

## Legislative Assembly of Alberta

Title: **Tuesday, March 9, 1999** 8:00 p.m.

Date: 99/03/09

[The Deputy Speaker in the chair]

THE DEPUTY SPEAKER: Please be seated.

head: Government Bills and Orders  
head: Second Reading

### Bill 14 Municipal Government Amendment Act, 1999

[Debate adjourned March 8: Mr. White speaking]

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

MR. DICKSON: Thank you, Mr. Speaker. I'm pleased to be able to join the debate on Bill 14. I sat here listening the other evening when there were a number of speakers talking about some of the issues and concerns with Bill 14. The one matter I had a particular concern with had to do with the provision dealing with mediation. It's absolutely apparent to me that if you look at section 43 in Bill 14 -- this would be the amendment to section 690 -- what you find there is a provision that really makes no sense.

What we're going to ask the mediator to do is to provide a statutory declaration. No particular problem with that. That statutory declaration has some elements. One of the elements is "(a) the reasons why mediation was not possible." Well, that's not an unreasonable thing to ask the mediator to swear under oath to. The second thing is

- (b) that mediation was undertaken and the reasons why it was not successful, or
- (c) that mediation is ongoing and that appeal is being filed to preserve the right of appeal.

Well, I can't imagine what mediator would agree to mediate under those circumstances. I used to do mediation when I practised law, and I had lots of opportunity to talk to people involved in mediation, not just in the family law context but in the commercial context as well. What any mediator would tell you is: I can't tell the people I'm mediating with that at the end of the day I'm going to sit in judgment and assign blame, that I'm going to decide who has been obstructionist, who's been unreasonable, who won't budge. There is no faster way to undermine a mediation process than to compromise the neutrality and the independence of the mediator right from the get-go. That's what's provided for here.

I remember that my colleague for Edmonton-Norwood raised this the other day, and to my knowledge no one in debate on this bill has satisfactorily responded to that concern. In fact, I remember raising a similar concern when we looked at a bill two years ago. I don't even remember what the context was other than there was a proposal that a mediator is going to also be the chief rat fink. I don't know whether that's an unparliamentary word, Mr. Speaker. I wasn't referring to a member. So it's clear; I wasn't referring to any member.

You simply cannot put a mediator in the position of trying to be judge as well as somebody trying to facilitate a settlement. What I'm talking about is on page 17, and I'm looking at section 43(b) and the provision there about a statutory declaration, one of the elements.

So I think whoever authored this either doesn't spend very much time doing mediation or doesn't talk to enough mediators. It's such an elementary principle that mediators have to be fair and neutral and objective. You know, if we were in some kind of an arbitration process, that would make sense, but the thing that makes mediation

such an exciting and productive process is that the two parties feel safe, not in a physical sense but that their interests are not going to be unfairly compromised without their consent. What happens when you have a mediator who becomes a sort of judge as well is that the parties are going to be less forthcoming; the parties are going to be less candid. That's the antithesis of the environment you want for successful mediation.

Now, in the grand scheme of things, of all the municipal government issues this is not going to bring municipal government to a screeching halt, this single element. I understand that this bill is brought forward as part of our annual ritual of dealing with amendments to the Municipal Government Act, and I understand that the other changes are necessary to ensure that municipal government works for the benefit of Albertans. But this particular section 43 just mystifies me, because I can't understand it. It's such an amazingly naive element to require from a mediator that I think that there was just some error, that maybe this was something that somebody penned without due thought.

Actually, it seems to me, Mr. Speaker, that we may be in a position with the Municipal Government Act that this can be a sort of standing item on every legislative agenda, sort of like we have some standing committees. I mean, this could be Bill 1 every year, and we'll just always know it's coming, and it's got its place.

DR. TAYLOR: The Standing Committee on Law and Regulations. Has it ever met?

MR. DICKSON: And number 2 will be the Standing Committee on Law and Regulations proposals. There should be some constants. I see the Member for Banff-Cochrane is here paying rapt attention, because I expect we'll be talking about Law and Regulations a little later. No matter how hard I've looked, I don't think this bill lends itself to the infamous Law and Regulations amendment. Believe me, if I thought it could fit, I'd try to shoehorn it in.

I don't want to take away from what I consider to be a very legitimate objection. We can say things in good fun in the Assembly, but there's a time to be serious. When it comes to this particular problem on page 17 of the bill, this is a legitimate concern. I know that we have some people in this Chamber -- I expect the Member for Calgary-Glenmore certainly knows how mediation works. I know that the Member for Calgary-Lougheed does. I suspect that the Government House Leader has probably tried his hand at doing some mediation. You know, I'm going to invite any of these people to stand up. If I'm all wet, I'm expecting one of these veterans of mediation to stand up and offer a contrary version for members this evening.

I think, Mr. Speaker, that the point has been made. The only other point -- if people were listening to me referring to section 43(b), I also refer them to the further provision in (c), where the statutory declaration sets out

- (a) the reasons why mediation is not possible, or
- (b) that mediation was undertaken and the reasons why it was not successful.

So two different situations where a mediator is being asked to play the role of judge.

Mr. Speaker, for the most part it looks like the other provisions in the bill are earnest and straightforward and probably quite helpful. The other problem I note is in section 6, on page 2 of Bill 14, where there's an attempt to define mediation in the new section 112.1, and I see the comment:

"Mediation" in respect of an annexation means a process involving a neutral person as mediator who assists the initiating municipal authority and the one or more municipal authorities from which the land is to be annexed . . .

et cetera, et cetera, et cetera. It goes on to say on page 2 of Bill 14 that this mediator shall assist the parties

to reach their own mutually acceptable settlement of the matter by structuring negotiations, facilitating communication and identifying the issues and interests of the participants.

**8:10**

Well, Mr. Speaker, the mediator, because of the provisions I referred to a moment ago and the statutory declaration, that one element, is not going to be able to do that. The mediator is sort of like a bird with one wing being tossed out of the nest. As the bird falls to the ground, so the mediator is going to burn and crash as well, because the mediator has been compromised before he or she even starts. That's surely not what the municipalities want. Surely it cannot be what the Minister of Municipal Affairs would want, and surely no other member of this Assembly would want to see that sort of change.

Those are the concerns that I wanted to raise at this point, Mr. Speaker. Thank you very much.

**THE DEPUTY SPEAKER:** The hon. Member for Spruce Grove-Sturgeon-St. Albert.

**MRS. SOETAERT:** Thank you very much, Mr. Speaker. I just wanted to make a few brief comments. I was here back in 1994, when this huge piece of legislation came in. I was rather new at reading this legislation, and I just thought to myself: I am so glad that's not my portfolio. [interjections] I was. It was the good member Terry Kirkland from Leduc. I miss him, but that's another story. [interjection] So every . . .

#### **Speaker's Ruling Decorum**

**THE DEPUTY SPEAKER:** Hon. members on both sides, who will for the moment remain nameless, we're still going by the convention in the Assembly that one person speaks at a time. If we could observe that throughout the evening, it would improve debate considerably. The hon. Member for Spruce Grove-Sturgeon-St. Albert is the only one speaking.

#### **Debate Continued**

**MRS. SOETAERT:** Thank you, Mr. Speaker. What a good call.

I just want to say that we've seen an amendment to this piece of legislation every year since. I realize it was a huge project at first, and I believe the Member for Lacombe-Stettler brought it in, did a lot of work on that one, and probably in her past life as a mayor was very involved in the original writing of it. She sponsored that. I know that it was a huge piece and that we have seen amendments ever since. I guess that's going to continue just by the simple fact that needs in municipalities continue to change, and as new situations arise, they're going to need amendments to the act. I realize that generally we need some of these amendments, and they've come from municipalities for the most part.

I do notice -- and I know it's something that they are certainly asking for that is not in this legislation. They would like some stability in funding. Just let them know for three years, rolling grants, what's going on so that they have a three-year budget plan so they can address their issues with a little bit of stability. That's not in this piece of legislation. But ever so hopeful, that could come out on budget day. It's something we've been requesting for a couple of years now, and it may be something that this government took from us. Good idea. Any of their good ideas usually stem from this side of the House, anyway, Mr. Speaker. [interjection] No, no. This Liberal side of the House. Let's really clarify that.

A few questions and concerns about some parts of the bill, which I think we'll get into in Committee of the Whole, about street lighting and regulated electricity supply, the third-party sellers. Is that going to trigger because of the eventual privatization of the electric utilities, which stems from last fall's debate on that? If that's reaction to that, I'd love an explanation.

To establish maximum fees for assessment complaints and to add mediation as a prerequisite to dispute hearing. I think those concerns on mediation have been expressed quite well by my colleague from Calgary-Buffalo, so I won't repeat them. I know people would like to hear me repeat them, but I don't like to waste time in the Assembly.

So I just want to express that I know it's a constant battle with my municipalities to keep up with the legislation and what's changing and what's new and what's coming down and their involvement, and I do appreciate the fact that the minister does take the time to meet with us and explain some of the legislation and some of the changes coming back. I appreciate that, and if all ministers would do that, that'd be great.

So with those few brief comments I appreciate the opportunity to speak to Bill 14.

**THE DEPUTY SPEAKER:** The hon. Member for Edmonton-Centre.

**MS BLAKEMAN:** Thank you, Mr. Speaker. There's quite a competition on this side to speak to this bill. I'm having to arm-wrestle my way to the front of the line.

I would like to express my appreciation to the minister responsible on this bill. I think this was a very open process in arriving at the changes that are being made in this go-round of amendments to the MGA. I did find that it was a process in which I felt included, and I believe my colleagues on the Edmonton city council also felt included. There was enough time to give feedback. So I do present my compliments to the minister for that.

There are two areas that I know, in speaking with the city councillors that share my riding, they were particularly interested in. I see indeed that they have been included in the act, and I'm glad to see that. One is the issue of restoring right-of-way costs to the tax roll, and that indeed is in here. Now, I believe that there is general support for this from a number of municipalities, but a few little concerns or clarifications.

What's proposed in this amendment bill doesn't seem to address the issue of how a municipality can add the restoration of the right-of-way costs to the non tax roll licensees. So I guess the question is: should it be expanded to include the cost of the tax roll of the licensee when the licensee does not restore so that the municipality does not tax itself? It's also not clear what property is intended to bear the restoration costs. Is it intended that restoration costs could be added to any property owned by a licensee in the municipality? We often see that case, particularly in metropolitan areas, I think.

Specifically, I'm wondering if I've missed it or misunderstood. I know that the city of Edmonton was looking that the term "road" be specifically included in this expansion in adding this under the MGA. Perhaps I'm not reading the bill properly, but I would appreciate clarification on that.

**8:20**

The second issue that's of great concern to me in Edmonton-Centre -- and I know I've had discussions with my colleagues on city council about this -- is provisions to deal with derelict housing. Truly in Edmonton-Centre we have some of the oldest areas in the city of Edmonton, including a large portion of our riding is on the old Hudson's Bay reserve. As some of you may know, it still comes

with a covenant on it about how you may build and what you may build.

In these older districts, it's not surprising, you do end up with some houses that just fall into disrepair, and no one is interested in putting the money in to get them up to snuff again. I've watched this happen quite a bit, where they get less and less attractive and each group that moves in is less interested in putting money into doing any kind of improvement or upkeep to it. It really truly does become derelict housing at a certain point. It has been difficult for the city to deal with it, I mean, if they are trying to chase down landlords and make them do this and they are not forthcoming with it. They have been hampered in their efforts, so I'm pleased to see that there is something being done. Hopefully, it'll provide further enforcement options to deal with the problem of derelict housing for those municipalities that have that sort of issue.

Those were really the two issues that I wanted to speak to at this stage of the bill. I'm interested in certainly what further amendments will come forward in Committee of the Whole. With those few remarks, that's all I intend to say at this stage of the bill.

Thank you.

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

DR. MASSEY: Thank you, Mr. Speaker. I would like to make a few comments at second reading of Bill 14, Municipal Government Amendment Act. At this stage of the bill we're usually concerned about the principles that underlie a bill, and it seems to me that one of the principles that has been very important to municipal councilors and local government officials of all stripes has been the importance of having the ability to make decisions that really affect local communities and, in making those decisions, that the decision-making that they have the power over is appropriate and is one where they have the responsibility to act upon decisions that they make. I think if you look through the provisions of Bill 14, you'll find that it does a pretty good job of adding to the responsibilities and the decision-making power of local authorities, in this case municipal councils.

You can look through many of the provisions, whether it's the provisions on street lighting, which widens and makes more inclusive the kinds of powers that they have. If you look at the provisions on the effective enforcement of municipal bylaws, again it expands the powers of the councils. If you look at the method for determining business assessment value, it gives them more flexibility. If you look at the ability to vary local improvement tax rates, again it adds to the flexibility of councils in dealing with those issues. Under the assessments, complaints, and appeals it expands the authority of municipal councils. So as you go through the sections of the bill -- and we'll get to them for more detailed questioning at a later stage, Mr. Speaker -- there is much that empowers local councils, and I think it's the kind of power that is legitimately theirs.

There are a couple of areas where that doesn't seem to be the general case, and I think we'll want to come back after and ask some questions. The sections that deal with the appointment of municipal assessments seem to not follow the general rule of giving them more power and actually seem to curtail the power of municipal councilors to act. A second section where that seems to be the case is the establishment of maximum fees for assessment complaints. At least those two parts of the bill seem inconsistent with the notion of more power to make decisions at the local level.

Along with the principle that municipalities should have more decision-making power and responsibility to make the decisions that

affect their communities and the people who live in those communities is the need for them to have the resources to carry out their decisions. That's not part of this bill, but I think it's an issue that can't be separated from the bill, the need for adequate and predictable resources, so that when municipalities are doing their planning, they can do that with the assurance that the decisions they make can be carried out and continued in the long term. As I said, it's not part of this bill, but I don't think you can enact the portions of the bill without having a concern that there are going to be adequate resources for those decision-making bodies.

So with those few comments, Mr. Speaker, I'd conclude.

[Motion carried; Bill 14 read a second time]

## Bill 12

### Domestic Relations Amendment Act, 1999

[Adjourned debate March 9: Mrs. Soetaert]

THE DEPUTY SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: Thank you very much, Mr. Speaker. I had almost completed my comments on Bill 12, and as I was ending my comments, there were people on the other side that said: "Anybody can write a contract. Anybody can write a contract. That's done. They don't need that." What they're forgetting is that anybody can write a contract, but they don't have the right to go to a court and have a judge hear them out, and that's what would happen if they were included in this act.

All people who cohabit -- and we can dance around definitions all we like, but two people who live together, whether they be married people or people living in a common-law relationship or two sisters dependent on each other -- yes, they can write a contract, but the reality is that they have their right to a day in court, and that's what this legislation would provide for them. So I'd like members opposite to have a look at that, because that's all we're talking about: fairness and equality for everyone.

Why wouldn't they have the right to be included in a piece of legislation? Why would we deliberately leave some people out of it? I don't understand that. Why do we make laws for some of the people and not all of the people? That's a good point, and even the Minister of Intergovernmental and Aboriginal Affairs and House leader is agreeing with me. So that's quite something for today.

Anyway, I just want to I think make everybody in this Assembly have a look at what's fair, and then let's not exclude anyone. Everyone should fall under every piece of legislation. It shouldn't be for one person and not another person, and I think this excludes people. So that is my concern.

In Committee of the Whole I know we will suggest a few amendments, and I don't want people across the way ripping them up before they even see them. I don't mean to look at anybody in particular, Mr. Speaker, like the Member for Cypress-Medicine Hat. I'm not looking at him in particular. However, I do want people to seriously consider these amendments that we bring forward because they will be on an issue of fairness and equality. You can talk about that, you can pay lip service to it, you can put it in your election brochures, but you have to live it. That's what we're trying to get out of this piece of legislation. If we're going to talk about fairness and equality, then we have to make legislation that applies to everyone, not just a few.

So with those few words and actually a sincere request that everybody truly look at the amendments -- I think they know deep

in their hearts that this is an issue about fairness to everyone, excluding no one. I would ask that they take our amendments seriously so that Bill 12 can be a fair bill and a stronger bill and so that next session we don't see an amendment to another amendment to the Domestic Relations Act yet again. It could be MGA 2. So I would ask that people consider that when discussing this bill.

With those few comments, I appreciate the opportunity to speak to Bill 12.

8:30

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

MRS. SLOAN: Thank you, Mr. Speaker. I'm pleased tonight to rise to debate Bill 12, Domestic Relations Amendment Act. I've only received one piece of correspondence, from a couple in the province, about this bill. I thought it might be good to start this evening and, before I forget it in the throes of debate, to read what Annabel and Don Sheppard have written. They in fact wrote this letter to the Premier, and I received it as a cc.

We understand that a bill amending the Domestic Relations Act will come before the legislature this week.

As practicing Christians and residents of Alberta for over 50 years we would urge that you ensure that the amendment include same sex couples. It would be unfortunate if "legislative fences" are put in place to limit the rights and responsibilities of committed gay and lesbian couples. This is Alberta's chance to do the right thing and follow what other provinces and the federal government are already working on or have in place.

Please show wise leadership and lead the way for a more just society in Alberta.

Yours truly,

Annabel and Don Sheppard

I thought with those comments, following on the comments made by the hon. Member for Spruce Grove-Sturgeon-St. Albert, really what we're talking about here is creating a piece of legislation that is just, that is tolerant, and that acknowledges the reality, Mr. Speaker, that relationships are changing. That is a reality that's beyond any individual's control in this Legislature. We can choose, if we want, to pull our nightshirts over our heads and say, "That's not happening," and "It's not a reality in my bedroom," or, "I don't agree with it," or whatever. But the reality is that in the land in which we live, in the province in which we've been elected to govern there are different realities when it comes to relationships.

And as we're sitting there with our nightgown over our head, we could say, "Well, we'll just leave it, and we'll let the courts decide this for us," whether it's Provincial Court or Supreme Court. I suppose in some circumstances that has been the approach we've chosen in the past, and it's cost us. It's cost us, in economic terms, a lot of money. It's cost us also in reflecting, not only to our own citizens but to citizens across this country and in the world, just exactly what kind of a society we are in this province. Are we a judgmental, intolerant society, or are we a society that in fact acknowledges that there are changes occurring that we cannot control? The thing we can control is: what kind of law, what kind of legislation exists in this province, and does it address the realities that we know to exist?

Now, we are standing here tonight, my understanding is, primarily because we took that nightgown-over-our-head-we'll-wait-till-the-courts-decide approach. Sure enough, a decision came down that the government had a year to make this legislation compliant, and by . . .

MR. DICKSON: A predictable decision.

MRS. SLOAN: A predictable decision, Calgary-Buffalo has said. Yes. Could have been, should have been, would have been anticipated, perhaps, by any government that was awake at the switch. But it wasn't, so we've had the decision. We've put, obviously, the people in that particular case through a lot of rigamarole. Now, in fact tonight, we've finally gotten down to the business of making the law compliant.

Moving into the next stage of my debate, is this amendment going to make our act in fact tolerant and acknowledge reality? As I looked at the sections that the government had targeted to perhaps do the bare minimum to comply with the order from the court, it struck me that we were taking a very, very, narrow approach. We've deemed in section 1 that spouse is going to mean only "a spouse of a married person" or "a party to a common law relationship," and then further defined what a common-law relationship means.

I guess the reality, Mr. Speaker, is that we know that the definition as it is today doesn't encompass the entire reality. So if I regress just for a moment, that then runs us the risk of having additional court challenges that basically say, "Alberta, you have another year" -- or maybe it'll be shorter next time -- "you have this much time to get your legislation in line with reality."

Another aspect of the section that is included which caused me some sort of, I guess, humorous thought is that we're defining common-law as:

a relationship between 2 people of the opposite sex who although not legally married to each other [have]

(i) continuously cohabited in a marriage-like relationship.

Well, I don't know about you, Mr. Speaker, but I've seen a lot of different kinds of marriage relationships in my very short 38 years, and the way in which people . . . [interjections] They're surprised. I'm not sure if they're surprised that I've seen that many types of different marriage relationships or . . .

We know that marriage is as unique as relationships, and there are as many different varieties out there in terms of how that term is applied to the realities. Anyway, in the bill tonight we say that they will have "continuously cohabited in a marriage-like relationship." Well, one of the realities I know of is that a couple are married but because of one individual's work, they're not home for sometimes 50 percent of the time, sometimes three-quarters of the time. In fact, some of them are actually working on other continents, not even in the same country. We might have a relationship where, say, a sister and brother are living together and have lived together continuously for maybe 50 years. That reality is not captured in what is proposed in the act tonight. It's not.

Further speaking to the narrowness of the section, it speaks to "if there is a child of the relationship by birth or by adoption." This is where I really start to get angry, because in my opinion here we are discriminating against a child on the basis that they have to qualify under this act. They have to be either "by birth or by adoption." Well, what if they happen to be foster children and they've been in that family, in that relationship for a long time? Does that child not warrant some protection under this act? I think so. Similarly, what if the child is from another relationship and has known not the parent but the other partner since the child was an infant? Doesn't that child deserve to have rights under this act?

8:40

I believe, Mr. Speaker, that there would be other -- what if there was a child that has been in this relationship because, let's say, a sister is looking after a sister's child or something of that nature? There hasn't been a formal adoption process that has been enacted. But in the same sense, why do those children not deserve to be covered by this act? I think those are some of the things, the

troubles we run into when we try to take an exclusionary approach or an approach that is only going to define the reality as we're comfortable with it. I think it's dangerous, I don't think it's being good legislators, and in the end it costs us.

Just on the same point. I'm just going to skip for a moment. In the alimony, maintenance, and spousal support section it talks about where the court may make a spousal support order or application. One of the things I thought in this respect is that while it talks about the length of time the spouses have cohabited, the functions each has performed during the cohabitation, and any order, agreement or arrangement relating to the support of the spouse, it doesn't talk about things like employability, the health of either party or if one is disabled, or if one is, say, on welfare or some other type of assistance.

Now, we do go on later, in section 7, to say that a court may subsequently throw out an agreement if it decrees that we haven't considered -- and it goes through a variety of different possibilities, including a couple of the ones that I've mentioned. I guess again I'm asking the question: why leave it for the court to decide? Why not make your legislation broad, aligned with what we know to be some of the circumstances, and not engage in a whole additional round of court challenges because we didn't do a good job in the first place?

I don't think this evening we're in any way saying that we have to change the definition of marriage. I think at a very basic level we're saying that we respect that individuals of all shapes, colours, sizes, and beliefs will enter into relationships that they find mutually satisfying. I think we in this Legislature should respect that, and what they should expect from us is that they will be treated fairly and equitably under the law. It's not complicated.

We look across the country. There has been a whole variety of different approaches that have been taken on this matter. I guess you could say that every possible scenario or extreme has been adopted. I don't think we're really attempting to say that Alberta should go too far one way or the other, but let's try to find a good, solid balance in the middle that will mitigate some of the potential costs not only to the government but to the people and to our judiciary in this province. I know that in subsequent debate there'll be other aspects of that provincial comparison raised. As the citizens said in their letter that I cited at the very beginning, I'd just like to see the province do the right thing in this act and do it right the first time around.

In that respect, Mr. Speaker, I think I have given the Assembly this evening the best of my thoughts on the bill to this stage. I look forward to the subsequent debate.

Thank you very much.

**THE DEPUTY SPEAKER:** The hon. Member for Edmonton-Centre.

**MS BLAKEMAN:** Thank you, Mr. Speaker. I'm very pleased to be able to join in the debate today in second reading of Bill 12, the Domestic Relations Amendment Act. I think the purpose of this act is essentially to alleviate poverty and, by extension, reduce the number who require support from the government if they find themselves in dire straits or in reduced financial circumstances.

In a situation where a couple separates but they don't wish to divorce for whatever reason -- and there's legitimate reason for that -- and one of them is severely economically disadvantaged, how could that happen? Well, I think the way we usually see it is that one person has decided to stay home and work in the home rather than pursue a career path outside of the home. So they may find themselves with no particular savings in their own bank account, no other means of support. If that is the case, then this act can be used

to order the partner spouse to support them economically for a period of time.

This support is much needed by women in particular who haven't followed that career path by working outside of the home. I'm sure that every one of us has met women who at the dissolution of their marriage were facing destitution, literally. Particularly if these women are older, their chances of getting retraining and entering the job market are slim. It's interesting to remember at this point that this can be a particularly grim time for older women. I'm reminded that divorced women do not qualify for benefits such as widows' pensions and other programs to assist older women.

Now, the courts have decreed -- and this amendment legislation has come forward as a result of it -- that Alberta include common-law spouses under the act and give them redress under this act. We've seen a number of cases in the last few years which are requiring that common-law partnerships be recognized under legislation, because the Charter includes marital status as prohibited grounds for discrimination. This legislation, I think, is set up to allow parties to take responsibility for themselves. The issue being raised around the amendment of this act is: why is the government not enlarging the act to allow other kinds of domestic partnerships access to the remedies available here?

Alberta has many kinds of family units or domestic partnerships or stable long-term marriagelike relationships. We have adult children living with elderly parents. We have two siblings who have shared a household for many years. I can think right now of examples of those two sorts of living arrangements in my own riding. And of course the hot topic of the day, the gay and lesbian partnerships. So part of this discussion has to include: why is the government excluding these groups from taking responsibility? We hold married couples and, according to this amendment act, we will hold common-law couples responsible for each other. Why does the government choose to let these other kinds of partnerships off the hook? If they have no other way to seek redress for their situation, this is a surefire way to ensure that people end up on social assistance.

I'm finding an inconsistency between what the government is saying and what they're doing. So in our never ending quest to help the government make good legislation, the Liberals will offer up a potential solution to this omission in the legislation. We would like to bring forward an amendment to create a third category of people that are included under the act, and that is to create an alternative to the married or common-law domestic relationships. We're proposing an amendment definition of "partnership," which is a nice word, I think. There's no moral overtone to it; there's no historical precedence to it. These partners would enter into a written agreement, a partnership which would create legal obligations and duties pursuant to this act, among others, I think. I think this is an idea with merit and worthy of further contemplation and discussion, because I think it's a viable alternative.

8:50

I often feel, when I look at the series of rather thin amendment bills that we often deal with before us, that while we have the act open, we could be doing more. Why don't we make the changes and improvements we can while we have the act open for debate and change in this Legislature? I think adding recognition of partnerships would be a step towards recognizing the diversity of Albertans. I also note that there has been a variation of the Liberal idea that is being supported and proposed by a prominent Reform MP.

Now, this is not a perfect solution by any means. I think one of the possible failings of this idea is that it does not account for human nature. The onus would be on the partners to contract themselves in

order to qualify under the remedies offered by this act. Human nature is not one to do today what one can put off until tomorrow. So no doubt many would take the time to enter into these sorts of contracts, but what do we do with the partnerships that don't? We still have not addressed and captured them under the purpose of the Domestic Relations Act, which is to alleviate poverty.

You see, married people, under the proposed bill that's before us, would include common law. They don't have to do anything more to qualify for the remedies that are available. The best example here is common law. As long as they've been together for three years continuously or if there is a child of the union, then they qualify. They don't have to go anywhere, do anything. They just are. The whole point of common law, I think, is that they don't have an official piece of paper. But as a society we are coming to recognize that these unions happen, and they are increasingly a major portion of what we call families today. They must be held to the same responsibilities and offered the same protection as married couples. This member feels that the best avenue to take would be to include and recognize all common-law relationships in which people set up a domestic arrangement, where they share a life, a home, finances. I realize that many members are not comfortable with that idea, but I do encourage you to consider it further.

I would not advocate opening up the definition of marriage as that has a long history and has a sanctity to it for many people. It has legal, religious, and societal overtones and a long history attached to it. I'm not comfortable forcing other groups to be included in that definition, but I think common law is a possibility. As the Premier stated, the train is coming, and I think this is also at the crux of Bill 12. We are watching the federal courts, the federal government, and higher courts across the country moving to include same-sex partnerships and, I would add, other kinds of domestic partnerships in legislation, which is designed to put responsibility on people and which offers vulnerable people access to some kind of redress for their situation that precludes them needing to come to the government for assistance after the fact. That's the point of this legislation.

For those keen on the ways of the free market, I would add that we are following the example of many corporations in the country which already offer same-sex benefits and recognize different kinds of partnerships and domestic arrangements. We as legislators have to recognize our role as leaders in this issue, and Bill 12 is an opportunity for us to show leadership, to be leaders, to set the tone, to do the right thing. Failing that, I think we run the distinct risk of passing legislation which will be back here next spring because it has not passed the constitutional test. I remind the Assembly that the Alberta Legislature signed that same Constitution.

So I've talked about a number of things here, about the fact that the bill was designed to alleviate poverty and give those that are facing that an avenue in which to seek remedy from their former partner. I think that it's important that if we are going to put that responsibility forth, we should be doing so, and we should not be isolating certain groups from that responsibility.

[Dr. Massey in the chair]

I am always a little amazed at this government's ability to separate one group of people and say: no, no, this doesn't apply to them because we can't deal with the rest of the connotations that go with that. But in doing so, we are excluding an entire group of people here from taking that responsibility, and that's what the point of this legislation is. I don't think that any of us want to see more people that need to turn to the government for assistance because they find themselves destitute because their living arrangements are no longer there. They may have contributed to the household in a nonmon-

etary way but still working and working hard. As I started with, I think this particularly affects a lot of women, so I am pleased to see the common-law being added into it. I strongly urge the Legislature to consider all those other kinds of domestic arrangements and to consider including partnerships as a third alternative, which would capture all those other kinds of relationships that many of us have been speaking about here.

I think we have the opportunity here to strengthen the intent of the Domestic Relations Act. In that it is to alleviate poverty, I think this will help society, this Legislature, and this government when we have fewer people needing financial support because they've been left in distress.

So I'm looking forward to the rest of the debate, which can take place in Committee of the Whole. I think, as I said before, there is a real opportunity for us legislators to show leadership on this issue. We are aware from the polls that have been circulated to all of us, I'm sure, that this is an issue that has divided many Albertans, and it is up to us to take the leadership role in this. We cannot leave it to the courts, or the courts will do what they see as interpreting the Charter and the Constitution, which we signed, this province. I look forward to an expanded and healthy and open debate on this. I know that the people in this Legislature are capable of carrying on this conversation and this debate.

MRS. SOETAERT: Not the other side.

MS BLAKEMAN: Yes, they are. I believe there is certainly the willingness. Knowing what in this act in particular we're dealing with bottom line, I think there should be the will, even with my colleagues on the other side, to consider doing the right thing with this bill.

So with those few words, Mr. Speaker, I will resume my seat and thank you for the opportunity to speak to this bill.

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

MS CARLSON: Thank you, Mr. Speaker. Always nice to see a friendly face in the chair. [interjections] Still a friendly face.

Mr. Speaker, I rise to speak against Bill 12, the Domestic Relations Amendment Act, because I don't believe that this amendment is compliant with the spirit of the Supreme Court decision. We've heard from the other side of the House here, in heckling I believe it was, not in open debate, that anyone can write a contract.

MRS. SOETAERT: Julius did.

MS CARLSON: Yes. I remember which member it was too.

Not all contracts are enforceable in the kinds of circumstances needed, and this bill outlines exactly some of those kinds of circumstances that don't get attended to. In fact, you can't by contract redefine the jurisdiction of the court.

9:00

When you're speaking about fairness and equity in different kinds of relationships, I think it's very important that we talk about what you can and what you cannot do by contract and who gets disenfranchised by this kind of an amendment that builds fences around some kinds of relationships and not around others. We've seen in this Legislature many, many times both of the members from Red Deer stand up here and champion the rights of stay-at-home moms, and that's excellent when they do that, but that's a narrow vision. Those aren't the only people in this province who need to be championed

and who need expanded scope under this amendment.

I believe it's true that committed relationships are deserving of the same kinds of economic benefits and social considerations accorded to heterosexual couples, but Mr. Speaker, in this Alberta there are a number of different kinds of committed relationships, and I'd like to talk about a few examples of those. When I first read this bill, it was those committed relationships that I looked at to see: does this bill actually address their issues and their concerns? In fact, it doesn't. I'm hoping that sometime over the course of this debate, before it gets to committee, we're going to see, as my colleague from Edmonton-Centre said, some kind of expanded open and healthy debate from members of the other side of the House on this issue, because we clearly need to understand where they're coming from. They haven't made that explicit other than building the kinds of fences and taking a very narrow vision and just skirting, I believe, what may not even be compliance in this issue.

Let's talk about some of those different kinds of committed relationships that we see here. When this bill first came out, I went for tea with some friends, Mr. Speaker. I drove out to their lovely acreage, where they've lived for at least 10 years, raised dogs. They're both professional people, pay a lot of tax between the two of them, and have been in a committed relationship for 10 years. The difference with this couple is that they just both happen to be women.

I asked how this bill would apply to them, Mr. Speaker, and how they felt disenfranchised by it. In fact they were quite upset about it, because they also felt that it wasn't compliant with the spirit of the Supreme Court decision, and they gave a concrete example of something they had recently tested.

In spite of the fact that they jointly own a home and have lived together for a number of years in a very committed relationship, they are both treated as single people by all of the rules in this province. They recently applied to be considered a family under Alberta health care and Blue Cross, and of course they were denied. So this is one of the first issues that we're going to be seeing paraded before the courts as a challenge issue, and it's going to be costly for everybody, for this couple, for the court system, which means out of the pockets of all taxpayers in this province, and once again, then, when Alberta health care and Alberta Blue Cross have to mount their court challenge.

They're saying specifically that there is no law that encompasses what this couple is wanting in this province, and this government is specifically not including these kinds of options for committed relationships that do not fit the narrow vision of the kind of box that this government would like everybody to fit into in this province. So this bill doesn't work for them at all, not at all. They're completely disenfranchised by it.

Let's talk about my own situation, Mr. Speaker. For the past five years my sister has come to live with me to help take care of my children. After being elected in 1993, my children were not that old, certainly not at an age where you would even remotely consider leaving them at home unattended for any long periods of time and certainly not for the long evenings and sometimes overnight stays as is required in this kind of a job.

I'm a single parent. I've been a single parent for a long time. I tried hiring a nanny. Well, Mr. Speaker, on this budget I simply couldn't afford it. So that became an option that wasn't . . .

AN HON. MEMBER: Do you want a raise?

MS CARLSON: No, I didn't ask for a raise. That's not the point here at all.

That certainly wasn't an option for me, so my sister who is a low-

income earner and who was living independently and barely scraping by came to me and said: why don't I come and live with you and help you raise the children? She had been committed in their lives since they were born at any rate. This was an excellent option.

What would happen in this situation was that she would be actively involved in the raising of my children. She would be in a position where she could save some money for the future. My kids would have somebody whom they cared about in the house with them at all times when I was unavailable, an aunt whom they had a great deal of respect for and a great deal of liking for. So, Mr. Speaker, that arrangement has been ongoing for the past five years and works out very well for all parties involved.

Not too long ago, about a year ago, I went to a lawyer and said: in the event that something should happen to me, my kids, who are now at an age where they can make decisions -- they're 13 and 15 years old -- would choose to continue to live with their aunt in the surroundings that they're used to, in the neighbourhood that they're used to as opposed to going and living with their father full-time. While they have an excellent relationship with him and ongoing visitations with him on a regular and consistent basis, for a lot of reasons they do not want to live with him full-time.

The way it stands now, because my sister is not a high-wage earner, there is no way, if my ex-husband challenged that decision, that the children would be able to continue to remain living with her in the community that they have grown accustomed to and in the manner in which they have grown accustomed to. It wouldn't matter, the kinds of provisions I made in a will, under a court challenge. In fact, their father would have the right to have them come and live with him full-time, not a situation that actually works for anybody involved in this situation.

[The Deputy Speaker in the chair]

If this bill had been changed to incorporate different kinds of relationships, it would have been very easy for me to enter into a contract with my sister that would be enforceable in a court of law, that would be recognized as such, and my children and myself and my sister would all have fewer concerns in the event that there was some sort of untoward accident where I could no longer take care of the kids. It's not possible as it stands.

Mr. Speaker, we know that many families in Alberta are divorced, and we know that many children choose not to live with one of the parents for a very good reason. With this bill laid out the way it is, they don't have any other options. There isn't any kind of jurisdiction now that is laid out in law in this province that allows for other options to be seriously considered, where valid arguments can be made for changing circumstances. So that's a good reason for me not to support this bill in itself, just my own personal situation.

Mr. Speaker, I know many people that are in those similar kinds of situations. They have a good relationship now in a single-parent family, and they don't want to change those situations. I have many friends who are living with one of their parents or with other family members who wouldn't want that relationship to change should something happen to them in terms of the ongoing and long-term care of their children. With this bill laid out, we're going to have to see some other kind of piece of legislation come into this Legislature in order to accommodate those kinds of needs, and that's a vision that this government just doesn't have. So who knows when that's going to happen. It's a disservice to people in this province not to consider that.

Let's consider another example from my own life. My mother is a recent widow, and she's on a pension. My single brother lives with her and helps out with the expenses. I see no reason why they

couldn't enter into a contract where they would have the same kinds of opportunities that are afforded currently to heterosexual couples in terms of tax breaks and joint use of a number of issues and the different kinds of options that are available to them in terms of long-term funding arrangements that this bill advocates for only husband and wife, heterosexual couples. So, once again, here's a person who can be disenfranchised by this bill. I have many other examples of other friends who are widowed or who are potentially living in poverty if their current living arrangements change for any kind of reason.

9:10

It doesn't need to happen. Why are we doing that? Because this government chooses a very narrow-minded focus, they're going to end up paying later. If they don't accommodate now these kinds of wishes for people who have alternate living arrangements, then they're going to end up paying down the road through the minister of social services, Mr. Speaker, because we're going to have people living in poverty when there is no need for that to happen.

So I can't understand why those kinds of considerations weren't taken into account when this legislation was considered. They've had a year. The government has known for a year that they had to do something. They have a summit on everything else. Why didn't they have a summit on this, Mr. Speaker? Why didn't they talk to people in different kinds of options and ask them what it is that is needed out there? If you've got to change the legislation, make it fit the needs of the most people possible in this province, not just a narrow few.

If the purpose of this bill was to alleviate poverty, then why doesn't it work for all Albertans? In the end this government that is solely focused on deficit reduction and saving money wherever they could could have saved a lot of money by just making this bill more encompassing, Mr. Speaker, but they chose the short-term, narrow vision instead.

Who gets the protection in this case? Only those severely normal Albertans that the Premier talks about all the time. Mr. Speaker, I don't know very many people in this province who are truly severely normal, whatever that means. We've never had a definition of that.

AN HON. MEMBER: You know a lot of Libs, Deb.

MS CARLSON: Well, you're a perfect candidate for alternate kinds of options in here, so I expect you to stand up and speak in terms of what your views are on this.

There's no doubt, Mr. Speaker, that there are a number of people in this Legislature who can take a look at a variety of kinds of options of relationships that work to accommodate the needs of their family.

DR. TAYLOR: My wife won't let me.

MS CARLSON: Be careful. You're already in enough trouble. We don't need to go there.

Mr. Speaker, there are more people in this province than just severely normal Albertans for whom we don't even have a definition. There are a lot of people who need to take a look at different kinds of options to keep them from living a life of poverty in this province. I'm hoping that rather than just catcalling from across the side, we're going to see some serious and committed debate from members from the government who can at least stand up here and defend this bill.

Thank you.

MR. DOERKSEN: Mr. Speaker, I would like to make a few comments about Bill 12 and the principle of it. Several of the members of the opposition party have indicated that they would not wish to change the definition of marriage, and I agree with that. But I would argue that even in this particular bill, which of course is before us because a court has basically taken the law and ruled that it was unconstitutional and that we needed to make some changes -- that the change in this act, in fact, continues a trend of blurring the distinctions between different kinds of relationships. I have to ask the question: is there a reason to attach a high value to marriage? Because if you continue to blur the distinction between the differing kinds of relationships, you begin to undermine the very reason and the very value that marriage has always had in our history and in our traditions.

I'm going to make a couple of quotations. At the end of a recent *Red Deer Advocate* editorial, which was actually disagreeing with the position that I took on this particular bill, he made this comment. He said, "That conventional marriage of a man and a woman has proven the best model for society's advancement and the raising of children in a loving family, is unassailable." That's in the *Red Deer Advocate*, February 22, 1999.

Mr. Speaker, the wisdom of the day is not all on the side of the position that the opposition is taking, and even in a dissenting opinion in the 1995 Egan case in the Supreme Court, there was a position taken by Justice La Forest.

Marriage has from time immemorial been firmly grounded in our legal tradition, one that is itself a reflection of long-standing philosophical and religious traditions. But its ultimate *raison d'être* transcends all of these and is firmly anchored in the biological and social realities that heterosexual couples have the unique ability to procreate, that most children are the product of these relationships, and that they are generally cared for and nurtured by those who live in that relationship. In this sense, marriage is by nature, heterosexual. It would be possible to legally define marriage to include homosexual couples, but this would not change the biological and social realities that underline the traditional marriage.

So, Mr. Speaker, there are some differing opinions in here, and I for one hold the value of marriage at a very high level. It does pose the question, one that is being grappled with tonight: is the role of government to set a standard; that is, something that we should strive for, knowing that it's not going to be met by everybody but a standard that we should try to do that will be beneficial for most of society and particularly kids? I think that answer is yes.

I'm going to make one other quote, and there will be more debate because the opposition has said that they will introduce some amendments. I'm also going to quote to you from David Frum, who is a writer. In his book called *What's Right*, he says:

Canada faces no social problem more urgent and important than the strengthening of the family -- reducing the number of births outside marriage and cutting the rate of divorce . . . In a society that fully valued and celebrated marriage, claims that equal respect should be granted to marriage and to non-marital relationships would appear almost literally incomprehensible. How could anyone compare the social importance of a lifelong commitment to mutual care and raising of children to an impermanent sexual attachment? But . . .

And I interject here for a moment. In one sense he supports the oppositions' motions with the next statements.

But once we cease to regard marriage as unique -- once we start forcing employers to pay the dental bills of their employees' girlfriends -- it takes some ingenuity to explain why they shouldn't also be forced to pay the dental bills of their employees' boyfriends. Our law used to insist on marriage as the only basis of legal couplehood. Now we accept the regular performance of sex acts under a single roof over a period of twelve months. Homosexuals have more than a little justice on their side when they wonder why



one twelve-month sequence of sex acts should be treated differently from any other.

So, Mr. Speaker, my contention in this is that as we introduce legislation in this Assembly and as we develop policy, we need to examine and look at what value we are placing on marriage, which has traditionally been our most honoured and long-standing value in this country.

Thank you.

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

9:20

MR. SAPERS: Thanks, Mr. Speaker. I want to thank the Member for Red Deer for standing up and putting on the record his convictions. This is not an easy issue for many of us, but Bill 12 is not about a contest between whose idea of a couple is correct. Bill 12 is not about undermining common law and common-law relationships. Bill 12 is not a test between the strength of commitment between one set of consenting adults and another. Bill 12 does not force us to undervalue the family or threaten the institution of marriage.

My parents last week celebrated their 50th wedding anniversary. My wife and I will be celebrating our 19th wedding anniversary this May. I don't think that gives me any special insight into what marriage is all about, but I think it certainly gives me an appreciation of what a marriage can be. When I look at the relationship that my parents have and the household that they built, I think I understand that. When my wife and I struggle every day to make the right decisions as we raise our three children, I think I gain an understanding of that.

And, you know, Mr. Speaker, I never test the quality of my parents' relationship or the quality of my relationship with my wife against the relationship of my neighbours, because that's not what it's all about. And, you know, what my neighbours may or may not do for 12 continuous months is really none of my business, because it doesn't affect my commitment to my family.

So Mr. Speaker, we have not asked in the opposition for this government to blur any lines between what is and is not a properly constituted family, because that's not our role in this Assembly. We believe that the purpose of any legislation that deals with domestic relations should be fairness and fundamental equality. What's missing in Bill 12 is that sense of fairness and fundamental equality.

If you doubt that that's true, let me direct your attention to proposed section 1, in subparagraph 2(b), which reads:

"Common law relationship" means a relationship between 2 people of the opposite sex who although not legally married to each other . . .

and then it goes on.

Now, let's for a moment read that section without the words "of the opposite sex." Let's put in the words, for example, "a common-law relationship means a relationship between two people who are not white Anglo-Saxon." Or let's put in the words "recent immigrants to Canada." Or let's put in the words "a relationship between two people who haven't passed a loyalty test to a political party." Or let's put in any other set of words that we all know would be wrong because they would be discriminatory. Then let's take a look at this paragraph again and read it as it is written, and what it says is that we're not going to recognize your relationship, we're not going to recognize the quality of the relationship you may have with your partner unless it falls into our narrow and discriminatory view of the world. That is just wrong. There is no place for that in this province, in this country at this time.

Now, my colleagues have already made the point that this is not

a redefinition of marriage. My colleagues have made the point that this is a path that we are going to be forced to go down in any case. When the 1996 Alberta Law Reform Institute made their recommendation about extending rights to common-law couples, I believe they were putting us on notice that we would have to grapple with this in law, not dance around it, not try to divide and conquer, not try to appease some parts of our caucus or some voters in some constituencies, not try to be all things to all people but instead to be leaders. I think we were being advised to take a position and to recognize that somebody has to make the decision on these issues, and that somebody is us collectively in this Chamber.

The June 1999 deadline from the Alberta Court of Appeal respecting the Supreme Court of Canada decision I believe takes us much further than Bill 12 takes us. I have to ask this question: how vulnerable do we think the institution of marriage is in 1999 in Alberta? How threatened could it truly be if we are afraid to recognize in law what in fact happens in communities all over this province? How fragile must we think the commitment that we have to each other in legal marriages would be if we don't think it would withstand a legislative change in the Domestic Relations Act?

Mr. Speaker, Bill 12 at its very heart and soul was put forward by the sponsor as legislation which is timely and necessary, a bill that will help men and women in this province, an initiative that will see more fair redistribution of income and support, as my colleague for Edmonton-Centre has said, a bill that really should be all about eliminating poverty and reducing dependence on the social welfare state. Now, if that really is what this bill is all about, then why do we do so timidly? Why do we pretend that issues don't exist when they do? Who is it that we are trying to appease, and who is it that we are afraid of in this Chamber that we would not go the whole distance that we know we must eventually in any case? Why would we set up a legislative framework that excludes a group of men and women from assuming the responsibility that we say all men and women should take? Why would we set up in legislation a law that would reinforce a dependency and not reduce it?

It doesn't make any sense to me, Mr. Speaker, and it doesn't make any sense to the taxpayers who live in my constituency. It doesn't make any sense to the members of the legal community that I've talked to. It doesn't make any sense in the numerous discussions I've had in coffee shops and on doorsteps.

Mr. Speaker, this is not a new issue. We have been dealing with this issue in one form or another for several years, and it always seems to come back to the same thing. It always seems to come back to this fear that somebody is going to get something they don't deserve, that there's going to be something special afforded to a group of people, and we don't want them to get that, not because we necessarily think that it's really going to be all that special, but because we just don't like them. That's the message that comes out loud and clear, that there are men and women in this Assembly who don't want to do the right thing because there are people that live in this province whom they don't like. They don't like the way they live their lives. They don't like the choices that they make, even though those choices may be legal, even though that lifestyle may not be all that unique, but they don't like them, and because they don't like them, they're going to make sure that they paint them as undeserving and make sure that they don't get anything that they consider is special.

Well, Mr. Speaker, it's been said before, and it's been said much more eloquently than I can ever put it, but you know human rights are not special rights. Equal rights are not special rights. Every constituent in the constituency of Edmonton-Glenora deserves the full, complete, and utter protection of the law, and that's unqualified, Mr. Speaker. That is absolutely unqualified.

9:30

I have to go down another path here for a minute as well. In my experience before politics I dealt with men and women in conflict with the law. I dealt with them as offenders, and I dealt with them as victims. I had an opportunity to visit with many families and to become involved in a very personal way in the lives of many people. I can tell you that there are things that go on out there that are unusual, that are not typical. Sometimes there are things that happen that are in fact criminal, but often there are things that happen that don't in any way reflect the storybook image of a man and wife living together, happily raising their family in some suburban community. In fact, there are many, many strange and peculiar types of relationships. In this law we would offer protection to people that may be engaging in behaviour that, if they were caught at it, might in fact be criminal, but because they're of the opposite sex, as long as they're not caught in that criminal act, they would still have the protection of this bill. That doesn't make a lot of sense to me.

It seems to me that if we were going to make any kind of discriminatory statement in the proposed section 1, what we would say is that this is a relationship between two people, as long as it's nothing that violates the criminal law. Maybe then I could support it. Maybe then I could say: "Well, you know, I understand that. Why would you want to afford protection to people who are breaking the law?" I could understand that, but I can't understand the discrimination just because there may be somebody in this Assembly that doesn't like the lifestyle choice. I don't think that that kind of subjectivity has any place in a domestic relations law in 1999 in this province.

Edmonton-Ellerslie in her comments reminded us that there are many relationships that exist in this society. There are those who would like to sensationalize Bill 12 so that it is seen as a contest between homosexual activity and heterosexual activity. There are those who would like to sensationalize this and say that this is about protecting the family and not about the provision of equal rights. Well, you know, I don't think Bill 12 is about sex at all. I think people deserve to have protection under the Domestic Relations Act whether they are involved in a heterosexual relationship, Mr. Speaker, whether they're involved in a homosexual relationship, or if they're involved in a no-sex relationship. It seems to me that Bill 12 and the Domestic Relations Act should still apply as long as it is a mutually supportive relationship that meets all the other terms and conditions that we would otherwise expect to be met in an agreement to cohabitate.

The Premier was recently out of the province talking to a small gathering in Ontario about the creation of a new political party, and at that rather exclusive meeting in Ontario the Premier sent a strong message back home. He said to those folks in that ballroom in Ottawa that the future of a political party on the right -- and I'm paraphrasing, of course, because I wasn't there -- would only lie in one that understands that it shouldn't be legislating morality. Then, Mr. Speaker, he flies back home and we get Bill 12. I certainly wish the Premier would listen to his own advice.

Thank you very much.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Mr. Speaker. It is a pleasure to rise this evening to speak to Bill 12, the Domestic Relations Amendment Act, 1999. Bill 12 is a bill that is not complete. It is lacking. It is flawed. It's flawed because it pits the overwhelming heterosexual population in this province against other types of relationships. We have any number of examples throughout history that show us that the majorities are not always right. We can just

think, if we wish, of the example of Nazi Germany when they turned on the Jewish people. They had a majority, and the minority had nothing. They were persecuted.

In this particular situation we do not have anything as drastic as that, but any legislation that is passed in this Assembly should not address the rights of some Albertans by excluding the rights of others. It should not differentiate because some people can or wish to live in a different relationship than others. What Albertans want us to do in here as legislators is make laws that have vision. They want legislation that is proactive. They want legislation that is comprehensive, legislation that will address the issues of today and the future. Legislation that we provide in this Assembly should provide equal rights for all citizens of this province.

Mr. Speaker, what is the purpose of this bill? Why do we see it on the Order Paper at this particular sitting? It's important to know that last summer the Alberta Court of Appeal released its decision in a case called *Rossu and Taylor*. The Alberta Court of Appeal also gave the government a deadline until June 16, 1999, to change the legislation, at least parts 3 and 4, or those offending parts of the act would be struck down. We have seen the results of a government that is not proactive and not willing to change with the times. As a result, Albertans end up spending hundreds of thousands of taxpayers' dollars fighting and resisting the Charter.

Mr. Speaker, why don't we amend the law to reflect the reality of the situation that Albertans live in today?

MRS. SOETAERT: That's a very good question.

MR. BONNER: That's right.

We can do that, Mr. Speaker, without having to go against the pioneers that settled in this province. We have to realize that there's been a tremendous shift in this province over the years from a rural type of community to urban communities, and this shift in the population to the urban centres certainly does include many different lifestyles. Why in this province don't we allow two adults who enter into a contract duly witnessed by an independent witness to be bound by the Domestic Relations Act? Instead of redefining a word like "spouse," that has clear and well-established historical origins, adult Albertans should be free to enter into a contract that creates certain legal obligations, including the right to pay support to a dependent partner or separation. This might include a same-sex couple, but it could also apply to an adult child living with their parent, two siblings living together, and other arrangements that already exist among Albertans.

9:40

There is a Danish model, Mr. Speaker, where two same-sex partners can register their relationship at a government office like the vital statistics office. In Alberta we can have the greater advantage that one doesn't have to go to some government office to register their relationship. They can simply create a legal relationship by contract and have the court, under the Domestic Relations Act, honour that contract.

We require a law, Mr. Speaker, that provides for equal treatment of people living in same-sex or opposite-sex relationships but without redefining well-established terms like "spouse" and "marriage." Marriage, for Albertans, is still between a man and a woman, but unfortunately those people not living in marriage do not share the same equal treatment and the same equal access that those people who are living in a marriage or a common-law relationship do. So same-sex couples in Alberta in a committed relationship are deserving of the same economic benefits and social considerations accorded to heterosexual couples in a committed relationship and

must also be subject to the same societal responsibilities.

Mr. Speaker, I look forward to the comments of many other members in this Assembly. Bill 12 in its present form is a bill that I cannot support, and the reason I can't is because it does not treat all Albertans fairly. With those comments I will take my seat and listen to some other members.

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

DR. MASSEY: Thank you very much, Mr. Speaker. I'm pleased to have the opportunity to add my comments to Bill 12, the Domestic Relations Amendment Act. At this stage of the bill we're of course concerned about the principles that undergird the act in front of us. On first reading and if you look at the title of the bill, the principle that the bill seems to endorse and the one that the mover when introducing the legislation I think pointed out to us is the principle that adults living in domestic relationships other than traditional arrangements should have access to support laws and that because their relationships are different than what the community has traditionally viewed as the correct relationship -- that is, a marriage -- they should not be punished for those relationships.

The act purports to extend it to people who are living in common-law relationships. I think those of us who work in constituencies and deal with constituents who find themselves in common-law relationships, particularly those constituents whose common-law relationships have broken down, welcome the provisions of this bill and the power it gives to those individuals who are left with children to raise, often living on government assistance and having no access to the resources of the partner who helped them in creating those children. So for those relationships, those people living in common-law relationships, the bill is a good thing. I couldn't help but think, Mr. Speaker, how the community values have changed. This bill, if you look at some of the values it seems to support, focuses on tolerance. The view of common law and common-law relationships has changed dramatically. When I think back to my own family and to the whispers around the dining room table about one of my uncles who was living in sin -- I think that was the term that was applied to Uncle Sid's affairs. It wasn't even spoken about publicly in the house that actually he was living in a common-law relationship with a woman.

So community values have changed, yet with all of that change, the notion of marriage remains sacrosanct. We talk about marriage breakdown. We quote the divorce statistics. We caution children about getting married too young, yet we maintain an ideal of marriage that sees many young people value that and try to live the model of marriage that is very traditional in our culture. I think it's to this bill's credit that it hasn't tried to redefine that notion, and I

don't think it infringes on that ideal. Yet it allows for, I think, as I said before, fairness to prevail.

One of the questions when a piece of legislation like this comes forward -- in this case it had to come forward because of a court decision -- is the question of whether the law is leading public attitude or whether it is responding to public attitude. I think in this case there's no doubt that most people in present-day Alberta would like to see those in common-law relationships have access to the same legal remedies as those that are living in more traditional relationships.

I think that one of the concerns about the bill -- and it's been raised now a number of times -- is embedded in the title of the bill. The title really sets up the expectation that all domestic relations will be dealt with, and that expectation is not fulfilled. It allows people who are in married relationships and people in common-law relationships access to the support and the remedies that breakup of those relationships should provide. But there are other domestic arrangements.

I remember attending school with classmates who in those days were being raised by aunts and who for one reason or another weren't with their parents. There are a variety of other domestic relationships. It seems that while this bill is purporting to address them, it should address all of them. If adults take on the responsibility for raising youngsters, if they are in relationships where sacrifices are made and the contributions are unique, then if there is a failure of those relationships, they should have recourse to this particular act.

9:50

This act is still selective in the Albertans it applies to. I think it's a good bill in what it puts forward. It just doesn't go far enough. It's for those reasons that we have indicated we'll be proposing at least one amendment to try to broaden the scope of the bill and make sure it's inclusive of all Albertans and not just those that are defined in the present act.

With that, I'd like to adjourn debate, Mr. Speaker.

THE DEPUTY SPEAKER: Okay. The hon. Member for Edmonton-Mill Woods has moved that we adjourn debate on Bill 12. All those in support of this motion, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed, please say no. The motion is carried.

[At 9:52 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]

