

Legislative Assembly of Alberta

Title: **Tuesday, November 24, 1998 8:00 p.m.**

Date: 98/11/24

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

[Mrs. Gordon in the chair]

THE DEPUTY CHAIRMAN: Okay. I'm going to call the committee to order.

Bill 2 Conflicts of Interest Amendment Act, 1998

THE DEPUTY CHAIRMAN: We are dealing with amendment A3 to Bill 2, Conflicts of Interest Amendment Act. That's where the debate adjourned. Are there any comments, questions to this amendment?

The hon. Member for . . .

MS OLSEN: Edmonton-Norwood.

THE DEPUTY CHAIRMAN: Thank you very much, Edmonton-Norwood.

MS OLSEN: You're very welcome, Madam Chairman. I like to be helpful. That's why I'm going to debate this principle, this amendment.

My concern about this amendment is that it's a preamble, and I would like to see this as a principle. The principle, as I put forward and that was moved on my behalf, states:

Every Member shall conform to the following principles;

- (a) Members of the Legislative Assembly shall act honestly and uphold the highest standards of ethical conduct as is expected of elected officials in democracies;
- (b) Members of the Legislative Assembly have an obligation to perform their duties of office and arrange their private affairs in a manner that promotes public confidence and trust in the integrity of each Member, that maintains the Assembly's dignity and that justifies the respect in which society holds the Assembly and its Members; and
- (c) Members of the Legislative Assembly, in reconciling their duties of office and their private interests, shall act with integrity and impartiality.

This is really a set of principles that we are asked as legislators to stand by, to follow. To have them in a preamble is fine, but I think in my view it's much better to have them as stated principles.

If we talk about the definition of principle and we look in the *Oxford Dictionary*, it states: giving rise to some quality, fundamental truth as basis for reasoning. It's more than an introductory statement. So that's what I would like to see this become. It's more than an introductory statement, more than a preamble. It has a little more basis in the legislation. Therefore, I'd like to see us as an Assembly adopt it, because this bill really reflects our position as professionals, as legislators, and in making law that applies to us, we have to be able to set a pretty high standard. The bar has to be high. We have to be able to conform to that bar, and we have to be able to rise to it. By having this in principles as opposed to a preamble, I think that sets the bar a little bit higher. In my view, I believe that's exactly what we should be doing, not to make conflict of interest legislation so onerous that we can't breath but certainly to make the legislation meaningful. Doing this, I believe, will give this legislation far more meaning and far more value than just a preamble statement,

an introductory statement that really means nothing. In fact, this is something that almost sets out a code of ethics in a principle.

Those are my comments on that. I would hope that the Assembly would want to support something that is more than an introductory statement, that actually offers a real purpose in legislation. It's better to have it as part of the broader legislation.

Thank you, Madam Chairman.

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

MRS. SLOAN: Thank you, Madam Chairman. I am pleased this evening to rise and speak in support of the amendment proposed to Bill 2 proposing the additional section part 1.1, entitled Principles. It struck me as an oddity when I was elected as a Member of the Legislative Assembly that I did not have a clearly defined code of ethics such as the code of ethics that I practise and abide by as a member of a licensed health profession, that being the profession of registered nurses. It was further surprising to me as a newly elected member that I was not oriented, because there was nothing in existence to orient me from, with respect to what was an expected code of practice, code of ethics in serving in the office of a Member of the Legislative Assembly.

I spoke earlier this afternoon, in the context of the debate on another bill, about the fact that there is not a job description for Members of the Legislative Assembly, that my experience in the last year in some jurisdictions of this province is that members have a very different interpretation about what their responsibilities are in fact, and that particularly in the area of advocacy there are areas in the province where MLAs do not offer that service, whether the issue be one of health care, one of social services, one of business practices, et cetera.

The amendment proposed this evening by the hon. Member for Edmonton-Norwood I believe embodies some very important principles, ones that have not been articulated previously. Under section 1.1(a) the amendment says, "Members of the Legislative Assembly shall act honestly." I recall when I swore the oath, when I was sworn in by the Lieutenant Governor, I did not have to swear that I would act in an honest fashion as a Member of the Legislative Assembly, and at times the conduct of the members across the way leads me to believe that that's not an attribute this government seeks out when it couriers for prospective candidates. [interjections] I was provoked, hon. members. I was provoked by your respected colleague way back there.

THE DEPUTY CHAIRMAN: Hon. member, stay on the amendment.

MRS. SLOAN: I'll carry on, Madam Chairman. Thank you.

The other aspect of 1.1(a) talks about upholding the "highest standards of ethical conduct," again not something that we swear in the oath to abide by and not something that is currently in succinct form for members to refer to on a daily basis or particularly to refer to when an issue comes to their office or to their portfolio which they need to act upon.

Other aspects in section (b). The amendment speaks about MLAs acting in a fashion that "promotes public confidence and trust" in the integrity of not only the member but the Assembly, and I think that principle is not broadly enough understood or respected by the members of this House. In fact, it seems at times that the current government is attempting to undermine the role of this Assembly and this government. They talk about reducing the number of MLAs. They undermine by saying that

certain societal functions should be assumed in some sort of fragmented, devolved way by communities or other jurisdictions. They certainly, when it comes to federal affairs, have absolutely no respect for our federal system of democracy, and that has been articulated time and time again in this House by the members across the way. Regardless of what the partisan institution is that occupies that government, it is extremely discouraging to me that the members of the government do not articulate -- and I have not heard them articulate it once in this House in my tenure -- any degree of respect for the federal institution of democracy and the federal Members of Parliament.

We also are proposing tonight, Madam Chairman, that Members of the Legislative Assembly in conducting their duties, in section 1.1(c), "act with integrity and impartiality." I'm actually thinking that the hon. Member for Edmonton-Norwood should have defined those terms. It might have been helpful for members in the House to understand in fact what integrity and acting in an impartial manner means.

I applaud the Member for Edmonton-Norwood for bringing these principles forward. There is absolutely nothing in my opinion that should prevent the government from opposing these principles if, in fact, they are committed to the institution, to the Legislative Assembly, and committed to respectful and high ethical conduct of Members of the Legislative Assembly and if they want to further the respect and that institution in the future. What is proposed in the principles embodied in this amendment, Madam Chairman, I believe do that. I believe they're totally aligned with the intent of the bill. There is absolutely no reason, unless an hon. member on the other side wants to articulate that to me this evening, why these amendments should not be adopted.

8:10

I don't think it was raised in the rationale, but I think in matters of this nature it would be advisable and interesting to have the Members' Services Committee address a code of ethics at a future meeting. We certainly in the bill see that the government is proposing that the Ethics Commissioner maintain a high degree of involvement in this area. I don't though, if I recall, see any reference to the Members' Services Committee addressing something of this nature. I think the Ethics Commissioner certainly has a role -- and he assumes that role in a professional manner -- not only in preparing but advising members with respect to issues that are complex that may deal with ethical decisions they're required to make. But it seems to me that what we're saying in this amendment is that we want a foundation to start from, and there is not an ethical foundation that exists in writing at this point in time.

I'm looking forward to the debate, and I'm assured that members across the way who have interjected so many remarks into my comments this evening -- I'm really expecting that they will rise and speak formally on the record about ethical practice by Members of the Legislative Assembly and speak in support of this amendment this evening. With that I'm prepared to conclude my remarks.

Thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: Thank you.
Edmonton-Gold Bar.

MR. MacDONALD: Thank you, Madam Chairman. I, too, have a few comments this evening regarding amendment A3 on Bill 2. I congratulate the Member for Edmonton-Norwood for bringing this amendment forward. If we are to remove the idea of principles and put them in the main body of the bill -- we look at this in its form in the preamble and we see the words "public

confidence." We see "trust." We see "integrity." We see "dignity" and "impartiality." All of these words mean a great deal to each and every member of this Assembly. Each day when we come here and we look at the voters of tomorrow who are in the galleries on both sides of the House, these are the words, these are the principles that they base their idea of a democracy and the Legislative Assembly on. We have a role to fulfill. For these voters of tomorrow we must lead by example.

Now, tonight when I came into the Assembly, I encountered a visiting party from another country. The Speaker of the Assembly was guiding them on a tour of not only the building but the grounds, and he was doing it with a great deal of dignity. This is outlined in this amendment, and my colleague, whenever she wants to add this after part 1, I think it is a very, very good idea, because the public perception of all of us, regardless of our political affiliation, is at an all-time low in this country. Politicians rank very, very low in public esteem.

However, with this amendment I think we can slowly build up confidence, trust, and integrity with the members of the voting public. That is why I recognize the significance of this amendment, and this is why, Madam Chairman, I am in full support of this amendment A3.

Now I would like to cede the floor to another one of my esteemed colleagues. Thank you.

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

MRS. SLOAN: Thank you, Madam Chairman. I would like to further debate this. I think it is of such a substantive nature that it warrants additional comments. It's unfortunate that members from the other side of the House did not see fit to rise to discuss this issue or to debate the amendment proposed. I attempted to prompt some broader debate by reporting on some of the practices or lack thereof in my comments this afternoon and again this evening with respect to Members of the Legislative Assembly sort of self-defining what they see to be their role or their responsibilities or what services they will or will not offer to constituents in the province.

I have had constituents from other constituencies call me and tell me that they couldn't even get a reply when they called a Member of the Legislative Assembly from the other side of the House. All they got was an answering machine. I'm also told that there are a number of members who don't operate within regular business hours.

THE DEPUTY CHAIRMAN: Hon. member, we have before us A3. We're talking about principles. I'm not just too sure what the relationship between having an answering machine or not having an answering machine has to do with principles.

MRS. SLOAN: I'd be happy to elaborate. We're being paid a salary to represent constituents in our respective constituencies, and if we define that as being that we don't have to have regular office hours, we don't have to have anyone respond to telephone calls, I view that as being unethical conduct. What the amendment is proposing is the incorporation of a code of ethics in the bill on conflicts of interest.

I recognize that it's a very sensitive subject, Madam Chairman, because the members don't like those realities to be pointed out. They don't like it to be pointed out that in some areas of this province vulnerable constituents are not being represented in a responsible or ethical fashion, but it is, in fact, occurring. I've

had those calls, and I've spoken with members directly about it. I have called, and I have written. I have said that this is the experience I've had and that my support has been sought, and I have not had the courtesy of a response from the hon. member.

So I am attempting in a professional manner to point out what I see to be the gaps in practice and conduct, and when I bring them directly to the attention of members of the other side of the House, they don't respond. And if the . . .

MR. JACQUES: Point of order, Madam Chairman.

THE DEPUTY CHAIRMAN: The hon. Member for Grande Prairie-Wapiti.

Point of Order
Allegations against Members

MR. JACQUES: Thank you, Madam Chairman. I've been listening with interest to the allegations of this member particularly as she referred to government members. I would refer the chair specifically to 23(h), (i), (j), and (k) but in particular "makes allegations against another member" or "imputes false or unavowed motives to another member."

This member has just stood and cast aspersion on every member of this House without any due regard to process. I think it's about time she took some accountability for her actions, rather than bringing the total demeanor of this House into disrespect.

8:20

THE DEPUTY CHAIRMAN: Hon. member, the chair did a few minutes ago mention to you to stay within the parameters of the amendment. I think that once we start to cast a shadow of a doubt on anyone in this room, we'd have to poll all members of the Assembly. So let's stick to the principles involved in the bill, the generalities involved with them, and let's not get into specifics, please.

MRS. SLOAN: Madam Chairman, in responding to the point of order, I did not make any allegations. I have factual evidence and correspondence addressing these matters. Unfortunately, that hon. member didn't view it as being important enough to respond.

I really am sorry that it's so inflammatory to the other members of the House to have these inconsistencies pointed out. This is exactly why we're saying that there should be a code of ethics within the confines of this act to ensure that members offer services like advocacy to constituents. Why should I, just because I happen to hold the portfolio of social services, be doing social services and child welfare appeals for other members of this Assembly? Why should that be occurring? That is occurring. I published that information, and I've attempted to address it with the hon. members, but they refuse to acknowledge it, as they've refused to acknowledge it here this evening.

So if we want to talk about ethical practice, then let's talk about ethical practice, and let's talk about the services we're not offering to constituents and the responses that our staff are providing to constituents when they call for help.

THE DEPUTY CHAIRMAN: Let's bring it back to the amendment. Where you're talking about the obligation to perform the duties, duties will differ with each and every member of this Assembly and how they perform in their own constituency. Let's recognize that and get on with what is written here in amendment A3, please.

Debate Continued

MRS. SLOAN: Thank you, Madam Chairman. I spoke earlier tonight about the fact that professionals offering services directly to the public in this province and across Canada and across the continent are required to conduct themselves and follow a code of ethics. It is surprising to me that Members of the Legislative Assembly that have such broad responsibilities and jurisdictions to represent a diverse community of constituents do not have a code of ethics. That is what the hon. Member for Edmonton-Norwood is proposing in this amendment. We have not had a single member from the other side of the House speak to it. So I'm challenging you, speak to it if it causes you such duress and my statements are so inflammatory. Stand up and talk about practising by a code of ethics.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Leader of the ND Opposition.

MS BARRETT: Thank you, Madam Chairman. This is not a new debate. First of all, I need to address something that the Member for Edmonton-Riverview highlighted in her most recent comments, and that is that as professional members or, you know, people of a profession -- it is true that she is or at least used to be a member of a regulated profession. I would like to point out . . .

MRS. SLOAN: I am.

MS BARRETT: That's fine. I would like to point out that . . .

MRS. SLOAN: Point of order.

THE DEPUTY CHAIRMAN: Hon. member. Point of order, Edmonton-Riverview.

Point of Order
Factual Accuracy

MRS. SLOAN: Yes. I believe that the hon. member is imputing falsities. I am currently a registered nurse, registered with the profession of nursing, and am therefore required to abide by a code of ethics.

Thank you.

THE DEPUTY CHAIRMAN: I am sure that the hon. member will certainly recognize that, and we can move on.

Debate Continued

MS BARRETT: Yes, Madam Chairman. How do I know if the Member for Edmonton-Riverview is still a member of the registered nurses?

What I was getting to is this. First of all, there is an incredible diversity of prior occupations represented amongst members of the Assembly. I will tell you a story. I'm sorry to say that there was an MLA who actually laughed at the fact that a former MLA was a school bus driver. I admonished that person. I won't identify who that person is. The fact of the matter is that we have a diverse representation in this parliamentary Assembly, as we should. I remember the days when it was lawyers and accountants, Madam Chairman, and I don't think . . . [interjections] Sorry if I've offended every lawyer and accountant now.

MR. DUNFORD: Go ahead. Go ahead

MS BARRETT: The advanced education minister says I can. Give me some applause, and I'll keep going.

The fact of the matter is that I don't think a province or parliamentary Assembly is well served by having only professionals in its membership.

MR. DUNFORD: That's right. They need us little guys too.

MS BARRETT: Yeah. And I ought to know, being the littlest or at least the shortest person in the Assembly.

Madam Chairman, even though I think amendment A3 is laudable, the fact of the matter is that without sanctions -- and good luck finding them; good luck defining them. Without sanctions against words like "a manner that promotes public confidence and trust in the integrity of each Member" -- first of all, I don't think you can define that. Secondly, even if you could define all of the references in amendment A3, there are still no sanctions.

I don't like doing this, but I have to in this case. I'll be voting with the government on this, because you can't put it in legislation. How can you put it in legislation? All right? It belongs in the preamble. I think the wording in the preamble is good. It is a directive. It is not so highly defined as to be something that is litigable or sanctionable under law. That's the way it needs to be.

Everybody, as Madam Chairman herself points out, represents a different constituency requiring different responses to the constituents in that area. Although I'll be supporting most of the amendments that are being proposed by the Liberal opposition tonight, you don't want me to stay on my feet, because if you do, you'll hear stories about how I have had to go to bat time and time and time again for a particular Liberal MP's constituents.

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

MR. DICKSON: Well, Madam Chairman, I had spoken on this amendment the other night, and I hadn't planned on speaking again, but I feel compelled to do so because there seems to be a very fundamental misunderstanding of what a statement of principles is in a bill. You know, in the freedom of information act that the leader of the third party is on a committee reviewing now, section 2 is a statement of principles. There's no penalty that attaches. It's not an offence. The purpose of the principle is not to create a punishable offence. The purpose of a principle is to give a court that has to interpret a statute somewhere down the road a frame of reference, a set of values that make it abundantly clear to a judge who didn't have the benefit of participating in a debate or reading the *Hansard* what the purpose of the statement of principles is.

The leader of the third party, who frequently talks about her experience in the House, will have seen legislation -- there was an older model of drafting legislation that used to include preambles.

Chairman's Ruling Decorum

THE DEPUTY CHAIRMAN: Excuse me one moment, Calgary-Buffalo.

Committee members, it is getting fairly noisy in here. I would ask those who want private conversations if maybe you could go outside. It is difficult for the chair and the table officers to hear the debate.

Thank you.

Debate Continued

MR. DICKSON: Thanks very much, Madam Chairman. I was

just indicating that in the last seven or eight years most Legislatures have moved away from flowery whereas clauses and preambles simply because they don't have the impact when a judge is looking for some aid in terms of construing or interpreting a statute, and now what most Legislatures do, except for some that pursue older, anachronistic practices, is set a statement of principles in the body of the bill. That's exactly what we've done with this proposed amendment in the Conflicts of Interest Act.

8:30

Lest anybody think that this is groundbreaking, unusual, or as suggested by the last speaker, ineffectual, they only need look at a whole range of statutes not only in this jurisdiction but in at least two other provinces that, wherever possible, try and incorporate a principle section, a principle element in the body of the bill. It's a salutary feature. It's one that I wish government would put in every statute.

I respectfully suggest to the last speaker that if her concern is that she wants to see penalties, then she could propose an amendment, which I'd be happy to look at, to create further offence provisions in the balance of the act, but you don't typically attach an offence to the principle. The principle is for purposes of statutory construction if and when a court has to deal with it. So I wanted to make that observation, Madam Chairman.

Thanks for your patience.

THE DEPUTY CHAIRMAN: Before we proceed, can I have the unanimous consent of the committee to revert to Introduction of Guests?

HON. MEMBERS: Agreed.

head: Introduction of Guests

THE DEPUTY CHAIRMAN: The hon. Minister of Labour.

MR. SMITH: Thank you, Madam Chairman. It's not often I get a chance to introduce somebody from outside of Calgary-Varsity, but I'm going to tonight, and thank you for the indulgence of the Assembly. I have in the members' gallery a forester with the Department of Environmental Protection who's formerly of Calgary. His name is Philip Temple, and it's great that he could get some time away from his tree management and density program to be able to come in and visit with those who use the end products from that roundwood fibre. So I would ask Phil to rise and please receive the warm welcome of the House tonight.

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

MRS. SLOAN: Thank you for the opportunity, Madam Chairman. I see that we also have a large group of visitors with us this evening, and it is a privilege for me to introduce the members of the provincial executive board of the United Nurses of Alberta who have joined us this evening and I'm sure are extremely pleased that this government has seen fit to pull Bill 37 today.

Thank you.

Chairman's Ruling Decorum

THE DEPUTY CHAIRMAN: Hon. members, before I ask the hon. deputy House leader, I would ask for a little respect and decorum here, please. I've asked twice for the noise level to go

down. I do believe that when we have visitors in the gallery, we need to treat them with respect. I don't want to have to say this again. We are here tonight debating several amendments. Let's get on with the job.

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

Bill 2
Conflicts of Interest Amendment Act, 1998
(continued)

THE DEPUTY CHAIRMAN: Are you ready for the question? Those committee members in favour of the amendment deemed A3 as proposed by the hon. Member for Edmonton-Norwood, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: The amendment is defeated.

[Several members rose calling for a division. The division bell was rung at 8:34]

[Ten minutes having elapsed, the committee divided]

[Mrs. Gordon in the chair]

For the motion:

Dickson	MacDonald	Paul
Gibbons	Nicol	Sapers
Leibovici	Olsen	Sloan

Against the motion:

Barrett	Hancock	Pham
Broda	Hierath	Renner
Calahasen	Hlady	Smith
Cardinal	Jacques	Stelmach
Clegg	Jonson	Stevens
Coutts	Klapstein	Strang
Day	Kryczka	Tarchuk
Doerksen	Langevin	Taylor
Ducharme	Magnus	Thurber
Dunford	Marz	Woloshyn
Evans	Nelson	Yankowsky
Fritz		

Totals:	For -- 9	Against -- 34
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[Motion on amendment A3 lost]

THE DEPUTY CHAIRMAN: The Deputy Government House Leader.

MR. HANCOCK: Thank you, Madam Chairman. I would move that we adjourn debate on Bill 2.

THE DEPUTY CHAIRMAN: Having heard the motion by the Deputy Government House Leader to adjourn debate, all those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: The motion is carried.

MR. HANCOCK: Madam Chairman, I would request that we move on to Bill 38, and I would move that when we rise, we report progress on Bill 2.

Bill 38
Public Health Amendment Act, 1998

THE DEPUTY CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to this bill? We adjourned debate on amendment A1 that was moved by Calgary-Buffalo.

MR. DICKSON: Thank you very much, Madam Chairman. I just wanted to remind members in terms of what we were dealing with. The bill that's currently in front of us, Bill 38, in effect would eliminate the advisory board function of this little-known body called the Public Health Advisory and Appeal Board. [interjection] I hear somebody saying, "Good." Well there may be some value in doing that, but this board is the only board created by statute in the province of Alberta with a mandate to look into a variety of health issues.

In fact, the reason the government wants to eliminate this particular provision is largely because there are other bodies which offer advice to the minister, like the Provincial Health Council and other organizations. The problem is that the Provincial Health Council, even though it's actually done, I think, some commendable work, still has no statutory underpinning. The Provincial Health Council exists, frankly, at the whim of the Minister of Health. In fact, speaking of that, I'm not sure that I've heard the minister announce whether the term of the Provincial Health Council is going to be renewed. Maybe he's made that statement and I didn't hear, but it seems to me that we must be just about at the end of the mandate of that organization. The point is this. Once the Ombudsman has the expanded role to be able to hear concerns, to do investigations, and to be able to bring into the Legislature and into the public domain, if you will, concerns that are identified in this huge health care system we have in the province of Alberta, it's important that we not lose the one statutory vehicle that we have to be able to do those things. So I thought, frankly, that the amendment that we'd put forward last time, amendment A1, attempted in a responsible way to address the transition, because what the government has done: they would abolish this before they've put in place that expanded role for the Ombudsman.

8:50

Now, the minister maybe could share with us when that new legislation's going to be brought into the House. We thought we would have seen it in 1998. Maybe it's coming in the spring of 1999. Of course, the opposition has no control over that. Members of this Assembly have no control over that; that's entirely up to the minister when he does that. So this is not some argument to maintain an anachronistic board when it's outlived its usefulness. It will still be constituted in any way, Madam Chairman, to hear appeals -- that's not changing -- under the Public Health Act. So what we're saying is that we want, frankly, to exert whatever gentle influence we can on the minister.

When you're in opposition, leverage is usually spelled in lower-case letters. I guess what we're attempting to do, I'll be perfectly blunt, is ensure that the Minister of Health, in talking to whatever committees in the government caucus exist, is going to be able to insist that this thing be pushed through, that it be implemented as quickly as possible.

One of the concerns may be: what if the Minister of Health for whatever reason loses interest in expanding the role of the Ombudsman? We thought we would have seen that, you know, within the last year. It hasn't happened. There may be other reasons or other decisions made in terms of why not to do it. It just seems to me that this is a reasonable transitory sort of provision, and it gets us from here to there.

I am on a committee called the Legislative Offices Committee, that oversees the work of the Ombudsman, and my recollection is that the Ombudsman came forward in -- it may have even been in late 1997. At that point he was already looking at expanding his budget and so on to be able to do this new role in the health area. What we find, Madam Chairman, is still no legislation that allows him to be able to do that.

To any government member that's focused on the current debate, I would expect your constituents to want to have a place to go to raise concerns with the health system. MLAs are sometimes busy, and maybe a particular government MLA isn't accessible to his or her constituents. Should that mean that they're deprived of the chance to request an investigation? I don't think so. I think all members would be interested in ensuring that there was some means of recourse available to your constituent as well as my constituent. So that's the reason for the . . .

THE DEPUTY CHAIRMAN: Hon. member, it has come to our attention that this was last debated on April 29. We have now been provided with a number of copies for all of the Assembly. Can we take a minute and ensure that they're handed out so they can follow through with what you're saying?

MR. DICKSON: Certainly, Madam Chairman.

Madam Chairman, if I might. Since this was distributed initially back in April and I'm sure most members have got their copy at their fingertips, I was going to try and soldier on. I don't have a lot of additional comments I wanted to make, because I think, frankly, that it's pretty self-explanatory. I might invite the Health minister -- if I might apologize first. I remember inviting the Minister of Health last spring to offer some advice in terms of when the Ombudsman Act amendments would be passed and likely proclaimed. He may have told me, because the minister, I'd be quick to say, has usually been very forthcoming. When I've solicited advice from him, he's usually been very accommodating. He may in fact have suggested that to me. Hon. minister, I can't find reference to that in my notes from last April. I don't have a clear memory of that. It may be that the minister might even be able to give us the very assurance that might obviate this amendment.

But absent that assurance, I think, Madam Chairman, that I want to give MLAs a chance to be able to address this issue. I'd just remind members that we saw this afternoon, with the announcement of the government not to proceed with Bill 37, just how powerful an issue health care and access to health care is with Albertans. It seems to me that that same public fury that was manifest around Bill 37, you know it's just sitting out there in Alberta, in the communities and on the farms and in the cities around this province, sometimes unfocused. But who knows? When people discover they're not going to have a body they can go to to complain, maybe some of that energy will be focused.

I know the government is always interested in amendments and legislation that has an end date. Well, all members I'd expect would be delighted to see that we've tried to accommodate that. You know, I've been spending so much time with Conservative MLAs from Calgary recently that I'm beginning to even think a little bit like government members, Madam Chairman. [interjections] I was going to say that the area of overlap is actually fairly small.

The point is, you know, that when I hear the Member for Calgary-Mountain View and other colleagues and the Minister of Labour talking about the advantages with having legislation and amendments that have a term limit to them, I'm beginning to get that message. I feel like I'm finding religion a little bit, Madam Chairman. You know, to people who are a bit uncomfortable with it I'd say: "Let's pass this amendment. The minute the Minister of Health does what he's already told us he'd like to do at some point, this amendment ceases to have any force and effect." It's really as simple as that. In effect what we're doing is offering the Minister of Health -- I was going to say we're offering him the control, but I suppose he had it anyway, but just in the Legislative Assembly offer the Minister of Health the latitude to be able to respond. We'd simply be helping him along. We'd be strengthening his hand at the caucus table and the cabinet table.

Those are the reasons I wanted to put forward and why I'd encourage every member not just to vote this down because of the sponsor of the amendment, buffalo breath or not, but to focus rather, Madam Chairman, on the merits of the amendment. Should there be any member in this Assembly that thinks this is without merit, I'd expect that they'd be man or woman enough to stand in their place and set out their reasons before it comes time to vote.

Thank you very much, Madam Chairman.

9:00

THE DEPUTY CHAIRMAN: The leader of the ND opposition.

MS BARRETT: Thank you, Madam Chairman. The mover of this amendment makes a good argument but I think fails to flesh it out as thoroughly as it needs to be, considering how long ago it was that we debated this bill.

This legislation, which in principle I agree with, gives quite sweeping powers to a new medical office and officer. You can tell that even though it's not explained, the intent of the bill is to give sweeping powers to that office to prevent the spread of easily communicable diseases, but one can read behind the lines here. We're talking about HIV and AIDS.

Now, when an office or officer of the provincial Health department has the ability to tell people whether or not they can go to work or go to school, you need some checks and balances in the system. I agree with the mover of the amendment that the sponsor, whoever's sponsoring it, should not be the reason for either supporting or defeating this amendment. What we're talking about is consumer protection here. One needs an organization to go to in the event that one feels arbitrarily picked upon for what may or may not be a communicable disease being carried by that person. If I were one of those persons being told that I couldn't go to work or told that I couldn't go to school without all of the supportive documentation to indicate, number one, that I've got the communicable disease and, number two, that I plan to deliberately spread it, I would want to be able to go to an appeal authority to have my individual rights protected.

I remind you, Madam Chairman, in this province we do not have legislation called the human rights. We've got individual's rights protection, so I'm going to cite individual's rights. All this

amendment calls for is the ability to continue with the right to an appeal board until the time that the Ombudsman Act has its jurisdiction expanded to cover the scope of the new bill, which, as I say, in principle I support. But I don't believe that human beings need to succumb to Big Brother without some appeal ability, some appeal mechanism. That's all this calls for. It doesn't offend the nature of the bill. In fact, I agree with the Member for Calgary-Buffalo: it actually strengthens it; it makes it easier to pass this bill. If I were sponsoring an amendment, this is the very one I would be sponsoring.

[Motion on amendment A1 lost]

THE DEPUTY CHAIRMAN: On the bill itself, the hon. Member for Calgary-Buffalo.

MR. DICKSON: Yes. I've got another amendment, Madam Chairman, that I wanted to move. The amendment I'm proposing would do this.

THE DEPUTY CHAIRMAN: Could we just wait for approximately one minute for distribution?

MR. DICKSON: Certainly.

THE DEPUTY CHAIRMAN: We'll deem this one A2.

MS BARRETT: Madam Chairman, why do we put letters in front of the amendment numbers? Why don't we just number it?

THE DEPUTY CHAIRMAN: It's a good idea, hon. member.

MR. DICKSON: Madam Chairman, I wonder if I might make a few general observations just while I'm waiting for that amendment to be distributed.

THE DEPUTY CHAIRMAN: Yes, go ahead, hon. member.

MR. DICKSON: You know, one of the things that gives me some concern in terms of dealing with Bill 38 is that, frankly, there's a big shift right around the world. I mean, it may have been pioneered in Sweden, but in most of the western nations the focus is to take public health away from its almost exclusive preoccupation with communicable disease control and start looking at health promotion and injury and accident prevention in a much broader sort of context. Indeed, this is what the Minister of Health and people in Alberta Health talk about from time to time. But the reality is that when we look at Bill 38, frankly most of it still speaks to a very old model of public health. Most of Bill 38 is still focused on communicable disease.

When I look at British Columbia, Minister of Health, through the chair, and I see that in that province the chief medical officer tables a report in the Legislature that identifies issues, that draws public attention . . . [interjection] Well, you know, whatever the economic situation is in the province of British Columbia, from time to time they generate some pretty good ideas. The person generating the idea probably grew up in Medicine Hat. I mean, who knows? This is a mobile country, and the last address is of little consequence.

But the point is this: in the province of British Columbia in that Legislature there's a report tabled that points out what's not working in the area of health generally. We don't have that facility in this province, and surely this is what we should be

attempting to do so we get past communicable disease. Absolutely we have to address it, but is that adequate? I think not. And the bill still doesn't rehabilitate our Public Health Act to a point where we address those more contemporary kinds of issues.

We have inconsistencies, Madam Chairman, under the Public Health Act. We have 17 health regions. You know, only six of the local medical officers of health, only six of them have a fellowship in community medicine. So what happens is that it's not just good enough to take an MD in a health region, appoint that person as the local medical officer of health, and expect that the region is going to be able to do the job we expect it to do in terms of health prevention and in terms of the general addressing of health concerns. If you're going to have a local medical officer of health, why wouldn't we require that there be some minimum certification? Is it good enough just that they be an MD? MDs may by instinct or interest or inclination be focused on this, and they may be well read. But I think just as we expect specialists in terms of doing specific tasks to have substantial additional training and education and experience, so too does that apply to public health, Mr. Minister.

So I'm going to say, Madam Chairman, as we're working our way through these amendments, there are some things that I think are missing from Bill 38. We're afforded while we're dealing with amendments to the Public Health Act an excellent opportunity, frankly, to take this old, very stale Public Health Act and move it into the next century. We've got some amendments that hopefully are going to be designed to do that.

Now, has the amendment been distributed here? I understand the amendment has been distributed now. Are we calling this A2, Madam Chairman?

I'd move this amendment. What the amendment does is add a new subsection (2) in the proposed section 30.1. What it would do is this. The new 30.1 -- let's just think about this for a moment, how broad this is.

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 or a class of the public, the medical officer of health may by notice in writing

do certain things. Now, let's think about that for a minute. You know, I thought members of the Conservative caucus believed in the rights of individuals. I thought members of the Conservative caucus were concerned about small businesspeople.

9:10

MR. SMITH: You betcha.

MR. DICKSON: If we take this section, hon. Minister of Labour, through the chair, there would be nothing to stop the local medical officer of health for the city of Edmonton to march into a casino that has VLT machines, and under 30.1 that public health officer would be able to say, "You know, these VLT machines are injurious to the health of a part of the population," an issue near and dear to your heart, Madam Chairman. What would happen -- just think about how astonishing a breadth of power this is. The public health officer would be able to say to the operator of that casino -- or he could go into a 7-Eleven store and want records on all the cigarettes that are sold. I mean, just amazingly broad powers in this context. And you know something? What's the check or the safeguard when somebody is selling tobacco or selling some product that may be dangerous to health in the view of the public health officer? I expect that person may call me and say: does this person really have that kind of sweeping power?

Now, what this amendment does. We don't try and take away

the power because we are very mindful in the opposition caucus that it is important to deal with communicable disease, and it is important that you be able to move quickly to address those things. We support that. What we're proposing with the amendment is that a notice has to be given to the Information and Privacy Commissioner after the fact. So if the medical officer of health marches into Frank Sissons' casino in Calgary and demands that Mr. Sissons turn over all of the records about VLT use in the last six months, which is possible under the new proposed 30.1, at least a report of that activity would have to go to some independent person who could look at it, after the fact admittedly, and determine whether this was an abuse of power or not.

In the second part of this amendment the new subsection (4) would mean that the Minister of Health, our esteemed Minister of Health would table in the Assembly at the earliest opportunity copies of the notice and any written advice from the Information and Privacy Commissioner, deleting "personally identifiable information."

All we're doing is being fair to those small businesspeople, those people who suddenly experience the full force of the power of the state, because believe me, member, the powers of the local medical officer of health are so incredibly broad. The tax department doesn't have these powers, the Department of National Revenue can't do these things, a sheriff's bailiff can't do these things, a police officer can't do these things, but the medical officer of health can. In the case of communicable disease, fine, do it, but after the fact let's make sure there's some accountability, because if you get an overzealous medical officer of health, there should be some safeguards; shouldn't there?

In any event, I think this is an amendment that simply builds in some protection and some safeguards, and I'd respectfully suggest that this is an amendment that ought to be supported by all members. The subsections (3) and (4) I've explained, and I look forward to the further debate.

Thank you very much.

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

MRS. SLOAN: Thank you, Madam Chairman. I'm pleased to rise this evening and speak to the amendments which would broaden the scope of section 10 in the proposed Public Health Amendment Act, Bill 38.

I am very concerned about the section as it currently stands without this amendment. The reason for that concern is that the government has proposed, by their amendments to this bill, that a medical officer -- and I'm going to read the section specifically.

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 or a class of the public, the medical officer of health may by notice in writing require the person to provide to the medical officer of health within the time specified in the notice any information respecting the activity that is specified.

I, unfortunately, tend to be a bit paranoid when it comes to the intent of this government. In this respect I am concerned that the incorporation or the action arising out of this section without the amendments proposed by the hon. Member for Calgary-Buffalo will be too heavy-handed and not descriptive enough.

There's been coverage about the whole issue of fetal rights, and stemming from that, there's been a discussion about what the role and the authority of the Crown is to incarcerate women who may be pregnant and are engaging in abusive activity. Now, let me state for the record that I am not a proponent of fetal rights, but

I am also not a proponent of women abusing themselves. However, I would not want to see this section applied in such a manner that would justify this government incarcerating those individuals.

THE DEPUTY CHAIRMAN: Hon. member, we have an amendment before us. It's A2. There are two parts to it. Can you please premise what you're saying on the amendments?

MRS. SLOAN: The amendment as it's proposed, Madam Chairman, is going to require that the medical officer report, provide a copy of notices to the Information and Privacy Commissioner for the professional advice and authority of that office. It is also going to require the minister to table in the Assembly copies of notices, these being the notices related to whatever the alleged threat to the health of the public is, and any written advice from the Information and Privacy Commissioner, deleting any identifiable information, the intent being that the medical officer, given these broad authorities and powers, is going to consult with the office of the Information and Privacy Commissioner.

With respect to the issue I spoke about and the issue of incarcerating and acting with respect to women who are pregnant and engaging in abusive behaviours, we had the actual circumstance in Manitoba. That woman was subjected to her activities being publicized. All that the hon. Member for Calgary-Buffalo is doing is to say that the medical officers must get advice from the Privacy Commissioner before they undertake such an action. I think it's completely relevant to the topic this evening. However, I would probably be safe in saying that this government has not contemplated the implications of what they're proposing in this act, and if given the wrong ideology, it could be applied in a fashion, Madam Chairman, that I would not support.

I hope that has served to clarify the intent of the amendment this evening. I cannot see why the hon. members from across the way would not want an office which is responsible to the Minister of Health to be alive to the issues of privacy and information. That is the intent of the amendment proposed, and I would seek the support of all Members of the Legislative Assembly on that amendment on behalf of the Member for Calgary-Buffalo.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Minister of Health.

9:20

MR. JONSON: Well, Madam Chairman, I just wish to offer a few comments in opposition to the proposed amendment. First of all, it's important to point out that in the clauses of Bill 38 the provisions with respect to confidentiality of information taken under the authority of the Public Health Act are actually strengthened and controls are extended. The confidentiality requirement is extended to anyone authorized to deal with any of the information arising out of an investigation, and I think that should be noted.

Secondly, it's quite an interesting amendment actually in the sense that it says that "the Minister shall table in the Legislative Assembly, at the earliest opportunity, copies of the notice," et cetera. That of course assumes, I would assume, that the Legislature is in session. In the whole area of public health, particularly with much of the work that public health officers have to deal with, they have to act quickly and precisely on behalf of protecting the public's health. This, I don't think, has very much relevance to the work that they have to do and the notifications that they have to meet.

The other thing is that there seems to be some concern that

somehow medical officers of health operate in a closed room somewhere, in secrecy. When it comes to the notices that are given with respect to public health matters, they're public notices. They're communicated to the public. So what is the point of then tabling them with the Assembly when they're already a part of the public record across this province? Certainly the public health officers are not divulging individual information unless it is necessary to protect a particular person's or group of persons' health.

So I think really, Madam Chairman, this is perhaps an amendment which provides for the debate of a constant theme that is brought up here in the Assembly, but it does not really do anything in my view to improve Bill 38.

THE DEPUTY CHAIRMAN: The hon. leader of the ND opposition.

MS BARRETT: Thank you, Madam Chairman. I think the minister is right in one respect, and that is that it could be seen as a redundancy. However, as an interim measure at least the first section of this amendment offers a level of protection. Until the new FOIP Act pertaining to health care is not only introduced but passed by the Assembly, presumably in the spring of 1999, it would add at least a temporary measure of protection of privacy for the individual under investigation. The whole point is to provide a check and balance.

I agree with the minister that the tabling in the Assembly is probably unnecessary altogether, and if redundancy is the worst part of the first part of this amendment, I always believe that it's better to be safe than to be sorry. In other words, if the nature of the investigation needs to be placed in the copy of what we commonly call IPC, the Information and Privacy Commissioner, for advice and comment, even if it's done after the fact, and presumably that would be the case. Because if a medical officer believes that you are endangering public health -- and that's the reason I support the bill in principle -- obviously that person or that office needs to act quickly. I don't think there's anybody who would object to that.

However, I would argue that in the interim, even if this was adopted as a temporary measure until we have the new protection of privacy act -- and remember we're in a void right now, and I know the minister acknowledges that -- it would be a pretty good temporary measure.

I have a question, Madam Chairman, that is going to appear completely unrelated, but I'll see if the minister will answer it. When I was previously in the Legislature, up until 1993 there was a regulation that stipulated that any person who was known to have died from AIDS or AIDS-related complications -- boy, I'm bad with grammar; it teaches you that you shouldn't speak in paragraphs -- the remains of such a person had to be buried in a sealed metal casket. I wonder if that's still the case. It's just a simple curiosity. Do you know?

Thank you.

MR. DICKSON: I was very pleased that the Minister of Health took the time to stand and respond, but he may have not had a chance to hear the explanation that accompanied the amendment. What I'd suggested to the minister -- and I'll put it a different way -- is that we had an option in crafting the amendment to do one of two things. One was to build in some tests that had to be met by the local medical officer of health before he could act. The other one was to allow him to act with dispatch to deal with something on an urgent basis but after the fact build in a check and a safeguard.

There's no attempt to impede with that ability to act immediately to address a public health hazard, for the reason that the last speaker raised, and I quite agree. Clearly what we're doing here is simply ensuring that there's a level of full accountability. Mr. Minister, I don't know why you wouldn't want to bring into the Assembly whenever it sits -- and we know it's not often in Alberta. On those rare occasions when the Premier allows the lights to be turned back on in this place, why wouldn't we be able to table a report speaking specifically to the amendment? Why wouldn't the minister be anxious to table that information, share it with Albertans? It allows us as legislators to determine if there are systems that are working properly. If they are, I'd be the first one to stand up and praise what's working well with Alberta Health and with the public health system. On the other hand, if there are some issues and some concerns and the Privacy Commissioner is concerned that there has been some licence taken with the very broad powers here, then let's deal with it.

I just say to the minister: recognize that the powers your local medical officer of health has are extraordinarily broad. This isn't like any other official I can think of in the employ of the government. None of the other 630 employees in the Department of Health have powers like this. I can't think of any other civil servant that does. I can think of few people that do. So I believe in a system of checks and balances because I think it makes for better accountability, and it's in that spirit that I offer this amendment.

Thanks very much, Madam Chairman.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Castle Downs.

MS PAUL: Thank you, Madam Chairman. I'll just make a few comments as well on this amendment. I, too, was pleased to see the minister stand up and go over the amendment with us, but my hon. colleague from Calgary-*Buffalo* is right: this is just a way of inciting checks and balances. I think that the amendments are very clean. They are necessary at this time, as has been pointed out by another member, and the FOIP Act is under way and is going to be coming to the Legislature sometime in the next session. That just proves that in the meantime these checks and balances and protection should be in place.

[Mr. Clegg in the chair]

We also have to recognize that the medical officer has tremendous power. As has been mentioned before, as few times as we do sit, I think it's incumbent upon the government to table in the Legislative Assembly these copies of notices that have been written by the medical officer of health. Under this amendment we must recognize that this is something that all Albertans should be aware of, that nothing is hidden. You know, there are a lot of times when the government has been accused of not being accountable and not letting Albertans know what is going on. This is another way that it can be proven that we're straightforward, that the checks and balances are in place, and that, yes, we will table in the Legislative Assembly. I think it also should be stressed that any personal identification or information about an individual will not be included, and I think that being included in the amendment speaks for itself.

I really don't see any reason why Members of the Legislative Assembly would not support the amendment that is being addressed in section 10. With those comments, I'll take my seat.

[Motion on amendment A2 lost]

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

9:30

MR. DICKSON: Well, I'm hopeful I can be more persuasive on this one, Mr. Chairman. This is an amendment which in some respects picks up some of the themes we heard the other night when we were talking about Bill 2, the Conflicts of Interest Act.

You know, we're still going to have an appeal board. One of the things we've learned -- and the Provincial Treasurer's pointed this out and has brought in legislation to amend it, and we've seen this in different areas. We're starting to recognize that because this is a small province and often people are involved in different areas of activity and have been involved in different areas, from time to time you have somebody on a board who isn't able to act because of a real conflict or even an apparent conflict. We've heard this government talk many times about wanting to maintain a high ethical standard, and in fact we've amended our legislation to address some cases where the Ombudsman or the Ethics Commissioner or the Freedom of Information Commissioner is sometimes in a situation where there's a bit of a conflict. Wouldn't we all want a system there to be able to address it?

All we're offering here with this amendment, as it's going around -- and this is what I'm moving as the next amendment. Add after section 2:

2.1 If a member of the Board . . .

This is the Public Health Advisory and Appeal Board.

. . . is in an actual or apparent conflict of interest, that member shall not participate in any discussion or vote related to the actual or apparent conflict of interest and the Minister may appoint a member on an interim basis for the purposes of disposing of that discussion or vote.

Members, is this not what happens in organizations all the time when there's a conflict? We don't want somebody sitting in judgment of an appeal who may in any way be compromised or be seen to be compromised. This seems to me to be a responsible amendment which reflects what government has done in a host of other instances. I'm going to be real optimistic and assume that this is one that actually mirrors what the government has been doing in the last couple of years in other legislation.

If for any reason the government was reluctant to accept this amendment, then I expect that the Provincial Treasurer or somebody who has considerable experience in the House would be quick to his feet to point out why it would be okay to have a conflict on the Public Health Advisory and Appeal Board when we work hard to avoid conflicts in any other sort of decision-making capacity. So I'm hopeful. I know that there are members I sit on committees with, and, you know, they've demonstrated, at least in my dealings with them, a real keen awareness of the potential for conflict, and without singling out any members here this evening, I just would think those members would be keen to make sure that this potential conflict can be arrested at an early stage and dealt with.

If there's anybody who isn't clear why an apparent conflict of interest on an appeal board is a matter of concern, maybe we could address that right now. I'm looking around, Mr. Chairman. I take it that nobody has problems with that perception, that it's important we deal with that. So I guess this may be one we're all in agreement on. It would be a proud day.

MR. MAGNUS: Not even your side, Gary.

MR. DICKSON: Well, I'm not sure whether the Member for

Calgary-North Hill was offering support for this one or for the rest of the amendments as well, but in either case we'll have a chance to vote soon.

This may be one of those where it's important that we know how each member votes, so that's why I'd ask members to think very carefully as they consider their positions.

Those are the points I wanted to make, Mr. Chairman. With that I'll take my seat and look forward to hopefully unanimous or near unanimous support to avoid conflicts wherever they may raise their ugly head but particularly on the Public Health Advisory and Appeal Board.

Thanks, Mr. Chairman.

[Motion on amendment A3 lost]

MR. DICKSON: Mr. Chairman, I thought that after six years in this place I'd not be surprised at anything. [interjection] Well, I'm a slow learner, Provincial Treasurer, through the chair, but absolutely dogged. Absolutely dogged. Members will be happy to hear that we have a few other amendments. There may have been those who voted quickly without full opportunity to think of their options, and they have a chance to redeem themselves on the next amendment coming forward.

Mr. Chairman, I'm going to say straight off, because I want to play it straight with the Provincial Treasurer, that this amendment is going to be more contentious. This is going to require a little further explanation. Unlike the last one, where I thought: who wouldn't want to oppose a conflict of interest on a board -- government members apparently are prepared to tolerate that. On this one what we're now talking about, what we're dealing with here is this extraordinary power set out in the new section 39 (1.2). Now, this is one dealing with isolation and quarantine.

You know, I have a real concern here, because its come to my attention that we've got a woman in the city of Calgary who is currently in quarantine. This is somebody who's infected with HIV and also has a developmental disability. So what's happened is that this woman effectively is in custody now for some indefinite period and not with the normal sorts of rights citizens would have.

Mr. Chairman, I understand that from time to time it's important to quarantine people. But, you know, this is 1998, and we have the Charter of Rights and Freedoms. We have some safeguards hopefully that respect and protect our liberty. So what we're suggesting with this amendment is something that I hope members will view positively.

Now, section 39(1)(1.1) provides that "where the investigation confirms the presence of a communicable disease, the medical officer of health" may do a number of extraordinary things. He may take whatever steps he deems necessary "to suppress the disease," et cetera, et cetera. By order, these are the things he can do. He can

- (A) prohibit a person from attending a school,
- (B) prohibit a person from engaging in the person's occupation,
- or
- (C) prohibit a person from having contact with other persons.

This is arguably the most extraordinary power that a state ever has to take a citizen, to take the Member for Cypress-Medicine Hat and say . . .

DR. TAYLOR: I won't go, Gary. I won't go.

MR. DICKSON: I've got to find a member that people don't want to see quarantined. I don't know if we have a volunteer. [interjections] If we took the Minister of Labour and somebody

came along and said: we're going to quarantine this fellow. Why? Because we think . . . [interjections] Mr. Chairman, maybe we could amend the oath in the Legislative Assembly Act to also promise that no member who sits in this Assembly will ever have any opportunity to use any of these extraordinary powers, because it would be a scary, scary event given the volunteering.

9:40

Members, levity aside, this is a matter of some pretty serious concern. Really what we're trying to focus on is this extraordinary power, and what we're suggesting is that right now there's virtually an unlimited power for somebody to be quarantined. It's an extraordinary power. What the amendment does is provide that it takes effect for 72 hours so that there's no argument about the infection being spread. The local health officer can go in, can grab that person off the street, bundle them off, take them into the deepest bowels of the Foothills hospital, where they may be held incommunicado, without right to counsel, not even a phone call to their MLA in Calgary-Varsity. So there they sit in bowels of the Foothills hospital. [interjections]

Mr. Chairman, I'm going to focus directly on you, because I can see by your severe demeanor that you're taking seriously the very real consequences at stake here.

Mr. Chairman, here's what we've got. It's a proposal to require that after 72 hours that quarantine of you or me lapses unless -- 72 hours is afforded the medical officer of health to go to the Court of Queen's Bench to get it confirmed. Now, why would we not accept that there should be some check, some safeguard?

You know, if nobody else will stand up for our friend from Cypress-Medicine Hat, I would. I would want to go to court, and I would want to be there. I'd offer to be a friend of the court and say: this man can't be kept there for more than 72 hours unless there are compelling reasons. I might even volunteer what those compelling reasons are. But the point is that there would be a hearing in front of a court in an independent process.

Mr. Chairman, it's a safeguard. So if the Minister of Health thinks that this is somehow going to impede a speedy means of addressing a public health hazard, not so. It's an after-the-fact check. I think it's a reasonable proposal and a reasonable amendment, and I sure hope that the minister, aided and abetted by other MLAs -- I see the MLA for Calgary-Glenmore may indeed have had some experience in the area, not of being quarantined but as a lawyer learned in the law. He worked with one of the most prestigious firms in the province, and I suspect that from time to time he may have seen instances of abuse where somebody had been kept against their will in a quarantine situation. It may well be that he has some experience to share with us.

There may be some members who view their time here as a form of quarantine, Mr. Chairman, but the point is this: we have a chance here to move seriously to make this bill better, and I encourage all members to support the amendment.

Thank you, very much.

MR. JONSON: Well, Mr. Chairman, I cannot support this particular amendment. I do appreciate that the hon. member from the Liberal Party does have a great affinity for the legal system and for going to court.

I'd just like to point out one very basic thing, Mr. Chairman, and that is that in the legislation proposed here, the amendments to Bill 38, there is mention of the public health appeal board. That board is there to meet the very need the member across the way is saying is there in terms of a person being able to have recourse to a decision of a public health officer's judgment.

That's in this legislation. In fact some of the amendments improve this situation. It's designed to be able to meet promptly and deal with appeals to the judgments that have been made with respect to enforcing the act or administering the act by health officials. So why would we want to layer on top of that another process of going to the courts when this is built into the act? I just cannot support the amendment, Mr. Chairman.

MR. DICKSON: As much as I appreciate the Minister of Health having the courage to stand in his place and defend his position -- and I do appreciate that -- if he thinks my constituent should be happy with recourse to a board appointed by the minister and if he thinks that is in any way equivalent to being able to go in front of the Court of Queen's Bench, where there's several hundred years of tradition and respect for process and rights, then he and I are living in very different worlds, Mr. Chairman.

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

MS OLSEN: Thank you, Mr. Chairman. I just want to make a couple of brief comments on this amendment. I think that a very good argument has been made by Calgary-Buffalo in relation to the ability of this piece of legislation to suspend somebody's rights indefinitely. I think that's asking a little bit much. Indeed I've worked out in an environment where there in fact were people with communicable diseases and all sorts of other things that certainly weren't pleasant, and I think the issue of taking somebody and having them virtually imprisoned in a facility for an indefinite length of time without access to a lawyer or to anybody else that can be of assistance to them to deal with this is going a step too far.

I don't believe that the minister is the only one in a position to be making this decision. I think the courts should be the remedy for it. The courts are the remedy for other issues, such as things under the Mental Health Act and those kinds of issues, and I don't see this to be a whole lot different in that respect. I really believe this is not the kind of section that is required. It has more far-reaching issues than are outlined here, and I think it's an unnecessary step on the minister's part to not support this amendment and not deal with this in a reasonable way. This is very unreasonable.

Thank you, Mr. Chairman.

[Motion on amendment A4 lost]

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

MR. DICKSON: Thanks very much. We've now got an amendment which I'd been sort of holding in reserve because I thought there might come a time -- I didn't know whether we'd require it. I thought that if by now we'd got two or three of those earlier amendments passed, I might have considered myself fortunate, folded up my file, and beat a hasty retreat to the Annex. I wanted to keep one very powerful amendment in reserve in case I needed it, and it's now being distributed. This amendment I'd move as -- would this be A5, Mr. Chairman?

THE ACTING CHAIRMAN: Hon. member, yes.

9:50

MR. DICKSON: Thank you. What this does is it takes the proposed section 22 -- this is in section 8, if you're following along in your book, at page 4 in Bill 38 -- and we're looking at

22.02. We would add a new section, a new (4). It says this: The Chief Medical Officer shall submit to the Minister in each year a report summarizing his activities in the preceding year and the Minister shall forthwith table such report in the Legislative Assembly.

The second part, then, says this:

- (3) Any notice issued by the Chief Medical Officer pursuant to subsection (1) shall be submitted to the Minister and the Minister shall forthwith table such notice in the Legislative Assembly.
- (4) In the event that the notice issued by the Chief Medical Officer includes personally identifiable information about any individual Albertan, a copy of such report shall be provided to that individual Albertan in the fashion provided by section 76(1)(a) or (b).

Finally, a new subsection (5):

In the event that the notice issued by the Chief Medical Officer includes personally identifiable information about any individual Albertan the notice tabled in the Legislative Assembly must omit such personally identifiable information and should indicate same has been omitted pursuant to this section.

[Mrs. Gordon in the chair]

So, Madam Chairman, what we're doing here is saying: however these extraordinary powers have been exercised by our public health system anywhere in Alberta, we should know that on an annual basis the chief medical officer will prepare a report and table it in this very place. The minister will table it, and that affords all of us a chance to read it, to ask questions either in the Assembly or outside the Assembly. What possibly could be wrong with this?

I think I'd mentioned before the province of British Columbia, and we may have people who have experiences in that province. You know, I look around and I see the Member for Calgary-Cross. This is somebody who's been trained as a registered nurse at the old Calgary General hospital. We've got other people who've worked with patients and people in the health care system. I think they understand that there's much that goes on that people can be proud of. Why wouldn't we give the chief medical officer a chance to come into this Assembly, through the minister, with a report and talk about the good things happening in public health in this province? You know, Mr. Minister of Health, through the chair, I talked to one medical officer of health, and that person said: you know, in other provinces there's a far higher profile attached to public health than has been the experience in this province. So why wouldn't we want that kind of report coming into this Assembly? Why wouldn't we want the Minister of Health to table that report so that we know what's going on?

You see, with the Public Health Advisory and Appeal Board there's a report tabled. It's not very helpful. It's 10 pages long, and it's mostly maps and indexes. But we have seen some reports that give us some information. The Ombudsman report is useful. The opposition can usually generate two or three questions out of the Ombudsman report. The media will find some interest in there. We get a report from the Information and Privacy Commissioner. There's some good material in there. We have a chance here to make sure that the chief medical officer has that report and that it becomes a sessional document, that it's tabled here, goes into the library, where people can access it. You know, what's the matter with that? What's the matter with that?

Madam Chairman, this is an amendment on which I would think the constituents of each member here would say: why not? In fact, if we were to stop chatting for a minute, we might hear the chorus of Albertans out there in the rest of the province saying: why not? It's sort of like the wind whistling through the tower

here in the Assembly building. When MLAs go back to their constituency office on Friday, they may get phone messages on their machine: why not? They may get faxes: why not? Maybe E-mails, a whole series of E-mails, with two words: why not? Albertans may soon have bumper stickers: why not? In fact you may find people getting on buses, and as they go down the street and go by the Legislative Assembly, they would in unison scream out: why not?

Madam Chairman, when I see the keenness of the Minister of Intergovernmental and Aboriginal Affairs and I think of the number of times I've sat in this Assembly and listened to the government talk about wanting to share information with Albertans and I see the Minister of Labour, the champion of freedom of information in this province, who proudly presents the FOIP report on an annual basis, what would fit in more consistently, what would be a better match than requiring our chief medical officer to table an annual report? I know this government has nothing they want to hide. I think they're very proud of what goes on.

MR. SAPERS: I was with you until that point, hon. member.

MR. DICKSON: Well, I want to be fair, hon. colleague. I want to be fair to the government, and I think there are some good-news stories in the health system. Well, there may not be too many, and they may be few and far between, but why wouldn't you want to boast about that? Why wouldn't you want to get that on the record and get it a sessional document and have archivists come in and study it and see students sitting up there? Imagine a gallery full of students when the Minister of Health stands up to say proudly: I want to share with Albertans what the chief medical officer has been doing to fight contagious and communicable diseases, to fight to make our community safer, to address population health issues.

Well, that's the opportunity that's afforded by this vote, and all you have to do is say yes to this amendment. All you have to do is say yes. You don't even have to stand up in your seat, hon. members. All you have to do is just sit where you are, comfortably ensconced in those big comfy chairs, and say yes. That opportunity is almost at hand. Remember that the alternative is: why not?

Thank you.

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

MR. SAPERS: Thanks, Madam Chairman. Better judgment would have been to simply allow the vote to be called, because I don't want the inspiration of the last speaker to be lost when the vote is called.

I am particularly moved to speak in favour of the (a) part of this amendment. The entirety of the amendment of course has my support. But the chief medical officer of health has now such broad and sweeping powers that they could be truly frightening to most of the citizens in this province, the citizens of this province who do not like to be told by their government what to do or how to do it. If the chief medical officer is going to be given the power in law by this government to have these broad, sweeping abilities to round people up, then I think there is an absolute responsibility on the part of the chief medical officer to submit to the minister and then to this Assembly a report on the activities.

This government has talked about accountability, and in the move to be accountable in so many other areas, it is not understandable why we wouldn't want to see a report tabled in this Assembly that talks to the limiting of or taking away of the freedoms that each one of our citizens is supposed to enjoy, because that's really what the Public Health Amendment Act

would allow to happen. I'm not saying that in some cases these limitations of freedoms of mobility wouldn't be justified because of the public health risk that might be at issue, but it is absolutely necessary that we have a chance to examine the actions and have them reported on so we can determine whether or not they were justified. If there was an abuse, we would be able to determine the appropriate remedy for the abuse, and it might even be a legislative one.

10:00

So I know that there has been some fun had around this amendment, but I think this is deadly serious. I would encourage members to pay particular attention to this amendment and pay particular attention to the principle behind it; that is, the chief medical officer being asked to be accountable in this Assembly to each one of us so that we in turn can be accountable to each one of our constituents. I can really think of nothing more fundamental. So I would ask you to consider carefully supporting my colleague from Calgary-Buffalo in moving this amendment.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Castle Downs.

MS PAUL: Thank you, Madam Chairman. I, too, am going to stand and support the amendment.

AN HON. MEMBER: Are you standing?

MS PAUL: Yes, I am standing.

I think it's incumbent upon the government to have the chief medical officer submit to the minister each year the report summarizing his activities in the preceding year. I mean, it's very straightforward. It's something that I think would be like a brag book that people carry around and show friends and colleagues and whomever will look at brag book pictures of families and whatnot. I think it's incumbent upon the minister to want to talk about the duties and the activities of the chief medical officer.

Also, Madam Chairman, I want to commend the hon. Member for Calgary-Buffalo for his hard work, his submissions of amendments to Bill 38. He's done a lot of work, and I think it just behooves us to recognize him. I, too, believe that everybody that is in this House at this time should support the amendment, amendment A5, to section 22.02. I think everybody needs a brag book. I think the activities of the chief medical officer should be something that is open and accountable. The government is always talking about being accountable, and this is just one small way of doing that.

With those comments I'll take my seat.

[Motion on amendment A5 lost]

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

MRS. SLOAN: Thank you, Madam Chairman. We have a final amendment this evening to propose to Bill 38, and I believe it's in the process of being distributed to members of the Assembly.

THE DEPUTY CHAIRMAN: We will call this amendment A6. Go ahead.

MRS. SLOAN: Thank you, Madam Chairman. The amendment

is moved on behalf of the hon. Member for Calgary-Buffalo, that Bill 38 be amended in section 14 in the proposed section 39(1.2) by striking "forthwith notify the Chief Medical Officer of" any action taken and substituting "obtain approval from the Chief Medical Officer prior to taking" any action.

The section, Madam Chairman, that the amendment is applied to comes at the end of the section that outlines the actions that may be taken by a medical officer of health when he becomes aware or is suspicious of the existence of a communicable disease within the boundaries of a health region, given that section 14 outlines a number of actions that the medical officer of health may take. Those include, as defined by the act in its current form, any steps

the medical officer of health considers necessary

- (A) to suppress the disease in those who may already have been infected with it,
- (B) to protect those who have not already been exposed to the disease,
- (C) to break the chain of transmission and prevent spread of the disease, and
- (D) to remove the source of the infection.

Further, this section says, as it is currently written, that "by order" the medical officer may:

- (A) prohibit a person from attending a school,
 - (B) prohibit a person from engaging in the person's occupation, or
 - (C) prohibit a person from having contact with other persons or any class of persons
- for any period [of time] and subject to any conditions that the medical officer of health considers appropriate.

Further, the section proposes that the officer may:

- (iii) issue written orders for the decontamination or destruction of any bedding, clothing or other articles that have been contaminated or that the medical officer of health reasonably suspects have been contaminated.

Our amendment, Madam Chairman, is simply that prior to undertaking those actions, the medical officer would be required to "obtain approval from the Chief Medical Officer." I think there is a reasonable and rational argument to be made. This section provides for quite broad intervention powers by the medical officers of health, and these, as the Member for Calgary-Buffalo referred to earlier, may not have any specialty training in public health, but they may take direct interventions. They may prohibit someone from going to school. They may prohibit someone from engaging in their occupation, therefore earning a living. They may confine, isolate, and quarantine an individual. If the rationale for those actions is sound, there should be no reason why a medical officer should have any difficulty obtaining the approval from the chief medical officer, a position that we would suggest should have a significant degree of specialty and background in the areas of public health over which they are responsible and are required to monitor.

The amendment proposes a step which is not in the current bill. I would not see any reason why it could not be reported. I would invite the hon. Minister of Health to provide some response to this. I think in many respects it provides for increased efficiencies, because it may prevent an action being taken that might not be overly effective or deemed in a broader sense to be in the public interest.

With those comments, Madam Chairman, I would conclude my debate on this amendment and hope that the hon. members on the government side would engage in debate.

Thank you.

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

MS OLSEN: Thank you, Madam Chairman. Just a couple quick comments, I guess, in relation to the whole notion that this whole bill in a sense chops the actual mandate in half and narrows the focus of boards to hear appeals. It seems to me that there's a bit of inequity here in what we're saying in fact a medical officer can do without getting a second opinion or without getting the okay from somebody else, in this case somebody we would consider to be a superior, a chief medical officer.

When we look at the ability that the medical officer has in terms of isolation and quarantine, those are very, very sweeping powers. They're so broad that to have one person make a decision on what action is going to be taken -- and that's in relation to prohibiting people from attending school or from engaging in a person's occupation, I think that's a fairly dramatic step, or "from having contact with other persons or any other class of persons." I would suggest that if you're going to give somebody the ability to do that, they must have a second opinion. They must have another perspective. This decision cannot be made in a vacuum.

10:10

I would suggest that in support of this amendment the whole notion of going to another source prior to taking any action is reasonable. It's a reasonable step, and it would be a normal step in a process to not have one person with such broad sweeping powers making a decision on his own in relation to the confinement of people and those other activities associated with that person's daily life. So I would encourage the Members of this Legislative Assembly to accept this amendment and see it as a friendly amendment making this bill a little bit better.

With that, Madam Chairman, I'll take my seat. It's pretty noisy in here.

THE DEPUTY CHAIRMAN: Yes. I was just thinking that myself, hon. member. It is getting a little noisy in here.

[Motion on amendment A6 lost]

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

MR. SAPERS: Thanks. We've now completed debate on -- what is it? -- six or seven amendments in a row that were very thoughtful, very helpful amendments to a bill that is not without controversy. When we first began debating this bill earlier in the spring, many of the issues that we raised in second reading we clearly signaled we would be raising again in committee, gave fair notice about the concerns, and really tried to help bring those concerns into focus during the committee stage of debate.

I find it very, very troubling that we're dealing with a government that in this session alone probably has the worst track record of any government in any session of the Legislature in terms of bringing legislation to the floor of the Chamber with drafting amendments, bringing legislation to the floor of the Assembly that

has had to be pulled because of public outcry, and when the opposition works to bring, in a responsible way, reasonable amendments into debate, what we see is the government one after another dismissing without even considering those amendments, and really dismissing the concerns of all the Albertans who provided all the input and all the direction and all the information that helped us craft these. I say that a government that is that arrogant maintains that posture at its peril.

[The clauses of Bill 38 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: Carried.

The hon. Deputy Government House Leader.

MR. HANCOCK: Sorry, Madam Chairman. I was far too eager. I would move that we now rise and report.

[Motion carried]

[Mr. Clegg in the chair]

MRS. GORDON: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: Bill 38. The committee reports progress on the following: Bill 2. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE ACTING SPEAKER: All those in favour of the report, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, if any?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: Carried.

[At 10:18 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]