

Legislative Assembly of Alberta

Title: **Monday, November 30, 1998 8:00 p.m.**
Date: 98/11/30

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

[Mrs. Gordon in the chair]

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

Bill 21 Alberta Health Care Insurance Amendment Act, 1998

THE DEPUTY CHAIRMAN: We are dealing presently with amendment A1, which was introduced by the Minister of Health. The hon. Member for Edmonton-Riverview.

MRS. SLOAN: Thank you, Madam Chairman. I understood this evening that the House leaders had agreed to start with Bill 2, but we've learned not to rely on the House leader from the other side with respect to . . .

THE DEPUTY CHAIRMAN: The hon. House leader.

Point of Order Sequence of Business

MR. HAVELOCK: Actually, Madam Chairman, I'm going to take exception to that. She's sitting there and being corrected by her own House leader. If she has the guts, she'll apologize to the House for her comments.

THE DEPUTY CHAIRMAN: Hon. Member for Edmonton-Riverview, we have just started with Committee of the Whole tonight. Can we get the proceedings of the House under way in a reasonable fashion? We are debating amendment A1, and that remark had nothing to do with amendment A1. So can we please stay on track, and can we make sure that we do this in a timely and efficient manner.

MR. HAVELOCK: Madam Chairman, I want the remark withdrawn.

MRS. SLOAN: Madam Chairman, if I may respond . . .

THE DEPUTY CHAIRMAN: Yes. Go ahead, Edmonton-Riverview.

MRS. SLOAN: . . . I have been insulted by the hon. member across the way on other occasions, and he has yet to apologize to me. So I will not be apologizing for a remark that I feel was fair.

I am prepared to proceed with the debate on amendments to Bill 21. Thank you.

MR. HAVELOCK: Madam Chairman, I would just like to have it confirmed by the Opposition House Leader as to whether the order of business tonight was Bill 21 first, followed by Bill 2. That was the agreement, and I'd like that confirmed.

THE DEPUTY CHAIRMAN: Number one, before I recognize you, Edmonton-Glenora, it is not up to the chair to decide what the business will be before the House. It is up to both sides to

establish that. I think we're getting a little picky here. I do understand exactly what has transpired here, but there also was not good parliamentary language used on this side either. I think we'll put this behind us and move forward. We have people up in the gallery who are here to hear the business of the Assembly.

Edmonton-Riverview, I would ask that tonight we try to keep within the parameters of what we're dealing with and that we try to look at the government business or the business of this Assembly, which is important to all of us sitting here and to Albertans. Let's not get lost in what we're doing here. I don't think we need this inflammatory discussion going back and forth. It is not up to me to make rulings on what order of business we will be dealing with, and I would suggest that in future if you have a problem, you discuss it with your particular person on your side of the House that looks after those things and work accordingly.

MRS. SLOAN: Thank you, Madam Chairman. I'll take those comments under advisement. It's extremely unfortunate if the earlier remarks were offensive to the hon. member.

Debate Continued

MRS. SLOAN: We are rising this evening to speak to amendments to section 1.1, amending section 5.01(1)(c) by striking out "enrolled in" and substituting "opted into." That section currently reads, if I can find it -- I'm actually looking in the bill, and I don't see a 5.01(1)(c) for some reason. Perhaps if the hon. minister is available, he could point out exactly the section this reference is being made to, because it's not obvious.

I'm assuming that the premise of the amendment, Madam Chairman, is speaking about physicians being enrolled in the health care insurance plan and substituting "opting into" that plan, and I will stand corrected if that is not the case and the hon. members from the government side want to clarify that. The premise of Bill 21 is that physicians would, by the passage of this bill, have a legislated mandate or a legislated process to opt out of the public system of the health care insurance plan, and that is not something that to my knowledge this government has consulted Albertans on. We spoke earlier in this session about public/private health care under the auspices of Bill 37, which was intended to create a legal process for the licensing of private, for-profit facilities. This is a companion bill, and the amendment we are debating this evening is a manner of facilitating the private practice of physicians in this province in the private system.

As I indicated, Madam Chairman, we have not had consultations on this. In fact, I know the hon. Premier indicated that he received thousands of correspondence and phone calls and E-mails from Albertans who were adamantly opposed to any mechanism or any steps towards this in our system. It has not been made clear to me why the government would proceed with a bill to allow physicians to opt out of the public system when there won't be private facilities for them to operate. If someone was paranoid, they could perhaps conclude that this is intended to up the ante, so to speak. So we now have HRG and several corporate interests that are lobbying for private, for-profit mechanisms in the system. By allowing physicians to opt out, that would just provide a larger pool, if you will, of individuals and interests that want to further themselves individually in a private, for-profit system.

My hon. colleague from Calgary-Buffalo will most likely speak to this further. I do not believe that the government has the endorsement of physicians in this province with this bill. If they do, it would be helpful to us to table that endorsement, but we have not seen anything that gives us an assurance, Madam Chairman, that

physicians are in agreement with this bill. In fact, I have had physicians who have strongly endorsed to me their support for the public system. The main problem they have with it is that this government has underfunded it consecutively for about five years, and as a result it is not able to meet the demands that are placed upon it. We have growing waiting lists by the day.

I will just make note and hope that the government will provide clarification as to exactly what section of the bill this amendment is being imposed upon, because it is not obvious to me as I read the bill in its current stage.

The B section of the amendment talks about "posting a notice of the proposed opting out in a part of the dental surgeon's office to which patients have access." I guess I am curious as to why we would specifically require the dental surgeon to post a notice. It seems rather arduous, Madam Chairman, to go through. We're saying that in section 2, according to this amendment, dental surgeons will have to post a notice, but I'm not sure why a specific amendment hasn't been included for physicians as it has been in other sections of the act. That's not clear. Would you agree, Calgary-Buffalo?

8:10

MR. DICKSON: You bet I would.

MRS. SLOAN: You would agree? Thank you.

So I guess we're not finding out a lot of information from the other side with respect to this, Madam Chairman. I'm happy at this stage to defer to my colleague and will look forward to the further debate on this bill at this stage.

Thank you.

THE DEPUTY CHAIRMAN: Before we proceed, Calgary-Buffalo, I would ask for the unanimous consent of the committee to revert to Introduction of Guests.

HON. MEMBERS: Agreed.

head: Introduction of Guests

THE DEPUTY CHAIRMAN: The hon. Member for Redwater.

MR. BRODA: Thank you, Madam Chairman. It's my pleasure to introduce to you and through you the Pembina Hills regional division No. 7 board members and administrator from the constituency of Barrhead-Westlock, which is the home of our Speaker. Those trustees are Clayton Jespersen, Sharon Volorney, Garry Borg, Ed MaGee, Ken Nagel, Maureen Kubinec, Joyce Venables, and the administrator, Mr. Sig Schmold. Accompanying them is Ruth LeBlanc. She is the superintendent from the St. Albert school district No. 6. There is also Nick Volorney, Corrine Jespersen, Tim Kubinec, Linda Schmold, and Dave Venables. They are seated in the Speaker's gallery this evening. I would ask them to please rise and receive the warm welcome of the Assembly.

head: Government Bills and Orders

head: Committee of the Whole

Bill 21
Alberta Health Care Insurance
Amendment Act, 1998

(continued)

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

MR. DICKSON: Thanks very much, Madam Chairman. In speaking to this amendment, I go back to the spring session of 1991, when the government introduced the initial version of Bill 21, before the amendment. It's a measure of my inability to communicate our concern, I suppose, that when the Health minister came up with these amendments, that he unveiled with some fanfare a few weeks before the House started, I got quite excited initially because I thought on November 13, when the minister talked about his amendments to Bill 21, that maybe he had been paying attention and was anxious to respond to the concerns we had raised in the spring session of the Legislature. So you can imagine my disappointment when I see the amendment which is in front of us -- and I think this is A1; is that correct? -- to find that the minister didn't hear or didn't recognize our primary concern around Bill 21.

I'd start off by saying that there are some positive elements in amendment A1, but our fundamental principle was one that I thought, Madam Chairman, would have resonated with all of the members of the government caucus. What we said was that we respect the fact that physicians are not civil servants, that they contract with the Department of Health and the government of the province of Alberta. I would have thought that this government, in terms of trying to live up to the rhetoric we hear about respecting the private sector -- the minister of transportation, I know, has always expressed an appreciation for the value of the private sector and what the nongovernment sector can do. I would have thought that the government would have been very much alive to understanding that physicians aren't conscripts; they're professionals who enter into a contract with Alberta Health. For a government that professes to not want to overregulate, they come forward with a bill, when what we attempted to argue in the spring, Madam Chairman, was that, you know, you could accomplish the same things as a result of an agreement between the Alberta Medical Association and Alberta Health. Why wouldn't you address it? If you're governing the terms under which physicians are part of this contract with the provincial government or opt out or opt in, why wouldn't you say that that would be part of the contract that's entered into between the physicians on the one hand and the government of Alberta on the other? Why would it be that the government would prefer to do a statute?

Madam Chairman, the thing I find so puzzling: this is so much at variance with what this government talks about and promotes in every other facet of activity. Yes, we want protection in terms of physicians opting out and those kinds of circumstances, but the way you do that, hon. members through the chair, is through an agreement between two parties.

The first test that I always ask myself when I see a government bill is: is a statute necessary to achieve this end; is there no other way? [interjection] I'm receiving some assistance. The always enthusiastic minister of intergovernmental affairs suggests that he uses a similar test. Well, I'm delighted to hear that. Then that member will certainly understand what I'm saying when I challenge the minister. Why wouldn't we have taken these elements and when our representative on behalf of the people of Alberta, the government of Alberta, sits down with the Alberta Medical Association to determine what the arrangements are in terms of how physicians participate in the Alberta health care insurance plan, that would be the issue for negotiation? The government of Alberta would put forward, would say that as with any other agreement you enter into with a group: these are the terms under which you're part of the agreement; these are the terms under which you opt out. Why wouldn't you just provide for that in the agreement?

Now, there are lots of advantages to that. You respect and you

recognize the principle of bargaining. You create the kind of flexibility that means that when you want to change the agreement, if the two parties decide to change it, you don't have to rush back into the Legislature and pass an amendment to the statute. When we see the amendments that have been brought forward, it doesn't speak to that at all.

Let me give you an example, Madam Chairman, because you may be just anxious to make sure that I don't lose sight that we're talking about amendment A1 tonight and not about the bill itself. I anticipate that may be something you're very alive to. I'd just point out to all members that part C of the amendment is perhaps the most telling element in the amendment package, the new section 5.11(1). Let's just consider this one: "Subject to this section, every physician is deemed to have opted into the Plan," the plan being the Alberta health care insurance plan, governed by its own statute. Now, let's just think about that for a moment. Why, oh why would we presume that every physician in the province is deemed to have opted into the plan? I mean, just sit back and think about it for a minute. Madam Chairman, I'm hopeful that our always knowledgeable Minister of Health may offer some background on this.

8:20

The concern is that what this bill does not do is respect the fact that physicians are not civil servants. They don't have a government pension. They're not subject to the Public Service Act. They operate outside. Isn't this a free-enterprise government? Madam Chairman, sometimes I think that when I've stepped out to photocopy a page or two, I've come back in and I'm in a different Legislature altogether. Somehow this is a different group of people. They're just a sort of variation of *The Stepford Wives* movie. Members look the same, but they're thinking and voting differently.

Madam Chairman, it's a real puzzle to me, and I'm hopeful that the Minister of Health could explain. Why would we deem every physician to have opted into the plan? Why wouldn't he take what I thought was a thoughtful suggestion to him in the spring, to deal with these matters by way of agreement directly with the physicians of the province? Nobody is more concerned than this member or this caucus, the opposition caucus, with ensuring that Albertans have good access to quality health care wherever they live in this province. In fact we try to raise that in question period almost every day and, if not every day, two or three times a week. So our concern is clear. The issue is: is this the appropriate way to do it?

Madam Chairman, when we deal with amendment A1, we have to be invested with the knowledge that the Minister of Health has called a health summit. If he didn't call it, I guess the Premier called it and advised him after the fact, but we're going to have some kind of health summit coming up early in 1999. What questions are going to be addressed? I'd be hopeful that the health summit is going to look at issues of quality of care, access to professional health care. So when I see this bill and we know that only one physician, Dr. Linda Witham in Red Deer, has opted out of the health care insurance plan to this stage -- and the minister can perhaps confirm. I'm not aware of any other physicians who have opted out since Dr. Witham did in Red Deer early in 1997. Why couldn't this matter wait until the health summit?

Now, there may be a couple of reasons for that. One, maybe this health summit is just a bit of a marketing strategy, and there's no substance to it at all. That would be one possibility. Another one might be that the health summit agenda has already been preset. Another explanation might be that the health summit is not going to deal with the major, pressing health issues, and it's

going to nibble at the margins of the province in terms of access to quality health care. I don't know.

Madam Chairman, at this point you may be saying to yourself: well, Calgary-Buffalo, why don't you just sit down and give somebody who knows the answers a chance to speak? I'm prepared to make that pact with my colleagues on both sides of the House right now. I'm happy to sit down but only if it appears that the Minister of Health is going to then stand sequentially and address these issues and tell us why this wouldn't be better addressed at the health summit. Now, he may know that there's a stampede of physicians about to leave the system, but unless he has that kind of information he can share with us, it seems to me this is not a current, pressing emergency. I'm most interested in terms of hearing his explanation of why this wouldn't be better addressed by the health summit.

The final thing I'd just say before I take my seat is that the Minister of Health has developed a fascinating technique in terms of legislative drafting. It's the one-two punch, Madam Chairman. What happens is that about a week before the House starts sitting, we get a news release. We get a news release and we all trundle excitedly down to the TV studio in the bowels of the Assembly building, and the Minister of Health comes out, and what does he produce? Well, it's not amendments. What he produces is a news release. So we look at the news release, and if it sounds pretty positive and he's had good people in Alberta Health writing the news release, then we might expect that he's going to get some positive media.

Then what happens -- and we saw this on Bill 37 -- is that we finally see the text of the amendment, and it doesn't measure up. The amendment to Bill 37 told us that we were going to see one thing, and in fact when we got the package of amendments, we saw that something else had been slipped in. We weren't dealing just with insured services; we were now dealing with insured services that were also designated by a regulation.

We've got that issue, Madam Chairman. We're in this position where I just don't see frankly why we're dealing with this bill this evening. I don't see why we're dealing with it in the fall session. I don't understand why we wouldn't sort of leave this to agreement between the physicians and Alberta Health. I don't understand why we've brought out the big bat instead of the ability to negotiate. So I'm interested in responses to all those questions.

Thank you very much, Madam Chairman.

THE DEPUTY CHAIRMAN: Are you ready for the question? Sorry, Edmonton-Rutherford.

MR. WICKMAN: Madam Chairman, I think there are a few other speakers after me, if I'm correct.

Speaking to the amendment, which of course is parallel to Bill 21, there has to be a bit of leeway in terms of speaking to the amendment that incorporates some of the views on the bill itself in that the amendment is a very substantial part now of the bill. It's interesting when I look at the amendment and I see along the side here, "Opting in and out by physicians" and such and some of the actual wording of the amendment, in particular pertaining to section 2, the procedure that a physician would follow to opt out and opt in.

Madam Chairman, my concern is a concern that is shared, I believe, by many of my constituents and by many Albertans. There is a real fear, and a lot of it is due to Bill 37. No matter what the minister may say or the government may say, in politics perception is everything. The minister could say even with Bill 37, similar to Bill 21, that there is no hidden agenda, that it's

very, very straightforward, that it would give the government the right to do this or the right to do that. In other words, it would legitimize a process in the same sense that Bill 37 would have legitimized a process, whether it was approving or disapproving. Nevertheless, the public perception was again hedged in on the concept of privatization.

Again, Madam Chairman, that's a concern that I have here. How does one read the amendment? How does one read the bill? Do they read this in the sense after saying that this particular bill is simply allowing an opportunity to create a two-tier system where we're going to have doctors opt out of the public system and set up their own practice, billing directly? In other words, they're going to provide a scenario where those with money can bypass a waiting list that may be there at the present time. To see a lot of specialists right now, whether it be a plastic surgeon, whatever, people are waiting up to six months.

Madam Chairman, as you're fully aware and members of this House are aware, I've gone through a lot of medical avenues over the course of the last year, spending 10 weeks in the hospital and going through three bouts of surgery and such. I got a pretty close view of how that health care system works, how the health care workers perceive it, what the patients that were in the hospital at that time think about it, and the delays in surgery that I faced and other people faced. People are very, very skeptical of what the government is doing as far as health care is concerned.

When we look at Bill 21 and the amendment to Bill 21, the fear is that you create this two-tier system where somebody with the dollars could go to a specialist that may opt out of this system, set up a service for those with money, charge a handsome fee, but be able to tend to that person in a matter of two or three days, a week, whatever, rather than the normal lineup, the normal wait that most of us have to face.

8:30

Now, I'm not saying that that's the intent of the bill. Don't misunderstand me. I'm saying that that's a perception Albertans have when it comes to anything now that can be interpreted as a move to privatization, because there is a general feeling that this government wants to privatize certain aspects of health care. Whether the minister wants to believe that or not is beside the point. It's a perception out there, and Albertans are thinking it, and we experienced that firsthand with Bill 37. In fact, some people have got to the point where they consider this bill a partner or a key component to Bill 37. In other words, Bill 37 would legitimize the private facility, and this bill would legitimize a physician opting out of the system and practising in a private facility that may be operated or geared towards WCB, whatever the case may be. So that's a problem the minister has.

Now, when the Premier announced that Bill 37 was going to be postponed and when he talked in terms of a health summit and so on and so forth, there was cause for some, I guess, delight, whatever expression you want to use, in that the initial reaction was that the government woke up and listened to the people. They now realize that government doesn't want to privatize without the approval of Albertans, but after a couple of days that skepticism started to crawl back in. What is the government really up to? Are they going to bring it back in 37? What's this talk about this summit or this blue-ribbon panel or whatever you want to call it? Just the very fact that we have this particular bill here in front of us with this amendment, Madam Chairman, again creates Albertans to thinking: why? Why does the government want to push that through in this particular session? A session that could end in the matter of the next few days, depending on how hard the govern-

ment wants to push and depending on how desperately the government wants to see this amendment approved.

THE DEPUTY CHAIRMAN: Edmonton-Rutherford, we are talking about amendment A1; right?

MR. WICKMAN: Yes, speaking specifically to the amendment. So, of course, then they can approve Bill 21 prior to the conclusion of this session. There's no rhyme or reason to have to approve this amendment at this time or to have to approve this bill during this fall session if the whole health care system and the aspects of privatization and other important factors of it are going to be up for a thorough review by some type of mechanism that the Premier hasn't really laid out the detail of, how it's going to work, what people will be on there, and so forth.

To deal with this amendment and this bill in isolation at this particular time, Madam Chairman, just doesn't make any sense to me. It even has me wondering why. What's the urgency? I understand what the present system is. I understand we have a doctor in Red Deer, for example, that has opted out of the system. There is some type of mechanism now where doctors can opt out by simply billing a patient directly. Then they've opted out of the system for all intents and purposes for a 12-month period. But to have a bill specifically referring to that again leaves that perception of legitimizing the system.

Other than the one doctor that I'm aware of in Red Deer, I'm not sure of any others in the province that have fully opted out of the system. I'm not sure specifically how that doc in Red Deer operates, except I'm lead to believe that she does charge a bit more than a doctor would that was billing Alberta health care. At the same time, I also understand that she spends a bit more time with each patient. I of course haven't had the opportunity, like none of us have, to really find out firsthand how that system works.

In conclusion, let me say, Madam Chairman, that I back up what the Member for Calgary-Buffalo has said, and that is that there is no reason to pass this bill, to be debating this bill at this time. Let's pull the thing. Let the bill die on the Order Paper. Let's revisit the whole thing after the blue-ribbon panel, or whatever expression we want to use, concludes its findings and comes forward with some recommendations or some views that Members of the Legislative Assembly can take into consideration.

On that note, Madam Chairman, I'll conclude.

THE DEPUTY CHAIRMAN: The hon. minister.

MR. JONSON: Thank you, Madam Chairman. I would just like to make a few comments on the debate this evening, particularly the comments of the last two speakers. I think that if members in the Assembly this evening were to reflect on the recent debate, which I would categorize as debate among two members of the opposition opposite -- one of the main points of the Member for Calgary-Buffalo, which he emphasized three or four or five or six times, was that we should not be assuming that physicians in this province are opted into the public health care system. Instead, we should always assume that they are out until they should choose to join it. As we have said, Madam Chairman, over and over again, in government we come from the perspective of wanting a strong public health care system in this province. The starting point, the perspective from which we operate in terms of physicians in this province is that the health care insurance plan as it applies to doctors is available from day one. We would assume, because I think the vast, vast majority of doctors want to see that particular system thrive, that they are opted into the system so

they can be paid through the public health care insurance plan. Nevertheless, the Member for Calgary-Buffalo did seem to have a great concern about that. But, yes, Bill 21 does propose that physicians assume to be opted in, and then it provides for a reasonable set of time lines and a reasonable decision-making process as to them withdrawing from the plan, should, as we hope would not be the case, in those rare cases they choose to do so.

On the other hand, Madam Chairman, the Member for Edmonton-Rutherford argued quite strongly, as I understand it, for putting the focus on the public health care system, and therefore I would assume that he's in agreement with doctors being assumed to be part of the health care system. As I've said before, Bill 21 provides for a reasoned process for doctors to opt out of the system should they choose to do so.

Two other points I'd like to make this evening, Madam Chairman. The bill with the proposed amendments -- and these have been discussed with the executive of the Alberta Medical Association. The purposes of the bill are really threefold. First of all, it revises and puts in place a reasonable set of time lines or times at which notice should be given with respect to either opting out or opting in with respect to doctors serving the public health care system. I think it is only reasonable that there be some time lines. In fact, the amendments that we are debating at the moment deal with, as I said, after discussion with the Alberta Medical Association's executive, revising those time lines to something more acceptable to them than was in the original Bill 21. So first of all adequate periods of notice.

Secondly, reasonable time lines with respect to opting in and opting out should a physician choose to do so.

The third point, which is really the main point in this bill, Madam Chairman, is that initially in Bill 21 the decision in terms of emergency situations, a great shortage of doctors in a particular area or in a particular part of the province -- there was a provision there whereby the minister would judge whether there was the possibility that this opting in and opting out provision was used as job action, which was threatened during the last round of AMA negotiations. We cannot deny that. I know there is only one physician that has opted out in this province. But the whole business of using this particular provision as a collective type of action rather than an individual action, which it was intended for, was before the government and before the public. But the change that is made in Bill 21 and its amendments, the amendments which we are debating this evening, is specifically dealing with referring this issue of whether or not this is an appropriate individual decision of a doctor or some type of planned or group action to the College of Physicians and Surgeons, which was acceptable to the Alberta Medical Association executive. From our point of view that was a reasonable amendment that was worked out between the two parties.

Our goal as government is to make sure that there is a system with reasonable notice for opting in and opting out, that the time lines are reasonable, and that there is the ability to refer to some neutral body the judgment of whether or not this is being done because of an individual doctor's circumstances and their own particular judgment -- and opting in and out is provided for -- but that it not be misused as a way of, quite frankly, profession action or job action with respect to ongoing negotiations when that is the situation, Madam Chairman.

8:40

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

MRS. SLOAN: Thank you, Madam Chairman. I'm still seeking some clarification with respect to where section 5.01 exists in the bill, and I'm hoping that will be forthcoming. I do have some extra comments, though, that I would like to make at this time with respect to, I believe, the intent of the amendments.

We have at the moment in this province, I would say, in the neighborhood of approximately 30 to 40 services that are private; that is, they have been deinsured by the province. They include the removal of tonsils and adenoids, the insertion of ear tubes for infection in children, repair of breathing passages in the nose, arthroscopy exams of knees and other joints, minor knee surgery, cataract surgery, corneal transplants, glaucoma surgery, mastectomies, breast biopsies, laparoscopies, carpal tunnel repair, the removal of cancerous skin lesions, tubal ligations, vasectomies and vasectomy reversals, biopsies for cancer, radiation and chemotherapy, wound debridement, major dressing changes for burns and plastic surgery, IV therapy including antibiotics for bone infections and control of MS symptoms, major dental surgery for the handicapped, insertion of central line catheters, removal of plates and pins, irrigation of wounds, D and Cs, ablations, hemorrhoidectomies, hammer toe surgeries, bunectomies, angiograms, any dye-related diagnostic exams, and endoscopies. A broad enough list, Madam Chairman, that an opted-out physician could unquestionably probably make quite a good living in the private system. The question is: why is this government proceeding to facilitate that when they have not consulted Albertans and the majority of anecdotal evidence seems to reflect a very strong desire that Albertans do not want a further increase in private delivery of health care in Alberta?

I also raise a question as to why the government is proceeding with these amendments when in fact there have been complaints filed with respect to the practice of physicians to the Minister of Health and the College of Physicians and Surgeons. These relate to evidence that arose from a survey conducted by the Consumers' Association of Canada. Albeit that not all of these physicians are practising in a purely private fashion, however they are practising on the edge of the public system by marketing to patients a broader range of services and appliances that can be acquired at additional costs.

Particularly from the survey results there were findings that were very disturbing. They found that many surgeons' offices blamed the cutbacks in health care and limited RHA coverage for a newer lens. This was in the cataract surgery area. At least 16 clinics and surgeons appeared to be grossly overcharging for this option. It was pointed out in the submission made by the Consumers' Association that this is a direct contravention of the conflict of interest guidelines established by the College of Physicians and Surgeons, which limit upcharging the price of a product to a small administrative fee, historically pegged at 15 percent.

So if there are grounds -- and there is on the record just this month a case where there's multiple evidence that practising on the edge of the public system does lead to additional complexities, it does lead to gray areas, and it has prompted a broad-based consumer advocate association to file a complaint -- why would this government want to broaden and increase the number of physicians practising in a private manner?

Further, the Consumers' Association found that

one private surgery clinic in Alberta [was] offering shorter surgery waiting times to patients who [chose] to purchase additional products in direct contravention of Alberta Health policy.

Again, why would you want to endorse that kind of conduct by providing further mechanisms for that type of practice? Thirdly, it was found that

some patients have had their surgery delayed or cancelled when they chose not to purchase additional enhancements related to insured cataract surgery.

While it was noted in the submission by the Consumers' Association

not only is this current situation unacceptable from the standpoint of Albertans who do expect to pay extra for physician recommended and publicly insured services . . . [but] it also raises . . . serious questions about the commitment and ability of the government and the College of Physicians and Surgeons to adequately protect the interests of patients and the public with the proliferation and expansion of privately owned facilities and the trend to increased utilization of private investor-owned surgery clinics for the provision of insured public healthcare.

Again, these allegations -- well, not allegations; they're supported by evidence. The submission that has been made has not been resolved. I would submit, Madame Chairman, that it does cast some light and question about the government's role with respect to monitoring and protecting the public's interests in these types of circumstances. Until that is clearly addressed, I do not see good reason to be proceeding on a bill that would facilitate more private, for-profit physicians.

The minister, in his remarks earlier, talked about this being discussed with the AMA, but I in my earlier remarks said: has this government received an endorsement from physicians? I have not heard that that has been the case. I have not heard that the AMA has approved the amendments. Yes, they've been discussed, but I know from personal experience that's a very different matter than actually being truly consulted and truly afforded the ability, as a valued profession, to have input.

The basic question is: why do we need this bill? I have not been convinced by the arguments made today by the hon. members on the other side that it is in fact necessary. In light of some of the other instances of questionable practice and the government's perhaps lack of monitoring -- obviously, that will be determined by the review of the situations that I identified. If the government has not assumed its role as the guardian, if you will, of the public system, and those mechanisms have not worked to catch and address the circumstances which are quite numerous -- I'll restate that there are 16 clinics and surgeons that appear to be contravening guidelines of practice. Why did the government not pick this up? Why does the public have to rely on the Consumers' Association of Canada to bring it forward?

I would also, I guess, state for the record that in light of the fact that there has not been clarification forthcoming, it is puzzling to me how debate can proceed on amendments to a bill when the section being amended does not exist. It seems to me to be fairly basic parliamentary procedure, Madam Chairman, that the speakers and the premise of the debate has to be rooted in an actual section, and I cannot, in looking at the face of the bill before me, find that section. I think the most reasonable step to take, if that is not resolved satisfactorily, is that the bill should be pulled. Bring it back when the government I guess has the rationale, which I've spoken to earlier, has the endorsement, and has undertaken to do the broad public consultation that's required about establishing a private, for-profit system of health care and facilitating the private, for-profit practice of physicians.

With those remarks, Madam Chairman, I am happy to conclude my remarks at this stage. Thank you.

8:50

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

MR. MacDONALD: Thank you, Madam Chairman. It's a pleasure to rise this evening and say a few words regarding amendment A1 to this Bill 21. I listened intently to arguments from all hon. members of the House this evening as they were presented, and I particularly took notice of the hon. Member for Edmonton-Rutherford. His comments were quite accurate. We know that health care is a nightmare in this province. Constituents of mine are now running into many, many problems with accessing the system.

We know about the amendments that came forward with Bill 37. They were supposed to please the public. They were supposed to soothe the public of their suspicions of what this government wants to do with the public health care system. Now, many people are suspicious that they want to dismantle this system and see the private sector take over more and more. This is what the health care economists call the privatization creep, and it is certainly increasing.

I look at this idea where we're going to be able to have this opting in and opting out by physicians. We must have a very, very close look at this, because we're to remove a complete section of the original Alberta Health Care Insurance Amendment Act. Section 5.11 is coming out, and now in the amendment A1 we're going to have a substitution. As you read through this, you see in the original bill: "A physician may apply to the Minister to opt out of the Plan." May apply to the minister. This has been removed, and now we have:

A physician may opt out of the Plan by

- (a) notifying the Minister in writing indicating the effective date of the opting out.

Now, also the number of days has been changed here. We have doubled it. We have gone in the original idea of the bill from 90 days, I believe, to 180 days in the amendment. This is double -- that's what I said before -- and I wonder, Madam Chairman, just exactly what the purpose of the doubling of this is. Well, we all know that there's a shortage of specialists in the entire province, and we're very, very concerned about the shortage of specialists. Is this going to give the minister half a year to perhaps attract or recruit or in some situations even train a replacement for that person who is going to opt out of the public system? Or in the case of rural doctors -- and this is very, very important, because each and every hon. member of this Assembly knows that it is very, very difficult not only to attract physicians to rural Alberta but to keep them there once they are there. If in due course my questions could be answered regarding this issue, why we are suddenly doubling this time period, I would be very, very grateful.

Now, we also know, Madam Chairman, that there are technological changes occurring monthly with medical procedures. A medical procedure is developed and is not under the umbrella of publicly administered health care as we know it in this province today; you have this miracle procedure. There are people lined up and waiting, and for whatever reason there is a reluctance on behalf of the government to have it on the insured list. So we have this procedure that is not going to be on the insured list. Are we going to have a stampede of doctors that want to opt out of the publicly administered system so that they can then administer to patients with this or any other procedure? I have a lot of concerns about this, and I would caution all members of the House because we all know the changes that are taking place in the medical field. We have to be very, very careful of this because if the item, as I said before, was not insured, we are then creating the two-tiered system that was spoken about earlier this evening in my hon. colleague's remarks. We have to be careful of this.

I don't know why we need this section 5.11. There are not that many physicians in the province that are anxious to opt out of the public health system to start with. There was a reference to a physician from Red Deer, only one, and there are I believe over 4,600 physicians practicing in Alberta. So I would have to say to the government members: where's the fire? Like, what sort of plan have we got here? Is this a cousin of Bill 37?

Health care, the nightmare in this province. The Alberta people are very, very suspicious of the motives of any bill that's put forward by any government member, and they have reason to be suspicious. Now, we look at this and we look at amendment A1, and we see opting out of the public system. That is an alarm bell for all Albertans because the track record of this government in protecting the publicly administered health care system is not good. People are suspicious, and they have every reason to be suspicious. They're going to continue to be suspicious as long as the lineups for basic surgeries are long. We're going to go through this winter and hopefully there will be no red alerts. We know emergency visits to hospitals are increasing. We do not in any way have any suspicions about the administration of health care in this province by the present government. So when we look . . .

THE DEPUTY CHAIRMAN: We are talking, aren't we, Edmonton-Gold Bar, about amendment A1. We are, aren't we?

MR. MacDONALD: We certainly are, and this amendment, Madam Chairman, is only going to encourage the privatization creep of health care in this province. Every hon. member in this House knows precisely what I'm talking about.

So we have a lot of speculation with this amendment that it is a negotiating tactic that is part of the ongoing negotiations between Alberta doctors and the government. Now, we know that doctors are without a contract, and many newspaper reports indicate that the Alberta Medical Association has said that they will not proceed with job action because of recent gestures of good faith by the present government. However, I would caution the hon. members of this House that we have to be careful of ploys and negotiations. We look at the brand-new section detailing how these physicians may opt in and may opt out, and this has to be included in the publicly funded health system.

With those comments, Madam Chairman, I will cede the floor to another hon. member of this House. Thank you.

[Motion on amendment A1 carried]

9:00

THE DEPUTY CHAIRMAN: Hon. Member for Edmonton-Riverview, are you standing?

MRS. SLOAN: I am.

MR. SAPERS: We can't vote on this yet because we still haven't resolved this issue.

THE DEPUTY CHAIRMAN: The chair is going to call a five-minute recess.

[The Assembly adjourned from 9:01 p.m. to 9:15 p.m.]

THE DEPUTY CHAIRMAN: I'm going to reconvene the Committee of the Whole. Could I have everyone take their seats, please.

The hon. Government House Leader.

MR. HAVELOCK: Yes. Thank you, Madam Chairman. What

I'd like to do is seek unanimous consent of the House to rescind the vote that was just taken, the reason being that the amendment which we just voted on actually includes a provision which was amending a section in a piece of legislation which it was determined would not be proceeded with; that is, Bill 37. So we've actually passed an amendment to a section which doesn't exist. For that reason we'd like to rescind the vote that was just taken, and then I would beg your indulgence after that, assuming we have unanimous consent, to look at the amendment again and vote separately on A, which is the part that has offended the process, vote on that separately from B through E.

THE DEPUTY CHAIRMAN: Thank you, hon. House leader.

Could I have unanimous consent to rescind amendment A1?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? It's carried.

Now we will be voting. Do you want to go over this again, hon. Government House Leader? You will move the amendment, reintroduce it?

MR. HAVELOCK: Well, it doesn't have to be reintroduced, because we rescinded just the vote, so I assume that the matter is now still before the House. We've just eliminated something that happened that shouldn't have.

THE DEPUTY CHAIRMAN: Okay. So the first part that we will deal with will be section A.

MR. SAPERS: If I understand correctly, Madam Chairman, when the minister introduced his amendments as A1, it was the whole package of amendments. So perhaps what we should do is have a motion to sever so that we have as amendment A1 just what reads as section A in the government's amendment. So we can vote on that separately from B through E. I think somebody from the government might want to move that kind of motion.

THE DEPUTY CHAIRMAN: Basically, I think that's what the Government House Leader was saying. Is that correct?

MR. HAVELOCK: Madam Chairman, there might even be a simpler solution. If we can somehow sever portion A of amendment A1, I think the Health minister has indicated that he would be quite prepared to withdraw that particular section from the floor so that it wouldn't even have to be considered.

THE DEPUTY CHAIRMAN: We've already rescinded A1 as it was.

MR. HAVELOCK: The vote.

THE DEPUTY CHAIRMAN: Yes, the vote.

MR. HAVELOCK: But they want it still before the House.

THE DEPUTY CHAIRMAN: Okay. So now we're bringing it back. We're going to vote on it. We're just going to determine how.

MR. HAVELOCK: So could I then move that the amendment before the House be severed so that subportion A of amendment A1 is dealt with separately from the rest of the amendment.

THE DEPUTY CHAIRMAN: Possibly, Government House Leader and Opposition House Leader, what we need to do is just have a motion that this be looked at in two sections: section A and then B through E.

MR. SAPERS: Madam Chairman, I hate to be procedurally picky here. If only the vote was rescinded, then we would have to, I think, move to a subamendment, because the amendment is still on the floor, the original motion. If it was only the vote that was rescinded, then the motion is still on the floor. So then we would have to do a subamendment.

THE DEPUTY CHAIRMAN: In consultation with Parliamentary Counsel here, this is not the case. We can, in fact, vote on this amendment A through E. Basically, it is up to the sponsor of the amendment to determine in fact how they want the particular amendment to be voted on. So possibly if the mover of the amendment would like to stand and . . .

MR. JONSON: What are my options, Madam Chairman?

THE DEPUTY CHAIRMAN: Right about this point you have several.

MR. JONSON: Madam Chairman, I would move that part A of the amendment, which adds after section 1 -- I would move to vote on that particular section separately.

THE DEPUTY CHAIRMAN: Okay. Does everyone understand?
9:20

MR. SAPERS: Let me see if I understand, and maybe just with hand signals or something we can see if we agree.
We have an amendment on the floor which was . . .

THE DEPUTY CHAIRMAN: The only thing we have done to this point in time is rescinded the vote.

MR. SAPERS: Right. So we still have an amendment.

THE DEPUTY CHAIRMAN: Right.

MR. SAPERS: The Minister of Health just used the words "I move." He did just use the words "I move." That's why I'm now confused. Since he used those words, that sounds to me . . .

THE DEPUTY CHAIRMAN: It's a request, hon. member. Basically, like I said, we rescinded the vote. We are now asking the sponsor of the amendment deemed A1 how he would like this dealt with. Okay?

MR. SAPERS: It's perfectly okay with me. I just want to make sure we don't have to do this ever again.

THE DEPUTY CHAIRMAN: Well, you aren't the only one. According to Parliamentary Counsel who is sitting with me at the table, we are quite in order to do it this way. All right?

MRS. SLOAN: Madam Chairman, can we have clarification of exactly procedurally what we're doing? The hon. member said he's made a motion to withdraw.

THE DEPUTY CHAIRMAN: No, he didn't say he was going to withdraw.

MRS. SLOAN: Okay. He made a motion to rescind.

THE DEPUTY CHAIRMAN: We rescinded the vote. The outcome of the vote that we took a few minutes ago is nil and void. We have rescinded it. Okay? We are dealing with amendment A1, part A1.1. Okay? This is what we're dealing with.

MR. SAPERS: Good. So that's all we're dealing with.

THE DEPUTY CHAIRMAN: That's all we're dealing with in this motion.

MR. SAPERS: So any remarks that I make now would be on the record pertaining to the following words: 1.1 Section 5.01(1)(c) is amended by striking out "enrolled in" and substituting "opted into".
Right?

THE DEPUTY CHAIRMAN: Thank you very much. That's exactly what we're dealing with.

MR. SAPERS: The reason why we want to dispense with this is because this section was wording taken from what was proposed Bill 37, which isn't going ahead. Right? So portion A . . .

THE DEPUTY CHAIRMAN: Portion A1.1 is what we have before us right at the moment.

MR. SAPERS: I guess I'm still seeking some direction, because what I want to do is of course support the move to strike this out of the rest of the amending sections.

THE DEPUTY CHAIRMAN: We are going to vote on the rest of the sections following this vote, hon. member. We are going to vote on B through E separately.

MRS. SLOAN: If I'm not corrected, I will understand that basically what this motion, subamendment, is intended to do is to strike this from the amendment, and if that's the case . . .

THE DEPUTY CHAIRMAN: This is not a subamendment. We are basically taking amendment A1 and putting it into two parts. We're going to vote on part A and then parts B through E.

MR. HAVELOCK: Madam Chairman, I believe that, procedurally, if a member has a motion on the floor or an amendment on the floor, he or she can request the table to deal with that amendment in a certain way. All that has happened here is that the member is requesting that A be voted on separately from B through E. Do I have it right?

THE DEPUTY CHAIRMAN: This is absolutely true.

MR. HAVELOCK: That's all we're doing. So may I humbly suggest to the floor that they vote against A and vote for B through E.

THE DEPUTY CHAIRMAN: Okay. Is everyone ready?
The hon. Member for Edmonton-Rutherford.

MR. WICKMAN: Madam Chairman, I'm under the impression from the earlier comment made by the minister that he wants this portion stricken out of the amendment. So why doesn't he simply withdraw that portion?

THE DEPUTY CHAIRMAN: Well, obviously, hon. member, if it's defeated, it will be withdrawn.

MR. WICKMAN: Okay. Well, if they're going to vote against it, that's fine.

MRS. SLOAN: If I may, Madam Chairman, for the record. If we go through the process of debating and voting on an amendment, it almost seems to me that it's in order, but in fact this amendment is not in order because it's an amendment to a bill that is not before the House.

THE DEPUTY CHAIRMAN: I think that can be said, hon. member, of this particular section A1.1, but not the remainder.

MR. HAVELOCK: Madam Chairman, to clarify: Bill 37 is still before this House. So if we wanted to, we could actually make this amendment, but because the Health minister some days ago indicated that Bill 37 would not be proceeding further, it's therefore inappropriate to pass this amendment at this time.

THE DEPUTY CHAIRMAN: Okay. Are you ready for the question?

We have before us amendment A1, section A1.1. All those in favour, please say aye. Opposed, please say no.

HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: This part of this amendment is defeated.

We will now deal with sections B through E. All those in favour of sections B through E, please say aye.

SOME HON. MEMBERS: Aye.

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

MR. SAPERS: Thank you, Madam Chairman. Is not one of the outcomes of the motion severing how we would proceed with the vote an opportunity to speak on the remaining parts of the amendment?

MR. HAVELOCK: Madam Chairman, I would disagree. I would expect that when a member requests that the vote be called in a certain way, the moment that you start into the process of voting, you can't jump into the middle and debate each portion as it comes up.

MRS. SLOAN: Excuse me.

THE DEPUTY CHAIRMAN: No. You sit down, hon. member. I'm sorry; we are at the point here where we're voting on B through E. We've debated since 8 o'clock all parts of amendment A1.

MRS. SLOAN: Yes, I pointed that out. Right at the beginning of my debate, I pointed that out to the chair, to the table, and to the hon. members, and they chose not to.

THE DEPUTY CHAIRMAN: That's fine, hon. member. Please sit down. We have it straightened out.

MRS. SLOAN: We did not.

THE DEPUTY CHAIRMAN: Both your House leader and this House leader and the Minister of Health probably spent 15 to 20 minutes out there. I do believe that we do have an understanding of this now. We can proceed with B through E.

MRS. SLOAN: Well, for the record, I have not debated B through E, Madam Chairman, nor has any other member of the House.

THE DEPUTY CHAIRMAN: Well, hon. member, I would ask you: what were you debating earlier on, since 8 o'clock, when we were debating the entire amendment A1? I'm ruling you out of order. [interjection] Edmonton-Glenora, come on.

MR. SAPERS: Madam Chairman, I'm not trying to be the least bit provocative with you this evening.

THE DEPUTY CHAIRMAN: Pretty soon I'm going to be provocative with you.

MR. SAPERS: When the Government House Leader and I met to discuss the error in the form of the amendment and the Minister of Health and I went into the lounge to discuss it, it was on the understanding that debate would continue. So, Madam Chairman, in terms of bringing the error to the government's attention, what you're suggesting is that I have forfeited -- you have forfeited my right to debate.

THE DEPUTY CHAIRMAN: Hon. member, it is not up to this position, this chair, to determine what House leaders decide.

MR. SAPERS: I don't think that the intent was to forfeit my right to debate.

THE DEPUTY CHAIRMAN: It is not my job to determine what House leaders will and will not do. The question is before this House.

MR. SAPERS: Absolutely. So what I would like to do is have the right to debate the amendment, because that's what we agreed to do. So may I please have my right to debate this amendment in the Assembly?

THE DEPUTY CHAIRMAN: We have started this procedure, and we are now on amendment A1, sections B through E. This is what's been brought forward to the chair. This is what I'm bringing to the committee. I am not getting involved in the politics here or the politics there. Okay? Let's go.

MR. SAPERS: So I can debate on B through E?

THE DEPUTY CHAIRMAN: No.

MR. SAPERS: Then I would ask you to refer to section 698 in *Beauchesne*.

THE DEPUTY CHAIRMAN: We had already started prior to you, the Minister of Health, and the Government House Leader, going out to determine whether in fact A should be or should not be in this particular amendment. We had already called one vote. You had gone through your speaking list. You had talked on the entire amendment, A through E. Is that not correct?

9:30

MR. SAPERS: No.

MR. HAVELOCK: Madam Chairman, I guess while it may have been in error, when A1 was before this House for a vote approximately one-half hour ago, it was passed, and it was passed as a total amendment.

THE DEPUTY CHAIRMAN: Exactly.

MR. HAVELOCK: I think the difficulty we're faced with now is that despite the fact that the hon. members across the way may or may not have been addressing portions of the amendment beyond section A, if I understand the process correctly, when you start to call a vote on an amendment, regardless of whether you're going to split certain portions of that vote, you still need to continue to the end of the vote. Is that procedurally correct?

I see the chair and everyone shaking their heads. So, hon. member, whether or not there's some legitimacy to your position that you may not have been able to argue B through E, the difficulty you're faced with is that we've started the voting process on this amendment, and therefore I think you have to complete it.

THE DEPUTY CHAIRMAN: We were actually halfway through the voting process when I acknowledged the hon. Member for Edmonton-Glenora, who I thought might be seeking some clarification. We already had started to deal with this. As was mentioned, probably a good half hour ago was the beginning.

I am, hon. member, going to continue with the vote.

MR. SAPERS: I believe I have a right to raise a point of order then.

THE DEPUTY CHAIRMAN: You can't raise a point of order during a vote. We are in the middle of a vote. After the vote I'll be glad to hear your point of order.

MRS. SLOAN: You said we were doing section A; that's all you said.

THE DEPUTY CHAIRMAN: Do you ever make a mistake, hon. member?

MRS. SLOAN: Occasionally, but I usually admit it.

THE DEPUTY CHAIRMAN: We are now dealing with the remainder of amendment A1, sections B through E.

[Motion on amendment A1 carried]

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

Point of Order Admissibility of Amendments

MR. SAPERS: Thank you. *Bauchesne* 698 reads as follows, Madam Chairman.

An amendment which is out of order on any of the following grounds cannot be put from the chair . . .

- 4(a) An amendment is inadmissible if it refers to, or is not intelligible without, subsequent amendments or schedules, or if it is otherwise incomplete.
- (b) An amendment may not make the clause which it is proposed to amend unintelligible or ungrammatical.

Madam Chairman, what I was trying to do very gently and obviously without success was to point out what I believe to be a serious error in how we just proceeded. I was not trying to block progress. In fact, what I was attempting to do all evening was to make some progress on this amendment. The Minister of Health and I were meeting to try to figure out the appropriate way to proceed when the vote was called.

I'm not talking about any kinds of deals or commitments, Madam Chairman. I'm simply saying that procedurally the government was in error, and we were trying to correct that error. I believe, unfortunately, that error has just been compounded, and it wouldn't surprise me in the least if we now find ourselves either subsequently in this session or early when we reconvene in the spring having to deal with this mistake again, and that would be a shame and a waste of time.

THE DEPUTY CHAIRMAN: First off, it is not out of order. Bill 37 is still on the Order Paper. Basically the decision was just made, and now you are revisiting a decision that has been made by the Committee of the Whole.

Sometimes I think we have to be -- and maybe I feel strongly enough. Sometimes when you're dealing with as many things in this Assembly and in committee and what various departments have to deal with, mistakes happen. I think it's pretty sad if we cannot be more tolerant and more understanding of these things. Sometimes the need is there to relook, rethink, and readjust to something, and that's just basically what we did. So I think we'll move on.

We're still on Bill 21, back on the original bill, as amended.

Debate Continued

MRS. SLOAN: I know this is particularly painful, Madam Chairman. I'm wondering: are we, then, now debating sections B, C, D, and E?

THE DEPUTY CHAIRMAN: Hon. member and all hon. members, we are now debating Bill 21 as amended, which includes sections B through E but minus A.

MRS. SLOAN: All right. Thank you for the clarification.

It's been interesting, very interesting, Madam Chairman, and I appreciate your patience as the chair in trying to navigate through the process this evening. Certainly I would indicate to the chair that my questions are raised with due respect for the position that she holds, but it was clearly to facilitate broader discussion, broader debate, and a clear understanding of the intent of Bill 21, including the amendments. I in no way, shape, or form view that her role in this has been in error, and I think she should be commended for attempting to deal with it in a reasonable fashion.

Bill 21 with the amendments, though, is still in my opinion an anticipatory bill. It is not one which in any way, shape, or form has been proposed by this government with strong enough rationale that it should see passage in this House during this session.

I've had cause to reflect on one inconsistency, and I would point it out again. When this Bill was originally proposed in April of '98, the sponsoring member made some comments with respect to physicians, the profession this Bill directly affects. It was stated:

I understand that this is of some concern, possibly, to the Alberta Medical Association, and certainly I think it is a given that the minister of the day would seek expert advice from the profession itself and from other sources before making that . . . decision.

We have not, Madam Chairman, had before us the results of that

with respect to this bill. So the expert advice that this government has verbally indicated they have sought has not been brought forward as rationale for it to the House. In fact, the comments made this evening by the same member were that the bill has been discussed with the Alberta Medical Association. Discussing and seeking advice by my definition are not the same thing.

I'm wondering as well -- the minister mentioned that he would be seeking expert advice from other sources, but we have not had the opportunity of hearing the results of those consultations, if in fact they occurred.

In my opinion, Madam Chairman, there are still too many questions with respect to this Bill to be able to justify it as a prudent and well-thought-out piece of legislation. It is anticipatory in light of the fact that we have clearly in this province said that we want the public system strengthened, not eroded, not undermined. In essence what this bill proposes is an amendment to the Alberta Health Care Insurance Act that would allow for the practice of physicians in a private, for-profit fashion. The rationale for that type of action is still not clear.

9:40

The sections amended, particularly the terminology used, opting into, opting out, to me, Madam Chairman, are going to propose a lot of bureaucratic headaches which perhaps this government has not fully anticipated. We have seen chronic shortages of physicians and specialists in some areas in this province. We've seen a dramatic exodus in some specialty areas by physicians as a result of the restructuring and the funding cuts of the last five years. I don't see that the bill proposed this evening is going to curtail those occurrences. In fact, what it will do is facilitate physicians who already have operational status in the U.S. to be able to practise in a private manner in Alberta.

Many of the members of this Assembly, I'm sure, will be familiar with telemedicine. There would be really no barriers to a physician who wanted to operate from the U.S. practising through the process of telemedicine in Alberta as long as they have complied with this bill. That is not something, Madam Chairman, that I think we've really anticipated in a clear fashion in this Legislature.

Of course, this is like an equation. There are two parts at least to every equation. Physicians opting out is one part, and obviously the other part was to establish the facilities or a place in which those physicians would practise. That brings me to another point of the debate. I'm really wondering: where would these physicians practise? I'm wondering if a member across the way could point that out to me. If they've opted out of the Alberta Health Care Insurance Act, then where are they going to practise? I would assume that they won't be practising in a public hospital. We do have some private clinics, and a number of those have been called into question by a complaint laid by the Consumers' Association, which I referenced earlier. So I'm wondering: what is the reason for allowing physicians to opt out when there is no obvious practice? Will not the passage of this bill just create additional rationale that we therefore need to facilitate the establishment of private facilities?

It's a dog chasing its tail scenario, Madam Chairman, and I think that in light of the enormous opposition the government received to Bill 37, the prudent and reasonable thing to do would be to withdraw the companion bill, or the "son of" bill, at this time, allow the process the government has announced in terms of the summit and the panel to proceed, although I'm not by any means totally endorsing that process. I've had cause to be part of those in another position at a point in my career, and I think that

in many respects what we're seeing in this government is a pattern where when changes are proposed and consultations occur, the changes and directions have already been determined, and the consultations are nothing more than a facade to market the reforms. So there are many aspects of the bill that are not clear.

One of the aspects that the minister referred to when he announced the amendments to this bill were physician group representatives -- I'm just referring back to a comment made earlier -- and I am not sure who those representatives are. I don't believe the minister has provided that. What does physician representatives mean in reference to the organized bodies that represent physicians, like the Alberta Medical Association and the College of Physicians and Surgeons?

We have, I think, attempted to provide in a very reasonable way some thoughtful questions to the government with respect to this bill and its intent and its impact. I hope that there will be further debate on the act as amended and that we'll have an opportunity to have some of those gray areas clarified, Madam Chairman.

With that, I am prepared to conclude my debate at this point in time. Hopefully we will have some further discussions on the bill at this stage. Thank you.

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

MR. WICKMAN: Basically the point, Madam Chairman, that I just had some questions I'd like the minister to respond to prior to final consideration at committee stage or final consideration of passage of Bill 21. The minister really hasn't responded, hasn't stated specifically as to why there's an urgency to pass this bill during this particular session, why it can't be postponed until a later date. I think the minister has a responsibility to inform this House as to why it is necessary to go ahead at this time.

Secondly, Madam Chairman, the minister made reference to one doctor opting out of the system at the present time, a Dr. Bakken out of Red Deer. If only one doctor has opted out, of the entire province -- if I heard him correctly, that was my interpretation of what he said -- has there been an indication from doctors and physicians that there are a number of them that do want to opt out, that they in fact want to have this legislation passed so they do have the opportunity of opting out? If so, the minister again has a responsibility to bring that forward.

If Bill 21 is not a companion bill to Bill 37, why was it brought forward at this time? What other rationale is there to it? Is it just a coincidence that the two bills are on the same Order Paper? Are they two separate bills that have no relationship to each other?

Possibly, Madam Chairman, the minister could respond to that. Possibly he feels there is some need to pass this bill because it may have something to do with some of the current contract difficulties we've seen with some components of the medical field, some threats of billing directly, whatever. Possibly that's what has led to having this bill brought forward. Are there comments the minister can table in the House that have come from doctors expressing their opinions on this type of legislation or even from the College of Physicians and Surgeons? In other words, there is a lack of information as to why there's a requirement for the bill to proceed at this time. I think the minister should give consideration to these questions and try and answer some of these questions. Or just simply hold this bill at this time and say that we'll do the proper thing and lay the bill over until after the discussion plan that the Premier referred to and the minister has referred to goes ahead.

MR. JONSON: Madam Chairman, I'd like to make two points,

both of which I believe I've made before, but in response to the last two speakers I would like to make them again. One is, first of all, that the speaker previous to the last seemed to connect this somehow to the privatization of whatever. The point here is that if you go back in history to the time that medicare or the public health care system was established -- we go back, I guess, to the report of Emmett Hall and even before that -- as the Canada Health Act came into existence, as in Saskatchewan prior to the Canada Health Act coming into existence, there were negotiations and agreements made with doctors with respect to their joining in to the public health care system. One of the agreements that was made at that particular time in general terms -- and it differs in terms of the clauses in provincial legislation across the country -- is that there would be an opting in and opting out or, quote, a voluntary set of clauses in legislation. So there was a means for an individual doctor to choose to opt out of the health care insurance plan in our province. It might be called something else in Saskatchewan. That is why we have this type of legislation or this type of provision in the first place. It's something that has existed for a long time. There is no connection with any allegation about private versus public health care. This was something that was part of the birth, you might say, of public health care coverage in this country. That was one of the accommodations that was made with the medical profession.

9:50

The second point that I would like to make -- and I'm not wanting to in any way offend the hon. Member for Edmonton-Rutherford -- is that it seems to me in his argument he is saying: "Why make amendments at this time? Let's wait until there's a crisis as a reason for doing it." In any case, Madam Chairman, what we're trying to address with this amendment -- and I think it does do so -- is to provide a reasonable set of time lines, a reasonable set of procedures so that the original agreement, the original provision for a physician to be opted in or opted out of the medical care insurance plan is respected, a reasonable set of time lines and a reasonable set of regulations or a body to refer a question to when, as has at least been threatened or proposed during the last round of negotiations by certain sectors of the medical profession, they were proposing that possibly they would opt out to put pressure on the negotiations. That has never been the intention of that original provision in health care legislation to respect sort of this individual opting out and opting in provision for individual doctors.

We as government prefer to put in place ahead of time a revision to the rules to deal with this particular situation. If you say don't do it now and then don't do it next year and don't do it next year, then we're going to be into another round of negotiations, which of course we hope will go constructively and which our recent round of negotiations actually did when all was said and done. Nevertheless, we do need to put in place the provisions, the rules of the opting in and opting out process beforehand. I'm sure the members across the way would criticize us if perhaps we were in some type of confrontation in these negotiations and we tried to all of a sudden bring in legislation. Let's do it ahead of time. Let's get the reasonable rules in place so people know what we're working with, and therefore we work from that base.

THE DEPUTY CHAIRMAN: Which one of you? Edmonton-Norwood?

MRS. SLOAN: Go ahead.

MS OLSEN: Thank you. Madam Chairman, I just want to make

a couple of comments. First of all, I guess, we see this particular bill on the floor, and obviously our health care system is in as much disarray as the amendment was or vice versa. Either way I have a real problem with the government's movement towards a public health system that slowly encroaches on the private sector or where the private sector now has a climate where it's beneficial for them to look at other options. Opting out is one of them, and if we create the right climate, then the right market will exist. We've created a very unfriendly environment for doctors in Alberta, and as a result of that we now have to have legislation that allows for them to opt in or opt out. I find that a bit curious when we sit back and look at what we are supposed to do as legislators and what government is supposed to provide for citizens of this province. So now we need rules, rules for doctors so they can either be private or they can be public, or maybe there's a mix here. I have a lot of concern about the direction that this bill takes us, very much and very similar to the direction that the now dead or not dead Bill 37 is taking us or the direction that it was going in.

I also am very concerned that we end up, Madam Chairman, with -- and I recognize your comments earlier that we all make mistakes, but this is significant legislation. This is a government bill. This is drafted by the government, brought forward by the government. Every ounce of care should be taken when a bill is put forward, and obviously with this amendment that care wasn't taken. I have a lot of concerns when we're sitting in this Legislature debating bills and debating amendments with such serious flaws. We've seen that in this Legislature not once this session but several times. If we reflect back to Bill 25, the Justice Statutes Amendment Act, we ended up with 10 or 12 pages of amendments to one particular bill. So I think it's time, and Albertans deserve the best legislation put forward. The arguments that arose in this House just simply shouldn't occur around whether or not -- if we don't know what's happening in the House over these amendments, then I think Albertans need to be asking questions.

If the House leaders don't know and the Leg. action committees don't know and the minister doesn't know, what message are we sending to Albertans about the state of public health care when a bill that everybody should be very familiar with on the government side comes forward and has the serious flaws that this one does? So I would urge all members of this House to look at what's being put forward and to reflect on what it is that we're supposed to be doing. We're supposed to be passing good legislation, legislation that benefits all Albertans, and that's not what happened. I'm really appalled at the discussion that occurred earlier, and if I were to spend a couple of hours looking through *Beauchesne's Parliamentary Rules and Forms*, I would suggest that there are arguments to show that this particular amendment is probably one that should have been withdrawn and a new one submitted, but that didn't happen.

THE DEPUTY CHAIRMAN: We are not dealing with that. That is . . .

MS OLSEN: I'm well aware. I just want to point out my concerns with it. I think Albertans deserve good government and they deserve good legislation, Madam Chairman. I think I need to urge all members in this Assembly to do that.

Thank you.

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

MS PAUL: Oh, thank you, Madam Chairman. You say that with

such enthusiasm. I am delighted to stand and speak to Bill 21. I am delighted, positively delighted.

Anyway, I'm just going to make a few observations. I did speak to this bill, Bill 21, last spring. I've actually had the unfortunate mishap of visiting a few doctors' offices over the last few months, and they're absolutely opposed to this bill. They have . . .

AN HON. MEMBER: Why?

MS PAUL: I hear a question over there: why? Well, I'll tell you why, now that you've asked. They're wondering why the bill is being presented in the House at this time when in fact there's going to be a consultation process on the health care system probably in January and February. So they're thinking perhaps we should wait and have full input.

There were no comments made with respect to buddying up or parenting this bill with Bill 37, as the hon. minister has already made comments on. They're wondering why the bill is so heavy-handed, why there's such stringent criteria to this bill when in fact there's only one doctor in this province who has actually opted out. What was brought up to me is that there are approximately 4,670 physicians practising in Alberta, and with only one opting out, it kind of makes you wonder why we need this legislation. I know the hon. minister tried to explain that it's sort of fending off a crisis in our health care system, yet I don't see the rationale for an opt-in, opt-out bill such as this, written in this manner, whether amendments have gone through or not, that can address the concerns that physicians have brought up.

10:00

Madam Chairman, I really do believe that it would be prudent on the government side, just as they pulled Bill 37, to perhaps wait until there is more consultation and it looks like everybody, then, is joining in and being part of the making of a bill similar to 21 but with amendments that will be palatable to all Albertans. I think the comments made by one of the doctors who I did visit indicating that this is really quite a heavy-hitting bill -- and as I've already pointed out, they are wondering, you know, just exactly why when there is only the one doctor that has moved to that position.

So, Madam Chairman, with those comments, I'll take my seat.

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

The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you, Madam Chairman. I just have a few comments at this time on Bill 21, and that is that I would encourage the government to pull this bill, just like they did with Bill 37. It's obvious after the events of this evening that the bill was drafted in haste. Let's be cautious about this. Let us put this before this blue-ribbon committee and see what happens, see what they have to say about this.

With those comments, Madam Chairman, I shall take my seat. Thank you.

THE DEPUTY CHAIRMAN: Are you ready for the question?

The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thanks, Madam Chairman. Most of the concerns about Bill 21 have been put on the record. The Minister of Health and I were having an interesting discussion during the interlude about some of the dynamics of Bill 21 once it was implemented. I still have some concerns that once this bill is

passed -- and it seems clear that the intent of the government is to see to it that their majority is used to bring Bill 21 into law -- we may be setting ourselves up for a number of conflicts that probably weren't anticipated or, if anticipated, haven't been properly safeguarded. If the intent of Bill 21 is to restrict the ability of physicians to practise or to get billing privileges or to operate in one community of the province as opposed to another part of the province, then I would say that the government is setting themselves up for a number of very significant legal challenges. Other jurisdictions across this country have tried similar kinds of tactics with doctors, and they have all failed.

The government says that it needs to be able to protect the interests of Albertans by ensuring their access to physicians, but Bill 21 in fact doesn't do that nearly as well as it provides a blueprint or a road map for physicians who would choose to opt out of medicare and proceed to help create a second tier, a full tier of private medicine. So if the government's intent is a pure one, which is to protect Albertans and to protect their access, then I would suggest that Bill 21 is even more flawed than our earlier debate this evening would indicate.

If, for example, a physician opts out of the plan but happens to practise in a family practice in a small community somewhere in this province and then a year later decides to opt back into the plan, that physician may find that the vacuum they created when they left had been filled by another physician, a new physician, practising in that same community. At some point the government is now going to be called upon, and through this bill, actually, the hot potato will be thrown into the laps of the College of Physicians and Surgeons to arbitrate between these two practitioners and determine which one of them has the legitimate right to earn a living in the practice of medicine.

Now, the college may be put into the very untenable position of being both the licensor -- right? -- the ones that are going to say, yes, you're a competent individual to practise medicine in this province, and also the censor in terms of being put in the position of saying: while we adjudicate you to be competent to practise medicine, we're not going to allow you to carry on that practice in your chosen locale because somebody else is already doing so. Well, that seems to me to be unacceptable.

So the reality is that the physician may very well find himself having to litigate for the right to practise, and we may see ourselves in all kinds of interesting situations where the government is being held to be legally responsible for the loss of income, perhaps, of that physician, because after all, the college is only doing what the legislation brought in by this government would have them do.

There is also of course, Madam Chairman, another possible scenario, and that is the one that we always believed was at the heart of Bill 21 to begin with. That is that while out of one side of its mouth the government was saying, "We believe in collective bargaining and the negotiating process, and we wouldn't prejudice that, and we're going to go ahead and negotiate with the AMA," out of the other side of its mouth it was bringing into the Assembly this bill which was clearly a negotiating tactic, a labour relations vise to tighten around the province's physicians as they were negotiating with them. So while they were saying, "We trust the negotiating process," what they were also saying is, "And if we don't get our way, we'll simply legislate you into submission," telling doctors: we're not going to let you opt out.

Now, admittedly, they have backed off on that just a little bit. They're saying, "We'll no longer require that you seek our permission, but you have to inform us in such a way that it's still a fairly onerous process for a physician," a process, I would argue, that no other professional man or woman in this province

really has to go through as they determine how it is they're going to legitimately pursue their chosen professional career.

Hmm, 10:10. The bottom line is that Bill 21 was born in this crucible of, you know, high-stakes labour negotiation. It sort of passed through this Bill 37 phase, companion piece to the government's plot to bring more private health care into the province, and it's sort of this reverse metamorphosis. You know, usually a cocoon becomes a beautiful butterfly and takes wing, and it's something to behold. Instead what we had was a . . .

10:10

MRS. SLOAN: It's been a series of mutations.

MR. SAPERS: Thank you. That's very good. Instead what we've had is this cocoon has mutated into something ugly, deformed, unsupportable, and grotesque. So I would unfortunately have to submit that at committee I cannot support these amendments to the Alberta Health Care Insurance Amendment Act.

[The clauses of Bill 21 as amended agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 2

Conflicts of Interest Amendment Act, 1998

THE DEPUTY CHAIRMAN: We adjourned and we were finished with the amendment. So are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Edmonton-Norwood.

MS OLSEN: Okay. Could you just clarify for me, Madam Chairman, the amendment that we left on? Has everything been voted?

THE DEPUTY CHAIRMAN: Everything has been voted on, hon. member.

MS OLSEN: It has?

THE DEPUTY CHAIRMAN: Yes.

MS OLSEN: Okay. Then I put forward to you another amendment.

THE DEPUTY CHAIRMAN: Okay. This will be the fourth amendment, and we'll deem it A4.

MS OLSEN: A4? Okay.

THE DEPUTY CHAIRMAN: Will you give us a few minutes to get it distributed?

MS OLSEN: I will indeed.
Are we ready, Madam Chairman?

THE DEPUTY CHAIRMAN: Yes, hon. member. We will call this amendment A4.

MS OLSEN: Thank you, Madam Chairman. I'd like to move that Bill 2 be amended as follows: that section 8 is amended in the proposed section 14(4)(e) by adding "taxes under the Income Tax Act (Canada), taxes under the Alberta Income Tax Act, taxes under the Alberta Corporate Tax Act" after "except" in the amendment.

My concern is that section 8 presently reads:

The following shall be excluded from a public disclosure statement unless the Ethics Commissioner is of the opinion that disclosure of the asset, liability, financial interest, source of income or information is likely to be material to the determination of whether or not a Member is or is likely to be in breach of this Act.

If you look down to (e) in the current act, it says "unpaid taxes." I would want to know why we would want to limit that to unpaid taxes. Why not include all of the taxes that we as Members of the Legislative Assembly are obliged to pay? Under that comes those acts I have mentioned. We should be concerned that if there are income tax bills outstanding, any unpaid taxes to the province or to the federal government, then we need to disclose that, and certainly we need to understand why that's occurring.

[Mr. Shariff in the chair]

By virtue of the position we hold, we as legislators need to be responsible and need to be an example to the rest of Albertans and ensure that our taxes are all paid. That is all our taxes, not just property taxes. I do not understand why it would be acceptable to not include those unpaid taxes in a disclosure. I would think that in order to set the best example, that would be an appropriate provision under this act. If there is a member who has unpaid income tax or whose Alberta taxes are not paid . . .

Chairman's Ruling Cellular Phones in the Chamber

THE ACTING CHAIRMAN: Hon. member, if I can just interject for a second. It has been brought to my attention that there is somebody in the House using a telephone. That's not allowed. If there is anyone, would you please stop and refrain from using a telephone in the House.

You may proceed now.

Debate Continued

MS OLSEN: Thank you, Mr. Chairman. I guess I would like to know the government's side as to why they do not feel compelled to add federal income tax and Alberta income tax into this act. Why not broaden that definition? Why not look at the bigger picture and look at the Members of the Legislative Assembly owning up to the liabilities we have? In fact, when I look at other things that we do disclose, including whether or not a credit card has been outstanding for three months, I would like to know why we wouldn't have this, which in my view is a far more serious default than anything else. Those taxes are owed to the very people that we in fact represent. In fact, why would we want to be seen as being forgiven for not paying these taxes?

With that, Mr. Chairman, I will take my seat, and maybe the Minister of Justice could justify why he doesn't want to include those specific provisions.

THE ACTING CHAIRMAN: The Government House Leader.

10:20

MR. HAVELOCK: Yes. Thank you, Mr. Chairman. Actually

the hon. member across the way that was proposing the amendment answered her own question, because she did quote from the amendment. I will also quote from it, where it states:

unless the Ethics Commissioner is of the opinion that disclosure of the asset, liability, financial interest, source of income or information is likely to be material to the determination of whether or not a Member is or is likely to be in breach of this Act.

So, Mr. Chairman, the bottom line is that the Ethics Commissioner has the flexibility to determine whether or not this type of information should be disclosed.

Typically, Mr. Chairman, information regarding one's taxes is confidential. It is a matter of personal privacy. For example, taxes may be unpaid because there happens to be a dispute with the particular taxing authority. In any event, there is also some mention as to corporate taxes, whether those are paid or not. That shouldn't be included, because the corporation is not the member; the corporation is not subject to the provisions of the Conflicts of Interest Act. I would have some concern if there were no provision with respect to the Ethics Commissioner being able to disclose the information, but there is some flexibility on the part of the commissioner to do so, and I think it's much more preferable from a privacy perspective that the Ethics Commissioner have that flexibility while maintaining some degree of privacy for the members of this Assembly.

SOME HON. MEMBERS: Question.

THE ACTING CHAIRMAN: The question has been called on amendment A4 on Bill 2. All those in favour of this amendment, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: All those opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: The motion is carried.

[Several members rose calling for a division. The division bell was rung at 10:23 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mrs. Gordon in the chair]

For the motion:

MacDonald	Olsen	Sapers
Nicol	Paul	Sloan

Against the motion:

Boutilier	Graham	McClellan
Broda	Haley	McFarland
Burgener	Hancock	O'Neill
Calahasen	Havelock	Paszkowski
Cao	Hlady	Renner
Coutts	Jacques	Shariff
Day	Jonson	Stevens
Evans	Laing	Strang
Forsyth	Langevin	Yankowsky
Friedel	Mar	

Totals:	For - 6	Against - 29
---------	---------	--------------

[Motion on amendment A4 lost]

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

MS OLSEN: Thank you, Madam Chairman. I now would like to move another amendment, and I would hope that the hon. Government House Leader is with us on this one too. So that would be A5.

THE DEPUTY CHAIRMAN: Yes, and we're just distributing it.

MS OLSEN: The last one, A4, we'll submit for evidence.

THE DEPUTY CHAIRMAN: I think you can start, Edmonton-Norwood.

MS OLSEN: All right. To make it clear, this would be, Madam Chairman, A5. I move that Bill 2 be amended as follows: section 13(a) is amended in the proposed section 23(4.1) by striking out "only." The reason I move this amendment is that under section 23(4.1) it states:

The Ethics Commissioner may re-investigate an alleged breach in respect of which the Ethics Commissioner's findings have already been reported under this section only if, in the Ethics Commissioner's opinion, there are new facts that on their face might change the original findings.

Well, Madam Chairman, I would like to see this section be less restrictive. This would allow the Ethics Commissioner the discretion to reopen an investigation if he just believes that there are new facts. Now, it may not necessarily on the face of it change the outcome, but certainly any new information on a particular investigation should be allowed in the face of the whole investigation. Therefore the Ethics Commissioner would have that discretion.

I think about some of the specific cases I may have investigated as a police officer. Certainly new information may come to light in an investigation. That new information may not in fact change the outcome of the investigation or the charge, whatever it is, but it may in fact end up being supporting information or it may be nothing. But I think that if we don't allow that discretion to the Ethics Commissioner, then you never know how that outcome may have changed if you have such restrictive guidelines.

I can think of some instances where in fact it would have been nice to be able to have the Ethics Commissioner go back and assess new information. As I say, it may not necessarily change the outcome, but certainly to take that information at face value, to see what impact it has on his observations, and certainly look at it as it's presented before him in good faith -- I think that is where we want to go with this kind of legislation.

10:40

Again, I recognize that we don't want legislation that's so onerous that we can't breathe. On the other hand, I think that we have to open the doors a little bit to the Ethics Commissioner and look at what his abilities are and ensure that he can investigate all matters and represent the findings of all matters in the best light. I think that if there's information that's not allowed, then in fact that can't be assessed or weighed against the original investigation.

So I would urge the Assembly to in fact adopt this. I look at this from all sides, you know, not just as an opposition member. What would I want to see if I was a government member? When the government changes, can I still live with this? I would say:

yes, I can still live with this type of amendment when I'm on the other side, when the Liberals are government.

So given that, Madam Chairman, I'll take my seat. I urge all members to support this.

THE DEPUTY CHAIRMAN: The hon. Minister of Justice.

MR. HAVELOCK: Yes. Thank you, Madam Chairman. If you look at the wording in this section, quite frankly the Ethics Commissioner is again allowed a great deal of discretion. Now, the word "only" is a little bit of wordsmithing. It could say "if" on its own, but that would exclude the Ethics Commissioner from looking at anything if there weren't "new facts that on their face might change the original findings." I mean, we're doing a little bit of splitting of hairs here. The discretion is very extensive. It's "the Ethics Commissioner's opinion" if those new facts "on their face might change the original findings," and I think we've provided a lot of discretion and flexibility on the part of the Ethics Commissioner to make that determination, whether the term "only" is or isn't in there. So, quite frankly, I would urge and hopefully make it clear to all members of the House to not support this amendment.

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

MR. SAPERS: Thanks.

AN HON. MEMBER: Let's just vote on it.

MR. SAPERS: Gee, hon. member, there's a thing in this Chamber called debate.

I'm speaking in favour of the amendment. Maybe what I should do is say that I'm going to speak against it, and then . . . Oh, well, no. It wouldn't work. Not twice.

MS HALEY: You never know. You shouldn't give up so quickly.

MR. SAPERS: You're right, and it's unlike me; isn't it?

We've had just a couple of laughs tonight, Madam Chairman, but this is a very serious amendment, and the Government House Leader and Minister of Justice and Attorney General for the province of Alberta has suggested that it's just a little bit of wordsmithing, this taking out the word "only." I would suggest that words are very important, and what we do in this Assembly often is all about words and the nuance of words and which words are the best words. What we find in the proposed amendment to section 23 is a word that would have a chilling effect on any Ethics Commissioner and in fact sends a message that what the Legislature really hopes is that an Ethics Commissioner would never, ever act on the power allowed under this section. The inclusion of the word "only" is a direction from the Legislature to an Ethics Commissioner that it would be only under the most obvious, strongest circumstances that an Ethics Commissioner would be able to look at new information, to look at new facts.

Now, let's cast our minds back to when the eminent persons' panel was first put into place. It was put into place by the Premier in an attempt to help Albertans regain some faith in the conflicts of interests process in this province. We were embroiled in a scandal, a scandal that involved the Premier. The Premier called on Professor Tupper and others to review the conflicts of interest legislation and to strengthen it so that no member in this Chamber would be able to escape an appropriate consequence, nor would any Albertan be under any illusion as to the standards of behaviour and ethical decision-making expected.

So when the eminent persons panel gave their report, it included many recommendations. Not all of them were adopted by the government; some of them were. But the overall direction of those recommendations was to strengthen the act, to strengthen the hand of the Ethics Commissioner, and to make it clear to all Albertans what they could expect as a result of the conflicts of interest legislation in the province of Alberta. So I'm very troubled by the government's insistence on keeping this word "only." If it is as benign as the Minister of Justice would have us believe, then there is no argument in favour of keeping it.

The Member for Peace River has been on a quest to eliminate superfluous regulation for the province of Alberta and I would say is doing a good if not even zealous job of that. This government has been embarking on openness and transparency. I believe that's some of the language they use. Included in openness and transparency is plain language drafting, the use of fewer not more words to make yourself understood. So if it really is a matter of only this one word and if the real intent of the motion of the bill won't be impacted in the way that the Minister of Justice suggests, then that is in itself an argument to support Edmonton-Norwood's amendment. It would make the amendment more understandable, it would make the direction to the Ethics Commissioner more clear, and it would not have any kind of chilling effect on the Ethics Commissioner being able to look at new information.

Why would the elected members of this Legislature want to restrict the actions of the Ethics Commissioner? Shouldn't we be creating legislation that allows the Ethics Commissioner to operate at the highest level and hold us to the standard of accountability that the voting public would expect? I think the answer to that question is yes, and I think that that can be served in part by this amendment as proposed by Edmonton-Norwood.

So I hope that members will consider the strength of the argument. I can't flash this fast enough for it to be subliminal. I would encourage all members to once again do the right thing and vote affirmative to proposed amendment A5.

Thank you.

MS OLSEN: I just have a couple more comments. I'm just reflecting on my colleague's comments in terms of wordsmithing. I really believe that if you look at each word in a piece of legislation, it helps to determine and put into perspective really what a section will mean. I might remind the Minister of Justice about his comments regarding "notwithstanding," that they were some sort of technicality. So if you're going to talk about words, and you're going to talk about wordsmithing, you have to have an understanding of the impact the words you use are going to have in the legislation.

10:50

I perceive the word "only" to be very restrictive in nature, restrictive to the Ethics Commissioner. Sometimes when new information comes about, it may on the face of it not seem to have the impact that it's found out to have after investigation. So if we are to allow the Ethics Commissioner to do his job and to reinvestigate alleged breaches of the Conflicts of Interest Act, then I suggest that we do look at the wordsmithing. Just prior to this bill we saw what poor drafting does. We saw what words do to a bill or to an amendment. So I would ask the Assembly to look at the words in a bill and in a section. I would suggest that they do in fact mean something and that it's not a matter of splitting hairs.

Thank you.

[Motion on amendment A5 lost]

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

MS OLSEN: Sorry. I meant to give this to you prior to that last vote. I got thrown off. I'll wait a couple moments, Madam Chairman.

AN HON. MEMBER: She's not taking her time; she's taking our time.

MS OLSEN: Well, that's unfortunate. That's unfortunate that you feel you're time is being taken when you should be doing your job here debating.

THE DEPUTY CHAIRMAN: It's okay, hon. member. Come on.

MS OLSEN: That's a provocative statement. It opens the floor for debate.

THE DEPUTY CHAIRMAN: Hon. member, why don't you go ahead and . . .

MS OLSEN: Enter into that debate or the amendment?

THE DEPUTY CHAIRMAN: The amendment A6.

MS OLSEN: Thank you. Again, Madam Chairman, I'd like to move that Bill 2 be amended as follows. Section 14 is amended in the proposed section 25(1) by striking out "only" and in the proposed section 25(1)(a) by striking out "relating to the alleged breach".

If we review this particular section, it states right now that a report by the Ethics Commissioner to the Speaker of the Legislative Assembly under section 23(6) must be concise and may set out only the following:

- (a) the facts relating to the alleged breach found by the Ethics Commissioner, and
- (b) the Ethics Commissioner's findings as to whether or not the Member has breached this Act and, if so,
 - (i) the nature of the breach, and
 - (ii) the Ethics Commissioner's recommendation for the sanction, if any, that the Legislative Assembly may impose on the Member for the breach.

Again, we're looking at the restrictive nature of words and the fact that in 25(1)(a) if we remove the words "relating to the alleged breach" anything around the investigation then cannot be reported. You know, if we look back into some incidents that have occurred in this Legislature, I think that allowing the facts found by the Ethics Commissioner to be part of the report is responsible.

Why would you want to tie the hands of the Ethics Commissioner? If the Ethics Commissioner finds something else arising out of his investigation, then why would you want to prevent him from speaking about this issue? We know that some of these incidents have happened in this Assembly where in fact a member was investigated as a result of something arising from outside an investigation. I think that allowing these amendments would reflect the intent of the Tupper report: open and accountable, as this government so often says they are. I think that in fact would allow this government to be put in a little bit better light. Maybe they might actually mean what they say by adopting these.

Yes, it's words, and, yes, it is striking out some very restrictive natures, but what happens if the Ethics Commissioner finds another breach or an alleged breach out of what he's investigating? This ties his hands in his report to the Assembly. He can no longer deal with that. I think that in fact is not what we want

and is not the intent of this legislation. We want him to be able to probe further if he needs to into any other potential issues arising out of an investigation, and I think that is the responsible thing to do. It would avoid any scandals such as the one we found one of our hon. members in not too long ago. I think the best thing to do is not to tie the hands of the Ethics Commissioner and to allow him to do his job. If we have an Ethics Commissioner, we can't restrict what he does. Otherwise what is the point in having legislation? It becomes symbolic. It doesn't have any teeth.

With that, Madam Chairman, I urge the Assembly to support this particular amendment.

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

Maybe the hon. minister will clarify.

MR. HAVELOCK: Let him go ahead. Go ahead, Howard. Oh, thank you. We're so polite tonight.

Madam Chairman, the government examined this portion of the bill, and we quite frankly feel that we've provided the Ethics Commissioner with sufficient scope to conduct a good investigation. We need to keep in mind that when an original complaint is made, we should have the Ethics Commissioner focusing on that original complaint. If something arises at a later date, then there is some flexibility on the part of anyone to bring that other matter forward for further review by the Ethics Commissioner. We feel that the provision is not overly restrictive and simply facilitates the Ethics Commissioner doing his or her job.

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

MR. SAPERS: Thanks, Madam Chairman. The proposed amendment is exactly that: it is restrictive. In fact, I was hoping that I wouldn't have to make these comments, and the reason why I deferred to the Minister of Justice at that very moment was because I expected to hear a robust defence of the changes proposed in proposed section 14, amendments to section 25(1).

Now, for just a moment we should look at the existing wording in the current Conflicts of Interest Act. Section 25(1) reads in part:

A report by the Ethics Commissioner to the Speaker of the Legislative Assembly under section 23(6) shall set out

- (a) the facts found by the Ethics Commissioner.

The proposed amendment first of all constrains the work of the Ethics Commissioner by using the words "must be concise" and "may set out the following" and further constrains the Ethics Commissioner by saying the facts "relating to the alleged breach."

The Tupper commission report did not set out to restrict the jurisdiction or the scope of work of the Ethics Commissioner. The Premier did not call for the eminent persons panel to find ways to neuter the Ethics Commissioner. The Premier said that he was interested in strengthening the Conflicts of Interest Act. There was nothing in the Tupper commission report that suggested that the Ethics Commissioner should be hamstrung by what he may or may not report on as a consequence of his investigation. Remember that the investigation and the complaint is one part of the process. But what the Ethics Commissioner may find may still be of great importance not just to the men and women of the Assembly but to the voting public.

In other circumstances, Madam Chairman, I have heard members of the government talk about the Charter of Rights and Freedoms and the fact that police are being constrained by the Charter being narrowly interpreted and protecting the rights of the

accused and getting in the way of appropriate criminal investigation.

11:00

MR. DAY: Right.

MR. SAPERS: I hear the Treasurer agreeing with me right now. I don't know whether that will be recorded in *Hansard*. So I would expect the Treasurer to get up and argue in support of the amendment proposed by the Member for Edmonton-Norwood, because it's the same argument. It's exactly the same argument. Why would you want to restrict the Ethics Commissioner? Why would you want to say to the Ethics Commissioner, "We want you to keep one arm tied behind your back and one eye closed as you go about your business, and even if you find anything really important and interesting and germane to the proper administration of the Assembly and the discharge of our duties as members of the Assembly, we're not even sure we want you to talk about it, so even if you're able to discover something, we're not sure that we want you to report on it"? Because that's really the intent of the government's amendment.

The current wording goes on to read in section 25(1)(b):
the Ethics Commissioner's findings as to whether or not the Member has breached this Act and . . .
(i) the nature of the breach.

Well, the government would water that down to read: the Ethics Commissioner's findings of whether or not the member has breached the act and the nature of the breach and the Ethics Commissioner's recommendations, if any.

Again it seems to me that what the government wants is by sneaking in these amendments in the context of the imminent persons panel report, which was to strengthen the act -- what the government is really trying to do is ride on the coattails of that report, which probably has good public confidence, and sneak in these restrictive amendments, which would, if the public was fully aware of them, probably not receive tremendous public confidence. I think that's a very, very underhanded way of doing business. It's particularly ironic that the government would proceed with this manner of doing business when we're dealing with the conflicts of interest legislation.

THE DEPUTY CHAIRMAN: Does this pertain to amendment A6, hon. member?

MR. SAPERS: Absolutely. I just said that the government's proposed wording is sneaky, and what amendment A6 tries to do is bring it out into full daylight and make it much more palatable to the public.

THE DEPUTY CHAIRMAN: The hon. Government House Leader.

Point of Order Imputing Motives

MR. HAVELOCK: Yes. A point of order. I hate to raise it this late in the evening; however, Madam Chairman, 23(h), (i), (j), imputing motives, using language which is insulting, attempting to provoke debate. The government is not attempting to sneak anything through. In fact, when you table an amendment, it's very public. It's up for public debate. So this government is not sneaking anything through the House, and I'd appreciate the hon. member perhaps refraining from making those types of statements. This is a very public debate, as you can see. Albertans

are absolutely packed to the rafters here. They're very interested in this legislation, and they're also interested in us getting through this evening in a reasonable period of time.

THE DEPUTY CHAIRMAN: So I would ask you, hon. member, to stay within the parameters of amendment A6.

MR. SAPERS: Can't I respond to the point of order first?

THE DEPUTY CHAIRMAN: Well, I think basically it has something to do with the lateness of the hour and differences of opinion, et cetera. Let's just follow through on amendment A6. There is no point of order.

MR. SAPERS: I didn't think so either. Thank you, Madam Chairman. That's basically all I was going to say. This is a remarkable moment.

Debate Continued

MR. SAPERS: The point that I was making is not that any individual member of the government was being a sneak. I was simply saying that I found it ironic that this kind of restrictive change to the Conflicts of Interest Act, this kind of change that really makes the act less effective, would be brought in contained within a bill that is presented to the public on a silver platter as an initiative which strengthens the Conflicts of Interest Act. The difference between the words and the actions is an irony that is not lost on me and most other Albertans. I would say that if the government is sensitive about the point that I was making, they're correct to be sensitive. [interjections] I'm getting lots of encouragement from my colleagues to continue, Madam Chairman, so I think I will.

The changes being proposed by Edmonton-Norwood, to take out the word "only," that restrictive element of the act, and to also ensure that the scope of the investigation and the report are broad enough to be of consequence by removing the words "relating to the alleged breach" will do nothing other than restore the confidence of the government in the minds of Albertans.

So I would ask that all members of the Assembly vote for this amendment, because I truly believe that the intent of the Premier when he appointed the eminent persons panel and when the government introduced Bill 2 was to strengthen the act. I would suggest that it was only a misguided moment -- and we've seen many misguided moments in terms of proposed legislation this session -- on the government's part that brought in this troubling and restrictive wording. Maybe they'll do the right thing and vote to strengthen the act.

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

MS OLSEN: Thank you. I'd like to have the closing say on this. I just want to make some comments. The Minister of Justice stated that there was no public interest in this bill. I would argue very much that Albertans do care about conflicts of interest. Albertans do care about how we as legislators police ourselves and the legislation that we have to live by. I would only draw the attention of this Assembly to the Angus Reid poll that shows us at the bottom of the heap of most-respected professions. Quite frankly, I think that's a sad state of affairs when legislators are there at the bottom of the heap.

I really believe, Madam Chairman, that this amendment strengthens this act, and I take offence at the notion that this isn't

important legislation. If we don't deem legislation that's governing ourselves as important, we will never be able to get the confidence of the public in terms of what we do and what our role is in society.

I strongly urge all members to support this bill. Thank you.

THE DEPUTY CHAIRMAN: The hon. Minister of Justice.

MR. HAVELOCK: Very briefly. I certainly didn't want to leave the impression that this side of the House feels that this is not important legislation. I was simply referring to the fact that the galleries have absolutely no one in them. If we felt this was not important legislation, then we wouldn't be debating it at 10 after 11 this evening. We're committed to this legislation. We feel it is important.

[Motion on amendment A6 lost]

11:10

MR. HAVELOCK: At this stage I would like to move that we adjourn debate on this particular item.

THE DEPUTY CHAIRMAN: Having heard the motion by the hon. Government House Leader, does the committee agree to adjourn debate?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? It's carried.
The hon. Government House Leader.

MR. HAVELOCK: Thank you. I'd like to move that when the committee rises and reports, it report progress on Bill 2.

THE DEPUTY CHAIRMAN: Does the committee concur with the motion as moved by the Government House Leader to report progress?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

MR. HAVELOCK: I'd also be happy to move that the committee do now rise and report, Madam Chairman.

[Motion carried]

[Mrs. Gordon in the chair]

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

MRS. LAING: Thank you, Madam Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bill with some amendments: Bill 21. The committee reports progress on 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.

Thank you.

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

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? So ordered.
The hon. Government House Leader.

MR. HAVELOCK: Yes. Thank you. I'd like to move third reading of Bill 21. Kidding.

I'd like to move that the Assembly do now stand adjourned until 1:30 p.m. tomorrow.

[At 11:14 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

