

## Legislative Assembly of Alberta

Title: **Monday, April 26, 1999** 1:30 p.m..

Date: 99/04/26  
[The Speaker in the chair]

head: Prayers

THE SPEAKER: Good afternoon. Let us pray.

Our Father, keep us mindful of the special and unique opportunity we have to work for our constituents and our province, and in that work give us strength and wisdom.

Amen.

May I ask you to remain standing, please, as we pay tribute to the passing of a former member.

### **Roy Lyle Davidson February 16, 1906, to April 25, 1999**

THE SPEAKER: This morning my office received notice of the passing of former member Roy Davidson on April 25, 1999, at the age of 93 in Three Hills, Alberta. Mr. Davidson was first elected in the by-election held January 20, 1964, and served until May 23, 1967. During his years of service he represented the constituency of Three Hills for the Social Credit Party.

During his years in the Legislature Mr. Davidson served on the Select Standing Committee on Privileges and Elections, Standing Orders and Printing, the Select Standing Committee on Private Bills, and the Select Standing Committee on Public Affairs. Mr. Davidson was predeceased by his wife, Seema.

A funeral service will be held on Friday, April 30, 1999, at the Mount Olive Evangelical Free Church at 2 p.m. in Three Hills, Alberta.

With our admiration and respect there's gratitude to members of his family who shared the burdens of public office. Our prayers are with him.

In a moment of silent prayer I ask you to remember Roy Davidson as you may have known him.

Rest eternal grant unto him, O Lord, and let light perpetual shine upon him.

Amen.

Please be seated.

head: Presenting Petitions

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

DR. MASSEY: Thank you, Mr. Speaker. I beg leave to present a petition signed by 225 citizens, an SOS petition urging the Government to increase funding of children in public and separate schools to a level that covers increased costs due to contract settlements, curriculum changes, technology, and aging schools. Thank you, Mr. Speaker.

THE SPEAKER: The hon. Leader of the Official Opposition.

MRS. MacBETH: Yes, Mr. Speaker. I'd like to table a petition to the Legislative Assembly urging that the Government . . . increase support for children in public and separate schools to a level that covers increased costs due to contract settlements, curriculum changes, technology, and aging schools.

The signatures, over 100 of them, are from the Lakeview community in Calgary.

Thank you, Mr. Speaker.

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

MR. DICKSON: Thank you, Mr. Speaker. I have three petitions to present. The first one is signed by 40 Calgarians in communities like Varsity and Mount Royal and urges the Legislative Assembly to pursue excellence in public education and "increase support for children in public and separate schools."

The next petition, Mr. Speaker: 11 of my constituents have signed a petition asking that the Assembly "urge the government to recognize the disadvantaged position of renters in the current Calgary apartment market, and take steps to ensure that safe, affordable accommodation is available" to not just some but every Albertan.

Then, finally, a petition signed by 76 people in various communities around the province petitioning the Assembly to urge the government not to pass Bill 37, the Health Statutes Amendment Act, 1998, and presumably subsequent iterations.

Thank you.

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

MS OLSEN: Thank you, Mr. Speaker. I also have a petition to present to the Legislative Assembly that states:

We the undersigned residents of Alberta, petition the Legislative Assembly to urge the Government to increase funding of children in public and separate schools to a level that covers increased costs due to contract settlements, curriculum changes, technology, and aging schools.

It is an SOS petition signed by 115 Edmontonians.

head: Reading and Receiving Petitions

MR. WHITE: I'd rise to ask that the petition filed in the first week of April be read and received now.

THE CLERK:

We the undersigned residents of Alberta, petition the Legislative Assembly to urge the Government to increase support for children in public and separate schools to a level that covers increased costs due to contract settlements, curriculum changes, technology, and aging schools.

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

MRS. SLOAN: Thank you, Mr. Speaker. I would ask that the petition I tabled on April 23, 1999, be now read and received.

THE CLERK:

We, the undersigned residents of Alberta, petition the Legislative Assembly to urge the Government of Alberta to hold widespread public hearings involving as many existing clients as want to be heard before making any changes to the Assured Income for the Severely Handicapped program.

head: Introduction of Bills

### **Bill 35**

#### **Government Fees and Charges Review Act**

MR. DAY: Mr. Speaker, I'm pleased to table Bill 35, which is the Government Fees and Charges Review Act.

This bill along with a committee of MLAs and people from the private sector will enable us to look at all the user fees presently in place in the province with a view to seeing which ones of those we can reduce. This is a wonderful exercise, unlike that being done by any other government, to reduce all fees. We're not just interested

in seeing people's taxes reduced; we're interested in seeing fees reduced also.

[Leave granted; Bill 35 read a first time]

THE SPEAKER: The hon. Minister of Economic Development.

**Bill 36  
Gaming and Liquor Amendment Act, 1999**

MRS. NELSON: Thank you, Mr. Speaker. I rise and request to introduce Bill 36, being the Gaming and Liquor Amendment Act, 1999.

Mr. Speaker, this act will give the Alberta government the authority to direct the Alberta gaming commission on gaming and liquor policy issues. As well, it is intended to be the legislative authority to follow through on the commitment of this government insofar as the termination of VLT agreements within communities. This bill also separates the operational and quasi-judicial bodies within the commission so that there is truly an arm's-length operation within the commission.

[Leave granted; Bill 36 read a first time]

THE SPEAKER: The hon. Member for Peace River.

**Bill 37  
Freedom of Information and Protection  
of Privacy Amendment Act, 1999**

MR. FRIEDEL: Thank you, Mr. Speaker. I'd like to request leave to introduce Bill 37, being the Freedom of Information and Protection of Privacy Amendment Act, 1999.

[Leave granted; Bill 37 read a first time]

THE SPEAKER: The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Speaker. I move that Bill 37 be placed on the Order Paper under Government Bills and Orders.

[Motion carried]

head: Tabling Returns and Reports

THE SPEAKER: The hon. Minister of Justice and Attorney General.

MR. HAVELOCK: Yes. Thank you, Mr. Speaker. I'm pleased to table this afternoon five copies of my letter to the MLA for Edmonton-Norwood dated April 7, 1999, in response to Written Question 62.

THE SPEAKER: The hon. Minister of Agriculture, Food and Rural Development.

MR. STELMACH: Thank you, Mr. Speaker. I wish to table five copies each of the annual reports for the Alberta Agricultural Products Marketing Council and the office of the Farmers' Advocate of Alberta.

1:40

MS BARRETT: I've got two tablings, Mr. Speaker. The first is from the Calgary public teachers, a chart indicating that a teacher in the Calgary public district who has four years of training and 11 or more years of teaching experience enjoyed a gross pay increase of

\$35 between September 1992 and the present and, to refresh the memories of members of the Assembly, five copies of a fascinating debate around whether or not teachers should have the right to strike, dated December 2, 1998.

THE SPEAKER: The hon. Minister of Environmental Protection.  
MR. LUND: Thank you, Mr. Speaker. In keeping with this government's openness and accountability, I am filing with the Assembly the responses to written questions 30 and 32.

THE SPEAKER: The hon. Member for West Yellowhead.

MR. STRANG: Thank you, Mr. Speaker. I'd like to table the required number of copies of responses to questions asked on second reading of Bill 27, the Regulated Forestry Profession Act.

Thank you.

MR. DAY: Mr. Speaker, pursuant to section 344 of the Insurance Act, I'm tabling the Automobile Insurance Board annual report.

THE SPEAKER: The hon. Member Edmonton-Centre.

MS BLAKEMAN: Thank you, Mr. Speaker. With your permission I would like to table the appropriate number of copies of a letter from a constituent of mine, Thea Paap. She is writing to express her strong objection to the repeated attempts by the Klein government to bring private, for-profit hospitals to Alberta.

Thank you.

THE SPEAKER: The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you, Mr. Speaker. It's a pleasure this afternoon to table a letter on behalf of Brian Staples, a constituent of Edmonton-Gold Bar who is active in the Seniors' Action and Liaison Team, affectionately known as SALT. This letter is to the hon. Premier, and it outlines their concerns about the blue-ribbon panel.

Thank you.

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

MR. SAPERS: Thank you very much, Mr. Speaker. With your permission I'd like to table six copies of an analysis of some of the 800 user fees that the government depends on, including a chronology of how they have grown year over year over year, amounting to a \$285 million tax grab by the current government.

Also, Mr. Speaker, my second tabling is in the spirit of being helpful, co-operative, and nonconfrontational. I would like to table a number of very thoughtful suggestions for the government on how they can do the right thing about these user fees in the best interests of the people of Alberta.

head: Introduction of Guests

THE SPEAKER: The hon. Minister of Intergovernmental and Aboriginal Affairs.

MR. HANCOCK: Thank you, Mr. Speaker. It gives me great pleasure to introduce to you and through you to the members of this Assembly a constituent of Edmonton-Whitemud who's visiting us this afternoon. She's seated in your gallery, Mr. Speaker. Mrs. Joan Shapka is accompanied by Tina Popowich; her daughter Patricia Shapka; and granddaughter Ali Shapka. I'd ask them all to rise and receive the traditional warm welcome of the House.

THE SPEAKER: The hon. Member for Drayton Valley-Calmar.

MR. THURBER: Thank you, Mr. Speaker. It's a privilege for me to introduce to you and through you to the members of the Assembly here today 47 very bright and polite young students, grades 6s from St. Anthony school in Drayton Valley. They are accompanied here today by Mrs. Trish Molzan, Gerry Broks, Nicole Weiss, Ann Neumeyer, and Brenda Manum. I would ask that they all rise and receive the traditional warm welcome of this House.

THE SPEAKER: The hon. Minister of Public Works, Supply and Services.

MR. WOLOSZYN: Thank you very much, Mr. Speaker. I, too, am very pleased to introduce to you and through you to all members of the Legislature 58 students from Blueberry community school, one of the original community schools in this province that has a very, very strong parent component to it and a school that I enjoy visiting. They are accompanied by their teachers, Miss Andrea Monroe and Mrs. Laurie Macher, as well as parents Mrs. Wahl and Mrs. Stupniski. I'd ask them all to rise and receive the warm welcome of the Legislature.

MS KRYCZKA: Mr. Speaker, I am very pleased to introduce to you and through you to the Assembly this afternoon two very fine ladies who are a very important part of my MLA team to my constituents in Calgary-West in particular: Karla Eagles, who manages my Calgary-West office, and Marie Martin, my Edmonton Legislature assistant. Would Karla and Marie please rise and receive the traditional warm welcome of this Assembly.

THE SPEAKER: The hon. Member for Lethbridge-East.

DR. NICOL: Thank you, Mr. Speaker. It gives me real pleasure this afternoon to rise and introduce two people from Lethbridge. Bryan and Kathy Kieser have been helping me on my campaigns for the past two years. To give you an idea of how much of a political junky they are, they're on their honeymoon this weekend: they were married on Friday, and they show up in the Legislature today. It's a real commitment to the political process. If Bryan and Kathy would rise and receive the warm welcome.

head: Oral Question Period

THE SPEAKER: First Official Opposition main question. The hon. Leader of the Official Opposition.

### **Calgary Teachers' Labour Dispute**

MRS. MacBETH: Thanks, Mr. Speaker. The only time this government considers teachers an essential service is when they are about to strike. While the government allows class sizes to swell, schools to deteriorate, and fund-raising for basic supplies to persist, it is teachers and it is parents who are holding Alberta's education system together. Having met yesterday with educational leaders in Calgary, their question was why government issued a decree postponing the strike but couldn't be bothered telling anyone. My question is to the Premier. When was the disputes inquiry board order signed?

MR. KLEIN: When was it ordered? Mr. Speaker, we didn't know there was going to be a strike until the strike vote was held and notice was served. It was following that that I had a discussion with both the Minister of Labour and the Minister of Education as to

whether we should invoke this regulation within the labour act. It was decided to do so I believe about 1:30 Friday afternoon.

MRS. MacBETH: Mr. Speaker, why did the government choose not to tell Calgarians immediately, once the order had been signed on the 22nd of April, not the 23rd, the 22nd.

MR. KLEIN: Well, Mr. Speaker, there are some legal questions surrounding strike votes and the receiving of ballots and as to when this ministerial order could properly be issued, but we had to find out first of all whether there was going to be a strike. After we found there was going to be a strike, we took whatever measures were necessary to avert for the time being a strike pending the outcome of the disputes inquiry board.

MRS. MacBETH: Mr. Speaker, while locks were being changed . . . [interjections]

THE SPEAKER: The hon. Leader of the Official Opposition has the floor.

MRS. MacBETH: Mr. Speaker, while locks were being changed, picket and homework schedules being prepared, and parents were booking time off work, was no consideration given to the money, time, and stress this delay caused thousands of Calgarians?

MR. KLEIN: Well, Mr. Speaker, I would suggest exactly the opposite. I think that there are a lot of parents today, this very day, who are very, very relieved to have their children back in school. Yes, there was some inconvenience. As the children had to take their books and belongings home, they had to bring them back today, but that is a very small inconvenience compared to the fact that they are now back in school and being educated.

MRS. MacBETH: Mr. Speaker, we thought it was an emergency last Thursday, when this government refused to debate it.

### **Education System**

MRS. MacBETH: No consultation on Bill 20 dissolving the Board of Reference, and now musings by the Premier about removing teachers' right to strike. For a Premier who claims to love teachers, he sure has a strange way of showing it. My questions are to the Premier. With teachers on the front line helping to hold the public education system together, why is the Premier choosing now to threaten and undermine them?

1:50

MR. KLEIN: First of all, I do; I love teachers for what they do. As a matter of fact, we have a number of teachers in our caucus. Mr. Speaker, I love them all. They are very devoted people. They're devoted to education. They're devoted to the political process. So I don't know the point that the hon. leader of the Liberal opposition is trying to make.

The whole issue of essential workers was not an issue that was raised by me or any of my colleagues. It was raised at the policy conference of the Progressive Conservative Association of Alberta. Mr. Speaker, I don't know what was discussed at the Liberal Party annual general meeting in Calgary, but I'm sure that had a member of the Liberal Party brought up that question -- if, God forbid, I was ever the leader of that party, I would consider that a legitimate question for a political party to ponder. This issue was raised at the policy conference of our party, and I wouldn't be overly concerned if it had been raised at the AGM of the Liberal Party. It's a perfectly legitimate question to ask.

MRS. MacBETH: Mr. Speaker, will the Premier admit that the reason his government is talking about stripping teachers of their right to collective bargaining is to divert attention from its mismanagement and chronic underfunding of public education and separate school education?

MR. KLEIN: Mr. Speaker, the question was raised. We had a number of breakout sessions. You know, I'm letting them in on how we work. It's fully democratic. Anyone can raise anything. I said at the outset that I want you to be provocative; I want you to raise contentious issues; everything is on the table; if you want to bring it up for discussion, bring it up for discussion.

By the way, at the policy conference members of my party did not reach consensus on this particular issue, Mr. Speaker. Again I say to the Liberals that if they want to bring that question or any question up at their convention -- I understand they brought the United Alternative up at their convention. I don't find that particularly offensive. They can discuss anything they want to discuss at their party convention. I don't know how they operate, but this party operates in a full and democratic fashion. Obviously the people over there are puzzled.

MRS. MacBETH: Mr. Speaker, instead of diverting attention and trying to drive wedges between teachers and their community, what is his government's long-term vision with respect to public education in Alberta?

MR. KLEIN: Mr. Speaker, it's been said by some of my colleagues and I can only reiterate what has been said here quietly: what our long-term vision is is excellence, sir, excellence.

THE SPEAKER: Third Official Opposition main question. The hon. Member for Edmonton-Glenora.

#### **User Fees**

MR. SAPERS: Thank you, Mr. Speaker. The only justification for a government to exist is to do what's in the best interests of the people of Alberta, and the opposition is here to help. Unfortunately, when it comes to user fee/taxes, this government has spent the past six years acting in its own self-interest, gouging taxpayers to the tune of some \$285 million. Now that the government has finally been forced kicking and screaming to conduct a review of its user fee/taxes, it is time to get some answers on exactly what this review will cover. To the Premier: will the Premier formally tie or link user fees and charges, including health care premiums, to the performance measures for services as contained in departmental three-year business plans?

MR. KLEIN: Well, Mr. Speaker, obviously I must have touched a nerve. I made those comments in a lighthearted way, but the hon. member has just given some justification for those comments. Instead of asking a straightforward question, you know, the tail end, here's the preamble: gouging, dragging people kicking and screaming. That hardly sounds like co-operation. That sounds like confrontation.

You know, it is the function -- and unfortunately we have to pay these people to do it, to go out and tell Albertans how bad this province is, how terrible this government is, how bad the school system is, how bad the education system is. Mr. Speaker, they do that so they can get us fired. Right? No, really. [some applause] Well, lookit; they're applauding. They actually now admit it. And they get paid for it. That's the shame. They get paid for it.

Mr. Speaker, the hon. Provincial Treasurer has just tabled the legislation that requires us to freeze all fees for service pending a complete review. I will say that I am happy that the hon. Member for Edmonton-Glenora rose and said that he is tabling some suggestions that could be construed as being constructive, and that is a good step in the right direction.

MR. SAPERS: Given that the Official Opposition, Mr. Speaker, doesn't have much of a sense of humour about tax-gouging governments, I would ask the Premier if he will amend the Alberta Taxpayer Protection Act to require that all user fees and charges be referred to the Standing Committee on Law and Regulations, a committee that you may have forgotten about, Mr. Premier, but it exists.

MR. KLEIN: Mr. Speaker, everything's open. Everything's open. [interjections] Everything will be open. We have invited the Official Opposition to send over their constructive ideas and thoughts on what we do with these fees. So that could be considered in two ways. It could be considered as a suggestion or a recommendation to the committee that is being established by the Provincial Treasurer, or as we go through the debate on the legislation this spring, it could be introduced by the opposition as an amendment and be debated in the Legislature.

MR. SAPERS: Mr. Premier, let's cut to the bottom line here. How many times has this government utilized user fees to raise taxes, to break the government's no tax increase pledge? Was it 400 times, 500 times, 600 times, or did all 800 of those user fees break your promise?

MR. KLEIN: Mr. Speaker, none of the above, and the hon. member well knows that to be the truth.

I'll have the hon. Provincial Treasurer supplement.

MR. DAY: You know, Mr. Speaker, the Member for Edmonton-Glenora talks about an increase in fees, and it's very plain that when you look at from 1994 to date, the increase in fees has largely been due to the increase in population, more people paying fees for more services. In fact, the increase in fees has not even kept up with the increase in population. It's averaged about 1.3 percent annually. Then he talks about an increase in fees going into the out years of 2002 and 2003. That is reflecting the population increase. The population increase is a result of people moving here because they know it's the best province in the country to live in.

#### **Teachers' Right to Strike**

MS BARRETT: Well, Mr. Speaker, as everybody knows, last week the Minister of Labour appointed a disputes inquiry board to essentially forestall a strike in Calgary by teachers. Then on Sunday, yesterday, the Premier says that he and his caucus will consider fundamentally violating teachers' right to collective negotiations by removing their right to strike. Now I hear the Premier say: well, I was just listening to my party convention. He didn't listen very well last year when they said: stop funding private schools. My question to the Premier is this: why is this government pursuing clearly failed strategies -- I mean, disputes inquiry boards hardly have a star track record -- and threatening to criminalize teachers -- that's what they're trying to do, criminalize them -- instead of addressing the real issue in Calgary, which is the serious deficit this government imposed?

2:00

MR. KLEIN: Well, I have difficulty with the suggestion that something has been -- what? -- criminalized.

MRS. SLOAN: Well, of course it is. You're making it illegal.

MR. KLEIN: Well, no. Mr. Speaker, as the hon. Minister of Labour said, this is another tool in the toolbox of Labour. It's in legislation. Certainly I would expect that the hon. leader of the NDs would know that this is in the legislation, that it is there, that it can be used.

Mr. Speaker, what I'm hearing today is that thousands and thousands of parents in the city of Calgary are relieved that their children are back in school and that there is this process to make one last effort at resolving a dispute.

Mr. Speaker, I do know and I appreciate and respect that the Alberta New Democrats are supported by labour. I respect that and I know that. But I also would like to believe that the New Democrats are interested in seeing labour disputes resolved before they reach the awful lose/lose situation of a strike. I really think that they would like to see that. That's all we're trying to do. We're trying to see if there is some other way to end this dispute and to make sure that our children are educated.

MS BARRETT: On the subject of thousands and thousands in Calgary, will the Premier now agree to let us know just how many calls and letters of support this government has had in support of the government's notion of making it illegal for teachers to strike so we can compare that to the more than 3,000 calls and letters we received last year in opposition to that private member's Bill 219, which went down to fantastic defeat?

MR. KLEIN: Again I would reiterate and explain the situation. We had a policy conference this weekend. The Alberta Progressive Conservative Association had a policy conference at which time about 450 delegates got together from all of the constituencies in the province to consider myriad issues, Mr. Speaker. Everything was on the table.

Mr. Speaker, in one of the breakout sessions to deal with education and advanced education, the broad question of essential services legislation was brought up. I'm going to repeat one more time: there was no consensus; it was simply discussed. There was no recommendation from our party. There was no consensus. The matter is not now being discussed by this government. There are no plans, at this time anyway, to discuss it by this government. The only people discussing it are the Liberals and the NDs.

MS BARRETT: Well, I'm glad to hear that response from the Premier. Will the Premier look at an historical track record of Conservative governments in this province in which it is female-dominated occupations that are being singled out for losing the right to strike? Nurses, social workers, and now teachers. Absolutely right. You wouldn't do that to male-dominated occupations.

MR. KLEIN: Mr. Speaker, I think the male teachers who hear that -- and I know that there are quite a few male teachers, one of whom was president of the Alberta Teachers' Association, the current Minister of Health. I think that he would be very, very offended. The teaching profession is made up of good-thinking, committed, dedicated men and women.

THE SPEAKER: The hon. Member for Edmonton-Beverly-Clareview, followed by the hon. Member for Edmonton-Riverview.

### **Edmonton's Federal Building**

MR. YANKOWSKY: Thank you, Mr. Speaker. As I drive by the old federal building located just north of the Legislature, I can't help but wonder why this beautiful, not-so-old, marble-clad building is just sitting there vacant. I understand that this government acquired

it free and clear in the land swap some years ago but has done nothing with it. My questions are all to the Minister of Public Works, Supply and Services. Could the minister advise this Assembly as to the current status of the old federal building?

MR. WOLOSHYN: Mr. Speaker, the federal building was leased in 1993 to Prairie Land Corporation, which was formed by 14 union pension funds to invest in real estate development. The corporation was the successful bidder on a public -- and I repeat, public -- proposal call for redevelopment of the federal building. Obviously Prairie Land Corporation has not proceeded with the redevelopment of the federal building. For some time now the department of public works has been in discussion with Prairie Land Corporation concerning the termination of the lease agreement. I expect those discussions to be finalized shortly, and we will then look at the building.

MR. YANKOWSKY: Thank you, Mr. Speaker. Could the minister advise what plans he has for this building once his department has control of it?

MR. WOLOSHYN: Mr. Speaker, you can see that the process has been a lengthy one with Prairie Land Corporation, but we are going to consider all possible and practical alternatives for the federal building, which range from renovating the building for government use to a new proposal call to secure private redevelopment schemes to demolition, if that's not practical.

I must say, Mr. Speaker, that the private sector felt that it could not economically renovate the federal building, so obviously we have to take a good look at the possibilities. We have also looked at whether or not the building would be suitable for provincial archives as one of the first uses. Just for the information of the hon. member who is getting so into the answer, it is not suitable for archives because of the floor plate, because of the ceiling height, because of the column spacing. So the archives definitely are not going there.

MR. YANKOWSKY: Thank you, Mr. Speaker. If one company has already rejected redevelopment of the federal building as uneconomical, why do you think a new proposal call will now be successful?

MR. WOLOSHYN: We have to put things into the right perspective. You have to remember that the Prairie Land Corporation at the time felt that they had a good proposal. The difficulties that we're finding in discussions since then is that the main two floors seem to be a bit of a problem with their large floor plates, and at that time the office vacancies in Edmonton were up around the 15 percent mark.

Also, when the building was looked at by Prairie Land, they concluded that the building was in need of a much more extensive renovation than they first had anticipated. Basically it would involve totally gutting the building and having to put in vapor barriers and so on on the outside as well as all the mechanical and electrical. Consequently the costs were higher than what they anticipated. Going on from there, Mr. Speaker, I think in fairness to them the vacancy rate at that time jumped from 5 to 10 percent.

Looking back on what could happen, there is going to be the possibility of a call for a private redevelopment. It could involve government use, it could involve government commitment, but what I can assure you is that we're going to look at all the alternatives to ensure that this campus is enhanced by that particular site.

2:10

THE SPEAKER: The hon. Member for Edmonton-Riverview, followed by the hon. Member for Calgary-Fish Creek.

### Child Welfare

MRS. SLOAN: Mr. Speaker, in the past five years consecutive reports from the provincial Children's Advocate, the growth summit, the Official Opposition, Coopers & Lybrand, the city of Calgary, and the Edmonton Social Planning Council have made recommendations to this government about the welfare of Alberta's children. All were dismissed, ignored, or shelved. My questions are to the Premier. How many recommendations made by past Children's Advocates Bernd Walter and John LaFrance have been implemented to address the needs of vulnerable children?

MR. KLEIN: Mr. Speaker, I would challenge the hon. member as to the truthfulness of that statement, that all, every single recommendation, all recommendations of the Children's Advocate have been tabled, shelved, or swept under the rug or whatever words. I would challenge her relative to the truthfulness of that statement.

I'm going to have the hon. Minister of Family and Social Services reply.

DR. OBERG: Thank you very much, Mr. Speaker. When it comes to the recommendations from the Children's Advocate's report, we look at each and every one. As the hon. member knows because she was given quarterly reports from the Children's Advocate, there are many items on the Children's Advocate that have been put off because they've been done. Quite frankly, the Children's Advocate is a very important part of this government, and to not listen to it, I think, would be counter to what we're doing with children.

MRS. SLOAN: If the Children's Advocate is such a priority of this government, why are we almost five months overdue to receive the last annual report of that office?

DR. OBERG: Mr. Speaker, that's a very good question, and I have brought it up with the Children's Advocate. The Children's Advocate has not finished that report.

MRS. SLOAN: Mr. Speaker, will the Premier and his wife be handpicking participants for the children's forum, or will participation be open to all Albertans who are concerned about the welfare of children in this province?

MR. KLEIN: Yes. Well, I'm so happy that the hon. member has acknowledged my wife, who has spent years and years volunteering her time on behalf of children's causes, including one very important initiative here in the city of Edmonton. As a matter of fact, I spoke at lunchtime today at a function in support of Kids Kottage, and that is one of the . . .

MRS. SLOAN: Your own pet little project.

MR. KLEIN: I'm sorry; my own pet little project? Is that how they speak about an organization? Is that, Mr. Speaker? That's what I heard across the way: my own pet little organization. Is that what they think about this tremendous organization here in the city of Edmonton, to call it my own little pet organization? Whoever made that statement should stand up and apologize right now. [interjections]

To answer the question . . .

THE SPEAKER: The hon. Premier has the floor.

MR. KLEIN: Mr. Speaker, to answer the question, the minister

responsible for children's services approached me and said: I am going to ask your wife, Colleen, to volunteer to chair the children's forum; is that okay with you? And my answer was: don't ask me; ask Colleen. The hon. minister asked Colleen, and Colleen accepted the position.

Relative to the appointment process, I don't know how that's going to take place, but I will ask the hon. Minister of Family and Social Services if he can shed some light on this issue.

DR. OBERG: Thank you very much, Mr. Speaker. We expect that anywhere from between 150 and 200 people will attend the conference this fall. With the Alberta children's initiative this is an important part of the business plan that will be continued on. How these delegates are picked is difficult to say at the moment, and that planning will occur over the next two to three months.

Mr. Speaker, I must add one other point about the Children's Advocate. We have just added four advocate positions to the nine existing, a 45 percent increase, we have increased the funding by \$422,000 in this budget, and these people dare say that we don't care about children?

THE SPEAKER: The hon. Member for Calgary-Fish Creek, followed Member for Lethbridge-East.

MRS. FORSYTH: Thank you. [interjections]

THE SPEAKER: Maybe I can try that again. The hon. Member for Calgary-Fish Creek has the floor.

MRS. FORSYTH: Thank you, Mr. Speaker. We should also acknowledge what the Premier's wife has done on child prostitution in this province.

### Calgary Teachers' Labour Dispute

(continued)

MRS. FORSYTH: Mr. Speaker, it would appear that the main unresolved issue between the Calgary public board and its teachers' union is the negotiated pupil/teacher ratio. A number of parents in my constituency have contacted me with questions about this issue. They are having trouble understanding the difference between the union's position and the board's. My question is to the Minister of Education. Could the minister clarify what the difference is between the negotiated PTR that the union is asking for and the class size cap the board has offered?

MR. MAR: Mr. Speaker, it's very important for people to understand the difference between a classroom size and a calculated pupil/teacher ratio. A PTR that is negotiated in a collective bargaining agreement does not necessarily reflect the classroom size in a particular school because the PTR includes teacher numbers that may not be in the classroom, in fact teachers who might not even be in the school. So what the Calgary board is offering is a limit on classroom sizes, 26 at the elementary level and 30 at the high school level. What the union is holding fast on is pupil/teacher ratio. But with the Calgary board's offer of putting a cap on classroom sizes, I think that this is addressing what parents are talking about in their own schools when they say that they'd like to see classroom sizes limited to a certain number.

MRS. FORSYTH: Thank you, Mr. Speaker. My question is to the same minister. Given that there are a number of other boards using a cap on class size, what is being done in the other jurisdictions, and how is it working?

MR. MAR: Well, Mr. Speaker, I've looked at the policies of school boards around the province, and as an example the Edmonton public board does have a policy of capping class sizes at 30 unless there is approval by the superintendent. Obviously there can be some circumstances, particularly in high school settings, where the schools feel that they can do better with more than 30 in a classroom, so they accordingly seek the approval of the superintendent in order to do that. I'm advised by the Edmonton public board as well as having heard that the local teachers' union has said that this has worked quite well for this particular city's public schools.

With respect to other boards, Mr. Speaker, as an example the Edmonton Catholic board has guidelines for their schools that they try to adhere to as much as possible with respect to classroom size. Also, Edmonton Catholic has a practice of not having more than 28 to a classroom; however, in fact, their classes rarely go above 25 students per classroom.

Mr. Speaker, each school reports to their superintendents on class size, and the superintendent can approve alternative classroom sizes.

MRS. FORSYTH: Thank you. Given that there are many jurisdictions which take neither approach, how do these other jurisdictions that have no negotiated PTR or cap on class size operate?

MR. MAR: Well, Mr. Speaker, the classroom size can vary from jurisdiction to jurisdiction and from school to school, in fact from class to class. I think it depends on a number of different factors. For example, it depends on what you're teaching, how you're teaching it, and I think that in most cases principals will make decisions about teacher assignments, how many teachers will be assigned to a classroom and how many will be put in support positions. That's why we rely on school boards to make local decisions, and in the majority of cases that I've seen, those decisions are made with the best interests of students in mind. That would be my expectation with the Calgary board of education as well.

THE SPEAKER: The hon. Member for Lethbridge-East, followed by the hon. Member for Edmonton-Mill Creek.

2:20

#### **User Fees** (continued)

DR. NICOL: Thank you, Mr. Speaker. My questions are to the Provincial Treasurer. Will the Provincial Treasurer confirm that health care premiums worth over \$600 million of the \$1.2 billion in user fees are not included in Bill 35?

MR. DAY: They will be included in the overall review, Mr. Speaker.

DR. NICOL: Thank you, Mr. Speaker. Why is there no cost-of-service data associated with each of the user fees that are attached to Bill 35 so that Albertans can find out how many of those user fees are actually charges above cost?

MR. DAY: That's part of the exercise, Mr. Speaker.

DR. NICOL: Thank you, Mr. Speaker. Why are there no revenue levels specified for each of the user fees, as outlined in the agenda?

MR. DAY: Mr. Speaker, that's part of the exercise and part of the re-evaluation of all the fees. It should be noted very clearly that we are the only government in this country that is doing a full review of all fees to make sure that people who pay those fees are not paying more than they should have to. We are the only ones doing that, and

contrary to remarks made by the finance critic, the government is not being dragged kicking and screaming into this exercise. The court ruling does not require this government or any government to do this type of review. We are the only ones doing it.

I'll also add, Mr. Speaker, that the Member for Edmonton-Glenora, the opposition finance critic, tabled a pile of paper under the guise of suggestions. Well, I had it sent over here, and I've just looked at it. There was not one suggestion in what he tabled. What he tabled was a bunch of the fees and some of the accompanying statutes. That's all he tabled.

We're doing a full review, and we are asking Liberals and others to take part and help us with that. But I just got a list from the desk, and he's got a very provocative type of statement across the top. The list that he tabled -- I just saw it right here -- has a bunch of fees listed and some of the accompanying legislation. But I'm not giving up hope. I'm looking for the day when we will get a positive suggestion from him on this exercise that we're doing.

MR. SAPERS: Did you get my point of order?

THE SPEAKER: I do now, yes.

The hon. Member for Edmonton-Mill Creek, followed by the hon. Member for Edmonton-Ellerslie.

#### **Provincial Credit Rating**

MR. ZWOZDESKY: Thank you, Mr. Speaker. Provincial governments across Canada are rightfully concerned with their credit ratings, and I know Alberta's no exception. The recent news about B.C.'s credit rating in particular, where that credit rating has been downgraded by Standard and Poor's, has raised some concerns about B.C.'s increased costs of borrowing money, and that in turn tends to sour the overall outlook of outsiders regarding the B.C. economy. But I'm primarily concerned obviously with Alberta, so I have some questions for the Provincial Treasurer. Could the Provincial Treasurer please tell us if there have been any recent changes to Alberta's credit rating in particular as perhaps enunciated by the Standard and Poor's bond rating agency?

MR. DAY: Mr. Speaker, the question about B.C.'s rating and B.C. being downgraded is an important one because the concern, then, could possibly reflect on Alberta and all other provinces. People who control major investment accounts, pension funds, investment funds, have certain policies which direct that they must invest a certain amount of those dollars in Canada, and when they look across Canada, they look at the ratings. There's been some concern that B.C.'s has been downgraded by Standard and Poor's and that that could have a negative effect on Alberta's.

A couple of the reasons that they're interested, Mr. Speaker, as far as B.C.'s rating being downgraded -- the rating agency talks about the amount of debt carried by that province. They also talk about the fact that that province has deficits, and that reflects a negative rating. Because we are very aggressive about reducing our debt load and because we have legislation which prohibits deficits, our rating will not be affected, and the Standard and Poor's reaffirmation of our double A rating in November still stands today.

MR. ZWOZDESKY: Excellent news. Thank you.

Could the Treasurer also explain what impact Alberta's debt load and our debt payment plan might have on bond rating agencies such as Standard and Poor's?

MR. DAY: Well, Mr. Speaker, it's sort of fascinating because when

a question comes about our ongoing fiscal performance and how we are rated by outsiders, the Liberals laugh and moan and groan, and they're not even interested in that. But I can tell you that our rating determines to a large degree how much we can indeed fund the very important services to people in this province. There's an interesting quote from Standard and Poor's.

The member has just asked about our debt performance and what that does directly in terms of rating. Standard and Poor's says, "The rating reflects the expectation of continued debt reduction." We hear the Liberals say that's not important, that continued aggressive debt reduction is not important. Here we're very clearly rated on "the expectation of continued debt reduction and strong budget performance," and then it goes on to say "safeguarded by conservative spending management in periods of lower-than-anticipated energy revenues." It goes on to talk about our "extraordinary fiscal performance in 1998." These elements are very important to not only the ongoing funding of quality programs like health and education but in fact to all services to Albertans. We're committed to that course.

MR. ZWOZDESKY: Thank you. Recognizing Alberta's need to climb out of debt but also the need to look at increased investment for core areas, is there in fact any room within the fiscal responsibility act to direct more money toward pressure areas?

MR. DAY: Well, Mr. Speaker, as recently as today there is another rating agency in our province. I met with some of those individuals from Moody's rating agency. They, too, had some questions about the fiscal responsibility act and were interested to know that that provides what we call some real bite into the business planning process.

Mr. Speaker, if necessary, 25 percent of the amount that we set aside in revenues at the start of the budget year could be used to address certain pressures. But I want to make it very plain that if money is taken from that 25 percent component of this economic cushion -- the 75 percent has to go to debt pay-down -- if some money is used from that in an operational way, that means some money will be taken away from maybe an extra road that could be paved or another facility that could be built or modernized. So those are things that we'll have to approach very carefully.

I just might add, if I could, that when the Liberals talk about our just increasing spending in so many different areas, Mr. Speaker, we need to acknowledge that in Alberta we have a pretty good standard of living. We've got it pretty good. Is it perfect? No. But the Liberals are asking us to go back to the days when governments would just say, "We want to spend more than anybody else." We're not going back to those days. We want to be seen as a government that spends smarter than anybody else but not just indiscriminate, dump-truck, unload all the money type of spending that the Liberals are talking about.

THE SPEAKER: The hon. Member for Edmonton-Ellerslie, followed by the hon. Member for Calgary-McCall.

#### Whaleback Area

MS CARLSON: Thank you, Mr. Speaker. My question is to the Minister of Energy. Has the government reached an agreement with Amoco to trade or buy back the lease rights in the Whaleback?

DR. WEST: We're negotiating at the present time, Mr. Speaker.

MS CARLSON: Will the minister tell us when we can expect an

announcement, what he expects it to cost the province, and whether or not this will set a precedent for other negotiations in the province on other leases?

DR. WEST: Mr. Speaker, I believe that with the minister of environment we will be making an announcement with Amoco in the fullness of time. This does not -- and I'll repeat, does not -- set a precedent for the rest of the province.

MS CARLSON: Mr. Speaker, my next question is to the Minister of Environmental Protection. Will he . . .

MR. BONNER: There isn't one. There isn't one.

MS CARLSON: True, there isn't one.

Will the minister on behalf of his government now announce that the entire Whaleback area will be designated as a special place?

2:30

MR. LUND: Mr. Speaker, as the Minister of Energy has correctly stated, we're in negotiations, and those are ongoing. We can't make any commitments or statements until the negotiations are complete.

THE SPEAKER: The hon. Member for Calgary-McCall, followed by the hon. Member for Edmonton-Calder.

#### Advanced Education System

MR. SHARIFF: Mr. Speaker, prior to entering public life, I used to be an instructor at Mount Royal College in Calgary. I've been a strong advocate for postsecondary education and in particular for adequate funding for education and research. This past weekend a well-respected individual, the president of Syncrude, Mr. Eric Newell, stated that the government is underfunding education and research. My question is to the Minister of Advanced Education and Career Development. Can the minister assure my constituents and Albertans that government policy is not resulting in underfunding of education and research?

MR. DUNFORD: Well, Mr. Speaker, it is of course true that the president of Syncrude did address a policy conference on the weekend, and I can say that he was certainly very, very passionate in his remarks. [interjections] I'll wait till you calm down, if you want the answer. That will be fine. We've got lots of time, Howard. It's okay.

THE SPEAKER: Actually, hon. minister, we do not have lots of time. You have the floor, and if you would like to proceed, please do.

MR. DUNFORD: Well, let me say, then, that certainly the hon. member in addressing his question and Mr. Newell in his remarks on the weekend displayed passion about the postsecondary system. I want to indicate to all members that I share that passion that they have to ensure that Albertans are positioned for the future with the skills and the knowledge that they're going to need.

MR. SHARIFF: Mr. Speaker, given that passion doesn't always translate into dollars, will the minister acknowledge that our postsecondary education system needs more cold, hard cash?

MR. DUNFORD: Well, I think, Mr. Speaker, that certainly we've responded. People here in the House know after the rather lengthy debate on estimates that we are putting more money into the

postsecondary system. I simply want to point out again to the people here that, you know, there's more than just more cold, hard cash. I mean, I agree with some of the comments that have been made about reallocations. I think that it's time that we took a hard look at government spending in this particular province and see: where is it going, where should we be making the shifts, and where should we be making the moves? I don't think we should get caught up in this day-to-day thing that we have to deal with from the Liberal side of this House about more spending, more spending, more spending. I mean, I think it's important . . . [interjections]

THE SPEAKER: Go ahead.

MR. DUNFORD: I seem to have touched a bit of a nerve, I guess, Mr. Speaker.

This is the thing. I believe that as we enter the new millennium, we have to look for not only effective representation amongst the various services that this government provides, but we have to look at effective funding as well.

MR. SHARIFF: Given the changing global economy and global competitive markets, are we as a province meeting the challenges of the future, and is our corporate sector playing its due part?

MR. DUNFORD: Mr. Speaker, a general phrase that's used around government these days is that just because we're doing good doesn't mean we can't do better. I would like to expand on that situation both from a postsecondary situation . . . [interjections]

Oh, boy, we touched nerves here this afternoon on that Liberal side, eh? They would like the people of Alberta to believe that we do not have a high-quality postsecondary education system. I believe by any measurement . . . [interjections] I hear the heckling. It can't be ignored. It is too loud. I cannot ignore it, and I'm not going to ignore it. I want the Liberals in this House to stand up with me and indicate positively to the people of Alberta that we have a high-quality postsecondary education system and just because we're doing good doesn't mean we can't do better. Now, come on. I want to hear it from you.

Now, as far as the private sector is concerned, Mr. Speaker, we know there is more that they can do. We have some investments from the corporations in this province that are doing an excellent job, but the point is that they have to do more. We are faced with 23,000 more students coming into this system by the year 2005. The government cannot do it alone. We have to have the assistance of the private sector, of the public sector, and of the third sector, and only then we will be able to achieve those goals that we hold so dear to our hearts for all Albertans.

### Recognitions

THE SPEAKER: Hon. members, today seven hon. members have indicated their intent and desire to participate in Recognitions. We'll proceed in a matter of about 30 seconds from now in this order. First of all, the hon. Member for Edmonton-Mill Creek, followed by the hon. Member for Edmonton-Centre, and then we'll proceed further.

### 300th Anniversary of Khalsa

MR. ZWOZDESKY: Thank you. Mr. Speaker, I rise to recognize our Sikh community, who this year are celebrating the 300th anniversary of Khalsa. Activities around the world will commemorate this proud and historic year, including numerous events here in Alberta.

Last weekend I was honoured to march in the parade and to speak

at the official opening ceremonies in Edmonton, which attracted about 10,000 participants. We heard many speeches about truth, equality, and justice, which are the founding principles of Sikhism first enunciated by Guru Nānak and Guru Gobind Singh Ji and others. I want to sincerely congratulate Edmonton's Sikh community, the Gurdwaras, the religious houses, the numerous Sikh organizations, and all the hundreds and hundreds of volunteers who are co-ordinating special activities on this most memorable occasion.

Among those volunteers are Pal Singh Purewal, chairman of the tercentenary celebrations of Khalsa, Dave Purewal, Jasbeer Singh, Kulmit Sangha, Avtar Pannu, Dave Gill, Kulwant Singh, Charan Saggi, Jaswant Atwal, Sukhi Lalli, Bhajan Kang, my good friend Kailay, and so many, many others. [remarks in Punjabi]

May God bless all of you. O Almighty, the purist is yours, and the victory is yours. [as submitted]

THE SPEAKER: The hon. Member for Edmonton-Centre, followed by the hon. Member for St. Albert.

### Danielle Aubry

MS BLAKEMAN: Thank you, Mr. Speaker. Today it is my distinct pleasure to recognize Danielle Aubry as a recipient of the Top 40 under 40 award. These national awards are sponsored by The Caldwell Partnership and honour leaders of today who have achieved a level of success before reaching 40. The awards banquet will be held on April 29, 1999, in Toronto.

Ms Aubry has used her BSW and MSW in her work with the Calgary Sexual Assault Centre, the Calgary Women's Emergency Centre, and the Calgary Women's Health Collective. In 1994, after almost a year of volunteering to develop a new service model, she opened the doors of the Calgary Communities Against Sexual Abuse.

2:40

This award recognizes Danielle for her vision, leadership, innovation, achievement, community involvement and enhancement, impact, and her strategy for growth. I've met Danielle, and I'm not at all surprised that her energy, administrative skills, and connection to her community have been recognized. As the critic for women's issues I most of all value and thank Danielle for her dedication to women, her activism, and her advocacy. Congratulations.

THE SPEAKER: The hon. Member for St. Albert, followed by the hon. Member for Edmonton-Rutherford.

### St. Albert Volunteer Awards

MRS. O'NEILL: Thank you, Mr. Speaker. On Saturday night St. Albert celebrated its best and brightest volunteers in two categories of the volunteer sector: first of all, the leaders of tomorrow and, secondly, the volunteer citizen of the year.

I'd like to commend today in this House the four young leaders of tomorrow: Lisa Slater from Vital Grandin elementary school; Zosha Di Castri from École secondaire Sainte Marguerite d'Youville; Matt Becigneul from St. Albert high school; and Claudine Campbell, who came directly from her graduation at Grant MacEwan Community College.

For volunteer citizen of the year there were four finalists: Mary Jo Brentari, Janet Dormer-Lovell, Louise Mitchell, and the winner was Leona Weiszhaar.

These are eight individuals who make our community of St. Albert a very wonderful place to live and work and play. Thank you.

THE SPEAKER: The hon. Member for Edmonton-Rutherford, followed by the hon Member for Calgary-Mountain View.

#### **Aaron Moser**

MR. WICKMAN: Thank you, Mr. Speaker. Today I want to recognize Aaron Moser. I want to recognize Aaron as a role model. He's quickly becoming Alberta's Rick Hansen in terms of serving as an inspiration to others.

I also want to recognize those volunteers who are part of the foundation to raise dollars to allow him to have a lifestyle. The interesting part is that of the dollars that are being raised, some are going to organizations like the Canadian Paraplegic Association and the Spinal Cord Injury Society. So it's much more than just Aaron benefiting from fund-raisers like the recent one at the AgriCom that drew 1,300 people and raised \$320,000. Those that were behind the movement, behind the organization, I want to recognize them for their efforts in not only helping Aaron but also helping a lot of other individuals in similar situations.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Calgary-Mountain View, followed by the hon. Member for Calgary-Buffalo.

#### **65th Anniversary of Ukrainian Genocidal Famine**

MR. HLADY: Thank you, Mr. Speaker. I would like to recognize the 65th anniversary of the Ukrainian genocidal famine of 1932-33, which is one of the worst tragedies of this century. It is important that we not forget the millions of victims of this terrible crime against humanity. A memorial marker was unveiled in Calgary yesterday and will serve as a permanent reminder of this horrible catastrophe.

The Ukrainian community is one of the strongest, most influential groups of people in Alberta. The Ukrainian culture is an integral part of Alberta's heritage, and the hardworking, freedom-loving values that Ukrainians brought to Alberta still survive to this day. We must ensure that they continue into the future as well. It is exciting to see that the Ukrainian culture is still so strong here in our province.

Mr. Speaker, I would like to commend the Ukrainian Canadian Congress and everyone else who helped to organize this event in Calgary yesterday. This marker will forever preserve the memory of the millions of innocent victims of Stalin's Soviet tyranny.

Thank you.

#### **Immigrants of Distinction Awards**

MR. DICKSON: Mr. Speaker, on Friday, April 23, the Calgary Immigrant Aid Society paid tribute to some very special individuals, in this case recipients of the immigrants of distinction award.

The Calgary Immigrant Aid supporters, staff, and volunteers honoured outstanding youth by awarding scholarships to Newman Yu Ting Lin, Aly Remtulla, Alisa Palic, Wel-ting Chen, and Omar Tahmiscic.

Also honoured were four outstanding businesspeople with the business achievement award: John Da Silva, Jorg and Helen Ostrowski, and Raymond Kan.

Volunteer service achievement awards went to Muhammad Hassam Armagan, Vilma Dawson, Dr. Nallainayagam.

The arts achievement award went to Helen Seka Owen.

Professional achievement awards went to Dr. Hans van de Sande, Dr. Chan Wirasinghe, and Dr. Gerald Zamponi.

The diversity award went to Shell Canada Limited.

These are people and a corporation that have demonstrated in the

city of Calgary that diversity is a wonderful strength of Alberta, a feature to encourage, protect, and support.

Thank you very much.

THE SPEAKER: The hon. Member for Wetaskiwin-Camrose.

#### **Gardner Bible College**

MR. JOHNSON: Thank you, Mr. Speaker. This past weekend I attended and participated in a groundbreaking ceremony for a new library, administration, and classroom complex at Gardner Bible College in Camrose. This begins an expansion program at Gardner to coincide with the 65th anniversary of the institution. Prior to 1983 it was known as Alberta Bible Institute. The new library in this development will be named the Autumn Haggerty library as a tribute to a longtime librarian and educator. Autumn Haggerty served as a voluntary librarian for 17 years after completing a very successful teaching career in the Camrose area.

Congratulations to chief executive officer Dr. John Howard, board chairman Dr. Darryl Schultz, faculty, students, and all the supporters and volunteers of Gardner on 65 years of service to the community and the church. The Wetaskiwin-Camrose constituency wishes you continuing success as you begin a new era of service through Christian education.

Thank you.

THE SPEAKER: The hon. Member for Edmonton-Glenora on a point of order.

#### **Point of Order Allegations against Members**

MR. SAPERS: Thank you, Mr. Speaker. I'm going to be referring to both *Beauchesne* and our own Standing Orders, and I'm going to be referring to an exchange that took place not between myself and the Treasurer but between the Treasurer and my colleague for Lethbridge-East.

The Treasurer during his response made some allegations about some tablings that I presented to this Assembly and in fact, Mr. Speaker, contrary to Standing Order 23(h), made a specific allegation against another member. He even made specific reference to the finance critic and to the Member for Edmonton-Glenora during his remarks. What he said is that I did not provide this Assembly in tablings with a list of suggestions to help the government deal with sorting out the mess that it's made of user fees.

Mr. Speaker, I take this very seriously. I provided two tablings to the Assembly. One was a list of user fees which the opposition considers problematic. The second tabling, of course, was a copy of an Official Opposition news release, and attached to it was a two-page background document that contains 13 separate suggestions provided to this Chamber for consideration during the government's review of user fees.

Not only did the Treasurer violate 23(h), in terms of making allegations, but 23(i), which talks about imputing "false or unavowed motives." I don't have the Blues, but I did make notes of the Treasurer's comments. He used the word "disguise," that a tabling was provided in this Assembly in the form of a disguise. These are very confrontational words uttered by the Treasurer. Now, while the word "disguise" per se is not in *Beauchesne*, I will note that *Beauchesne* rules as unparliamentary the words "distort," "fabricate," and "deceit." When the Treasurer said, as he has said, that I tabled something "under the disguise," it's very clear what he meant by that. Mr. Speaker, you yourself have ruled that context is very important in understanding whether there's been a breach of Standing Orders.

I would ask that the Treasurer not only correct the record by

putting in *Hansard* his acknowledgment that in fact there were two tablings, one which did contain 13 separate recommendations, but furthermore, that he would withdraw the allegation as it does violate Standing Orders.

THE SPEAKER: The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you, Mr. Speaker. I am at somewhat of a disadvantage because I didn't have a copy of what the Provincial Treasurer was referring to when he made the remarks in the House. I can only assume, however, that part of the difficulty and misunderstanding may arise from the fact that there were two tablings, and perhaps he was referring to the one that he had received and did not have a copy of the one that had the list of recommendations or suggestions.

So I would suggest, if that is the case, that it's simply a misunderstanding as to what the tabling included. Perhaps in the future, not only to be more efficient but to speed up the processes in the House, if the hon. member has tablings that are obviously linked, why split it into two? Why not simply make it one overall tabling to ensure that when a member requests a copy of the tabling, he does receive the full document?

2:50

THE SPEAKER: Hon. members, thank you again for not allowing the points of order here to degenerate into a debate on Bill 35, introduced today.

The hon. Member for Edmonton-Glenora has a very, very valid point in raising this issue. There were in fact two tablings today. One of the two tablings basically does have a title to it, "Official Opposition Recommendations on User Fees and Charges." Absolutely no doubt at all. The information contact for one of these two tablings certainly says: the hon. Member for Edmonton-Glenora. Unfortunately, I don't have the other tabling. I only got one. So I don't know if the other tabling also had the citation from the hon. Member for Edmonton-Glenora with respect to this as well. There's no doubt at all that there is also the possibility that the hon. Provincial Treasurer had not seen both of the tablings so perhaps, in responding, was basically making a comment with respect to the one that did not have recommendations and was unaware of the second one, which did have recommendations.

Clearly, what is missing here is the hon. Provincial Treasurer. There is a point of order, and he certainly was aware that there was going to be a point of order in here. If the hon. Deputy Government House Leader wants to purport to be the spokesman for the hon. Provincial Treasurer, he might have consulted with the hon. Provincial Treasurer so that we might have the actual statement from the hon. Provincial Treasurer.

In the absence of total, absolute proof one must only conclude that presumably the hon. Provincial Treasurer was referring to the second of the two tablings and not the first of the two tablings. But very clearly, for the record, the hon. Member for Edmonton-Glenora -- and it will be in the record -- did make a tabling with recommendations with respect to this matter. That is part of the record now of the history of the province of Alberta.

head: Orders of the Day

head: Government Bills and Orders

head: Second Reading

**Bill 26**  
**Family Law Statutes Amendment Act, 1999**

[Adjourned debate April 14: Ms Leibovici]

MR. DICKSON: Mr. Speaker, I'm pleased to join the debate on Bill

26. Since we're talking about principles and we're dealing with this at second reading, I thought it would be useful to make some observations about where this bill may have come from.

When I first came into this Assembly in 1992, this had been an issue of considerable interest and importance to me. I'd had the opportunity to practise family law for some time in the city of Calgary. I'd had some firsthand experience at seeing how difficult the issues of custody and access are and how important it is to be able to support children who go through this enormously difficult time of parents breaking up. I know that this experience isn't unique. I remember having some files with the hon. Member for Calgary-Glenmore. He's had this experience, as has, I know, certainly the hon. Member for Calgary-Lougheed. There are lots of people in this Assembly that have seen firsthand and I expect many other members have perhaps in their own family seen the enormous kind of stresses and difficulties that come around separation.

In the Legislature this concern has been manifest in some different ways. I remember when an MLA in May of 1992 moved a motion "to establish a task force to examine issues of parental custody and access with a mandate to make recommendations." The Canadian Bar Association put together a very comprehensive submission on custody and access, and I just want to digress from the history and context to make this observation. When the Canadian Bar Association made their submission to the House of Commons -- this would have been I think in 1994, and this is from the national family law section of the Canadian Bar Association -- they talked about the goals of legislative change dealing with custody and access. I'm just going to quote the part that I in fact think makes a great deal of sense.

The CBA's Family Law Section is of the view that the goal of any legislative changes to the current custody and access regime should be to advance the well-being of children by:

- providing judges with a list of factors which guide the exercise of their discretion by clarifying the criteria according to which the "best interests" test is to be applied;
- educating the public about the basic responsibilities of parents, regardless of whether the parent is the one with whom the child resides or the one with whom the child has periodic contact;
- reducing the winner-loser mentality inherent in the current custody and access system by minimizing the effect of litigation between divorcing parents.

[The Deputy Speaker in the chair]

Mr. Speaker, I suppose if I were looking for an objective or a purpose, I think that we could do no better than that. I'll come back in a minute and talk about the purposes set out in section 2. I think that in a general way, on sort of a first-principle basis that's the way that I approach this.

Now, if we look at what's happened in Alberta on this issue, the Canadian Research Institute for Law and the Family did a study in 1992. They estimated that some 300,000 adult Albertans have been custodial or noncustodial parents wrestling with access issues -- 300,000 adult Albertans. That was in a study done by the institute affiliated with the University of Calgary in 1992. You know, Alberta has continued to either lead or tie the nation in terms of the rate of divorce. It's a very, very common social phenomenon, so we can imagine that if in 1992 there were 300,000 adult Albertans affected, it would be significantly more in 1999.

When we look at past attempts to deal with this, I remember when Mr. John Gogo, who used to be the Lethbridge-West MLA, introduced Bill 216 back in February of 1993, which had some proposals to address access enforcement. Then Brian Evans, who went on later to become the Minister of Justice, with the power to make

change, chose not to do so, but at one time he was very concerned about the issue. He talked about the need on May 12, 1992. I think I may even have the quote here. In fact this was his comment on May 12, 1992:

In conclusion, Mr. Speaker, Alberta doesn't need another task force. The time is now to introduce legislation that could dramatically improve the access and custody situation in Alberta.

We've had many attempts. I think there were something like five different private members' bills that came in over a space of six years intended to address some of the myriad problems dealing with custody and access. In October of 1995 I remember questioning Mr. Evans, who was then Justice minister, and asking him: why is it in 1992 this was a crisis that had to be dealt with and then when he was minister we didn't see some legislation? He talked about the need to do more consultation. Federal/provincial/territorial consultation was going on. He was waiting for answers, I guess, from some other source, some other process.

Now, contrary to what the Premier often says, the opposition tries hard to put good ideas forward. Some may differ in terms of whether it was a good suggestion or not, but the intention in putting Bill 219 forward three years ago was to offer some concrete, thoughtful effort to deal with custody and access enforcement issues. The Family Law Reform Act, Bill 219, when we put it forward, unfortunately didn't come up for debate, but the purpose of it was to try and integrate some of the best information we were able to find around the country in terms of how to deal with the vexing issue of access enforcement. What we looked at was a model that had been used in the province of Manitoba and continued until the Manitoba government eliminated it, not because it wasn't successful but in a cost-cutting move. They found that they could reduce costs.

3:00

What we put forward was the proposal that we would have an access program co-ordinator. You see, I think one of the problems is -- and this is a general observation about Bill 26 -- that there's a sense sometimes that what we want to do is give an individual more remedies to take and beat somebody else over the head with. If you go back to what the Canadian Bar Association's national family law section said, they talked about "reducing the winner-loser mentality." So if you want to reduce that winner/loser mentality, there's some specific courses of action you want to take.

Now, I don't know. There may be some people in this Chamber that think that that's a pretty good idea, a court system that allows two parents to go in and bludgeon each other senseless, spend enormous, vast amounts of money in litigation, and at the end of the day you have a winner and a loser. There may be some people who think that's a really good system. That's not been my experience. It's not been the experience, I think, of people involved in this as participants as uncles, aunts, grandparents, social workers, courts, family court officials.

Anyway, what we had put forward as a model was this. You'd have this government office, the access enforcement co-ordinator, which was effectively sort of equivalent or parallel to the maintenance enforcement program, the notion being: once you've got an order giving you access, why should you have to go back to court and spend an additional pile of dollars to try and get the court to enforce what you'd already got in the certified order you're packing around in your hip pocket?

So what we talked about was creating this position of access enforcement co-ordinator to be appointed by the Minister of Justice. What would happen is this: the access enforcement co-ordinator would have a range of remedies available to him or her, and that would include the ability to try and mediate a dispute. This is really

important, because there are so many nuances to access enforcement that it is difficult to adequately deal with those sensitive but very important issues in a 15-minute chambers application in front of a Court of Queen's Bench justice, who's dealing with maybe 30 or 40 cases in a period from 10 o'clock until 12:30. Sometimes you can get a special domestic chambers application. I think you have that option, but the difficulty is that sometimes you have to book a month ahead, weeks ahead to get one of those hearings where you have a judge who would have a little more time to hear your case.

What we're proposing is that this access enforcement co-ordinator would be able to hear not just from a noncustodial parent who is having problems, but it's also important to recognize that custodial parents also can be frustrated by access not exercised. There's certainly a question where the noncustodial parent shows up to take the children and finds that the lights are off, the door is locked, and nobody is home. So much for his or her access weekend. You also, however, get situations where the custodial parent has the children up early in the morning. They're dressed and they've got their package, their sneakers to do whatever, and the noncustodial parent doesn't show up at the door. They've maybe canceled the figure skating lesson or the swimming lesson that day. In either case, the result is totally unsatisfactory. You have a couple of children who are held hostage, if you will, because of parents not being able to manage their anger, parents still wanting to bludgeon the other partner over who did what to whom at some point over a 10- or 15-year relationship. So that was the point. The access enforcement co-ordinator could try and mediate the dispute.

What was important about the remedy that the Liberal opposition put forward three years ago was that in those cases where the access enforcement co-ordinator could see that mediation wasn't working and it was clearly a flaunting, a gross disregard for what the court had said, the access enforcement co-ordinator could go to court. So it's not now the custodial or noncustodial parent who has to go to this additional expense. They go to a government office, just as we do now for maintenance enforcement. You know, if a woman is not receiving her support cheques, she doesn't have to spend a lot of money trying to recover that money. We have this office set up to do that for her. In the same way, we propose that an access enforcement co-ordinator could attempt to mediate the dispute. If that was unsuccessful, the access enforcement co-ordinator could -- he wouldn't have to in every case -- go to court.

Now, if I'm a justice of the Court of Queen's Bench of Alberta and I am sitting there on a chambers application and I have two people in front of me and the applicant is the access enforcement co-ordinator, what happens is it tells me two things. Firstly what it tells me is that there has been a serious effort to resolve this thing before it got there. Sometimes what judges will find and sometimes fairly comment on is that there hasn't been adequate work done by the parties, that the parties didn't work hard to try and resolve it themselves. So he knows that there's been some genuine attempt to try and find some resolution.

The second thing that judge knows, because there's representation by the access enforcement co-ordinator, is that the access enforcement co-ordinator and his counsel feel that somebody has flaunted a court order without any justification. So that's a powerful message. That doesn't mean automatically that the access enforcement co-ordinator lawyer will get what he's asking for by way of relief on behalf of that noncustodial parent. You know, there are nuances in courtrooms. There are ways of sending subtle messages that are hugely impactful in terms of the result.

For an access enforcement co-ordinator to stand up and say, "I'm representing Joe Btfsplk," I think in this case . . . [interjection] Well, Joe is a frequent attendee; we often imagine him in the gallery.

Joe Btfsplk, who's got an access order, now doesn't have to go and spend a lot more money going to court. Or Jane Btfsplk, who has had the children dressed and ready to go on two consecutive Saturdays . . . [interjection] Actually, *Hansard* spelled it very well before, thank you, through the Speaker.

If Jane Btfsplk has now for the second weekend in a row dressed the children and they're sitting on the doorstep and the father doesn't show up, she really has to be able to access those remedies. She'd be able to go to the access enforcement co-ordinator. So in either case, the Btfsplk children get the benefit of, firstly, an access enforcement co-ordinator trying to find some help. With any luck, the Btfsplk family may find a degree of harmony that they've never experienced before. Not that they get back together again, but they acknowledge the fundamental truth of family law, the fundamental truth that in a court setting you may win the application today, you may win the interim custody order, or you may win the revised access order. But you know something? Until those children turn, say, 18, the party that loses this time has simply got the motivation then to find ways to get back at the other party. It goes back and forth and back and forth, until those children leave home or become self-supporting. [interjections]

Well, you know, we should be careful, Mr. Speaker. There probably are Btfsplks living in Calgary-Buffalo, some I haven't found yet. So I'd like to make a small disclaimer right now: any reference to a Jane and Joe Btfsplk is completely fictional and not intended. This is a serious matter, and I don't want to be distracted by my ill-advised use of pseudonyms.

3:10

I think the point is that there's a need for a thoughtful approach to this, and we don't find it in this bill. The thing that I find so frustrating is that when I look at Bill 26, we don't have the answers there that Albertans need. You know, I look through this thing, and what I find is this notion that we're going to beat somebody over the head again. We're going to provide more remedies. There is some purpose in providing for compensatory access. There is some benefit in providing those things, but not on their own. Not on their own.

There are some other problems with Bill 26. When you go through it, if you look at the proposed section 61.2, it deals only with enforcement of access, which is what we call specified access: you pick up the children on Friday at 6 o'clock, and you return them Sunday night at 8 o'clock. There are plenty of access arrangements that don't have specified terms and dates. Sometimes it's common practice. If you talk to lawyers in Medicine Hat or in any other community around the province, many of them will tell you that many access orders provide reasonable access to be determined by negotiation between the parties. Failing that, application to the court.

So that's a really big limitation in Bill 26. The first one is the fact that there's no provision for an independent office to help mediate and then litigate on behalf of people who have been unjustly deprived of access. It's limited by section 61.2. [Mr. Dickson's speaking time expired]

Well, 20 minutes go by so fast. Thanks very much, Mr. Speaker. I look forward to the committee stage.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Highlands, the leader of the NDP opposition.

MS BARRETT: Thank you, Mr. Speaker. I enjoyed some of the remarks made by the Member for Calgary-Buffalo. I like his fictitious names too. I didn't realize the guy had a sense of humour.

Well, not that much, anyway. It was very good. I mean, a sense of humour is one thing, but being able to do it like a stand-up comic -- I was very impressed.

[Mr. Shariff in the chair]

Now to the serious matter of this bill. It is our assessment that this bill is an attempt to deal with intractable family conflict situations. Sometimes, as most members know, the level of animosity is so high and the environment so poisoned that the remedies outlined in the act are not really workable. Sometimes even if the custodial parent is at fault and the children's access isn't always provided in accordance with a court order, the children themselves may have been so brainwashed that it's actually not in their best interest to be forced to attend access by the various enforcement mechanisms such as the police.

In such situations we know that jailing a parent does not actually result in the betterment of the child's situation. In fact, I would argue *au contraire*. Some families do require intensive -- read also expensive -- counseling and therapy to resolve huge conflicts. If things are that bad, though, many judges have had to face the fact that the children cannot be ripped apart by the heavy-duty enforcement remedies since they are still aligned with their primary parent, and nothing will change that.

Many of the remedies set forth in Bill 26 already exist at law; for example, jailing for contempt of a court order, an award of cost to punish an individual who's not obeying an order, et cetera. Also, we've seen that in the last five years, in particular, judges will readily consider a change in custody to remedy the situation of a parent who refuses access. So, you know, I guess I'm arguing that a lot of what this bill does is covering ground that either exists already in statute or that the courts have come to conclusions on.

Now, one part, this section 61, I would argue, is simply for appearances, to make it look like the government is trying to be balanced. It is absolutely impossible to force an uninterested parent to exercise access. You can't do it. These cases continue to far outnumber those where parents are denied access, but the latter continue to get Conservative governments' attention because of the loud fathers' rights lobby. The failure of noncustodial parents to honour support payments and their frequent failure to exercise access when they are supposed to are the real problems for government to tackle. They are not being dealt with by this bill; that's for sure. A court should award more child support to a parent that has to parent all alone, where access is not being exercised. Women have learned, unfortunately, not to complain about having to do all the parenting themselves.

Finally, there is certainly the possibility that angry, vindictive, unreasonable spouses will rejoice in their ability to use this legislation to try and harass ex-spouses -- that is, find another way to drag them back into court -- usually the she, force her to get a lawyer because he is abusive and impossible to deal with, even if it is only because he believes that his ex-wife is lying about the child having a fever and being too sick for access. This becomes good sport for those self-litigants who can use the court process and, in some cases, for naive judges to continue to keep the battle going.

So at the end of the day, this legislation is not offensive, but I'm not sure that it sets out to do or can accomplish what would be in the best interests of not only the children but also, generally speaking, of the women who are so constantly having to defend their legally sanctioned interests by being taken back to court again and again by the disaffected father, who's usually annoyed because he lost the . . .

DR. WEST: How would you know anything about that?

MS BARRETT: How would I know anything about what? Does the Minister of Energy want the floor? I cannot understand the question. If the Minister of Energy would like to put it to me, I would be pleased to try to answer.

THE ACTING SPEAKER: Hon. member, please speak through the chair.

MS BARRETT: Well, Mr. Speaker, I'm asking. He was trying to intervene. I couldn't hear him. I'd be pleased to answer the question if he wishes to put it. He obviously doesn't. I, on the other hand, never chicken out, given an opportunity to be on the record on issues that are meaningful to me. I never chicken out. [interjection] No, no. Free advertising.

What I was saying, in conclusion, Mr. Speaker, is that I conclude that this bill is not offensive, but I don't believe that it addresses the issue that would be my primary concern, and that is: by what mechanisms can you prevent angry, vindictive noncustodial parents from calling the custodial parent back into court again and again by making up excuses? Nothing in this legislation will do that.

Thank you.

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

MS BLAKEMAN: Thank you, Mr. Speaker. I was looking forward to this bill appearing in the Assembly for debate because I was hoping that there might be some ideas brought forward, some resolution to the dilemma of access in Canadian society and in Albertan society. We've certainly had some opportunity to talk about it previously. My colleague from Calgary-Buffalo mentioned Bill 219, the Family Law Reform Act, but there was also a private member's bill brought forward by Edmonton-Norwood I think it was last year, Bill 209, that was dealing with an access enforcement office.

[Mrs. Gordon in the chair]

I agree that there is a need for some innovation around access from noncustodial parents and custodial parents to their children. We are dealing with a fairly high divorce rate in this country. We certainly do have single-parent families. We see the usage of groups like Big Brothers and Big Sisters increasing, which is telling us that there seems to be a need there for children to build a relationship with an older adult. That does bring to mind whether there's access and a relationship built with their parents. I am not sure at this point if this proposed act, Bill 26, the Family Law Statutes Amendment Act, 1999, is in fact going to be the solution that we're looking forward to.

So the first question is: is there a problem? How do we know that there is a problem with access enforcement? I mean, aside from the terrible anecdotal stories that one hears, is there actually a problem? Is it documented anywhere? Do we know how many people this is a problem for?

3:20

I realize that in comparing it with another like organization, the maintenance enforcement program, in fact with maintenance enforcement there is a way to double-check or to have an actual written record of whether there is a problem. With maintenance enforcement you can check bank records to see if cheques have been written. You can check bank records to see if cheques have been deposited. Indeed you can check with maintenance enforcement, through which many of these cheques do travel, to see if in fact there

has been someone not carrying forward with the court order as they should have been. But there's no secondary way to check access and access enforcement. Once the access order is given through the courts, there's no other way to check it. You end up in a he-said, she-said battle. It's an adversarial relationship, and it's whoever's story you're more likely to believe or you feel more sympathetic to.

So is there a problem? I don't know. I couldn't find that out. I can't find out how many people in fact are not able to exercise access orders that they wanted to or how many people in fact did not have access taken with the children that they are the custodial parent for. I have a question about whether we might be creating legislation that is for a particularly small group. We have no way of knowing, and that gives rise to a larger discussion about whether it's appropriate to create legislation for a small percentage of the population or whether that's perfectly acceptable and what that line is.

Another question: is there a need for legislation? I think there certainly is a need for some way for parents and children to address this issue. This bill gives a private law remedy. Individuals have to go to court and ask for the remedy, and they're doing this on their own dime. It's more akin to a civil suit, I think. I would prefer to see government creating a means to access a public body that would intervene in these disputes between families. Perhaps it's appropriate to have a user fee. Perhaps it's appropriate that it would be a free service. I get a little concerned when we take an issue like this and say: well, just go solve it in the courts. I'll come back to that as to why a little later. Essentially, this bill is creating a private law remedy in which people are on their own and funding themselves in order to seek remedy.

Does Bill 26 indeed address the problem, if there is one? Again I have some concerns. I think it's quite likely that given the language that's used in this bill and some of the punishments that are available if it's proven in court that access was denied, it likely will be successful in frightening some custodial parents into granting access if they are currently withholding it. In that, if the end purpose of the bill is to have that access granted, I think it will be successful. With how many people I don't know, but I think it would certainly frighten some people just with the threat of the punishments that are available there. I don't think it does anything to address the societal problem that we have with access and the societal attitudes we have towards access, towards access enforcement, and towards failure to access.

One of my greatest concerns with this bill -- and I'm sure that this is not what was intended by the sponsor -- is that we could see it being used by a wealthier parent to terrorize a custodial parent using the court system as the tool, as the bat with which they terrorize someone. I don't think that's what any of us would want to happen, but it's certainly possible given what we have here. If we have a wealthier parent that wants to keep going back to court and doing this, then the less wealthy parent has to keep forking out the money to do it.

I do have a few questions. Why is the access denial deemed "excusable" after the matter has gone all the way to court? Why is there no mechanism in the bill to allow for some sort of preliminary assessment of the situation in which it could be ascertained if in fact this is a real problem or if there's some way to work this out? We have stop and we have go and nothing in between here. There's nothing to determine whether it is indeed a problem until it's gone all the way to court, money has been expended, lawyers have been hired, time has been taken off work, and a court then deems it access denied or failure to access.

Again, I think that's a place where having a public remedy available would help to alleviate some of the negative impact of this bill. If we do have richer noncustodial parents, most likely fathers,

forcing the custodial parents, most likely mothers, into court, we are talking about time off work, lost wages, paying for a lawyer.

I'm sorry; I'll have to sit down.

THE ACTING SPEAKER: Possibly if anyone's got a cough candy or something they could give to the hon. member.

The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you, Madam Speaker. I have a few comments on Bill 26 this afternoon. I have had some interesting conversations with constituents regarding this piece of legislation. They have been by my office a few times to discuss this, and I'm looking forward to further discussions with them on this issue. They have followed with interest the progress of this bill and also the MLA review on maintenance enforcement and access, that has been conducted by the hon. Member for Calgary-Lougheed. I understand she's been ably assisted by the hon. Member for Red Deer-South and the hon. Member for Bonnyville-Cold Lake.

Now, on the highlights of this bill as we discussed them, the comments from my constituents were: they are a good start. The highlights, as I see them, are that we're going to create a new type of court order, an access enforcement order, which will be available where the access order provides specific details of access rights. We are also, Madam Speaker, going to provide penalties for parents who do not provide access, who fail to exercise access at the appointed time, or who keep the child beyond the appointed time. Also, mediation is an available remedy after a court application is made, and I'm going to get back to this in a few minutes. We had quite a detailed discussion on this at the office.

There are also going to be penalties for failure to comply with the access order including, I understand, fines and possibly time in jail. Where necessary, the court can order that an enforcement officer help enforce the order. An enforcement officer may include a police officer or other persons, individuals or incorporated entities, designated by the regulation.

3:30

Now, the idea to increase the compliance rate with family law custody orders is probably the fundamental objective of this bill. By providing protection for both custodial and noncustodial parents who encounter problems with access, there are feelings that occasionally get hurt. Sometimes when these feelings are hurt, people do things that are not necessarily in the best interests of the children, and it is usually the children that are the focal point of any differences there are between custodial and noncustodial parents.

We have to look at the involvement of police officers in the access process, and we have to question whether it's appropriate or inappropriate. Police officers will probably have to receive more training in the process. We all know and certainly my hon. colleague for Edmonton-Norwood is explaining to me constantly about how tight police budgets are and how little money there is in them now for training. Will this add a considerable strain to budgets of the police forces across the province? Constables that are on the street do not want to be involved, and quite frankly perhaps this is a job that is more appropriate for child welfare workers, who may be more qualified because of their training to deal with these situations.

However, if we are to have this legislation, if it is to become law, the enforcement officer must prepare a report in a standardized form, determined, again, by regulation, of what occurred when he or she assisted in enforcing the access enforcement order. This again, I remind all hon. members, is more police time. More police time is spent filling in reports and potentially attending a court. Admittedly, individuals other than police officers can be designated as enforce-

ment officers -- and we discussed this briefly in the highlights -- but this bill is worded so broadly that an incorporated company could be designated as an enforcement officer.

I have a question that hopefully will be answered in due time through the normal process of debate: why does the government not use the word "individual" in section 61 so that companies cannot be designated? I wonder if it is the government's intention to privatize these services. This question or this idea was brought to my attention by one of my constituents, and it is something that I promised I would bring forward in the debate. I'm looking forward not only to the answer to this question but to a few more that I have for the sponsor of the bill.

Now, Madam Speaker, mediation flows from the court process and is not an alternative to it. Mediation should be an alternative dispute resolution mechanism independent of judicial process which people can access at ground zero. Previously Bill 209, the Access Enforcement Act, that was sponsored, again, by my hon. colleague for Edmonton-Norwood, allowed individuals to proceed to mediation first. I'm quoting here from my constituent, who said: if both parties agree to mediation, it should have the same weight as the courts. This particular constituent has had significant experience with not only maintenance payments but access to children after a marriage breaks down. Regardless of what happens -- and I think there's not an hon. member in this Assembly that would not agree with me -- I believe that the interests of the children must be the number one priority.

Now, getting back to the process of mediation and private law remedies. By private law remedies I mean that individuals have to go to the courthouse and have to ask for them, and this gets us into the topic of cost. Many people are intimidated by the court system, and they're made uncomfortable. Many people after a marriage breakdown are living lives that are not as financially comfortable as when they were living in a marriage or a marriage-like relationship. They have less money, Madam Speaker. They do not have the funds to perhaps hire a lawyer and get an access order changed to meet their circumstances.

For instance, we look at the mobility of the Alberta workforce. A person can be working in Medicine Hat one week and up in Slave Lake the next week. They can be working day shift one week, and they can be working afternoons the next week and night shift the following week. Our work patterns have changed, and I don't believe it has been adequately addressed in a lot of these access hearings. This has been brought to my attention by more than one individual. They complain that they cannot keep their commitments: I'm supposed to pick up my child, but I promised the boss that I would work afternoon shift this week. Then people are upset. Also, people are obligated to make their maintenance payments. Therefore if the employer states that you have to come in next week for afternoon shift -- there's a delicate balance here, Madam Speaker. We have to consider the mobility of the workforce whenever we are discussing access and access enforcement.

There are also other issues. I'm going to go through them so I can ensure that I get to finish them.

In the constituency office the discussion of the term "noncustodial parent" came up. One party thought that this was a negative term, that the parent is somehow at fault if it's defined as a noncustodial parent. They were concerned that the definition is worded so that the parent is not fit to have care of their child. That's one person's concern. They thought that there would be a better word. They thought that we could change this from noncustodial parent to access parent. Now, this is one individual's idea. They had enough interest in this issue to not only phone and ask for an appointment but to say as well: can you bring a copy of the legislation? They had some

unique and interesting ideas, and they also talked at length about making application to court for specified access. We discussed this at great length, and the discussion became quite passionate. I learned firsthand the problems that not only this individual has but that the organization he is an active member in has.

3:40

Now, he also had some concerns about "reasonable notice." For instance, "Where a court, on application, is satisfied that the non-custodial parent has failed to exercise a right of access without reasonable notice to the custodial parent," what would be the interpretation or definition of "reasonable notice"? Is it four hours? Is it one day? Is it two days? Is it a week? This individual would like this clarified as to what reasonable notice is.

I was talking earlier about Bill 209, the Access Enforcement Act, that was introduced last year. The proposal in Bill 209 to create a director of access enforcement was, Madam Speaker, a public law remedy. When court orders are not being followed, public law remedies are needed. The bottom line is that people are putting their hands up; they're ignoring court orders. Private law remedies are privately funded -- I discussed this a little earlier -- but when finances are tight, payment for these private law remedies can be very oppressive. For the mediation and parenting courses offered, they discuss the prohibitive cost, and many of the families do not have that kind of money. There may be a choice between maintenance payments and payments made under the access enforcement order for mediation and parenting courses. I will remind you that we are dealing with a split household, that requires more income than it did before to maintain two separate residences.

Now, this bill, I believe, fails to follow the spirit of the Alberta justice summit, and we all followed that with interest. One of the key recommendations there was towards mediation and to see if we could have the least time in the courthouse as possible. This certainly was an idea which, when it was discussed at the constituency office level, was greeted with enthusiasm, because people just do not have the money to go to the courts all the time.

As our society changes, family law is very, very important, and we can think of this when we know our divorce rates are increasing. We need to ensure that the interests of the children are first in our minds.

Now, I have some other questions on this bill. I'm looking forward to committee because we are going to discuss this in a great deal of detail, I understand. With those remarks, Madam Speaker, I shall take my seat.

Thank you.

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

MR. BONNER: Thank you, Madam Speaker. I rise here today to add a few comments and join in the debate on Bill 26, the Family Law Statutes Amendment Act. The object of this bill is to increase the compliance rate with family law custody orders. It has been one of those situations that we do have problems with, particularly in the case of divorced parents. We do have problems in the fact that there seems to be more and more divorce and certainly a number of those where the separation is not harmonious. So what we have here with this legislation is a situation that is percolating already. Whether it happens to be the custodial parent or the noncustodial parent who is violating the terms of agreement, then certainly they know which buttons to push to escalate things.

When we look at this, we want to look at: what is best for the children, and how can we support children in this situation? Then we have to look at what type of legislation we can put forward that

would certainly be to the child's benefit. Certainly at this stage in any relationship, when we have, for example, the involvement of police officers, I don't think that is a situation where we are going to have the soothing of this relationship but an escalation, certainly a who's right and who's wrong type of attitude rather than any harmonious agreement on what is going to happen.

I think that with this particular bill we would be much further ahead if we eliminated the police officers and left this in the hands of the professionals, the child welfare workers, who definitely are more qualified on the total family unit. As well, when we do get the police officers involved, what we have amongst the parents is not necessarily doing what's right but trying to make their actions right. So we do have this type of situation, and I daresay that probably of all members in the Assembly here, somewhere in our families we do have a situation where there has been a separation of the parents or a divorce. We have had the opportunity to see how parents pulling on children, certainly pulling them in opposite directions, is not a healthy situation. We also see that certainly if we have mediation in these situations, this would be the best method in most cases to resolve these situations.

When we look at maintenance enforcement and we do get the courts involved, then we bring in a whole new spectrum of problems. First of all, we bring in a duplication of the courts, which to this point hasn't worked, so again we cause an escalation of what is happening. Now, as well, when we do bring in the courts, we bring in other problems such as time. How do we get these two parties that are in disagreement together to settle this issue so that children are not affected and they don't have to experience more pain?

3:50

As well, in most cases, in fact in the majority of cases, we know that after the divorce the children certainly have fewer resources to use, so it certainly can be a situation where the noncustodial parent can keep dragging the custodial parent back to court to try and get a judgment in their favour. So the precious few resources that the custodial parent has are used up in this type of activity of going to court.

Then we also see that there are private law remedies which are privately funded. These remedies in themselves can be quite oppressive. Of course, if the parents have to go to parenting courses, these cost money. Many of these families at this point don't have that kind of money. There also may be a choice between maintenance payments and payments made under -- the act says enforcement order for mediation and parenting courses. So these people again have even less income and less resources for their children.

As well, we find in these situations that the custodial parent, Madam Speaker, is in most cases the person with fewer finances, and of course their access to the legal system is limited. What we have here is that if they are required to go to court, then they must use the legal aid system. This is another situation where we have a declining access to this very necessary system that people without the proper finances can access. So again we get a slowdown in the resolution of this problem.

Then again if we have to have legislation such as we have in Bill 26, this can lead to a multiplicity of proceedings. It could lead to applications being made for an access enforcement order and an access order at the same time. It can get worse since two courts are involved, both the Queen's Bench and the Provincial Court. It is possible to have the access enforcement order proceeding in one court and the substantive access order proceeding in the other court.

I think one of the drawbacks of this particular bill is that it fails to follow the spirit of the Alberta justice summit recommendations that would see us going to mediation rather than to litigation. Mediation

would certainly solve many problems. It would lessen the anxiety experienced not only by the parents but also by their children. Through mediation I feel we would certainly see a lessening of anger. What mediation would do as well is it would draw both parents into a situation where they are working towards a solution of their problems. Perhaps the best part of mediation is that those few resources which could be spent on children now indeed will remain in the family to be spent on children and certainly not on our expensive court system.

So with those few comments, Madam Speaker, I will take my seat and end my portion of the debate here today on Bill 26. Thank you.

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

MRS. SLOAN: Thank you, Madam Speaker. I'm pleased this afternoon to rise at second reading and debate Bill 26, the Family Law Statutes Amendment Act. I recognize that this is this government's best attempt to deal with the multiple complex issues surrounding access. I recognize that they've spent a considerable amount of time. They had the justice summit. There has been a provincial horse-and-pony show go around talking about maintenance enforcement and actually, I would indicate, quite a substantive report made by the maintenance enforcement committee with respect to the issues this government needs to address.

But the dilemma that I'm in this afternoon, Madam Speaker, is that we are, it appears to me, attempting to address this issue with a piecemeal basket of amendments rather than tackling what has been long called for in this province, an independent statute to deal with family law matters.

As I look just generally at the amendments proposed this afternoon, we have amendments to the Domestic Relations Act. Now, correct me if I'm wrong. I've been here most days of this Assembly, I think, except for two. I don't think we've voted on that yet, that that bill has in fact fully made it through the legislative process. So here we are. We've got a bill before the House, and while it's being debated, in another unilateral stage we're debating amendments to the same bill, Madam Speaker.

I'm just perplexed by why the government would take a serious issue like access to children and adopt a process that's so piecemeal, disjointed, rather than taking the good recommendations that have been made by many, many Albertans about this area and seriously putting it down in one piece of legislation. That's what I would like to see.

The bill this afternoon that we're debating amends the Domestic Relations Act, substantive amendments to that act that has yet to be approved by this House. It also amends another act, the Provincial Court Act. Again, I would question why not put our minds to creating a framework that is easy to navigate, Madam Speaker, for parents, for the justice system, for other agencies and individuals who are advocating on behalf of these families and children in this situation.

I'm further troubled by the suggestion this act makes that we need to engage the police in this process. I'm very, very concerned about that. I have heard on more than one occasion in this Assembly that our police forces in this province are underfunded, that they're not sufficiently staffed. We've got a high percentage of Albertans that are very concerned about the increasing crime and vandalization and victimization that's occurring.

While all of that reality exists, this government, rather than wanting to allow the police to address issues relative to serious crime, wants to engage police in child access issues, Madam Speaker. To me, wouldn't the child welfare workers, who are also

professionals -- many of them are social workers who are living these issues on a daily basis -- be better to be involved? Couldn't we, again, achieve a framework that's easier to navigate rather than pulling in police who are already overworked, underpaid, and understaffed in this province?

In fact, we have such a shortage in this province of police, Madam Speaker, that I know that an hon. member in this House has introduced a motion to legislate the number of police per population in the province. That's quite extreme, but it's a reality because we have a government that chooses to ignore the increasing rates of crime and our declining ability to be able to do anything to address them.

4:00

We have another area in the bill this afternoon that also causes me concern, and that's the concern surrounding the additional stress that this places on families who are already divided and trying to find a reasonable way of agreeing on access. Rather than adopting a framework encompassing mediation, a lower cost tool, this government by these amendments is saying that a parent has to engage the formal court process to access their child. Why? When we've already got a family that's in difficulty and a child that's vulnerable because the parents are separated and in disagreement, why would we say that they've got to take the most expensive route to mitigate their access issues? We have multiple mediators in this province. I know we have a society for mediation and arbitration, very qualified individuals. Why would this government choose to adopt the higher cost avenue rather than try and incorporate this I think much more cost-efficient and effective alternative?

The other stress that this places. We know that legal aid funding in this province has been stagnant for many years. In fact it's been falling, if you consider inflation and population growth. If legal aid funding is adjusted for inflation and population growth, it would only be about 86 percent of what it was four years ago. That's how significantly it's been reduced. Given, again, that this government has adopted a formal legal proceeding to mitigate access, that means that these families that have to take that step, particularly those families that are in the lower income or perhaps even middle income bracket, are going to be financially stressed by this.

MR. DICKSON: More downloading.

MRS. SLOAN: Absolutely. The hon. Member for Calgary-Buffalo has appropriately labeled it. It's downloading, again, of the costs onto families in crisis.

Bill 26 requiring a court application to be made before mediation is in my opinion, Madam Speaker, an unnecessary and costly step, one which I am certain the citizens and the reports given to the government from the justice summit and the maintenance enforcement committee did not advocate. So why are we in the position this afternoon that we're debating that?

I think the other thing this bill regrettably does not address is the frustration that results when one parent is unable to receive the access they have been granted and is additionally frustrated by the fact that they can't find a way, a very quick way, of resolving that with their ex-spouse. Now, mediation again would have been an avenue to have tried to address that, but we know that in this province court applications take time. Because the government has gone that route, we're also placing these families and children in a quandary where, in addition to having this stress, they've got to wait until the court application can be heard. In the meantime, Madam Speaker, all of the frustration, the animosity, the anger is left to percolate and boil in that child's environment. I don't know. It's

very, very difficult to understand why this has been the route that the government has chosen.

If, just for the purposes of debate, we go the route the government is taking us and the noncustodial parent doesn't get access or the custodial parent has not had the child returned as set forth in the access order, basically the process is that they will have to apply for a judicial remedy. That remedy will be sought through either the Court of Queen's Bench or the Provincial Court, and in essence the court then is going to issue an access enforcement order which will direct one or a number of remedies. This can include compensatory access to the parent denied; compulsory attendance at educational seminars, parenting courses; counseling with the direction of who will pay; the appointment of a mediator midway in the process. There can be remedy where payment has to be made to the aggrieved spouse for out-of-pocket costs, including lost wages. There can be \$100 a day penalty to a maximum of \$5,000 or a jail term of up to 90 days for failure to pay. Further, the act suggests that a police officer will become directly involved or any other requirement that will induce compliance with the access order.

As I looked at those, Madam Speaker, I thought: are these really in the best interests of the child? How frightening for the child to contemplate that one parent might be jailed, and wouldn't it be easy for a child to draw the link that "Mommy is in jail because she and daddy don't agree about how much time I should spend with them," or "It's really about me; it's really my fault that one of my parents is in jail"? Couldn't you see, Madam Speaker, a child drawing that conclusion? It would be easily drawn.

Why do we want to place these children who are already vulnerable in that position or, further, have a police officer show up at their father's or their mother's door and say: I'm here because you've denied access or there's not agreement with respect to access. Again, how frightening for the child, rather than a process, which could have easily been adopted, where the two parties go to an office of a mediator -- the child doesn't have to be exposed -- and they try and work through and resolve the difficulties and keep the child out of the equation. But many of what the government is proposing in amendments this afternoon, Madam Speaker, are going to place the child directly, smack-dab in the middle of this, and it pains me to think of how this might be enacted and what impact it might have on the child.

Further, the courts will be able to determine, if this act is passed, that failure to give access was inexcusable and decline to make an access enforcement order. Alternatively it may order compensatory access to the parent denied and similarly some of the other penalties which I cited earlier: a payment to the aggrieved spouse for out-of-pocket costs or lost wages, the appointment of a mediator, or any other requirement. Again, we're going to be imposing all these types of penalties or fines. Would it not have made much more sense for both parties to have, at minimal cost, engaged the services of a mediator?

**4:10**

I'm not entirely familiar with what the going rates of a mediator are in this province, but it would seem to me that a maximum penalty of \$5,000 could hire you a mediator for quite some time. Perhaps that person could be involved not only in ensuring that mechanisms are designed to address the disputes with respect to access but also for a temporary period of time stay engaged with those people to get them over the hump of implementing their agreement and get on with living their lives and supporting their child and being happy in many respects. That's what I think the government should be trying to facilitate this afternoon, Madam Speaker, not some heavy-handed remedy that really in the end is just going to cause more angst, more stress, and more difficulty for the children affected.

Those are my contributions and my thoughts. I would hope that

the government seriously takes some of those things into consideration this afternoon, and I look forward to the amendment process. While it may not mean much in this case because of the way in which the government has designed this amendment act, I really think that we need to be more serious about putting our minds to these issues and get on with providing some meaningful addressment of them.

Thank you very much.

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

**MRS. SOETAERT:** Thank you very much, Madam Speaker. I just want to make a few brief comments today. I know everyone in this Assembly has dealt with this issue of access and maintenance payments, all of those issues, maybe in their personal lives, maybe with family and friends, and most certainly in their constituency offices. I know I certainly have, and when I was the women's issues critic, an amazing amount of calls came to my office about that, and I am sure that continues with Edmonton-Centre. You know, it's always difficult, and I appreciate that bringing legislation forward is difficult.

We're talking about access in this particular bill. That's always the dilemma of not being able to see your children or that they're not available on a certain holiday, that they are or they aren't, and it's your Christmas with them and it's not, and the other aspect of people not being there either. You know, the partner without the children doesn't show up at the appointed hour. To me this is one of the hidden heartbreaks -- or maybe it's not so hidden but one of the biggest heartbreaks across this province when we're talking about maintenance and when we're talking about access. So I appreciate that this bill has come forward and that in some ways this government is trying to address that.

I'm disappointed in some of the approaches of this bill, and I wish for once -- you know, there are always complaints in here that the Liberals are negative and don't give any good suggestions. If people would care to refer to an earlier bill of ours, Bill 219 in 1996 -- and we've had other versions of it of course along the way, but this was the Family Law Reform Act presented by the hon. Member for Calgary-Buffalo. Some of those things should have certainly been taken into account with this piece of legislation. To me the whole review of a family law court as a unified family court is forgotten in this. It's not here. When you're talking about those issues, if there were experienced people, if there were people who dealt with it -- and I know we couldn't leave judges in that one spot forever. I think dealing with family issues in a court situation is very emotionally charged, and it would be difficult to stay in that role for long periods of time. But certainly people who have a background dealing with that, lawyers who deal with it regularly -- I think in that kind of situation we might see more consistency and more stability for different families that are going through these difficult situations.

It's been mentioned before, but I want to reiterate it. Under this bill an enforcement officer can help enforce the order. Now, I realize that could be many people, but it's so broad in its definition, and maybe we should clarify that through amendments in committee. I know we will have some amendments brought forward, and I'm hoping the government will as well.

To ask police officers to enforce that -- I wonder if they've been asked if they'd like a part in that. I know we don't ask people what part of the job they want to do, but maybe we should ask them if they think it's practical that they should do that. Violent domestic situations are probably one of the hardest things that police officers have to step into. Now we're going to ask them to step into

situations where access is not being enforced by either parent, either by not allowing the children to leave or by not being there for the children. I don't feel a police officer -- and maybe they'd disagree with me. Maybe a social worker would be better in that role, certainly somebody who's had some experience in this kind of field, somebody who could maybe help before the law steps in, kind of play a mediator's role and try to get things changed that way.

It's interesting that mediation doesn't come before the court application, that that isn't made a bit more available. I think it would be a more practical method, less expensive. The reality is, certainly for a couple going through a separation or divorce, that there is usually less money for both because two households are now being supported, with often a great deal less money for the parent who is taking care of the children or who until that time possibly has not a full-time job because of their role as main nurturer to the children. So we've got a situation here where maybe mediation should be the first step before a court application and, I would hope, available at a reasonable cost. This is a difficult time, and certainly if mediation is available, then let's use that before we go through the court process.

I think many of the concerns have been expressed. I have some concerns, especially about the cost of the private law remedies, you might say. At that time in people's lives it is usually a difficult financial time. So I would offer this suggestion to the government and to the sponsor of the bill, that maybe before it comes back to committee, look at some possible amendments. We will send ours over. I'm hoping to make this a stronger bill that will serve families better. Because you know what? I know everyone in this House feels that way. We want families to be served better, and if there's a divorce, then let's at all costs take care of the children so that they don't have to feel any more pain than they do from the situations that arise from a divorce.

Madam Speaker, I've presented a few concerns and I know others of my colleagues as well. I guess just for once I'd like to see a whole package instead of piecemeal changes in family law across the province at different times and in different pieces of legislation, even if it's a big, thick bill someday that brings forth really good family legislation for a unified family court and all those issues that are involved within that. That would be a positive step forward, and I'm hoping that can happen soon.

A couple of other things before I sit down that I'd like to mention. One of the things is that to me we may be creating just another level of complexity in this whole issue.

4:20

DR. MASSEY: How are we making it complex?

MRS. SOETAERT: I think we're making it complex because we're going from . . . [interjection] Right; we're popping everything right back into the court system, and we could be avoiding that, maybe, by doing mediation first. One of the things within mediation that I'd like to see is that the family is not burdened with the cost of that. Maybe that should be accessible through some sort of a level, through social services, through Justice, through people who are experienced, through people who are good at it, through people who have seen all kinds of situations so they can help people so that they're not going through a court process, so that children aren't upset that mom and dad are arguing yet again. I would like to see that kind of mediation take place, and I respect those people who can do that. I know it's a very difficult time in people's lives, but there are people, trained professionals, who can help people in those roles, and I think we'd be wise to use that instead of putting everything into an overburdened court system, because it certainly is an overburdened court system.

If we can streamline some things, if we can help families, I would hope, then, that the sponsor of this bill would take a look at our amendments that come forward, would take a look at a former bill, Bill 219, to make it a stronger piece of legislation. I'm sure that we all want a better place for our children in this province and better opportunities, less struggle and strife with couples that are breaking up, and if we can do our part as legislators to make that possible, to make it more affordable, then we've done our job.

I thank you for the opportunity to speak to this, Madam Speaker, and I'm hoping that in committee we will see some strong amendments from the government, as you will see strong amendments from our side as well. Thanks.

[Motion carried; Bill 26 read a second time]

### Bill 30

#### Employment Pension Plans Amendment Act, 1999

[Adjourned debate April 13: Mrs. Tarchuk]

THE ACTING SPEAKER: The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you, Madam Speaker. I have read Bill 30 with a great deal of interest. I have listened to many reports from across the province regarding this legislative initiative. This is one of those bills that has some very good ideas, and it also unfortunately has some ideas that are not, I believe, reflective of legislation that is created with the interests of all Albertans in mind.

Bill 30, of course, amends the Employment Pension Plans Act, and this was first passed in 1986 and has not been amended since. We must as responsible legislators update Alberta's regulated private pension plan legislation. In updating this legislation, we further safeguard pension earnings while also increasing the flexibility of plan sponsors and members to meet and deal with retirement needs. In any discussions that are to take place, a paramount consideration must be: what is in the best interests of employers and employees? We must also remember that the majority of Albertans want a secure, well-funded pension plan so that they can plan with confidence and have a healthy and a long, fulfilling retirement.

The Employment Pension Plans Act governs, I understand, approximately 1,200 private-sector registered pension plans in this province, and it has over 275,000 members. As other hon. members have correctly pointed out previously, it sets minimum standards for funding and benefits, and I would like to talk about that a little later.

In any discussion or debate on pension plan legislation the idea of participation of qualified part-time employees in a pension plan unfortunately is usually ignored. Many Albertans have one, sometimes two part-time jobs. This is the reality of our modern workplace. This trend towards part-time employment is not adequately addressed or reflected, I believe, in this proposed legislation. Prorated pension benefits for part-time employees must be discussed at length if we are to be sincere in our efforts to provide financial security in retirement for all hardworking Albertans.

The hon. minister for the Department of Labour stated that this bill is as a result of a public consultation process. This bill only received responses from between 70 and 75 individuals or parties. I understand there were approximately 3,800 discussion papers distributed. With so few answered and returned to the department, I wonder if this method of consultation is effective. It is important to hear from sponsors of Alberta's registered pension plans, pension consultants, financial institutions, and other pension regulators, but vested employees of the private-sector registered pension plans must have a method to voice their concerns as well. I do not agree with

the decision not to broaden the consultation process through mechanisms such as town hall meetings because the content of this bill was deemed too technical and the fundamental principles of the act were not to be changed. I don't think those are reasons enough.

Madam Speaker, Alberta is the only province in Canada today that does not have legislation specifically governing pension division following the breakup of a marriage. At present the courts determine division in pensions. These determinations are generally treated as property. Bill 30 will bring our legislation up to speed with better legislation and pension legislation in other provinces. I'm going to speak on this later, and if I don't have the opportunity, I believe the hon. Member for Calgary-*Buffalo* will have a few remarks regarding the *Matrimonial Property Act*.

MR. DICKSON: Just a few.

MR. MacDONALD: "Just a few," he states. So we'll look forward with interest to his remarks. I'm sure they will be enlightening for all members of the House.

Now, the division and distribution of benefits in the unfortunate event of spousal relationship breakdown will be a totally new part of the act. These new rules are based on several key principles. Two of the most important are the following. First, entitlements earned by a pension plan member during marriage form part of the matrimonial property, and the spouse is assumed to share equally in the value that accrues during the marriage. Second, the end of a marriage will be treated in a similar way to the pension plan member's termination of employment or death. That is to say that no future events will affect the value of the spouse's share.

[Mr. Shariff in the chair]

It is important that we understand with this legislation that under no circumstances can more than 50 percent of a member's pension earnings be given to a spouse no matter how many spouses there eventually can be. However, the act clearly states that the court can decide to take more from a member's other assets to more fully compensate spouses.

4:30

Another improvement for employees through Bill 30 is that the vesting period changes. The vesting period is changed so individuals have the right to a pension after two years of continuous employment and plan membership rather than the present legislation in which the vesting occurs after five years. This two-year vesting period brings Alberta up to date with that of other provinces.

There are other improvements which I believe also respond to the always changing needs of plan members and sponsors or employers. New rules are introduced for employees who wish to withdraw surplus or excess assets from pension plans. Greater flexibility is provided for plan members and former members with locked-in pensions.

The benefit structure for preretirement death benefits is changed so the value of the benefit is not lost.

The term "multi-unit plan" is added to the act. This creates, I understand, a third type of pension plan in addition to single-employer plans and plans that are part of a collective agreement. A multi-unit plan is specifically defined as "a pension plan administered for employees of 2 or more employers that is not designated by the Superintendent . . . as a specified multi-employer plan." The term "specified multi-employer plan" is added and defined as "a pension plan administered for employees of 2 or more employers and designated by the Superintendent as a specified multi-employer plan."

I understand there are pension plans moving out of the Public

Sector Pension Plans Act, and those plans will be administered under the *Employment Pension Plans Act*. One must wonder who is responsible for decisions on matters such as pension payouts, contribution rates, and termination benefits. Will these decisions be made by the superintendent or the pension boards? The new administration and organization of multi-unit plans is necessary to answer the questions regarding the self-governance joint trustee plans and what they want to see established.

I have a number of questions at this time, Mr. Speaker, regarding this idea of the multi-unit plans and where we're going with that now. In the bill itself I don't understand how this is going to allow self-governance, whether it be in the new section 5 or whether we look at the old section of the existing act under section 38, but Bill 30 simply doesn't make the changes required for the local authorities pension plan to move out of being a statutory plan.

Now, I would also like to know, Mr. Speaker, how and when the government is planning to deal with this issue of the LAPP, and there are other problem sections of this *Employment Pension Plans Act* that I would like clarification on. They are section 40 as well as section 38, as I mentioned previously. They do not recognize that the local authorities pension plan is a jointly funded plan. It is not only funded by employers; there are thousands and thousands of employees involved in this as well. It is my interpretation that Bill 30 does nothing to change this. I will be looking forward to the explanation from the hon. member in time because these are very, very important questions to many employees and employers.

Now, the definition of "spouse" in Bill 30 does not reflect the realities faced by many Albertans. I am not supportive of the term "marriage-like" and would like to see definitions in the legislation modeled after our amendment to Bill 12. This would define "spouse" as "a spouse of a married person" and add the concept of "partner," which will include any of "two adults who have entered into a written agreement . . . with the intention of creating legal obligations and duties." One must keep in mind that including the concept of "partner" in pension plan legislation will affect more than just the definition section of the legislation. It will affect other things like the calculation of actuarial amounts.

We must remember that the majority of employers in the local authorities pension plan, for instance, receive most of their funding from the provincial general revenue fund. We can think of regional health authorities, colleges, and school boards. These are examples of some of the employers. Whatever we do here in Bill 30 will have implications for future provincial budgets. We must ensure that any legislation we pass in this Assembly complies with recent court rulings which require same-sex partners to be treated the same as everyone else. In the case of same-sex partners, if the one with the pension passes on, the employer can deny these benefits to the other partner. This cannot occur with two people of the opposite sex who are married or living common law.

The federal government has committed to effecting the necessary changes in the *Income Tax Act*, and a little later on in my remarks I'm going to talk about the *Income Tax Act*; I think section 252. The Ontario Court of Appeal has stated that the obstacle to same-sex pension plans for the *Income Tax Act* is contrary to the Charter.

I'm told that there are in excess of 50 private-sector companies in this country offering a range of benefits to same-sex employees and their partners. Many of our larger cities, colleges, and universities also offer a wide range of benefits to all their employees. Discrimination in any form is unacceptable in a free and diverse society.

Now, let's have a look at some of these large employers in Canada who offer same-sex benefits. These include many federal government departments, provincial and municipal governments, universities, banks, airlines, newspapers, and insurance companies. In

Alberta, in this province, they include the city of Edmonton, the Alberta health care association, the University of Alberta, Air Canada, Dow Chemical, Petro-Canada, Canadian Airlines, Sears, and the banks of Nova Scotia, Montreal, and Toronto-Dominion. These are to name but a few.

These employers are unable to extend full pension benefits to any of their employees who are gay or lesbian because of the current legislation governing pensions. Now, Bill 30's new definition of "spouse," we are told, is not substantially different from the current definitions. The only differences are the inclusion of the three or more consecutive years provision for those who are married and the inclusion of the term "marriage-like" to replace "held out by that other person in the community in which they lived as his consort" for those who are not married.

I understand that this allows a legally married spouse for the purposes of the act to remain a spouse for three years after separation. The Department of Labour's justification for using this definition is that other definitions, like the one used in Bill 12, Domestic Relations Amendment Act, are not specific enough when it comes to pension plan legislation. A clear-cut hierarchy must be established to clearly identify a spouse when dealing with pensions. Only time will tell if this justification for using this definition will stand following yet another expensive legal challenge.

#### 4:40

Now, this spousal definition in this act, as I said before, is certainly not without controversy. I think at this time, as we're just getting started in this debate, Mr. Speaker, for the record I would like to read this into *Hansard*.

"Spouse" means, in relation to another person,

- (i) a person who, at the relevant time, was married to that other person and had not been living separate and apart from that other person for 3 or more consecutive years, or
- (ii) if there is no person to whom subclause (i) applies, a person of the opposite sex who had lived with that other person in a marriage-like relationship for the 3-year period immediately preceding the relevant time.

Bill 30 will, if it is not amended, lead to a court challenge which I think will wind its way through the judicial system all the way to the Supreme Court of Canada.

We hear the complaint all the time, Mr. Speaker, of elected politicians and how often they are overruled by the judiciary. I for one don't agree with that complaint, and I'll say that right now. These complaints against judges are not based on facts. We must all recognize and respect the role of judges in our society.

When the Charter of Rights was created, the judges were left to ensure that the laws and customs in the land do not infringe on the fundamental Charter rights. I'm not convinced that Bill 30 is going to meet this. Mr. Speaker, I would like now also to quote what the Charter states.

Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

Bill 30 would legally exclude recognition of some Albertans. It explicitly defines the term "spouse" as "a person of the opposite sex who had lived . . . in a marriage-like relationship" for at least 3 years.

I am very disappointed that my time has expired, Mr. Speaker, because I have more to say on this subject. Thank you.

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

MS BLAKEMAN: Thank you very much, Mr. Speaker. I'm pleased to be able to enter into the debate on Bill 30, Employment Pension

Plans Amendment Act, 1999. There are two issues that I would like to address incorporated in this bill at this time. One is the locked-in pension restrictions, and the second is the definition of spouse. There is a third issue that I'd like to address perhaps when we get into Committee of the Whole, which is pension splitting, and I know others have more to say on that.

First of all, looking at the context of this bill, essentially it sets minimum standards for funding and benefits of private-sector pension plans, and these changes I understand have come forth as a result of public consultations. Perhaps I've missed something here, but it seems that there were a number of briefings and papers put forward in the consultation that were from sponsors of the existing pension plans, from pension consultants, from financial institutions, from other pension regulators. I didn't see a lot from pensioners, and certainly the administration of this act does affect pensioners, which for the most part are senior citizens here in Alberta. Actually it's not my constituent, but someone made the effort of getting in touch with me with real concerns about the locked-in pension plan.

How did we end up with pensions in the first place? I think it's important to look at how we've arrived at this point in time. Originally pensions were offered to workers where the employers couldn't afford to pay them anymore. So they agreed to have a deferred wage situation where moneys would be put aside for the workers, and the workers would be able to collect this deferred wage after they had retired or stopped working for the company.

We have to remember that in fact this is the workers' money that we are talking about here. Sometimes you hear people going on as though this was the government's money or as though this was the employer's money. It isn't. The money in these pension plans belongs to the workers. They have either contributed it as a part of their own contributions or this is the traditional style of pension where money was put away, and they're able to pull from this pension once they retire. I think it's important to remember that it's a benefit that was provided by the employers, I suppose at one point to secure worker loyalty, but it certainly is a benefit that's available. Some people are in a position where they can negotiate more and less benefits, a car or other things, as part of their working conditions or an employment contract. They certainly were also able to gain tax advantages with this deferred wage, which in fact the pension is, and in fact the Income Tax Act has a significant section on pensions because it does have tax repercussions. So for the protection of people the provincial government regulates these pension acts so that it's beneficial to everyone.

I'm just going to discuss some of the points that were raised by this person, and I believe I've already tabled these documents some time ago, when I first thought this was going to be discussed. Really this fellow's concern, Ken Houlton, is that once you're in a personal locked-in pension plan, there are severe restrictions on how much of the money you can take out at any given time. He has a problem -- and I've already discussed it -- that this is not the government's money; it's his money. He's questioning why the government has the right to tell him how much or how little of his own money he can take out of a locked-in fund. They were part of his salary package, and once he retires, he feels that it should be the individual's sole right as to how they invest, withdraw, or spend their own funds.

He feels pretty strongly about it, because at one point in his correspondence with me he talks about the current legislation, not the amended legislation but the current legislation, coming close to legal theft in that the act will not allow him to withdraw the funds, but when he dies, those funds are taxable. Both the federal and provincial governments will take a significant portion of the money that is left in the pension fund. So he hasn't been allowed to use it, but the government will certainly take their chunk of the money after

he has died. He's questioning and he had hoped that there would be changes in the legislation. Now, I won't get into the sectional analysis -- that's not appropriate at this point in second reading -- but I do note that the sections he was hoping would be amended are in fact being amended in this act. So perhaps I can do something with amendments once we reach Committee of the Whole.

4:50

Part of his point is that there are such limited restrictions. There's a requirement that so much of the principal money remain in the fund up until -- I think at age 90 you've still got to have 50 percent of the principal in there. Well, knowing how few people live to 90 -- that's 2 or 3 percent of the male population; in this case this is a fellow that we're talking about -- I can see why he's beginning to feel that the government has taken his money and is doling it out and won't allow him to have it. The chance that he'd ever be able to use all the money that's in the fund is pretty slim. At this point there is an illness in the family. He would like to be able to take that money and enjoy the few years that are left.

I did want to make sure that this fellow's concerns were brought before the Assembly, and I'm pleased that he was an active and concerned enough citizen to in fact bring his concerns forward. I hope that we may be able to look at some changes that would alleviate his situation once we're able to deal with some amendments.

I just want to reiterate that out of all of the people who were consulted in the process that led to the amendments in this bill, it doesn't seem like there were many seniors who were actually consulted on this. Perhaps the sponsor of the bill can answer me on that. Perhaps I didn't have all the information, but it does look to me like there was an entire act here dealing with pensions, which are primarily for senior people, and no seniors were consulted about it or not very many.

The second issue that I would like to address here at this stage of debate, the second reading of Bill 30, is the whole definition of spouse, and I think certainly a number of people will comment on this. Essentially the definition of spouse -- and part of the reason, I think, for this legislation being brought forward is that the courts are requiring that people who are living in a common-law relationship, which some people would call a marriagelike relationship, must be treated the same as people who are legally married. It's not acceptable to discriminate in Canada on the basis of marital status. Okay; fair enough. But while this bill is open, I'm challenging the government as to why they are not addressing at the same time and why they have deliberately written the amendments to make sure that same-sex partners cannot be included and fall under the protection and the benefit of this act.

I want to clear up some misunderstandings while I'm at it. I was surprised that these misunderstandings exist, but they do. Companies today in Alberta can offer benefits to their employees as they see fit, with at least one major exception: they cannot offer survivor spouse benefits to same-sex partnerships in Alberta. The existing act -- and it's carried through into the amendment act -- precludes them from doing that. This is where I start to have a problem, because we have the government in all sincerity saying, "We're out of the business of being in business; we don't believe in interfering in that," and then we have the most rigid interference and regulation and restriction on how employers can deal with their employees, what kind of a contract settlement they can offer and negotiate with their employees. They can offer them cars; they can offer them all kinds of things. They can't offer them this. So I think it's important to understand that that cannot be offered in Alberta today.

We do have Bill 30 addressing the common-law spouse. The only

difference is the inclusion of the "3 or more consecutive years" provision for those who are married, and the inclusion of the term "marriage-like." Now, this does two things. It incorporates the common-law relationship, but it also allows that a legally married spouse for the purposes of the act remain a spouse for three years after the separation. There must have been a good reason for doing that, so I'd be interested in hearing what the reason was. It also does state that the pensions plans must employ the definition of spouse as defined by this act. They cannot offer more. This is supposed to be minimum benefit legislation, to make sure this is the minimum and to protect Alberta workers, and they cannot offer more and they cannot change the definitions that are here because they would be outside of the act's prescribed definition, which I just find very odd and very inconsistent, frankly.

So the bill is open, but the government is refusing to use this opportunity while we have it before us to add in the opportunity for employers to offer these survivor pension benefits to same-sex partnerships. Well, why should they do that? If they don't want to do it in Alberta, then why? I think part of it is that we are looking across the country, and almost every province and the federal government is moving very quickly in this direction, and I think it does bring up Charter challenges.

I encourage this Assembly to write the best legislation possible. I am grieved when I see legislation that this Assembly has produced challenged in the courts. Could we have done something better? Could we have done something to stop that long and expensive process on behalf of the taxpayers? If we're stewards of the taxpayers' money, we should be doing our utmost to make sure that money is not having to be spent on a long court battle that it appears we're going to lose.

So I said: well, how much do we really need to be looking at this? Maybe this is just the choice of a few other provinces, but no, indeed that is not the case. I'm looking at the Watson Wyatt report that was produced, and that's interesting because Watson Wyatt appears to be a consulting company that this government is very keen on, that it trusts, believes in. Certainly they were very quick to accept the Watson Wyatt report that was put forward on the Calgary regional health authority. So I'm interested that they are silent on the Watson Wyatt report that is discussing in particular what has happened in Ontario. And what did happen in Ontario? What lessons can we learn from this?

[Mrs. Gordon in the chair]

The court has essentially ordered that the opposite sex definition of spouse be removed, and that either one individual or another, whether of the same sex or not, is the way the legislation would read as far as survivor pension benefits. Now, this isn't surprising given that we've already had another case come up, actually also in Ontario, the Rosenberg case, in which the definition of spouse in the Income Tax Act -- the Financial Services Commission of Ontario has indicated that it will accept pension plans and amendments that contain a same-sex definition of spouse for registration. Who else in Canada, then, is on this bandwagon? Well, when I look, in fact if we're not able to amend Bill 30, I think Alberta is going to be the only one. British Columbia has announced its intention to amend the spouse definition, and New Brunswick, who is the other one that hasn't already done something to either read it in or to actually amend their legislation, has a government discussion paper out on exactly that. So that's certainly indicating the direction that everyone's going in.

5:00

Ultimately the definition of spouse under the Ontario pension plan

did not cover same-sex spouses, and survivor benefits were only available to legal and common-law spouses of the opposite sex, and that is now going to change. So we risk, I guess, another long court battle if we're not able to change this at this time . . .

MR. BONNER: Make work for lawyers.

MS BLAKEMAN: Make work for lawyers and costly for taxpayers, and again I think that's something that we need to look at.

Really what's behind all of this? Why did we get into pensions in the first place? Besides the willingness of employers to try and find some way to keep employee loyalty but also to compensate their employees beyond the straight wage or salary, we've developed this whole additional plan of benefits that goes in it, but it's also around where society is going and how we understand that. At one point I think it was absolutely critical that survivor pensions be available. If we had one working person in a household, the demise of that person would really affect the financial stability of the remaining spouse and any children, so the ability to leave a survivor spouse pension was important.

So we've gone from just the employee having a pension to the ability to choose essentially. I remember going through this with my father before he retired, where he had a choice of either just taking a pension for himself at a certain rate or he could opt to have a survivor spouse pension plan in which he would receive a slightly lower amount each month himself, but upon his death a spouse would continue to receive that same amount. You know, he had the opportunity to make that choice, and certainly it was a consideration for him, but we now have I think, especially if you look at the sort of under 45 group or even under 50 group, mostly two working people in households. Now, whether that's by choice or necessity, I don't need to go into that argument at this time. [Ms Blakeman's speaking time expired] I'm so sorry. I'll continue this in Committee of the Whole.

THE ACTING SPEAKER: The leader of the ND opposition.

MS BARRETT: Thank you, Madam Speaker. You know, this bill, as I understand it, has been constructed as a result of fairly long-term consultation with the stakeholders. I remember, going back to the earlier '80s, when I was a researcher here, that there was talk of trying to get this accomplished and also talk of trying to get harmonization between the various public-sector plans, and generally I can say that I'm in support of this bill because I have a history with it. [some applause] Thank you. Keep applauding now as I say: but my objection to this bill -- come on, applause -- relates to section 2, the definition section, sub (t)(ii), with respect to four words that don't need to be there, four words that the Conservative Party could just pretend to its own members didn't need to be there, and nobody would know. You just take the white out and you stroke out "of the opposite sex." It's the most painless exercise I can imagine. Nothing could be easier.

I don't buy the arguments by the hon. Member for Edmonton-Centre. You do what is right because it is right. I don't care what the trends are. I know what they are, but you don't do what's right because of other people establishing trends. The fact of the matter is that there is no basis for discriminating against same-sex couples. Worse yet, there is no benefit, there is no argument, no justification for interfering with the business of the private sector. Ultimately there is no reason that the government itself couldn't have policies that simply are silent on the matter of the nature of the relationship. Just leave it silent. That's all you have to do.

This bill is worse than what some people have observed. It's

worse because it doesn't just deny same-sex partners the benefit of pension, into which they have effectively paid, by the way.

AN HON. MEMBER: It's their money.

MS BARRETT: No. More than that. I'll get to this in a minute. Actually I'll do it right now. The hon. Member for Edmonton-Centre had queried why it was that the employment . . .

MRS. SLOAN: Be careful.

MS BARRETT: Edmonton-Riverview does not have the floor right now.

The hon. Member for Edmonton-Centre inquired . . . [interjections]

THE ACTING SPEAKER: I do believe that we do have one speaker that is speaking. I hear an awful lot of interjections on both sides of the House. The leader of the ND opposition has the floor and is in debate.

MS BARRETT: Thank you, Madam Speaker. The hon. Member for Edmonton-Centre was inquiring about why it would be that if you haven't been living with the person for up to three years, you would still be covered by this legislation. I can explain that. It's because the courts have said that effectively when one person is paying into a pension plan, whether is obligatory or voluntary, that is money that was not shared within the household, meaning with the partner. So that's why this is written in.

Now, having explained that -- and I certainly uphold that as well. That's been dealt with in a number of divorce cases. What I would tell you now, what's worse about this bill than what's already been cited is that the same-sex partner of someone who dies does not even get the death benefit offered by the employer. I think that is just a slap in the face.

You know, I'll never forget the implications. It was just an incredible controversy when then Prime Minister Pierre Trudeau said: it's time to get the state out of the bedrooms of the nation. I couldn't understand it. That was in the '60s. I thought: why is this controversial? It's pretty obvious that same-sex couples have existed for as long as our species has existed. It's pretty clear that to change any statute to try to pretend that they don't exist is not going to legislate them out of existence. Ultimately, this matter will end up before the court, and guess what? Those people who oppose that section of this bill will be proven right. [interjection] Absolutely. We told you this in the Vriend decision, and we were right, but at the end of the day, you do what is right for the public. What is right is to stop discrimination.

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

MRS. SLOAN: Thank you, Madam Speaker. I'm very, very pleased to rise this afternoon and talk further about this government's inconsistent lawmaking process. My last opportunity to debate this afternoon was relative to the Family Law Statutes Amendment Act, 1999, and how the government is amending an act that hasn't even passed in the Assembly. It seems rather coincidental that the next bill we're getting up to amend this afternoon is the Employment Pension Plans Act and to debate the fact that while this government has been directed by the Supreme Court to get their act together about the legal definitions and how they apply in legislation, here we have yet another example where the government wants to put on its

narrow blinders and say: "Oh, sorry, Mr. Supreme Court Judge; we don't want to acknowledge the definition of spouse that you directed us to in *Vriend*. We don't want to address the provision of same-sex entitlements or benefits in our laws."

5:10

So they've come forward this afternoon, Madam Speaker, with amendments that yet again entrench the older definition and would in essence restrict people who are involved in same-sex relationships from receiving pension entitlements that they are rightfully entitled to receive. That's what the lack of amendment in this act does. I think the government sets itself up, Madam Speaker, for nothing but a whole long list of court challenges on this very same issue as it applies and relates to pension entitlements.

We haven't seen the government come forward and say how much they spent on *Vriend*. What were the administrative, the legal costs incurred in challenging that all the way to the Supreme Court? Not only did they not provide those things to the taxpayers of this province, Madam Speaker, but they have either the ignorance or the gall to bring in legislation that will yet again violate the Supreme Court decision and ruling. Why do we continually want to flirt and flaunt and provoke more legal actions having to be undertaken against this government by people who are rightfully entitled to get these provisions?

I know that we have an over \$2 billion surplus in this province, and it continues to grow every consecutive fiscal year. Maybe that's the reason, Madam Speaker, that we insist on having these \$2 billion surplus accounts in this province, because the government knows they're going to have nothing but more legal challenges to defend before the Supreme Court. Now it's clear to me. Now it's clear to me. It's clear. That's why the surplus exists, to fund this government's legal representation at the Supreme Court. I'm really pleased that I was here this afternoon, because that's really solved a big question in my mind. I would just like the government to communicate that to Albertans, because I don't think Albertans are really clear about that.

One of the other things that's really troubling about this act is the fact that yet again we have a record where the people directly affected were not consulted about the changes the government was bringing in, one more example of what is really, I think, rooted in arrogance, Madam Speaker. We've got a government that believes they know best. They'll prescribe what the electorate and citizens of this province need even when it comes to what their entitlement should be in retirement, what provisions they should have to the pensions that they have rightfully contributed to throughout their working lives.

It's been conveyed to us that in fact an emergency meeting had to be planned by the Department of Labour to discuss this very act and the amendments proposed, because they hadn't done their homework before they brought the bill into the Legislative Assembly. Now, if that's not the case, someone on the government side can stand up and correct me on that, but what we've been told is that the government had to have a last-minute consultation co-ordinated because all of a sudden all of the employees and the representatives of those employees out on the field, when they became aware of what the Employment Pension Plans Amendment Act was intended to do, were saying, and rightfully so, Madam Speaker: "We haven't been consulted about these changes. When do we get our opportunity to have input into this process?"

One of the other things that's concerning on the theme of consultation is that we're led to believe that there were some 3,800 discussion papers distributed by government and only about 75 returned. It's on that basis, Madam Speaker, that the government has crafted these amendments this afternoon. Seventy-five out of 3,800 returned: not a very good response rate. If you were, in fact,

an accountable government and you were actually concerned about fulfilling your legislative responsibilities and doing things that were correct under the law and were supported by the electorate, wouldn't you think that when you'd gotten that low response rate, maybe you might say: "Well, maybe we should have some actual face-to-face consultations, or maybe we should have a stakeholder meeting. Maybe we should bring in the unions, the bargaining representatives for employers across the province and ask them: what do you think about these amendments?"

The reality is that despite the fact there was such a low response rate, Madam Speaker, none of those other alternatives happened. The government just proceeded to prescribe what they thought were the best provisions or entitlements to pension plans under the province, not what those people who are involved on a day-to-day basis in the negotiation and administration of those pension plans believed should occur.

So in good faith, I'd like to see this government table what the boards of the public service pension plan and the boards of the local authorities' pension plan provided in the way of feedback on this bill. Table that in the Assembly so that all members and citizens can access it. Then we'll truly have a debate about whether or not all of the proposed changes in the act as proposed are necessary or supported and are going to provide effective legislation in the future.

The hon. Member for Edmonton-Gold Bar, as I was listening to the debate, talked about some of the legal precedents on this type of issue. One of the things that he, I believe, embodied in his remarks was a concern that this bill does not comply with recent court rulings which require same-sex partners to be treated the same as everyone else. I think that what we know is that many lawyers will find work on both sides of the courtroom challenging the interpretation and application of these amendments. The government's placing itself, Madam Speaker, in essence in an extremely vulnerable position.

If we, in fact, take a look at the case of *Rosenberg vs. Canada*, the Canadian Union of Public Employees had a pension plan to which all of its full-time employees were obligated to make a contribution. The union amended its plan so that their definition of spouse included same-sex partners. The tax department, or perhaps it's more appropriate to say Revenue Canada, took notice and alerted CUPE that the plan would be deregistered as their definition of spouse in the plan conflicted with the definition in section 252 of the Income Tax Act, and of course, it went to court.

The court ruled in due time. A unanimous decision held that the exclusion of same-sex couples from the definition of spouse in section 252 of the Income Tax Act violated section 15 of the Canadian Charter of Rights and Freedoms and could not be saved under the section. So given that legal precedent exists, Madam Speaker, why would the government -- as I move to conclude my debates -- why would they choose to go the opposite route and hold with a definition that has been effectively ruled as being not in alignment with the Charter of Rights and Freedoms? That is the issue.

It will be interesting in the course of the further debate of this act and in the committee deliberations whether or not the government will, in fact, take the step of bringing an amendment forward to ensure that pension entitlements apply to all beneficiaries regardless of what status of relationship they reside in.

5:20

With those comments, Madam Speaker, I'm prepared to conclude my comments on this bill.

Thank you.

THE ACTING SPEAKER: The hon. Deputy Government House Leader.

MR. RENNER: Thanks, Madam Speaker. I intend to move to adjourn debate on this bill, but just before I do, I want to address this issue, because we've had a number of members of the opposition discussing the aspect of this bill that deals with the definition of spouse.

I think the government has made it clear on several occasions that what is presented in this bill is minimum standards and that it's perfectly within the rights of any of the private-sector pension plans, when they're determining what their agreement is with their employees, to go much beyond the minimum standards. What the opposition is suggesting is that if the government were to set minimum standards for an automobile and those minimum standards included four wheels that could steer, the government should also say you have to have power brakes and power steering.

That is up to the individual to decide whether or not they want to expand upon the minimum. So I think that we're making a mountain out of a molehill on this thing. There is no problem in the legislation other than a problem in the minds of the opposition.

With that, Madam Speaker, I move that we adjourn debate.

THE ACTING SPEAKER: Having heard the motion by the hon. Deputy Government House Leader, does the Assembly agree with the motion?

SOME HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: It's carried.

The hon. Deputy Government House Leader.

MR. HAVELOCK: Yes. I suggest we steer our way out of here, Madam Speaker, and I move that the House do now stand adjourned until 8 this evening and reconvene at that time in Committee of the Whole.

THE ACTING SPEAKER: Does the Assembly agree with the hon. Deputy Government House Leader?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? Carried.

[The Assembly adjourned at 5:23 p.m.]

