able to begin operations solely with the accreditation of the college, and while I respect completely the principles of the college, I do not feel that it is appropriate that the college alone have such a responsibility.

Mr. Chairman, Bill 37 will ensure that the elected government of this province, accountable to all Albertans, would have the ultimate veto or ability to restrict the operation of a private facility. Under Bill 37, even if the college were to accredit a proposed private facility, the Minister of Health would have the legislated authority to prohibit or restrict the operation of such a facility. On the other hand, should the college not give accreditation to such a facility, the minister would not even consider such a proposal. If there was a clear no to a private facility by the college, it would not be overturned by the minister, but a yes by the college could still result in a no by the minister.

Mr. Chairman, also under Bill 37 the minister's decision would not be some arbitrary whim but rather the result of a thorough and comprehensive review, the kind of consideration that we have been talking about throughout the debate on this legislation. The section with the clause with respect to the review indicates that the review would look at the key factors such as whether or not the proposed facility's operations conformed with the principles of the Canada Health Act, and that consideration would be done in conjunction with the federal Minister of Health.

The review would look at whether there was in fact any need for the facility's proposed services and if there was any public good being provided by having services from such a facility. Most importantly, Mr. Chairman, the review would look at whether or not the proposed facility would have any impact, positive or negative, on the quality, accessibility, or indeed the long-term viability of the publicly funded health system in this province. This entire review, depending upon the nature of the proposal, could involve our health system stakeholders and even all Albertans.

Mr. Chairman, there is a clause in Bill 37 which fills a legislative void in our province and ensures – this is the bill overall – that the elected officials of Alberta have the opportunity to make decisions on behalf of the electorate on key issues such as the potential establishment and operation of private health facilities. I think that is important to be recognized.

If we use the favourite example of our leader of the New Democratic opposition, the Health Resource Group in Calgary, that organization came forward last year with a proposal to provide some inpatient surgical services outside the Canada Health Act. Our ND opposition clamoured loud and wide that I as Minister of Health should jump in and prevent that from happening. Now, I did my best, and nothing of that nature has accrued, but as I've stated before – and I stated it at that time – under current legislation the Minister of Health has no legislative mechanism for doing so. The only requirement for HRG to provide those services would have been accreditation from the

College of Physicians and Surgeons. Now, the college turned down HRG's request for accreditation, but had it said yes, without the requirements of Bill 37 there would be absolutely no clear way for this government to say no, even if we wanted to and were concerned about it, which we would have been.

So, Mr. Chairman, if the Liberal or the ND opposition wants to make it easier for private health facilities to operate in Alberta, then all they have to do is continue to advocate for the withdrawal of Bill 37. The status quo would mean that government would have no way to intervene and no way to prohibit or control the operation of such a facility.

Now, Mr. Chairman, the clauses of the second part of Bill 37 are equally as important and equally as simple and straightforward as the first. It deals with private facilities or private clinics, if you wish, providing insured services to Albertans within the public health system. About two years ago, in response to the federal government's reinterpretation of the Canada Health Act, this government developed a new policy on private clinics. That policy stated that there would be no facility fees charged to Albertans by private clinics for insured services provided to Albertans. Further, that policy stated that no private clinic would provide insured services to Albertans unless those services were provided under contract to a regional health authority and were being provided on behalf of the public system and paid for by the public system. Last, our current policy states that regional health authorities will not enter into new contractual arrangements of this nature unless approved by the Minister of Health.

What Bill 37 does is take these policy initiatives and further strengthen them by putting them into legislation. By doing so, we further protect the integrity and viability of our publicly funded health system in this province.

Mr. Chairman, I firmly believe that Bill 37 in its details takes significant steps to protect and preserve public health in Alberta. I believe that this will be readily apparent to anyone who takes the time to thoroughly read the legislation and to honestly interpret what they read.

Mr. Chairman, in that regard, I do compliment one member of our Liberal opposition who has apparently done so. I would quote the Member for Calgary-Buffalo, who during second reading debate admitted:

It's encouraging to see the introduction of Bill 37, which is an admission and an acknowledgement that there is a . . . gap, in our legislative scheme, a gap that has to be filled.

Mr. Chairman, no one could argue that the legislation is not strong enough or, as the member of the NDP opposition has argued, that we should totally ban any private involvement in health care in Alberta. Well, this government does not agree with the socialist view that everything private is bad. The private sector has since the birth of medicare played an important role in our province and in this country in complementing and supporting the public health care system. Every doctor's office in this province is in effect a private health care facility. Every pharmacy, every physiotherapy or chiropractic office represents a private health care facility. Our world renowned Gimbel eye centres are private health facilities. Many of our air and ground ambulances are private, for-profit operators. Yet they all do work on our behalf and receive payments from our publicly funded health care system. Do we ban them all and make everyone an employee of Alberta Health? I don't think so.

No, Mr. Chairman. What we need to do is work with them, regulate them, and control them through legislation so that the work they do directly benefits the public health system and directly benefits the health of Albertans. There is nothing wrong

with making a profit. Every health care worker, whether doctor, nurse, or caretaker, needs to make an income, needs to make a profit from their earnings so that they can support their families. Every member of this Legislature needs to make a profit on our incomes so that we, too, can meet our expenses, support our families. That does not mean, Mr. Chairman, that we are not working for the best interests of Albertans, and the private sector will continue to play an important role in ensuring that we do have a quality publicly funded health system in our province.

**10:30**

In conclusion, Mr. Chairman, I would like to emphasize one last time that there is no hidden agenda with Bill 37. It will not undermine the public health system. It will not lead to a plethora of private hospitals operating in this province. I would note that we do not have any private hospitals in this province, though if you listen to some debate on this, one would think they were springing up all over the place.

Mr. Chairman, Bill 37 will not lead to a privatization of our public health system, and Bill 37 will not lead to two-tiered health care in Alberta. No. What Bill 37 does is what the opposition has asked for over the past year or so. I acknowledge that. What Bill 37 does is give the government the legislated authority to say no to a private health facility that would jeopardize the integrity of our publicly funded health system, an authority that doesn't exist in legislation today. What Bill 37 does is give Alberta a clearly legislated process to assess proposals from private health facilities, a process that doesn't exist today. What Bill 37 does is provide further protection for a publicly funded health system, protection that does not exist today.

As the Minister of Health and on behalf of this government I can state our clear commitment to maintaining and preserving the principles of the Canada Health Act, and Bill 37 will help us do just that. Thank you, Mr. Chairman.

I would move that we adjourn debate on Bill 37. [interjections] Mr. Chairman, I thought that the hon. opposition wanted to get on to the next bill. I'll withdraw my motion.

**THE ACTING CHAIRMAN:** The Minister of Health had put forward a motion and he has now withdrawn. Can we have unanimous consent to withdraw the motion that he put forward?

**HON. MEMBERS:** Agreed.

**THE ACTING CHAIRMAN:** Anyone opposed? Carried.

The leader of the ND opposition.

**MS BARRETT:** Thank you, Mr. Chairman. Earlier I heard some comments that were off the record about how the opposition is antsy about this bill because there's an audience here. Well, I would like to remind the chairman and members of this Committee of the Whole that I didn't need an audience the day I pre-released this legislation, because I knew what was contained in it. I released it more than 24 hours before it was introduced in this House, a protocol that I have never violated before, because I knew what this bill was about. [interjection] I'm going to get the minister's comments in a minute, Mr. Chairman. He's given us a lot to go on in committee reading. I didn't need an audience to raise it three times in a row the Monday, Tuesday, and Wednesday in question period. I don't need an audience now, because the NDP is the author of the introduction of medicare, and that is why I am NDP.

Now, let me just start with some quotes from the minister

tonight. He says, "Vague fear-mongering." Mr. Chairman, if he thought that I was doing vague fear mongering about what this minister can do under this legislation, then why time and again in question period has he refused to answer the question in a yes or no format: will you commit that this government will not legalize hospitals by any other name? Inpatient treatment facilities . . .

THE ACTING CHAIRMAN: Please. The chair would like to remind the member to please speak to the bill. This is in committee. We are not talking about questions that were raised in the House. Can you please refer to this bill.

MS BARRETT: Mr. Chairman, I beg to differ. He talked about my quote "vague fear-mongering." If he raised it, I believe I have the right to respond to it, and I will briefly. And I will get to the sections. Before I was interrupted, I already started to get to the section that talks about the new category that gets around the Hospitals Act called inpatient treatment facility, and its new kissin' cousin is the nonhospital surgical facility. New terms to get around the Canada Health Act and the provincial Hospitals Act.

When I asked the minister yes or no time and again would he say, "No, NDP leader; I promise I will not license private, for-profit hospitals." No, he would not say it. He's been given ample opportunity. Then he goes on to say: it's not appropriate for the college alone to have the right to license private, for-profit health care facilities. That's a good point, the responsibility. I agree with the minister. However, if he was so serious about prohibiting private, for-profit hospitals by any other name, à la Shakespeare, he would have introduced a bill that said he will never authorize them. Instead he introduces a bill that's got a two-edged sword. Pretty typical for this minister and this government.

The minister goes on to say: the minister has the right to decline. The minister also has the right to approve. The minister's department – and I have documentation on this – was asking the College of Physicians and Surgeons to license HRG, Health Resource Group, out of Calgary so that they could become what we now know in the new terminology, which I hope fails tonight and never sees the light of day again, as an inpatient treatment facility for overnight stays.

Mr. Chairman, I remind you that HRG made a mistake the day they came to Pam Barrett and asked for her support on their business plan, because their business plan states in black and white – I have filed it with the Assembly; I'll file it again tomorrow if I have to – that they want to be able to contract to regional health authorities to provide medically necessary surgeries that are considered under the provincial health act medically insured services. Not only that, but I contend they are in violation of Alberta's Hospitals Act right now, prior to this legislation begin passed, because they are allowing patients to stay overnight having had surgical procedures conducted on them. When I raised this, the minister says: oh, well they're there voluntarily. Well, either they need to be there or they don't. Who spends 225 bucks a night for an expensive hotel room if you don't need it?

Next the minister says: and anyway in this bill we talk about reviews; everything is subject to reviews. Who would do the review? Does the bill or any component of the bill talk about this, aside from the minister being able to set it up? No. A little democracy skirted there. He says: and in any event the college would only as a first step look at licensing private, for-profit

hospitals by any other name, meaning inpatient treatment facilities, if there was a need. When you close half of the hospital beds in Edmonton and Calgary, don't you think you're creating a need? That could have been politically determined, Mr. Chairman. That is my contention.

Then he says: there is no way to prevent the college from accrediting private hospitals. Yes, there is. Number one, you insist that they be called hospitals as per Alberta's Hospitals Act or you introduce legislation or an amendment that says: this government will not license private, for-profit hospitals.

Then he talks about – this I've got to get to; oh, yeah – Mr. Gimbel.

AN HON. MEMBER: Dr. Gimbel.

MS BARRETT: Dr. Gimbel. Pardon me. I am so irreverent sometimes. All right; he talks about Dr. Gimbel. What are we supposed to do? Well, let me just tell you about Dr. Gimbel placing full-page ads in the Edmonton and Calgary newspapers suggesting – it was cleverly worded, I remember – that patients could either pay him up to 2,000 bucks a pop to have their cataracts removed from one eye or wait in line for 18 months. What Dr. Gimbel forgot to mention is that patients needed to wait only a few weeks to have their cataracts removed at the Royal Alexandra hospital.

Now, we got plenty of calls from Albertans who thought that Dr. Gimbel should be thrown out of the medical profession for these actions. Those were the polite ones, Mr. Chairman. We also got a couple of calls from patients who said: could we please get Mr. Jonson to give Dr. Gimbel more cataract surgeries so I don't have to either wait 18 months or pay \$2,000 to have my cataracts removed? Through aggressive marketing Dr. Gimbel managed to use up his allocated cataract surgeries in only seven months rather than the preagreed 12 months, and this was all a ploy to get more cataract surgeries allocated by the Capital and Calgary regional health authorities, and he may be yet rewarded for his actions by the RHAs.

10:40

Then the minister says in defence of this totally indefensible bill: hey, everybody who's working in the health care system has the right to make a profit. He says doctors. Then he lists nurses. Since when have salaries become tantamount to profits, Mr. Chairman? This government is making it up as it goes along, all in defence of the bill that I call the HRG legalization act. Well, I've got some other ones here. Let's have some fun with this. What else could we call this bill? We could call it the private health care promotion act, the blueprint for expanding private health care act, the place your blind faith in the Minister of Health act. I like them all.

Now, my least favourite part of this bill is section 3.1, approved treatment facilities, plunked right into the middle of the Hospitals Act in order to get around the Hospitals Act. That's all this is meant to do. Aw, but don't worry; the minister is on top of it. The minister and only the minister will decide what medical services will be allowed to be provided in these so-called treatment facilities. Hey, here's a Gettyism for you: skin so thin, thin so skin. Well, you'd have to have been around here in those days to get it, I guess. All right; I was here when the earth was cooling. Have your laugh now.

Now, Mr. Chairman, some of the amendments that I will be sponsoring, if this bill ever sees the light of day again, will be, for example, in the section on nonhospital surgical facilities by

adding "on a day-surgery or out-patient basis." Very easy to fix this part of the bill, Mr. Chairman. You bet. That way we know what nonhospital surgical facilities can do. I've got some more. I tabled them today. I thought I'd just preview them as the Member for Calgary-Buffalo did earlier.

In the section that talks about inpatient treatment facilities, what I propose is adding another subsection.

- (2) A treatment facility approved in this Part shall not provide insured medical services or surgical services that are
- (a) medically necessary,
  - (b) paid for by the Workers' Compensation Board, and
  - (c) provided by a physician or a dental surgeon with admitting privileges in [a public] approved hospital.

Now, here's one I'm sure the summit-oriented Conservative government will just love. When in doubt, organize a summit. I say when in doubt, have a referendum.

MR. RENNER: You're supposed to talk to the chairman, not the audience.

MS BARRETT: I am, for the most part.

- (3) Before approving a treatment facility the Minister shall order that the question be put to a vote in the regional health authority where the treatment facility is to be located.
- (4) The Minister shall not approve a treatment facility unless a majority of electors support the facility in a vote under subsection (3).

And finally,

- (5) The Local Authorities Election Act applies with all necessary modifications to a vote under subsection (3).

I wonder if the government would be interested in any of these amendments. Not by what I've heard so far, because this is the minister who refuses to answer the yes or no questions on this bill.

Now, Mr. Chairman, a growing number of private clinics are providing medically necessary services like cataract surgery, which I mentioned in the context of the great Tory fan Dr. Gimbel, but moreover moving increasingly into other areas like pathology and radiology and on contract to the public system through regional health authorities. Government, you see, was very clever setting up these regional health authorities that are not elected. They get to insulate themselves from any agreements that the regional health authorities might feel pressured into going into because of all the hospital beds that got cut. The expansion of private health care is resulting in a small number of corporate doctors who run their own private clinics and, if the minister gets his way, their own private hospitals.

Meanwhile, the vast majority of doctors who practise exclusively in the public system have to put up with ever worsening conditions, which is more and increasingly likely to force them to want to what I call double-dip. There is no provision in this legislation to prevent double-dipping. In other words, you can be a doctor working in the public health care system, and then you can be working in your own nonhospital surgical facility or inpatient treatment facility, which is a hospital by any other name.

Maybe I didn't explain this to you, Mr. Chairman, the difference here. You are either an outpatient or an inpatient. By using the word "inpatient," you essentially are duplicating the intention of that which is spelled out in the Hospitals Act. So they can work in both systems, and they can try to pull the same kind of trickery-pokery that Dr. Gimbel did in his cleverly worded ads. You go and see somebody who's at the public hospital with whatever condition, and the doc can say to you, "Well, you know, I can't get you into this hospital for X, Y, or Z time, but

I can get you into my brand-new, rubber-stamped inpatient treatment facility in no time at all if you've got the bucks to pay." Inherent conflict of interest. Nothing, no component of this legislation prohibits that, and that in turn promotes exactly what I witnessed happening in the United Kingdom between 1979 and 1981, when then British Prime Minister Margaret Thatcher changed her legislation in a fashion not too dissimilar from this. Thereafter every pound that was spent in a private facility, she argued: "Well, lookit; these people are spending money on private facilities. I've cut back the amount of money we're spending in the public facilities."

Now, the other thing is that the growing tendency of RHAs to move patients to subacute care so they can charge co-payment needs to be investigated. I think they should be investigated. This is a paradox. Why is it that when you're in an acute care facility, you don't pay any extra to be there, but you go to subacute – like a long-term care facility, palliative care, that kind of thing – and suddenly you're paying 28 bucks a day.

MR. DICKSON: Don't forget the Recovery Inn.

MS BARRETT: Oh, the Recovery Inn. I forgot about the Recovery Inn. I mean, first we had Hotel de Health. The good people of Leduc got up on their hind legs and fought that, and I congratulate them, just like I congratulate the people that are sticking around in the galleries here tonight and for having come here last night and staying even though they knew the bill was not being called.

So we had Hotel de Health. Now we've got HRG. Oh, I'm not sure if I finished that sentence; oh, yeah, I did. They made the fatal mistake. They showed me their blueprint. They gave it to me. I photocopied it. It says that they want to get into the business of contracting with RHAs to cover publicly insured, needed, necessary medical services and surgeries.

Mr. Chairman, I understand that I've only got a couple of minutes left, so I'd better wrap up by saying that every time I question the Minister of Health or the Premier about HRG or any aspect of private health care, I receive the same stock response: the government will ensure that the principles of the Canada Health Act are not contravened. There are very sneaky ways to contravene the Canada Health Act. I'm sure they hired the genius lawyers of the Fraser Institute or something to come up with this bill, because the language that it contains is in no way in contravention of the Canada Health Act because they're using different terminology to get around Alberta's Hospitals Act. That's what the two major components of this bill are about, and it is why I condemn it completely.

Thank you.

#### **Chairman's Ruling Behavior of Guests in the Gallery**

THE ACTING CHAIRMAN: Before I call upon the Minister of Community Development, guests in the gallery, it's a common understanding not to clap or make noise while you're sitting in the gallery, and I'd request you to please honour that tradition that we have in this House.

#### **Debate Continued**

THE ACTING CHAIRMAN: The Minister of Community Development.

MRS. McCLELLAN: Mr. Chairman, I'm pleased to stand and

enter debate on this very important issue. I would remind the hon. members that Alberta has been an adherent of the Canada Health Act, and the only time that we have had any difficulty with adherence to the act was when a federal Minister of Health reinterpreted the act, changed the interpretation of the act, and then gave us a very short time to comply. However, I would also remind the hon. members that comply we did.

**10:50**

So I think the insinuation that we in some way do not support the principles of the Canada Health Act are entirely unfair. In fact, I would say that we have made submissions to the federal Minister of Health to in fact broaden the Canada Health Act so that it really reflected the health services that we provide to people in this province that are important beyond acute care services, which is essentially what the Canada Health Act manages. So I wanted to point that out first.

Secondly, I am frankly puzzled as to why the opposition would not want legislation in place to protect the public health system. It has been said over and over and over again, Mr. Chairman, that there is no protection in place today. Perhaps a slight protection is that the College of Physicians and Surgeons must be the licensing body. This act carries that with additional steps to ensure that should the College of Physicians and Surgeons license a facility that the minister considers falls without the Canada Health Act, he may step in. Further, the regional health authority may also step in.

The hon. opposition NDP member mentioned Hotel de Health. Never was that brought to the government. The RHAs rejected it, which is part of the protection that is in this.

The other thing that surprises me. The federal Minister of Health, Mr. Rock, whom I have a great deal of respect for, is a strong, strong, strong supporter of the principles of the Canada Health Act. However, he has supported the principles in this bill, and he has said that this is an excellent . . .

MRS. SLOAN: Are you federal bashing again, Shirley?

MRS. McCLELLAN: Never. Mr. Chairman, I was asked if I was federal bashing. It has not been my practice in this House to be rude or to bash anyone. I have made a commitment to my constituents that I would conduct myself with as much dignity and decorum as I could in this House, because I respect that they elected me to do that. I will continue my comments and only ask for that respect from other members. I do try very hard to listen carefully and consider the opinions of my colleagues on all sides of the House, and I will continue to do that.

Mr. Chairman, I am concerned that when there is no policy today to protect that, there is a desire not to have one. I am encouraged, though, that there has been some consideration of perhaps even amendments, which tells me that there are some members who feel there is merit in this bill. That is from the opposition side. I'm encouraged by that. I think that when those amendments are put forward, they will be debated with all of the diligence of all members of this House, and I would hope that I have an opportunity to take part in that.

Mr. Chairman, it has been pointed out many times that there is and has been traditionally in this province a role for the private sector in delivery of health care. I would remind hon. members in this House that much of our long-term care in this province is delivered by private operators, and I would say that they do a very, very fine job of it. It is protected by the regulations, such as funding, where no one in this province is charged the exorbi-

tant fees that they are in other provinces, because this is protected under our regulations. Every pharmacist, as was pointed out, our doctors' offices, every one of them, are private operations, and I don't want to see a system that says that our doctors must be hired by us and paid entirely by us. [interjections] It hasn't worked. What has worked is what we have, which is a combined system. We do have doctors that work for the Cancer Board who are salaried and hired by us for a specific role.

What I am most distressed about was what I felt – and I hope I was wrong – was an attack on a very respected clinic in this province. I think that if you went to the ophthalmology profession, they would be concerned. I think it is widely known and held that people who need cataract surgery today enjoy a much less stressful time because of research activities that have been carried out there and the great strides that have been made in that. I remember constituents – they were actually friends of mine – who had cataract surgery years ago and who laid in bed with sandbags beside their head because they weren't able to move. That's the old way, and we've moved ahead. I would say that clinic that was named tonight had a great role in that, and I am distressed that would be said. Frankly I think we should say that we are privileged to have the Gimbel clinic in Alberta. There are thousands of Albertans who have been treated there and appreciate that. So, Mr. Chairman, I have to say that I was really, really disturbed about that.

However, Mr. Chairman, I think we've had another time of debate on this bill. I am encouraged that we'll continue to have that, and as I say, I'm encouraged by members of the opposition, at least one, who has not just said: scrap it. Maybe there are some amendments we should look at, and I look forward to the debate on those amendments.

I made this statement some years ago in this House: health is too important to be a partisan subject. Let's every one of us in this House work hard to make sure that our health system in this province continues to be the best that we can have. That is all I ask of all members in this House, and for the most part I think that is how all members in this House are carrying their part of this debate.

Mr. Chairman, I would now suggest that we adjourn debate on this bill and move on to another subject.

THE ACTING CHAIRMAN: You've proposed a motion to adjourn debate?

MRS. McCLELLAN: Yes, I did, sir.

THE ACTING CHAIRMAN: Okay. We have a motion on the floor to adjourn debate on Bill 37. Are you agreed?

SOME HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

[Several members rose calling for a division. The division bell was rung at 10:59 p.m.]

[Ten minutes having elapsed, the Assembly divided]

[Mr. Shariff in the chair]

For the motion:

Black	Herard	Paszkowski
Boutilier	Hierath	Pham
Burgener	Johnson	Renner
Cao	Jonson	Severtson
Cardinal	Laing	Smith
Clegg	Magnus	Stelmach
Day	Marz	Strang
Doerksen	McClellan	Tarchuk
Ducharme	Melchin	Thurber
Haley	Oberg	West
Hancock	O'Neill	

**11:10**

Against the motion:

Bonner	Mitchell	Sapers
Dickson	Nicol	Sloan
Leibovici	Olsen	White
MacDonald	Pannu	Zwozdesky
Massey		

Totals:	For - 32	Against - 13
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[Motion carried]

MRS. BLACK: Mr. Chairman, I'd like to make a motion that when the committee rises and reports, it report progress on Bill 37.

[Motion carried]

**Bill 27**  
**Electric Utilities Amendment Act, 1998**

28. Mrs. Black moved on behalf of Mr. Havelock:  
Be it resolved that further consideration of any or all of the resolutions, clauses, sections, or titles of Bill 27, Electric Utilities Amendment Act, 1998, shall, when called, be the first business of the committee and shall not be further postponed.

THE ACTING CHAIRMAN: All those in favour of the motion, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

[Several members rose calling for a division. The division bell was rung at 11:13 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Shariff in the chair]

For the motion:

Black	Herard	Paszkowski
Boutilier	Hierath	Pham

Burgener	Johnson	Renner
Cao	Jonson	Severtson
Cardinal	Laing	Smith
Clegg	Magnus	Stelmach
Day	Marz	Strang
Doerksen	McClellan	Tarchuk
Ducharme	Melchin	Thurber
Haley	Oberg	West
Hancock	O'Neill	

Against the motion:

Bonner	Mitchell	Sapers
Dickson	Nicol	Sloan
Leibovici	Olsen	White
MacDonald	Pannu	Zwozdesky
Massey		

Totals:	For - 32	Against - 13
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[Motion carried]

THE ACTING CHAIRMAN: The last time we were debating this issue in committee, we had an amendment proposed by the hon. Member for Edmonton-Calder.

MR. WHITE: Mr. Chairman, this is talking about a bill that changes the electrical distribution of this province irrevocably. This is a bill that is the single biggest change ever in the history of electrical generation in this province. This bill is purported to transfer the attachment of some \$8.7 billion worth of assets, and we've had 30 minutes of debate from the minister.

AN HON. MEMBER: Good.

MR. WHITE: I hear "good" from over there. I mean, how undemocratic can you possibly get? We should just fold up the tent as soon as that caucus decides a question of fact? That's it. It's done. I can't believe that you people can actually think you can get elected and even bother to show up and collect anything. Why don't you send it in? Give him your support. I mean, did you read the bill? Do you understand it? Not one little bit. Murray does, because I've spoken to him, and the former minister does. The rest of you haven't even got a clue. Not a clue.

SOME HON. MEMBERS: Through the chair.

MR. WHITE: Through the chair. I can speak what I want. Come on. It's closure. It's called democracy. You know: 1066. Oliver Cromwell wouldn't deal with this.

THE ACTING CHAIRMAN: Please sit down. Hon. Member for Edmonton-Calder, could you please speak through the chair? Also, please speak to the amendment.

AN HON. MEMBER: Show some respect.

MR. WHITE: Some respect. Have a little respect for democracy. Just a little. Here we have closure on the whole bill and on one amendment. We have seven amendments to make this bill better. We haven't even heard them. The minister wouldn't even accept them, wouldn't even look at them.

[Mr. Herard in the chair]

MR. PASZKOWSKI: So why are you wasting time?

MR. WHITE: Wasting time. Is that what democracy is to you? Wasting time?

MR. PASZKOWSKI: That's what you're doing. *Hansard* will clearly identify that.

MR. WHITE: Democracy is wasting time to you, Walter? I'll tell you, you're missing something. You're missing a great deal of it.

MS HALEY: Point of order.

THE ACTING CHAIRMAN: The hon. Member for Airdrie-Rocky View on a point of order.

**Point of Order  
Relevance**

MS HALEY: Thank you, Mr. Chairman. *Beauchesne* 459, relevance. I believe we're here to debate an amendment, and it would be really nice to hear some debate on that amendment.

THE ACTING CHAIRMAN: The hon. member on the point of order.

MR. WHITE: On the point of order. The amendment is clear. Does anybody have the amendment? The amendment was put around. Does anybody else have it?

THE ACTING CHAIRMAN: Hon. member, on the point of order.

MR. WHITE: Mr. Chairman, on the point of order. She wants me to speak on the amendment. Well, I was telling you what the amendment was. [interjections] I'm speaking on the point of order, sir. Am I missing something here?

**11:30**

THE ACTING CHAIRMAN: Hon. member, first of all, there was a closure motion that passed. That ends the debate on that motion. If you start to talk about something that was passed in the Legislature, you are repeating yourself, and it is irrelevant and is not something that can be tolerated. So if you could please speak to the amendment.

MR. WHITE: I was speaking to the point of order, sir, as you asked me to. Do you want me to speak to the point of order, or do you want me to speak to the amendment? You asked me two different things twice.

THE ACTING CHAIRMAN: Hon. member, I've ruled on the point of order. If you want to continue your debate, then I would suggest that you get back on the amendment.

MR. WHITE: Well, I'm sorry, sir. I must have missed the ruling on the point of order, because I certainly didn't hear it.

THE ACTING CHAIRMAN: Hon. member, please.

MR. WHITE: Would you please tell me what you want me to do

here? You didn't rule; I mean, I didn't hear any ruling. You didn't allow me to speak to it.

THE ACTING CHAIRMAN: Hon. member, one of the things that you have to do if you want to know what you should do next is listen. You can't be speaking and listening at the same time. I said to please get back on the amendment.

MR. WHITE: Is that a ruling then? Is that what you're saying?

AN HON. MEMBER: Hello. Anybody home?

MR. WHITE: There's lots of people home here.

**Debate Continued**

MR. WHITE: The difficulty is that you people haven't even read this bill. You don't even know anything about this bill. The amendment that I put – he knows what the amendment is – is really simple. [interjections] Would you enter the debate and . . .

**Chairman's Ruling  
Decorum**

THE ACTING CHAIRMAN: Hon. member, please sit down. Now, you have to speak through the chair. This business of going back and forth across the aisle has got to stop or we won't make any progress here tonight. So all members on both sides of the House, please, let's get back to the business before us, which is the amendment to Bill 27.

**Debate Continued**

MR. WHITE: The amendment is really very simple. [interjections] The members opposite seem to believe that I have no understanding of this when they haven't really taken the time to do it. Now listen; it's really simple. This is changing the benefits of this act to full benefits. Now, that's really tough. You're going to vote against it because you've been told by the minister that it's not needed. That's was 10 minutes of the debate. Quite frankly, all this does is guarantee that in any future adjudication of this matter, full benefits are returned to you and I, assuming that all those here are Albertans – and we are – that we have paid for the rights, for the return of that guarantee that we put up in the way of our rates.

Now, I know you'll hear the arguments, as I heard from a member opposite the other day, that if you rent a facility, whether it be an apartment or anything else, through your rent you've paid for that facility, but you haven't really because the ownership and the equity was somewhere else. That's absolutely ludicrous. It's totally, completely irrelevant. That would assume that a power plant can be built anytime, anyplace, anywhere without any risk and at a price that's competitive. That is clearly not the case. As this bill strikes the benefits down in the year 2020, there is no guaranteed benefit to any of us after that, and that's the error. These benefits, the benefits that are cited in the current act, are limited, yes, because it's not free market, and we're not arguing that. But moving one to the other is, in my view and in the view of many others, an error. In some ways it leaves stranded costs, and in others it leaves a great deal of residual value.

Now, let's speak to the residual value for a moment, as the hon. member was discussing with me the other night. We were having a discussion on the matter, and she was saying then that at

the end of a term definite where you've paid rent, you are owed nothing, because that was the contract. That's true. It's absolutely true. But the implication is that now this old facility is totally at market value and that another facility can be built and compete. Well, except that what the market will bear – and we guaranteed the mortgage on this first building. Now, there's no way on God's green Earth that that element of that unit of power can be produced at the original rate, and we have given up totally and completely on any value of this.

Now, I was not party to any debate, wasn't even given an opportunity, not once, to have a reasonable debate and discussion in any other committee, in any other forum. I have to get my knowledge from people in the industry, and they say there is and was a proposal, that yes, it has to be adjudicated. Every single plant has a complete set of accounting around it, has the exact capital cost. It has all the improvements up to the partial deregulation and the enactment of 1996, the first day of 1996. It has all the costs to maintain that. It has the operating costs, and it has the decommissioning costs, which are part of it. It's all attached.

Now, when one commissions a plant, one has a term definite when you're going to decommission the plant, and you make the decisions relative to the output of the plant based on that date. As you get closer to that date, it moves of course. When one says, "Okay, we are going to deregulate; we're going to allow new production," well, you can't penalize those people that add production to their existing facility, by reason of having a facility, when they have to compete with the new piece that's coming on. So there has to be some kind of an adjudication. There has to be someone that says: yes, we can see that you've added input into this plant, and therefore you have at your risk put money into that and therefore should have a return on that investment. No question about that.

Whatever that return is, you should have it, and it does not necessarily mean that it has to be regulated. That portion can be, and that's not terribly difficult to do. Yes, it would have to be argued, and after eight or 10 such hearings it would get down to be a pretty finite area where the arguments could be made, because it would be generally understood. I recognize that you have three main players, and then you have probably six or seven intervenors that would certainly take issue with the price being either too high or too low. It would get narrowed down in a hurry, as all regulatory hearings do. In the oil patch it's done a great deal.

Now, when that occurs is not a term definite. And, no, you can't stand back and say: that's what I did in this year. You can't do it like the minister wants to do it in his wholly personal crusade of free market. I mean, free market doesn't solve all, and I quite frankly don't understand how one can say it does all of that. It does in most cases, and certainly in telephone deregulation it has helped a great deal. But this is power. When you produce power here, to get it from here over to there, it costs you. It costs a great deal in electrical pressure loss, if you will, if you want to call it that. That's the voltage drop across a span. It's Faraday's law. It's not difficult to understand.

#### 11:40

When you do that, you cannot cause generation to happen just anywhere. You have to either move the resource that you're going to power it to there, or you move the resource to this point and power it over there. Well, when you're doing that, it is not simply as easy as: just add water and stir. You just don't write off these massive assets or transfer the benefit of these massive

assets just like that, and that's what's made easy by this amendment. This amendment simply says that all the benefits should in fact accrue to all of us.

I assume the minister wants to add to this debate. [interjection] You're not going to add to this debate? If the minister does, the minister has that right. Well, he should be obligated to speak more than 30 minutes on this bill to explain the finer points of this. But it never has the philosophy.

Mr. Chairman, I certainly haven't exhausted my comments, but I certainly would like to have my hon. colleague add some on an area that I haven't touched on. The only report that was filed in this Legislature that says anything about residual values and stranded costs and the like – and in effect I haven't dealt with it, not being an economist but being an engineer. We do have an economist here at our disposal to talk about those things. I would like to take my seat and allow another member to deliver.

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

DR. NICOL: Thank you, Mr. Chairman. Speaking to the amendment that deals with the distribution of the benefits of the residual value of the plants, what I want to do is just make a couple of comments respecting the material that was pulled together for the basis in terms of looking at the calculation of the cutoff date with respect to that particular calculation. The basis of that appears to have been a report done by the London Economics group, and when you look at the data they pulled together for their material, there are some obviously debatable assumptions that were made with respect to the study that provided the value in terms of how to calculate.

[Mr. Shariff in the chair]

First of all, they start off and bring forth, I guess, what appear to be contradictions with respect to how they made the assumption and the background for their assumption relative to the mandate that was created under the Electric Utilities Act of 1995, where it said under section 6 that

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

In terms of the study that was done by the London Economics group, that gives the distribution and the breakout of it, they were talking about calculating the benefits based on their ability to provide the quickest return to the free market operation of the plants rather than the full residual value being returned to consumers. Now, this is based on a couple of different bases of economic theory. One is that if you want to make an adjustment, there's one way to do it: you do it now, and let it adjust out. The other is you do it in a time period of depreciation that allows for these values to be captured by the consumer. Well, what they're doing is looking at it in the context of how they present the best set of information that would be provided. They came up with a calculation that looked at the supposed cost, which was calculated by one group at \$8 billion. They look at it in the context, then, of a present value or a discounted rate, which ends up being \$661 million. Well, the end result of that is that the assumptions they make and the associated calculation should reflect the estimate of the value of the captured, or the residual, at the time that it's dealt with to the consumer, and that is truly the \$8 billion rather than their discounted \$661 million.

You know, we have to look at it in the context of timing that



value at the same time that the consumer is receiving it, not in today's dollars. I guess the other way to look at it is: in terms of buying it out and leaving that residual value with the utility companies, a different interpretation of this report would be that the government, if they're going to do that, should put up \$661 million today so that it can be invested and returned to the consumers in 2020 at a value of approximately \$8 billion.

So this is the trade-off that has to occur. That's what we're looking at in terms of how those values are captured, or transferred to the consumer, as opposed to whether or not it facilitates the efficient use by the utility companies. So we have to look at that. This is a major assumption that comes up in terms of how we calculate the residual value, the effect it has on the consumer. I think it is important that we do make sure Albertans understand that they are leaving on the table, through this bill, a lot of their money, which will be returned to the value of the utility companies because of that residual depreciation that hasn't been shared back to the consumer.

So this is the major aspect of how we have to look at it and deal with it from the perspective of: is it equitable, does it provide the best timing, and does it provide the appropriate cutoff in the context of which date we use to calculate the effect of that residual value? I know the time, 2020, that's in the bill deals with it from the perspective of the majority of that captured value, or the residual value, being returned to the consumer, but we've got to make sure that some more of that actually gets from the utility companies that are in place with residual value that still exists at the 2020 time period.

So basically looking at the aspect, you know, in terms of the trade-off that comes along, it's: can we get to the free market value sooner or later? As the proportion of energy that is still under the pooled or regulated part of the total grid will be approaching that market value much quicker, it will not be distorting the value that we have and the competitive advantage that we have both in terms of attracting industries that are energy intensive or in giving the incentive to new producers to bring forth plants that will put power into the grid so that we can have the amount that we need to satisfy consumers in the future. The reason that we have to look at it in that context is this equity issue. In the end, you know, we are supposedly a government representing the people of the province. We're elected by them to look after their interests, Mr. Chairman. I don't think there's any question or anybody that would argue. Business, through the regulations, through the legislation that we provide for their guidelines of operation, doesn't need our support, doesn't need our transfer of dollars on a basis that is not equitable and not fair to those consumers.

So what we've got to do is look at it in terms of the perspective of how we get those kinds of issues conveyed. I've already pointed out the fact that by cutting it off before all of that residual value is captured and returned to the consumer, what we're doing is in essence penalizing the consumer to the advantage of those utility companies. There is no data, especially not any data prepared by this London Economics group, which shows that our economy would be better off if we did it at an earlier date rather than at a date that allows for the full release and the full return of that captured value back to the consumers.

**11:50**

So, Mr. Chairman, speaking on that particular amendment, those are the reasons why I think we should be supporting it and making sure that as the bill is implemented, we end up with all of that residual value returning back to the consumer rather than

leaving a certain amount of it, approximately \$8 billion, at the discretion of the utility companies.

That's basically where we're at, Mr. Chairman. A lot of other people have an interest in speaking, so I'll allow them to stand up as well.

THE ACTING CHAIRMAN: The hon. Minister of Energy.

DR. WEST: Thank you very much, Mr. Chairman. I'd like . . .

MR. SAPERS: A point of order, Mr. Chairman.

THE ACTING CHAIRMAN: Are you rising on a point of order?

#### **Point of Order Clarification**

MR. SAPERS: A point of clarification, Mr. Chairman. I'm wondering, if the minister speaks at this point, especially considering the bill's under closure, whether he'll be closing debate. Because I believe he . . .

THE ACTING CHAIRMAN: You don't close debate in committee.

MR. SAPERS: It's at committee. I stand corrected. Thank you. That is an excellent ruling, Mr. Chairman.

DR. WEST: Mr. Chairman, I understood the clock closes the debate.

#### **Debate Continued**

DR. WEST: Before us we have an amendment to Bill 27 that has been presented by the Member for Edmonton-Calder. Section 5(a) is amended in the proposed section 6(a)(i) by striking out "of the benefits" and substituting "the full benefits." This amendment of course is driven by the fact that there's been a lot said about residual value left on the table after 20 years by the power purchase agreements. There has been a lot of work done over the last many years on coming to the decision to put forward 20-year power purchase agreements that will finish off the legislative hedges. In those power purchase agreements the fair and prudent residual value in the regulated plants will be delivered back to the customers. The stranded costs that are attributed to the companies that have worked hard, some of them 80 years, in this province to deliver power to the people of Alberta will be fairly and equitably dealt with by the 20-year power purchase agreements.

As I said, there's been a lot said and there have been a lot of variables. One company has said that at the end of 20 years, because of certain assumptions they made, there would be \$8.7 billion owing to the people of Alberta. The city of Calgary did their own assumptions, and they said there would be a million dollars left after 20 years. Now, that's the variance between two people making an assumption of \$7.7 billion. I hope people inside this building understand that \$7.7 billion difference can't be just flaunted around as if it's a difference between 10 cents and 15 cents. Then in the Assembly after some study the Member for Edmonton-Calder on March 18 tabled the Official Opposition's response to residual value: Albertans could be \$305 million out of pocket under the electrical deregulation plan. That was tabled in the Assembly and published for all people in Alberta. Subsequent to that, the Member for Edmonton-Calder and others came back

and said: oh, no; now I think we'll go back to the \$8.7 billion, because is it politically correct? Is it sound?

MR. WHITE: The present value.

DR. WEST: Well, March 18 the member did say present value. Now I will enter into the debate on the amendment. He said present value. Well, that's exactly what the issue is. When Alberta Power did their assumptions, they did not use 1998 dollars. In fact, they took inflation out. They took interest rates up and out. They made assumptions not based on '98 dollars and assumed risk. They just flat-rated it out to the year 2040 and assumed no risk for the plants that would have to, in that period of time, retrofit, address environmental technology advances that come in or might be put in legislatively, have to address labour strife that might increase the present cost of labour by 20 percent, 30 percent. They didn't use '98 dollars. They used some hypothetical dollar based on inflation.

London Economics was asked by the Department of Energy to review the analysis of residual benefit by the Alberta utility. London Economics advanced that there were a number of suspect assumptions used in the analysis prepared by the Alberta utility. London Economics determined that a discount rate of 12 to 14 percent would be appropriate for these types of decisions. The Alberta utility assumed that nine of the 11 generation plants could be economically life extended for 15 years. This is speculative.

To counter that, I'll stop right there and repeat one other thing that happened here a few days ago in the Assembly. I said that saying that nine of the 11 generating plants could be economically life extended, it was funny that in 1996 at the electric tariff proceedings before the EUB that same Alberta utility argued very strongly that it was unlikely the lives of the existing generation units would be extended. Let me repeat what they said. The Alberta utility assumed that nine of the 11 generation plants could be economically life extended. In 1996 they argued very strongly that it was unlikely that the lives of the existing generation units would be extended. They requested the EUB increase that utility's depreciation rates by approximately 4 percent to cover the expected costs of demolishing that utility's units and restoring the site at the end of the base life. The base life, if you look – and many of you have that – is the legislated hedges life that was established under EEMA. The EUB, listening to their arguments . . . [interjections] Mr. Chairman, they don't want to listen to the discussion on the amendment.

The EUB listened and accepted that argument that there would be no life extension and that the depreciation expense paid for by the customers should be increased by 4 percent. But we didn't do that when we went to the 20-year contract. In fact, we extended the life extension of many of the plants. We took plants like Wabamun, which was ended in 2005, and took it 15 more years into the future to recover residual value for the people of Alberta. We didn't listen to the argument that was made by one of the Alberta utilities. Discount rates used in assessing a typical long-term business investment decision vary depending on the assumption used for debt costs and return on equity. The discount rate is further adjusted to reflect anticipated long-term interest rate trends and the amount of risk that is associated with a particular investment decision.

In preparing the analysis for the 2020 contract of the residual value remaining after 2020, London Economics considered that in the 20 years prior to 2020 potential technological and environmental changes would add considerable uncertainty. Therefore, a

discount factor at the upper end of the 12 to 14 percent range would typically be used for such decisions, and that's generally accepted throughout the world. I'm sure that that Alberta utility, as it went to Australia and to England and went into 20-year contracts, as they worked with the governments there, had the same assumptions put into their cost analysis so that they wouldn't be exposed to undue risk down the road.

12:00

Now, let's look at a normal, average market discount of 12 percent. Uncertain and speculative benefits must be discounted to account for the average market risk. Market capital structure for high-risk industrial is 30 percent of the debt and 70 percent of the equity.

THE ACTING CHAIRMAN: Hon. Minister of Energy, the Acting Leader of Her Majesty's Official Opposition is rising on a point of order.

#### Point of Order Reading from Documents

MR. SAPERS: Yes. *Beauchesne* prohibits extensive reading from prepared materials during debate. So I'm wondering if the minister has something to say that's not read from a prepared statement. I'd be willing to accept a tabling from the minister instead of him just reading verbatim from his script. So if the minister has something intelligent to contribute to the debate on this amendment, I'd like him to do so or just table the document.

THE ACTING CHAIRMAN: The Minister of Energy.

#### Debate Continued

DR. WEST: Yes. Mr. Chairman, now that it's in *Hansard* that he did not want to listen to any further explanation of residual value for the people of Alberta, I'll sit down.

THE ACTING CHAIRMAN: Due notice having been given by the hon. Deputy Government House Leader under Standing Order 21 and pursuant to Government Motion 28 agreed to this evening under Standing Order 21(2), which states that all questions must be decided in order to conclude the debate, I must now put the following questions.

[Motion on amendment A2 lost]

[The clauses of Bill 27 as amended agreed to]

THE ACTING CHAIRMAN: On the title and preamble, are you agreed?

SOME HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

[Several members rose calling for a division. The division bell was rung at 12:03 a.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Shariff in the chair]

For the motion:

Black	Herard	Paszkowski
Boutillier	Hierath	Pham
Burgener	Johnson	Renner
Cao	Jonson	Severtson
Cardinal	Laing	Smith
Clegg	Magnus	Stelmach
Day	Marz	Strang
Doerksen	McClellan	Tarchuk
Ducharme	Melchin	Thurber
Haley	Oberg	West
Hancock	O'Neill	

Haley  
Hancock

Oberg  
O'Neill

West

**12:20**

Against the motion:

Bonner	Mitchell	Pannu
Dickson	Nicol	Sapers
Leibovici	Olsen	White
Massey		

Totals: For – 32 Against – 10

[Motion carried]

MRS. BLACK: Mr. Chairman, I move that the committee now rise and report.

[Motion carried]

Against the motion:

Bonner	Mitchell	Pannu
Dickson	Nicol	Sapers
Leibovici	Olsen	White
Massey		

[Mr. Shariff in the chair]

Totals: For – 32 Against – 10

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

[Title and preamble agreed to]

DR. NICOL: Mr. Chairman, I'd like to move that if there are any more bells they be one-minute bells, please.

MR. HERARD: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain bills and reports the following with some amendments: Bill 27. The committee reports progress on the following: Bill 37. 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 CHAIRMAN: That the divisions be one minute in length: we need unanimous consent for that. Are you all agreed?

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

HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Anyone opposed? So ordered.  
Okay. We can now proceed with the vote. Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

SOME HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? So ordered.

THE ACTING CHAIRMAN: Opposed?

head: **Government Bills and Orders**  
head: **Third Reading**

SOME HON. MEMBERS: No.

**Bill 27**  
**Electric Utilities Amendment Act, 1998**

THE ACTING CHAIRMAN: Carried.

DR. WEST: Mr. Speaker, I'm pleased to move third reading of Bill 27.

[Several members rose calling for a division. The division bell was rung at 12:17 a.m.]

There's been a lot said about Bill 27, but in respect to all of that, I firmly believe that this is moving Alberta ahead progressively as it relates to electrical deregulation. This bill will bring an awful lot of new things to the province of Alberta. It will bring tremendous competition that will put downward pressure on prices. The customers will have a choice. For the first time there will be customer choice across this province that will allow them to decide which company provides their electricity. This will provide customers with greater options to meet their power needs and to provide the impetus for renewable energy producers to go forward and bring services to the people of Alberta that they've never had before.

[One minute having elapsed, the committee divided]

[Mr. Shariff in the chair]

[Mr. Herard in the chair]

For the motion:

Black	Herard	Paszkowski
Boutillier	Hierath	Pham
Burgener	Johnson	Renner
Cao	Jonson	Severtson
Cardinal	Laing	Smith
Clegg	Magnus	Stelmach
Day	Marz	Strang
Doerksen	McClellan	Tarchuk
Ducharme	Melchin	Thurber

Also, with this bill customers will have the confidence once and for all that the market is not being manipulated through market power abuse that can occur in the current system. We are moving

from a regulated system, and when you ask Albertans across the board, 80 percent of them agree that a regulated system kept a lot of costs and a lot of the risks protected that didn't allow them to achieve the fullest of the market price that's achieved in other services.

New generation will be built to meet the growing need for electricity in Alberta, and tonight we met with the chemical producers of Alberta, including the petrochemical industry, and they right now have applications before the EUB for 1,085 megawatts of power. That's over 12 percent of the present utilization, and that will provide low-cost power coming into the pool down the road. Much of that will come onstream in the next 18 months.

It is important for Alberta to ensure low-cost and reliable power into the future. This bill does that. No longer do we want to have to go through a process that has to go through the Lieutenant Governor in Council to approve new generation, new construction in the province that then goes forth into a highly costly, sophisticated, time-consuming, regulated process.

By moving forward with deregulation, the Alberta advantage of competitive electrical costs will be sent throughout Canada and throughout North America. It will send a message that this is the lowest cost energy production in North America possible by market forces and will bring new capital to the province forthwith. I look forward to continued support for this bill as we work arduously with the stakeholders on the next step. That will be the regulations, and I promise full consultation with all stakeholders as we go forth to do that.

Thank you.

MR. WHITE: Speaking to third reading, Mr. Speaker. It's interesting that we can go through this entire debate and not once does the minister, the proponent of this bill, file a report that we can actually go through and say: yes, we understand where the assumption is; yes, there's a variance here, so there'd be allowance. Not once. There's a report that purports to serve that purpose, but it doesn't.

#### **Speaker's Ruling Relevance**

THE ACTING SPEAKER: Hon. member, we are in third reading. We have the bill as amended, and that's the debate that we should be concentrating on now, not what should be or what didn't happen. This is the debate on the bill as it exists.

MR. WHITE: Am I missing something here? The minister can stand there and say whatever he wants about whatever report and the assumptions that are made. I say the same thing about what this bill is based upon and I get called to order. Come on. We just had a wonderful demonstration of democracy here. I simply don't understand.

#### **Debate Continued**

MR. WHITE: There's a reason that one would say that this would be a good bill. I can say that part of the reason is that there are parts of it that actually should be done. Actually, I admitted that long, long ago. In the private discussions I had with three members opposite we agreed on the fundamental principles of the bill. You'll notice that on the second reading of this bill that this member agreed with that.

Unfortunately, without any amendments to protect the interests of consumers, it doesn't make a lot of sense. Certainly there's

been nothing filed in this House to say, "Look; this is the reason that 2020 was chosen as opposed to 2029," which would be the retirement dates. There isn't anything. It's an arbitrary number, and that's the first thing that the minister said on his very first debate on second reading. It's plain in *Hansard* that's what he said. He'd said something to the effect that you could come to any conclusion you want on any date you wanted by just varying the inputs in some formula. Well, that formula was never produced even though it was asked for time and time and time again in this Legislature. Never once. We subsequently asked for report after report after report and nothing.

MRS. McCLELLAN: So much for briefing on that one.

MR. WHITE: Well, for billions of dollars of work we get a half hour briefing that stretches into an hour.

MRS. McCLELLAN: One hour? Come on.

MR. WHITE: It was one hour.

THE ACTING SPEAKER: What we're doing again is we're going back and forth across this House. Please debate through the chair.

MR. MITCHELL: They like it better when it's one-sided.

MR. WHITE: That's the only way it's been done.

Now, if that had been done, Mr. Speaker, if this member opposite, whom I can't look at now because I have to speak through the chair – if that was done, this member could have told this caucus that it was satisfactory. But it wasn't. Then to invoke closure when clearly seven of the 15 members of the advisory committee, the committee that is specifically set up to hear from consumers and producers and large consumers, the industrial users, seven of those said: "Look. Hold on. Let's wait. Let's figure this out." What response did we get for any kind of further consideration? We get closure. We get totally ignoring any of those considerations.

#### **12:30**

The largest city in the province of Alberta, Calgary, said: "Look. We don't like some provisions. Hold off until we can understand what the full benefits and the costs of this are." And we hear nothing in debate from the other side. This side and the citizens of Alberta know nothing of it at all. We do have the one representative from Calgary that has spoken to it and raised concerns. Though it is not his specific area of expertise, he would still like to understand and cannot.

We hear that there's this magic formula. It's not explained how and why it will be beneficial. We're supposed to take a pig in a poke and say that absolutely, unequivocally free and open competition is the answer and the only answer. We've heard that before. Quite frankly, I don't buy it. Prove it. I don't have any difficulty understanding that more competition certainly helps, but just don't tell me that it's that easily done and that a magic number can be chosen and solve all.

Now, there is some reason to believe that there is probably some date for each plant that could be – and it wouldn't be arbitrarily set. Each plant could have a date certain when you'd say: okay; that is where a reasonable person would say that the inputs of the utility, the beneficial owners of the asset and the

consumers, are balanced, on each plant. For each plant you could do that, but certainly not across the entire industry. That's arbitrary. That's throwing a dart at the dartboard, and it certainly isn't advantageous.

Mr. Speaker, there is a great, great body of the population that I have spoken to on this bill that believe the motivation behind this bill originally starting with the minister, Mrs. Black at the time, was pure and reasonable. It was the right thing to do to start moving towards deregulation, the opening up of the industry in order to have much more competition and much smaller competition, with cogen and the like. Now, that's reasonable. However, it gets to a point and then all of a sudden the present minister says: that's enough. He takes it upon himself to say: that's all there is to do; this is what has to be done. Damn the torpedoes, as he said; full steam ahead. He's going to pull the trigger, and then it'll all happen so that he can have a feather in his cap. Now, that is not the right way to run a business, let alone the government.

Quite frankly it doesn't satisfy this member. It certainly doesn't satisfy any members here to buy this pig in a poke, and I personally think that it's a terrible, terrible way to have any legislative matter settled.

Thank you, Mr. Speaker.

MR. RENNER: Mr. Speaker, it's been a long day and a long night. I think we've had a lot of thought go into the debate on Bill 27, and I would suggest that perhaps all members would be wise to sleep on it and be prepared to come back to have further debate on this bill tomorrow. For that reason I would like to adjourn debate on Bill 27.

THE ACTING SPEAKER: The hon. Member for Medicine Hat has moved that we adjourn debate on Bill 27. Those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: Carried.

[At 12:37 a.m. on Thursday the Assembly adjourned to 1:30 p.m.]

