Legislative Assembly of Alberta

Title: **Monday, April 26, 1999** 8:00 p.m.

Date: 99/04/26

head: Government Bills and Orders
head: Committee of the Whole
[Mr. Tannas in the chair]

THE CHAIRMAN: Good evening. We'd like to begin Committee of the Whole, and we'll wait for a number of you to take your seats.

Bill 27
Regulated Forestry Profession Act

THE CHAIRMAN: Any comments, questions, or amendments? The hon. Member for West Yellowhead.

MR. STRANG: Thank you, Mr. Chairman. First of all, I'd like to state that I appreciate the co-operation from the opposition side, namely the Liberals and the New Democrats, for their support on this. I think there's been an amendment distributed to everybody. If you'd give me a chance to go over it, I think it'd be fairly self-explanatory, but I'd like to sort of deliberate a bit on it.

THE CHAIRMAN: Could you move the amendment? Then we can have it on the floor. We'll call it A1.

MR. STRANG: Okay. I'll move the amendment as presented as amendment A1 to Bill 27. I thought I said it.

The first one is on page 13, item (a), section 12(2). Basically this is for clarification on the policy that 25 percent of public members are required on the renewal and the appeal bodies. Therefore, it will read: by striking out "a meeting of a council, a complaint review committee and a hearing tribunal and a panel of any of them" and substituting "an appeal under Part 4 before a council, a ratification of a settlement and a review by a complaint review committee and a hearing by a hearing tribunal." So that's basically that one.

If we go to the next item, which is on page 14, which is section 12(3), basically what we're going to do is strike out this section because it's a duplication of this provision that is already captured in section 5(5).

Then if you go to the next item, C, in subsection (4) we want to strike out "to (3)" and sub it with "and (2)." This is a correction for subsection reference.

The next one is going to section 16(2). Basically what we're doing is amending it by striking out "A member" and substituting "Despite section 13(4), a member." What this is doing is clarifying that the term for the public member appointed imposed by section 13(4) may be exceeded until the member is reappointed or a successor is in place. Basically we have a person in there during the different times of replacement, so we're not leaving the board empty.

The next one would be on page 36. This is C, section 52, and the amendment is adding the following section after subsection (6), which we'll call subsection (7):

> An investigator who makes a comparison under subsection (6) may take away the original documents to make tests on them and must return them within a reasonable time of taking them but must return them no later than after a hearing is completed.

So basically this is just checking for potential forgery.

The next item is on page 41, and what we're looking at here is section 65(4). It is amended by adding "and to be sworn and answer questions" after "with the notice". This is clarification that the court may order a person to testify under oath as listed in clause (c).

Okay; the next item is E. Section 96(2) is amended by adding "panel, a" after "council or a". It's clarification that the panel also is included in the list of bodies or officers of the college. I guess what I should've said there -- and I said it twice -- is that after "adding," it should be "panel" instead of "council."

The second-last item that we're looking at here is F. Section 105(a) is amended in the proposed clause (b.1) by striking out subclauses (ii) and (iii) and substituting the following:

> (ii) a council, panel, committee, tribunal, registrar, president, complaints director and hearings director of a forestry college and any officer, investigator or person engaged by a forestry college.

Basically what we're doing is that the new (ii) that I just read is replacing the old (ii) and (iii) and ensuring consistency between the Ombudsman's jurisdiction defined by section 105 and the body and the officers who may act on the Ombudsman's recommendation in section 9(2).

So at this time, Mr. Chairman, I'd like to move these.

MR. WHITE: Mr. Chairman, I assume that the member opposite reading these amendments into the record understands every single one of them and understands all the ramifications of the old sections and the new sections and can fully explain those to anyone anytime anywhere. I get a vague nod, so I assume that he does.

In fact we went through these changes, and the only thing we have to say is that it makes it a lot easier, when we get a bill, if we can go through it one time and understand it. We don't understand how the drafting of a bill can be so flawed in so many ways in such short order. It would be much easier if the member opposite shared the draft act with both associations and other interested parties that have shown that interest, including this side, and save the necessity of going at a bill twice and going through it completely. In fact we do not have any objections to the amendments, and they appear to be in order.

Thank you, sir. I'll call the question.

[Motion on amendment A1 carried]

8:10

THE CHAIRMAN: On the bill itself, the hon. Member for Edmonton-Calder.

MR. WHITE: Thank you, Mr. Chairman. This particular bill in its amended form is acceptable to this side in that both associations and all the parties that are involved in the drafting of it seem to be satisfied with this act at least for a year or two. We're given to understand that it will be reviewed in about that time to determine whether in fact it is doing as it should.

The answers to some of the questions and queries that were brought on by second reading have been answered, so we do know in fact that the application of this act is almost entirely and completely with the Department of Environmental Protection and their enforcement of various segments of their regulations so as to manage the professionalism in the forest industry.

There is a great deal of professionalism in the industry that is not respected by this document, but those of course are field hands and firefighters and those initial response teams that have expertise that are not recognized as yet. Perhaps at some date in the future those people will also be recognized for their expertise in other associations.

With that, we'd like to further congratulate all the parties involved in coming to this amicable solution to the registration of the professionals, both the professional foresters and the technicians. I'd like to thank the member opposite for sharing as much information as he has with this side.

Thank you, sir, and I'll call the question.

[The clauses of Bill 27 as amended agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

Bill 29
Securities Amendment Act, 1999

THE CHAIRMAN: Are there any further comments, questions, or amendments? The hon. Member for Calgary-Mountain View.

MR. HLADY: Well, thank you, Mr. Chairman. Yes, I do have a few comments and some answers to some questions that were raised during second reading actually. First, I'd like to thank the Member for Olds-Didsbury-Three Hills for moving second reading for me; I had some meetings in Calgary last week when we did go through second reading of Bill 29. He presented that quite well, and I do appreciate that.

The key theme of what the purpose is of Bill 29 is harmonization with other jurisdictions across the country, and that followed with a lot of the questions from the members for Calgary Buffalo and Edmonton-Glenora. I do have some answers to the questions the opposition has raised on this, so I'd like to go through a few of them for them today.

The first question that I believe the Member for Edmonton-Glenora had asked last week was in regards to and around the concern of the use of regulation- and rule-making powers: checks and balances being needed for that to happen. The rule-making process, Mr. Chairman, as in all legislation, is set by the Lieutenant Governor in Council, and under this rule-making process any rule proposed by the commission would certainly be published for public comment prior to its adoption and implementation. If the public comment period results in any material or substantive changes to the proposed rule, then obviously it would be published again for more comment. The notice and comment requirements of the rule-making process afford an opportunity for the interested public to provide their views on any of the rules and rule changes.

Another question that the member had asked as well would have been in regards to what safeguards are in place in the rule-making process to ensure disclosure of proposed rules and adequate public input. That was one that you wanted to get through as well. The commission must publish for public comment, again just as I was stating in the earlier area. The only exception to this public notice and comment period are temporary rules put in place on an emergent basis, to deal with an emergency basis. It's only effective for a 275-day period unless published for comment and published as a rule during that period. Okay? It's only effective for that time period of 275 days. That's the temporary rule. Once a rule has been adopted by the commission, though, it must be published in both the commission's weekly summary and the *Alberta Gazette*.

MR. SAPERS: Two hundred and seventy-five days? Are you sure about that, Mark?

MR. HLADY: That's what the commission has told me. That's how it would work. That would be just for a temporary rule, not a permanent change. They've got 275 days for that.

An integral part of the rule-making process involves ongoing consultation with the industry at all times. That includes the Securities Advisory Committee and the Financial Advisory Committee, consisting of private-sector lawyers, accountants, and industry and business representatives. It also provides for valuable advice and input to the commission through their review of proposed rules, policies and practices, and procedures in connection with legal and financial issues.

Another one of the questions was: why are the regulation-making powers under the act being amended? Through the commission, together with other members of the CSA across the country, an ongoing review and a reformation of the existing legislation across the country has been going on over the last four years. Through this process it's become apparent that certain clarifications in the wording of the regulations need to be consistent across the country. In section 196 of the act, they are necessary as the commission derives its rule-making authority from section 196.

The proposed amendments are based on the collective experience of the CSA members in reformulating national policies, local blanket orders, policies, and notices into rules. This experience has illustrated the need to clarify and in some cases expand the statutory authority for such rules. The amendments mirror those in other jurisdictions today, particularly B.C. and Ontario.

One example is the proposal to move the prescribed lapse date to the rules. An issuer is required to provide investors with a prospectus containing all of the information the investors need to make an informed investment decision prior to the purchase of the securities. Section 97 of the act sets out specific time limits on the use of a prospectus to ensure that the information provided to the investors is current. So they want to keep it as tight as they can. A prospectus can only be used for one year unless it's updated. With the development of new types of prospectus, such as a shell prospectus, where supplemental information relating to a price is filed and then delivered after the receipt of the prospectus is issued, as an example, the one-year lapse date running from the date of the prospectus is no longer appropriate for all prospectuses.

Another question: have arrangements been made to refer the regulation-making power amendments to the Standing Committee on Law and Regulations? No, no arrangements have been made to bring that back to the Standing Committee on Law and Regulations. The proposed amendments are primarily for clarification of existing regulation-making powers and do not represent a major expansion of regulation-making powers for either the commission or the Lieutenant Governor in Council.

Administrative penalties was another topic that I believe both the hon. members for Calgary-Buffalo and Edmonton-Glenora had talked about. They were wondering: why is an administrative penalty necessary, and what will these funds be used for? Mainly, the administrative penalty provision will give the commission greater flexibility to render sanctions that are more appropriate to the facts surrounding the violation. The sanctions currently available to the commission are often not appropriate to protect or prevent future harm to investors and to the Alberta capital markets. Actually, as we've just seen some changes with the Canadian capital markets, the exchange here will be representing really all of Canada in regards to junior issues.

8:20

The commission is currently able to recover the costs of enforcement proceedings. The intent is that funds collected from administrative penalties will be used to benefit the capital markets as perhaps leveraging off private-sector initiatives, and it'll also be a very educational process for investors. Full disclosure for funds received as an administrative penalty will be included in the commis-

sion's audited financial statements, that are provided to the government and to the public. The decision to allocate funds received from administrative penalties will be made by the commission members and reported on the commission's annual report.

Specifically, you were wondering also: what is an administrative penalty? It's basically a monetary sanction that can be imposed against the person or the company that's violated the act. This is moving to a $100,000 level. For a comparison as of today of some other powers -- and I think that was a question the Member for Calgary-Buffalo had asked as well -- the stock exchanges of Alberta, Toronto, Montreal, and Vancouver all have a $1 million penalty provision at this time. That's something they have. So this moves the Securities Commission to a $100,000 level.

Another question was: why are funds from administrative penalties not going to be used to fund the day-to-day operations of the commission? I don't believe they really want to be dependent on whether there are penalties and having to go and raise more money through sanctions and penalties. That's not the purpose of it. So by having the funds running into this foundation, it's going to be put back into the market in a proactive way and in an educational process. They feel that that would be a much better way to make the money work. The commission definitely has the responsibility to impose those sanctions, but where you would put it, you don't want to be dependent on that as a source of funding your commission.

You were also wondering how the funds would be accounted for. The commission is accountable to the Legislature, and it'll certainly be available through the annual report of the commission every year.

A specific question: when would the commission impose an administrative penalty? The administrative penalty provision will be one of a number of remedies available to the commission when dealing with serious violations of securities law. Any administrative penalty would be imposed only after the commission has held a hearing, determined the seriousness of the violation, and decided that it is in the best public interest to impose an administrative penalty.

A good example, just so you know and to be read into *Hansard*, would be that First Marathon Securities Limited had a recent failure to properly supervise its Calgary office personnel in the Cartaway Resources matter. I don't know if you're familiar with that one or not. Had this matter gone to a hearing before the commission, the commission would have been restricted to invoking a trading ban or suspending or revoking First Marathon's registration, neither of which would have been particularly appropriate as a remedy. If you had suspended the firm, all of the clients that trade through the firm would have been adversely affected. Whether they were involved with Cartaway or had securities in Cartaway, all of their other clients would have been hurt by that as well, so it would have been inappropriate to suspend it. The more appropriate way to deal with that would be through the penalty manner that we have as the administrative penalty.

You were wondering about a little bit more detail on the Alberta Capital Market Foundation. The Alberta Capital Market Foundation is a not-for-profit corporation established in 1998, with the start-up funding contributed by the commission and the Alberta Stock Exchange. The commission has no obligation to provide future funding for the foundation. Its activity will be dependent upon what happens in penalties and so forth.

What is the role of the Alberta Capital Market Foundation? Again, it's to educate the public and entrepreneurs about investing and capital formation. The foundation does not conduct active operations -- it's an educator -- but will fund projects that will do that sort of thing. It'll certainly help investors to better understand how they can work with the capital markets.

Another question. I believe the Member for Calgary-Buffalo asked in regards to the executive director being given more power to release confidential information to other regulatory entities on specified terms and conditions and whether it's an appropriate circumstance. That's a very good question. With the increase in globalization of the securities markets today, there has certainly been a blurring of the borders and where that should go and also on the need for better understanding by people who are moving capital from market to market and making sure that it's being done in an appropriate way. The commission has entered into a number of memoranda of understanding with other regulators to facilitate that exchange of information around the world as well as across Canada: the SEC in the United States and so on.

Included in the side letters are summaries of the protections available under the laws of that jurisdiction relating to the protection of privacy of personal information, which is crucial. This permits the executive director to impose appropriate limitations on the use of any information used and released by the commission to ensure that personal information relating to investors receives the same protection from disclosure as is under our Freedom of Information and Protection of Privacy Act. So it's going to meet those standards.

Similar legislation has been put in place by the federal government and each of the provinces of Canada to provide protection from disclosure of personal information in the files. Information shared with the federal government regulators such as the office of the superintendent of financial institutions would be protected from disclosure by OSFI under the provisions of the federal legislation in the same manner as you would be protected inside Alberta.

One other question was: what is the rationale for amending the definition of futures contracts? I think that was the Member for Calgary-Buffalo on that one. Actually I think it was both members on that one; wasn't it? The current definition is too broad. The proposed amendment would restrict the definition to cover only those future contracts that the commission needs to regulate. The wording of the definition is consistent with the proposed amendment in B.C. as well. Again, just harmonization across the country. A little background on that would be that a futures contract is an obligation to make or take future delivery of an asset, for those people who may not understand futures contracts. Futures contracts are hedging tools used to minimize risk. Traditionally such contracts would primarily be settled by actual delivery of the product or service, but today 90 percent of those contracts are really settled with cash. That's the purpose for working through the markets and the commission. The problem was that the current definition is too all-encompassing, catching forward contracts, which provide for delivery at a future date, for example even an agreement to purchase a car next Tuesday. The definition of a futures contract is being narrowed by replacing references to subject matter and to the asset with the concept of an underlying interest.

Which of the proposed amendments are necessary for the creation of a new national junior exchange? None really. These amendments were developed significantly before the recent announcement, and whether the exchanges come together or not really doesn't make any difference because it's going to create harmonization across the country.

Mr. Chairman, I think that's most of the questions that the two members had from last week during second reading. Thank you.

8:30

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

MR. DICKSON: Thank you very much. First I'd just like to quite genuinely thank the Member for Calgary-Mountain View for what I thought was a very effective response to a whole series of questions

asked at second reading. Frankly I'm a bit overwhelmed. We don't usually get so quickly such a comprehensive response to a series of legitimate questions raised from the opposition side. How much of that credit goes to Mr. Bill Hess and the Securities Commission and how much to the Member for Calgary-Mountain View I don't know, but I just say that I appreciate the fullness of the response.

A couple of things arising out of the last speaker's comments, though, on the bill, and once again I'll preface my comments by saying that I support the bill. I'm happy to vote for it at second reading, I'm happy to vote for it again at committee, but I do have a couple of queries. The first one has to do with protection of privacy. Now, what I understand from the Member for Calgary-Mountain View is that if one were to ask how a particular investor's privacy is protected, in effect you would have to look at a series of different legislative rule regimes in different jurisdictions, and I thought I heard him say: well, the protection is equivalent to that provided by the Freedom of Information and Protection of Privacy Act.

Well, I'm a bit puzzled by that, because as I think all members recognize, the FOIP Act only deals with public bodies and records and information within the custody and/or control of public bodies. We're talking about uniquely private institutions, not public bodies, and I'm wondering to the extent that information is being moved outside the control of the Alberta Securities Commission -- with other agencies there is a range of different levels of privacy protection, and I guess I have some question in terms of how, when there's such a patchwork of privacy protection, anybody can say with any degree of confidence that there is a degree of equivalency.

Now, the Member for Calgary-Mountain View may be talking specifically about records of the Securities Commission. The Securities Commission is a public body under the FOIP Act, so that's subject. I think my concern, though, is that as we move to harmonization -- in fact the Member for Calgary-Mountain View said it very well himself. In the globalization and increasingly expansive sharing of information internationally beyond the borders of the province of Alberta, the need for privacy protection grows, and in fact the vulnerability in terms of prejudicial use of that kind of privacy information expands.

That's the reason I also asked the question about Bill C-54, and I'm not sure, Mr. Chairman, in the very long recitation of responses from the Member for Calgary-Mountain View if he addressed the question of Bill C-54. It may be in his notes and he didn't get a chance to get to it. If that's the case, if he signals me, I'd be happy to take my seat and afford him a chance to clarify that when the Minister of Economic Development sits down.

The point is this: with Bill C-54 we're now dealing with a federal initiative that provides that three years from the time Bill C-54 becomes law, a whole set of rules and expectations around the protection of privacy of personal information held in the nongovernmental sector will be legislated. There will be legislated rules, and that will happen by default unless and until the government of the province of Alberta enacts comprehensive privacy legislation in the nongovernmental sector. A long explanation, but I think the point is simply this: when we look at the European Union privacy directive that came into force in September of 1998, the huge focus on the part of the European Union with trading in information and a big part of financial markets -- what is that if not trading in information? More about corporations and industries than individuals, but clearly individual information is part of that pooling, sharing, distribution of information.

It would seem to me, Mr. Chairman, that given the advent of the European privacy directive, given the arrival of Bill C-54, which is now, I think, still in the committee stage in the House of Commons -- it's in front of the standing committee of industry and commerce or some similar moniker -- the Securities Commission and the Member for Calgary-Mountain View would be real anxious to assure us that all these things had been factored in, that it's going to be addressed in some fashion. I didn't hear that responded to, so that's still on my part an open question, and I'd sure be interested in having some focus to that certainly before we get to final reading on the bill.

I heard another thing that I was quite intrigued by. We've had occasion, albeit rarely but from time to time, to talk about the importance of subordinate lawmaking. I got quite excited when I heard the Member for Calgary-Mountain View talk about the prospect that rules, before they went into force, would be published -- I think he said published -- and in fact there would be opportunity for feedback and comment before they became effective. Now, this is the very model that has been used by the government of Canada in terms of regulations. I was sitting here thinking that this model had never found a home in the province of Alberta, and I'm advised by the Member for Calgary-Mountain View that in fact not only has it found a home, but this is a practice. It happens on a regular basis.

I'm not surprised that I didn't know. There are lots of things I don't know, Mr. Chairman. I'm surprised that in all the debate around us -- I'm always looking for new arguments when I'm trying to persuade you, Mr. Chairman, and members that the Standing Committee on Law and Regulations could play a useful role, and the Member for Calgary-Mountain View has given me some new ammunition. I'm indebted to him for raising that.

I might just say in passing that if it's such a good model and the Member for Calgary-Mountain View can say there is this protection, why aren't we using that same model in other forms of subordinate lawmaking? I always thought that the argument from the Member for Peace River and the front bench was that this would somehow slow down the process, that it's not effective, that it doesn't work. Now we discover that under our existing securities legislation, this kind of process happens all the time. Maybe the Member for Calgary-Mountain View knows how long it's been a practice. So here we have a model that we could and should be using.

Now, I'm going to ask him to clarify what that relates to, because it's clear that the regulations made under the Securities Act aren't vetted in that fashion. I think what he's talking about are internal rules, which are something different. So why is it that you'd have a higher standard of public scrutiny for internal rules than you would have for regulations which have the force of law and in fact, within the meaning of the Alberta Interpretation Act, are a . . . I'm sorry; I'm missing the word.

It's just interesting to me what the Member for Calgary-Mountain View has told us, that there's a much higher standard for internal rules than we have for regulations, and that seems odd. Maybe it seems odd to my colleague for Edmonton-Glenora. You know, Edmonton-Mill Woods may wonder about that and Edmonton-Calder. Maybe even to the Member for Calgary-Mountain View this may be a curious thing. He might explain: if that's the case, would he be prepared to ensure that the regulations under the Securities Act would be treated the same way the rules are? That would be a pretty exciting prospect, because we've got two-tier rules, Mr. Chairman. We've got one regime with a higher level of accountability if it's internal rules, a much lower level of accountability if it's regulations.

8:40

Oh, I know. Before I was referring to the Interpretation Act. The Interpretation Act defines enactment to mean a regulation or a law. That's why I say that the regulation is on a higher basis than a rule. I'd be interested in that clarification.

The other questions I had have been responded to and actually

quite fully answered, and I'd just say again in closing that I hope the minister of transportation, the Minister of Economic Development, and the other ministers here see that outstanding kind of response we got to second stage questions. It's been almost unprecedented. The hon. Member for Calgary-Mountain View is setting a standard that I challenge each of his colleagues in the front row to meet, and I'm going to be looking forward to seeing if they're able to measure up.

Thank you very much, Mr. Chairman.

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

MR. SAPERS: Thanks very much, Mr. Chairman, and I want to also thank Calgary-Mountain View for the answers and taking the role of sponsor of the bill seriously and to heart.

I want to acknowledge that there's a couple of young women in the public gallery who I'm sure are here because they are fascinated -- I don't have an introduction, Mr. Chairman, but just that they're here to listen to the debate on the Securities Amendment Act, Bill 29. It's great to know that there's actually a public out there that's concerned about this.

To the hon. Member for Calgary-Mountain View, I'd like to focus my comments on the regulation-making powers. I do appreciate the answer you made, and I won't cover the ground that Calgary-Buffalo just did in terms of subordinate lawmaking. It is a very, very impressive list of regulations, including a regulation, by the way, to prescribe fees. Now, that power for the setting of fees, "the collection and remission . . . recognized self-regulatory organizations, recognized clearing agencies," et cetera, and "reporting systems of fees payable to the Commission" -- a version of that regulation was in the existing legislation as well.

I just find it curious that when I flip through Bill 35, which was tabled today, which is about government fees -- it catalogues some 800 of them -- fees made under regulations pursuant to the Securities Act and by reference the Securities Amendment Act aren't included. I don't know why that is. Clearly, the commission has been given the power to set fees but has been given that power by regulation, and that sort of feeds back to the heart of what the issue is that led to Bill 35. Maybe before it's at third reading, you'll have a chance to give us direction in the Assembly about whether it's an oversight or whether or not the fees under the Securities Amendment Act, particularly as they are amended . . . I would hate to be in the position where we have to hold off proclamation of Bill 29 -- it is destined to have relatively quick passage in this Assembly -- because of a conflict with something that is or isn't in Bill 35.

I would also like to ask some questions about some of the other regulation-making powers. You know, the regulations are so broad. "The use, form and content of . . . documents" that include

> annual information forms, annual reports, preliminary prospectuses . . . pro forma prospectuses, short form prospectuses, pro forma short form prospectuses, exchange offering prospectuses . . . risk disclosure statements, offering memoranda . . .
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> (iii) the issuance of receipts;
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> (iv) the incorporation of other documents by reference;
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> (v) the distribution of securities by means of a prospectus incorporating other documents by reference . . .

The list goes on and on and on. It's pages long in fact.

> (ix) the issuance of receipts for prospectuses after selective review . . .

and the regulations for what would be a selective review.

I think most of my constituents would want a greater degree of certainty about what they could expect. One of the main points of Bill 29 is to harmonize with other jurisdictions, and flowing from that harmony would be the reasonable expectation that there will be consistency and there will be continuity. So in other words if I go to offer a prospectus, if I go to raise money through the exchange at one point in time, I could have a reasonable expectation at a subsequent point in time that I would follow a similar process, and I wouldn't have to endure the expense of a legal review or a review by other experts that I would have to bring in because the rules keep on changing. But because so much of this is left to regulation-making power, not delegated to the commission, which may in fact do stakeholder consultation and have public input, but to the cabinet, to its Lieutenant Governor in Council regulation-making power, it makes me concerned that the rules could change, that we may in fact, because of the rather extensive range of issues that are dealt with by regulation, be running afoul of one of the main principles of law as has been proposed. If we are trying to have more certainty, to level the playing field and have more, as I say, continuity, we may be setting up a system of some uncertainty.

Also, I notice that the commission will now have the ability through regulation of "regulating scholarship [trust] plans and the distribution and trading of the securities of scholarship plans." I believe that's a brand-new power. I don't think I missed it. I don't think it was in the existing form of the Securities Act, and I'm wondering what led to that. The federal government has taken some initiatives that have led to increased investment in RESPs, and I'm wondering what exactly was the motivation for moving scholarship savings plans under the purview of the commission. As I understood it, the individuals who sold scholarship savings trust plans had to be licensed before, but this is a new regulation about the regulation of the plans themselves. Calgary-Mountain View, for your reference it is amending section 39, which amends section 196. It adds clause (m.1) after clause (m). It's amending section (d) in 39 or, maybe for easier reference, the middle of page 23 in the bill as printed. Okay? Is that easier? All right.

Anyway, I have a concern about that. Again, it's not a concern because I'm afraid there might be too much regulation in the sale or trade or distribution of scholarship investment plans. It's just that I'm curious as to what led to that and whether or not there was any consultation with the feds, because, as I say, they've just taken an initiative, a tax-based initiative, to encourage investment in RESPs.

I guess I just raised my eyebrow about one of the things the commission can now do: they can decide that something that has been offered for sale as a futures contract is no longer a futures contract. I did hear some of your explanation about futures contracts, and thank you for that. It still seems to me that if I've been offered for sale something as a futures contract and I've agreed to purchase it as a futures contract from somebody that offered to sell it as a futures contract, I'm wondering why the commission then needs a subsidiary power to go back and say: well, that thing you thought was a futures contract isn't a futures contract. I was just confused about that, and maybe you can let us know.

The other general concern that I have. And you'll notice, Mr. Chairman, that for a change the Official Opposition isn't recommending their standard amendment, what we like to call amendment A1 all the time, which is our amendment that all regulations would be referred to the Standing Committee on Law and Regulations. That's because we have appreciated the track record of the commission, but it's the broadening of the regulation-making power. So I hope in the answers provided to the Assembly we won't simply be told -- and I hope these won't sound like fighting words -- "Trust us; we're from the government," that we won't just simply be told, "Well, we have the power to do so under legislation, so we're going to make the regulations that way because that's the way we do it," and the commission will go and do all the work with the stakeholders.

My quibble isn't with the authority the commission would be

given. My quibble is with the expanded role of the cabinet without involving either the Legislature through debate, because maybe some of these things could be better accomplished through legislative changes, or through the public and of course the public scrutiny that would happen if in fact these matters were referred to the Standing Committee on Law and Regulations. But we've avoided the pro forma dance of proposing that amendment and just having it voted down. We're no less concerned; we just didn't want to go through that.

8:50

Some of the wordings -- and I'll pick as an example amending section (k)(xiii), page reference again the top third of page 23, and the regulation power as to "the variance of rights to withdraw from or not be bound by an agreement to purchase securities." Now, again what we have is the power by regulation to vary rights and, I take it, reciprocal obligations, and I'm just curious about the language. I guess I'd just like to know what are some of the circumstances that would lead to that variance and why that kind of language. That's not the only example, hon. member. You can go through the regulation-making section, as I'm sure you have, and find other examples where the regulations would allow what looks to be, at someone's whim, a change in the status of either expectations or the rules that people are supposed to play by and the expectations those rules create.

I'm sure there are some valid reasons for some of it, and in some of the discussions I've had with those individuals who trade in securities and with representatives from the commission, they've explained to me the necessity for flexibility, particularly when it comes to a junior exchange. Again, I'm just wondering about such broad powers to make changes, particularly when they're not subject to public review, so I would appreciate some thoughts on that as well.

Mr. Chairman, that concludes this round of queries, and I hope we'll have the same lightning-fast response. Thank you.

THE CHAIRMAN: The hon. Member for Calgary-Mountain View.

MR. HLADY: Well, thank you, Mr. Chairman. Thank you again for the questions. Quickly to answer a couple of the questions -- and I may not get to all of them, so I can get to the others in third reading.

Bill C-54 from Calgary-Buffalo. Obviously it's an evolving thing, and they're in process; we're in process with our act here. We'll see how it comes out. We will certainly have a protection, that the people looking for the individuals and that will be there.

I think in regards to the openness of the internal rules of the commission, that is something that was important to the people who are involved with the commission, which is made up of the Stock Exchange and all the brokerage houses and the investors through the brokerage houses. They wanted to have that openness, and that was very important. They, as the players, have asked for that, and that's why that has evolved that way. It's a very good process, and that's why we have the rules opened so that they are published ahead of time, and people can speak to them if they do have a complaint. That's why that is that way, and it has been very successful for a number of years.

The purpose for the Lieutenant Governor in Council. It's really a flow-up from the commission in regards to the changes and so on in the regulations. They are the experts. Those are the people that have dealt in the field. That's really just a last check and balance. It's not looking for the Lieutenant Governor to make changes down to the commission, but coming from the commission to say: here's what we're looking for, and we need some changes. That's why the Lieutenant Governor would be involved.

For the hon. Member for Edmonton-Glenora, in regards to adding the clause regulating scholarship plans and the distribution and trading of securities, it's more in regards to making sure they are safe investments, that they fit into the category of an RESP and so forth so that people are going to feel more comfortable with their investments. They're making sure it's not just a pure high risk and so on. I think that's more along the lines of what people are looking for on that.

On your last one, I don't know if I can get you the full answer on that as I'm standing here. If I'm not answering it, I can certainly try to do better for third reading. In regards to "the variance of rights to withdraw from or not be bound by an agreement to purchase securities," go back to (k) on the previous page:

> governing annual information forms, annual reports . . . risk disclosure statements, offering memoranda or any other disclosure documents and, without limiting the generality of the foregoing, prescribing procedures and requirements with respect to [that].

Okay? That really is the summary of it.

Thank you, Mr. Chairman.

[The clauses of Bill 29 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Carried.

Bill 15
Natural Heritage Act

THE CHAIRMAN: Our next item for consideration is Bill 15. We have amendment A1 that's been proposed by the hon. minister, and I wonder if the hon. minister, since he ran out of time, would like to add any thoughts to it in the next 20 minutes?

MR. LUND: Well, thank you, Mr. Chairman. You caught me a little bit off guard, but I would like to take the opportunity to just make a few more comments. I won't use up much more time, but there was one thing in the bill that was causing some discomfort: folks were concerned about what was going to happen during the transition. We have taken care of that. All along we said that what is currently happening in an area would not change during the transition. In other words, between the time the act is proclaimed and the new management plan is in place, the current activities are the ones that would be permitted in a protected area. So things like in Willmore wilderness park, which is one that was mentioned so often, where there is very strict control on what can happen in that area, those will continue until the new management plan is actually in place.

There are other areas as well that were mentioned that were of concern. I'm just looking -- here it is. It's section 79, transitional provisions. We talked there about where there is land under the Provincial Parks Act, the Wilderness Areas, Ecological Reserves and Natural Areas Act, or the Willmore Wilderness Park Act, those the management will continue until there's a new management plan in place. Mr. Chairman, that's the only real major one that was left for us to discuss. I must also indicate that it is extremely important that we proceed with this bill. If we don't, we will be unable to fulfill our mandate under the special places program, particularly as it relates to the heritage rangeland, because currently there is no place in legislation where the heritage rangeland can be accommodated. So it is imperative that we move forward with this bill.

9:00

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. The minister submitted a package of amendments, and I would like to ask the House if they would consider breaking those amendments up into a series of amendments. They fall into natural divisions. The amendments are listed alphabetically: A, B, C, D, and so on. I would suggest that we take them one by one, debate them, and then vote on them this evening. So we would do A amendment first and then B amendment, C, and so on.

THE CHAIRMAN: Well, that's a proposal, hon. member. You're suggesting that we would have -- whatever it is -- 20-some votes.

MS CARLSON: They're going to be fast. Don't worry.

THE CHAIRMAN: Well, the chair is really at I don't know if it's the mercy but certainly the behest of the committee.

MS CARLSON: Mr. Chairman, if I could just make a point about that, give a little more description about that. Some of these amendments that the minister is proposing we do support, and we would like to see unanimous support for those amendments on the record. For some of the amendments that we don't support, we have subamendments, so we would like to deal with those accordingly.

THE CHAIRMAN: Hon. minister, do you agree to that proposal?

MR. LUND: Mr. Chairman, yes, we would agree to that process.

THE CHAIRMAN: All right; you have your wish.

Hon. minister, would you move section A now, please, and then we'll get on with it.

MR. LUND: Mr. Chairman, I will move that we deal with each amendment and have a separate vote on each amendment. So that would rescind our original motion that we put them all in as one.

THE CHAIRMAN: Right. Thank you, hon. member. But we need you to move each one. So we need you to make a motion.

MR. LUND: I didn't realize this when I agreed to it. Okay; here we go then. So we just number them A, B, C?

THE CHAIRMAN: Right.

MR. LUND: I will move amendment A.

THE CHAIRMAN: Okay.

The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. Amendment A is an amendment with which we are in complete agreement. We think that the definition that is provided by striking out clause (a) and substituting a definition for "air cushion vehicle" is excellent. It talks about those kinds of vehicles that will be allowed in these areas, and we support that. The second part of A amendment is (b): in clause (f) by adding "or was granted or conveyed by her Majesty" after "of the Crown." It's just a matter, as we see it, of explaining it in depth, and we support that as well.

[Motion on amendment A carried]

MR. LUND: I move amendment B, please.

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. Now, on this amendment we have a subamendment. We have some concerns with parts of it. What B amendment does is amend section 6(2)(b) by adding "prescribed" after "issue." We don't have a problem with that one, but we have a problem with something that isn't in this amendment. We would like to add another section to that. So, Mr. Chairman, I will send this subamendment up to the table to be distributed. We find that this amendment isn't comprehensive enough.

THE CHAIRMAN: Hon. members, so we don't get hopelessly lost in the alphabet here, this is a subamendment. Will you be proposing more than one subamendment to any of these?

MS CARLSON: No. One subamendment per amendment that we have a subamendment for.

THE CHAIRMAN: Okay. So we've got subamendment 1 to section B. Is that about right?

MS CARLSON: Right. Yes. In total we have only seven subamendments, so it won't take too long.

THE CHAIRMAN: SB1 then.

Hon. Member for Edmonton-Ellerslie, I think you can proceed with subamendment B1.

MS CARLSON: Thank you, Mr. Chairman. Subamendment B1 leaves in what the minister has here by adding "prescribed" after "issue," but then we're asking to add section (b) here, which says: by adding "provided the activity prescribed does not compromise the natural heritage and level of protection provided by section 20" after "permits."

What this does is explain a little further what can happen if a permit is issued in a prescribed area. We're not complaining about issuing permits in this instance. What we're saying here is that we want to make sure that it's done within some sort of a framework. Definitely, as this is the Natural Heritage Act and it is talking about a wide range and diversity of protected areas, we feel that that has to be implicit in every decision that is made that may affect those lands. Permits deal with added activity. We want to ensure, to in fact enshrine in legislation that what can be permitted there doesn't compromise the heritage or the level of protection as outlined later on in the bill in section 20.

We think this is value added to the amendments the minister has made, Mr. Chairman. I'm not sure if the minister had a chance to review these subamendments. We weren't able to get them to him until a little later in the day today, which was as fast as we could work on them after reviewing the amendments that he sent over to us. We feel that this strengthens his amendment, and we would ask for the support of the House on this matter.

MR. LUND: Mr. Chairman, the amendment we're making to the bill I think clearly indicates that any permit that would be issued -- if it's prescribed, then in fact it has to be a permit that can be done under the act. That's why we're putting the word "prescribed" in. So the subamendment that the hon. member is proposing really is

redundant. It's self-explanatory without this subamendment, so I would urge the House to reject this subamendment.

9:10

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Mr. Chairman, the minister is right when he says that this is implied, but in fact it isn't enshrined in legislation. Based on advice that we have had from outside parties, we are requesting that this literally be enshrined in legislation so that there is no margin of error here and so that there isn't any kind of unusual or outside circumstance that would allow for a permit to be issued that wasn't within the mandate of the intent of the legislation.

[Motion on subamendment SB1 lost]

[Motion on amendment B carried]

THE CHAIRMAN: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Chairman. I would move amendment C.

MS CARLSON: Mr. Chairman, we have some concerns about this one as well, and they are very much in line with the concerns that we had with the previous amendment. We will be proposing subamendment 2 on this, and I will send them to the chair for distribution at this time.

[Mr. Shariff in the chair]

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

MS CARLSON: Okay. Just to clarify where we are. This is our subamendment that is amending C, section 10(1) of the minister's amendments. So for people to reference this in the bill, we're on page 10, and we are talking about permits. Originally in the bill there was one paragraph under 10(1) that gave some information about permits. In the minister's bill he struck out the word "otherwise" and then added section (b), "but for the fact that this Act allows it, or a general activity that encompasses it, under a permit." When we go to vote on the amendment, I'm hoping that the minister will explain what that means a little clearer to us, because the way I read it and interpret it, it sounds like a contradiction. I'm sure he has a reason for that that he can tell us, and I look forward to that.

We are asking for an addition to this, and that would then be called section C(b) in the proposed section 10(1). We would like to add: "and provided the activity does not compromise the natural heritage and level of protection provided under section 20" after "permits." Once again, when it comes to permits that could be issued in this new Natural Heritage Act, we don't have any examples of what those might be. Perhaps it would help us if the minister could think of any that he could share with us this evening.

We strongly feel that whatever is allowed should not be compromising in any area. I understand the minister's intent is to ensure that that doesn't happen, but in fact we feel that that isn't good enough. We want to see it enshrined in legislation. We want to see that it's very, very clear for anyone who may be going to this act and looking to see what restrictions they have under an amendment having been issued, that once again they need to ensure that what they're asking for won't compromise the natural heritage or the level of protection as described under section 20 before they go and apply for the permit.

So it may save some steps, some paperwork for some people. It may clear up the situation for some people and may ultimately make the department's job a little easier. It would just ensure that people had more faith in how the act would be interpreted if we could see some of these things enshrined here.

I know the minister will say that he feels this is a duplication, that it's implied. Implied, yes, but we really want to see it in writing, on paper, in the bill at this time. That would eliminate a number of concerns that we have heard from people in this regard.

So we are once again asking him to consider accepting this subamendment to his amendment. Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: The hon. Minister of Environmental Protection.

9:20

MR. LUND: Thank you, Mr. Chairman. I think that clearly in the amendments that we're proposing to the act we are covering the problems that were identified by the hon. member. There are two issues here. There are certain things that can be done under a permit, and then there are things that can be done under the act. The fact is that nothing can be done under a permit that isn't covered under the act, and we say that: "but for the fact that this Act allows it" -- in other words, you can't do something that the act doesn't allow -- "or a general activity that encompasses it, under a permit." In order words, there are things that you can do under a permit, things under the act, but you can't do things under a permit that aren't permitted under the act. It's all covered.

So I would urge the Assembly to vote against the subamendment.

[Motion on subamendment SC1 lost]

[Motion on amendment C carried]

MR. LUND: Mr. Chairman, I move amendment D.

THE ACTING CHAIRMAN: We have before us amendment D. Does anyone wish to speak?

The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. Amendment D amends section 20, which is on page 13 of the act, for anyone who may be following along with it. Section (a) as the minister brought forward I think improves the bill. As he said in his comments when he brought forward the amendments, one of the major concerns that we heard from people on both sides of the house was the term "landscapes." So he's striking out those and substituting "heritage in an undisturbed state." I think that's positive, and we're happy to support that.

Section (b) in this part of the amendment states: in subsection 2 by striking out "landscapes with minimal interference with naturally functioning ecosystems" and substituting "heritage." In fact, when we originally were reviewing this bill -- that's very similar wording to one of the amendments that we had originally proposed. A copy of all of those amendments went over to the minister this morning. So what happened in the absence of this bill from the Legislature is that the minister and his department reviewed it and talked to some people and drafted some amendments. We did the same thing. So we had a rather large package of amendments that we sent to the minister. Upon reading and reviewing his amendments, of which this is one, we found that there were some similarities in some areas. This in particular is one that was the same as ours.

Section (c) of this amendment states: in subsection (3) by striking

out "landscapes" and substituting "heritage." Once again, we're satisfied with that. Also, by striking out "Alberta's." We don't see where that harms this in any regard, so we're satisfied with that too.

In (d) he states: in subsection (4) by striking out "landscapes that are" and substituting "heritage." Once again, just streamlining, and we're satisfied with that.

So all in all, we think this is an excellent amendment, and we're happy to support it.

[Motion on amendment D carried]

THE ACTING CHAIRMAN: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Chairman. I move amendment E. So that I can save the hon. member opposite from talking on it, this is a very straightforward one. It's a simple one that's improving the understanding of the bill by removing the words "those 4 kinds" and substituting "that kind." In other words, if you take out a piece of ecological reserve, you must substitute or add an equal or better representation of ecological reserve. You can't choose a park, for example.

MS CARLSON: We agree with what the minister says, and we will be supporting this amendment.

[Motion on amendment E carried]

THE ACTING CHAIRMAN: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Chairman. I move amendment F. This is amending section 22.

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

MS CARLSON: Okay. Mr. Chairman, this is an amendment that we have a little more trouble with, and we have a subamendment to this. This is our third subamendment for the evening, and I will send it to the table. We're actually going to be adding quite a bit.

THE ACTING CHAIRMAN: The subamendment will be referred to as subamendment SF1.

The hon. Member for Edmonton-Ellerslie.

MS CARLSON: I'm not sure it's been distributed yet.

AN HON. MEMBER: Yeah, it's in the process.

MS CARLSON: On the subamendment. We are not amending section (a). Where the minister strikes out "ecological reserve, wildland park, provincial park or heritage rangeland" and substitutes "area," we think that's fine, and we support that. In (a)(ii) he strikes out "such a designated" and substitutes "an" just for clarification. We support that. In subsection (iii): in clause (c) by striking out "or heritage rangeland" and substituting "heritage rangeland or recreation area." That's good. We think that's a strong improvement. In clauses (c), (d), and (e) it strikes out "such." So no problem with the (a) part of the amendment, and in fact some parts are quite good.

Section (b). We're striking this out and substituting a more detailed and more comprehensive amendment because we think this area does need to be more comprehensive. So I'll go through that in detail. This amendment strikes out section F(b) and substitutes the following. In subsection (2)(i) by striking out clause (d) and substituting the following:

> (d) with respect to changes proposed under subsection 1(a), (b), (c) or (e),
>
> (i) state the date, time and location where a public meeting is to be held.

So what we're asking for here is more information. All it says currently in that amendment is: "state where further relevant information, if any, may be obtained."

We have seen historically in this province where people have not been able to get access to information in a timely manner in order to make a decision about changes that are happening in terms of environmental protection or in terms of industry moving into an area. We've seen historically that there are cases where further relevant information is often not provided in a wide enough ranging area or in a public enough manner that people who are concerned about it find out about it in a timely fashion.

Some of the operative words in the minister's amendment say, "relevant information, if any, may be obtained." We have had a number of changes that people are concerned about or affected by, where there in fact hasn't been a lot of information, if any, available. So we think that public meetings are a significant way to address this shortfall, and if the legislation is being revised, then this seriously needs to be addressed.

There are lots of times when who the minister and his department deems to be a significantly affected person isn't wide ranging enough, really, in an area where all of us have an interest in what happens in terms of environmental protection. We are all keepers of the land and need to stay informed about what is happening and have access to information should changes be proposed. We think the changes that are required are stating the date, time, and location where public meetings are to be held, that that information "be published at least 30 days before the date of the meeting" and "the name and address of the person to whom written representations may be made with regard to it" are added.

9:30

So it sets out a protocol, Mr. Chairman, which lets people know that there is a process to be followed and that people who are in the community who are currently the watchdogs of environmental protection or who have concerns or are affected people who live in the vicinity can know that the responsibility is not going to be theirs to be monitoring what is happening all the time, which is an impossible task really. Few people have the time or the ability to do that in any kind of comprehensive fashion. They know that now, when changes are proposed under any of those subsections, it's going to be published, there's going to be somewhere they can go to discuss it and there's a person representing the changes who they can contact to put forward their information.

I'm sure the minister is going to stand up and say: added expense, extra costs. But it doesn't have to be, Mr. Chairman. I think there are a number of responsible ways this could be addressed that are very, very low cost in nature. In all communities there are a number of venues that are or can be available free of charge. This doesn't have to be a large public meeting where you rent expensive space and have to send a lot of staff to provide support for the meeting. This could be a drop-in at the local public library, as an example. The designated person could be someone who's a volunteer in the community who's prepared to take this responsibility on at no cost.

I think in terms of putting the stewardship of the land at the forefront, this is an important amendment to consider. It would show the responsiveness of the minister and his department in this

area and indicate to people throughout the province and to those who are watching from outside the province that with this new legislation, they truly have an expectation that people are going to be involved with environmental protection on an ongoing basis into the new decade and thereafter. So we would ask that the minister and his colleagues consider accepting this subamendment in that regard.

The next part here is added after clause (d):

> (d.1) state where further relevant information, if any, may be obtained, and

and clause (e) is amended by striking out "and" at the end of subclause (ii), by adding "and" at the end of subclause (iii), and by adding the following after subclause (iii):

> (iv) a newspaper that has a daily circulation in communities having a population greater than 500,000.

As we all know, many of the people who are concerned about environmental protection in this province live all over the province, not just in the affected areas. We are requesting that a small ad be placed in these areas so that people who have memberships in groups and who have interests in particular regions of the province they may not necessarily reside in also have the opportunity to monitor what is going on, to review what is going on, to discuss what is going on in a timely fashion, in a fashion that is open, in a fashion that brings all parties to the table in an effort to resolve differences prior to those differences escalating to a point where we get into open warfare.

I think this provides certainty to both industry and the community by adding this kind of amendment. This is what we have heard from both industry and the environmental and agricultural communities. That is what we've heard they want. They want certainty in their futures in terms of what will happen, so that there is an open process and everybody knows what the rules are, not just environmentalists, so that those who are looking for changes also know what the expectation is, that it's clearly written down in black and white, that there is a public process to follow in terms of getting input on proposed changes. This subamendment would solve that problem.

So I would ask people, before they vote, to turn to page 15 of the bill, review the impact this additional subamendment would have on the bill, and then ultimately support it, Mr. Chairman.

MR. LUND: Well, Mr. Chairman, we really have trouble with this subamendment. When you look at what we're really talking about here, this is notice of public consultation. Currently today there's no requirement in the act to do any public consultation. We don't agree with that, so we've put into this new act a consultation process.

Now, if you're going to change the name of an area, you have to advertise it and you have to go through this whole process. Basically, if you read the amendments we are making to the act, the subamendment really doesn't add anything except a bunch more verbiage, except for one point. That is in where it says: "a newspaper that has a daily circulation in communities having a population greater than 500,000." Well, I'm not sure how different that is from section 22(2)(e)(ii), where we say: "at least one issue of a daily newspaper published in Alberta." I think what we have in this act clearly covers a region that would be affected by, for example, the change in the name of a protected area. I mean, can you imagine the cost and the process you'd go through if you wanted to change, say, some very small park way up in northern Alberta? It just doesn't make sense, so I would urge the Assembly to vote against this subamendment.

MS CARLSON: Mr. Chairman, I would like to say that the list of public notices we see on page 15 in this bill just isn't adequate enough. We need public meetings for changes to the environment in this province. By providing that kind of access for people, the minister shows leadership on this issue. It's what people have been asking for, and we would once again strongly recommend that people support the subamendment.

[Motion on subamendment SF1 lost]

[Motion on amendment F carried]

MR. LUND: I move amendment G, which deals with sections 25 and 26.

9:40

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

MS CARLSON: Thank you, Mr. Chairman. This is an interesting amendment that the minister is proposing. In fact, he is striking the entire sections 25 and 26 in his amendment, which is the bottom of page 17, all of page 18, and the top portion of page 19. It's interesting to me that the process of writing this bill would have been so flawed that he had to go to the point, after some public consultation, of having to rewrite these whole sections. This is an indication, I think, of where there is a lesson to be learned in terms of the drafting of legislation. If full and open consultations were held beforehand -- in this case that part was done -- and then the bringing in of that information was translated in a manner that represented more people's views or more closely represented those views, we wouldn't be here today in a situation where we have to see the minister bring in amendments that drastically change the bill.

On these two amendments, some of the information that is being changed we support and some of it we don't. I'll speak first to the part we support. Section 25(1), where the amendment rewrites the part on existing dispositions, is I think a good improvement. It means that logging is not going to be allowed in areas, and that's excellent. We like that move a lot.

Then in the next paragraph, in section 25(2), he goes on to say that he's still going to allow oil and gas in areas. [interjections] I hear some "goods" over there. But you know, Mr. Chairman, I don't think that's compatible with the original intent of special places, and a lot of people in this province hold the same belief as I do. So in the four subamendments we're bringing forward here, we are going to delete a part of section 25(2).

I will wait for that to be distributed and then talk about it.

[Mr. Tannas in the chair]

THE CHAIRMAN: Hon. Member for Edmonton-Ellerslie, if you want to begin on subamendment G1, that would be helpful.

MS CARLSON: Okay, Mr. Chairman. In subsection 25(2) we are asking to strike out "other than a petroleum or natural gas disposition or a disposition in respect of privately owned minerals." I think that's pretty self-explanatory. We just don't believe that oil and gas belong in there. We're wondering why in one section the government would say, "Good; no logging in these areas," but in the other section it would say it's okay for oil and gas. In these protected areas, we believe those should be phased out, and that is what the majority of the people in the province are requesting as per a great deal of information that we have received, that we know the minister has received, that we have tabled in the House, letters that have come in, information we have heard from being out in public meetings. So we would ask that people support that portion of the subamendment.

Moving down to 25(3)(a), in the minister's amendment he's adding "a petroleum or natural gas disposition under the Mines and

Minerals Act or a disposition providing access in relation to such a disposition." We're striking that out. It's just not a good idea to have those in the act.

Now, we know that's contrary to the filter this government is using in such areas, but we feel quite strongly that the two are not compatible, that he has an opportunity here to phase these out. In fact in many instances this is what we're hearing from communities other than just strictly environmentalists: from people who live in the communities, from industry, from people in agriculture. They want long-term certainty, Mr. Chairman, not just for the next two or three years but for the next 10 or 15 or 20 years, and they want to know what their costs are going to be to operate in this province.

As this government continues to allow this kind of development in these natural areas, we are going to see increased litigation costs. There are going to be wars fought, literally, hill by hill and valley by valley in this province, and now is an opportunity for the government to start eliminating them. They are not moving on that opportunity, and that, Mr. Chairman, is a shame.

The next section, (b), in his amendment is okay. We have no problems with that. The next section, (c), is okay too. We have no problem with that.

Then we get down to section (4), where the minister in his amendment talks about:

> The Crown shall not renew a disposition referred to in subsection (3)(a) except with the written approval of the Minister and, where such a disposition is continued as a result of subsection (3) or renewed, the Minister shall ensure that a plan is prepared, in consultation with the disposition holder and the Minister responsible for the Mines and Minerals Act, that is designed to minimize the impact of the activity authorized by the disposition and ultimately to phase out that activity on depletion of the resource.

Instead of waiting until the resource is completely depleted, we want to see that phased out now with the introduction of this act. We're striking that out, and that is reflected in proposed section 25(c) by striking out subsection (4). What he's got there just isn't good enough and doesn't work for us.

Next, section (5): that one works better for us particularly if (3)(a) is eliminated, which is part of our subamendment.

We don't see any problems with section (6), although we've got some information out to some communities that we are hoping will get back to us soon. Of course this amendment will be passed by then, but we will put the comments on the record once we get them.

We would like some clarification on this one if the minister would do so. Under (6)(b) it states: "the Forests Act or the Public Lands Act in relation to land that formed part of the Willmore Wilderness Park." What particularly is being discussed there in terms of dispositions? Is this trapping? If you could clarify that for us, we'd appreciate that.

Then we're okay with (c), and we added (7) to that. So we had (1), (2), (3), (4), (5), (6), a couple of which we are eliminating or striking out parts of, but we are adding a new portion there, section (7). It states that

> the Minister may offer alternative dispositions or other forms of compensation, and, in the case of dispositions under the Mines and Minerals Act, in accordance with section 8 of that Act.

So in the existing Wilderness Areas, Ecological Reserves and Natural Areas Act, it's good. This works, but we need some alternatives.

Interestingly enough, in question period today we talked about exactly one of these kinds of examples when I asked the question of the Minister of Energy about what is happening in that lovely part of southern Alberta that is represented by the Member for Livingstone-Macleod: what other forms of compensation? Are there alternative dispositions, perhaps money, perhaps trading land, all those kinds of options? We've said for a long time that there is always a way to resolve these differences between the competition of protecting a sensitive area and the needs of industry to have access to lands so they can continue with their business.

9:50

Of course, there's always a way to come to the table and debate it and discuss it and work out a solution. In fact the light bulb has finally come on for the Minister of Energy and he is pursuing that with Amoco, and we are happy to see that that is happening. This section puts that in the act, to talk about those kinds of options.

Now, we also heard the Minister of Energy say today that this is a once in a lifetime opportunity, that it won't be repeated by this government. I hope that's not true. I hope that was a little bit of blustering on his part, because we have many areas, Mr. Chairman, in this province that are sensitive in nature, where industry is looking for options out, not necessarily monetary compensation, not even necessarily new lands but a commitment from the government that if they move out, the government won't reallocate it, that it won't be back in production in the near future or that there is some sort of compensation given for that land in a variety of ways.

The minister knows there are many, many different ways that that compensation can be discussed. In fact that's why they're at the table now with Amoco. We look forward to hearing the good news on that in the very near future, and we would like to applaud Amoco's efforts in this regard. They're showing some leadership in the industry, and we like to see that. They know it's going to be a very difficult situation for them should they continue on with their efforts in that region, so we're happy to see them show that leadership.

In section B we also have a change in this subamendment. It's the last portion that members will see on their page. This is now into section 26, new dispositions, et cetera. Going through the minister's amendment, the first part of it, 26(1), looks good to us except for the exceptions, which we think could cause lots of trouble. So if we look at this in some detail, it says:

> The Crown shall not grant or renew, in respect of the surface of land in any area, any disposition, permit, licence, timber quota or other authorization to enable any resource extraction or industrial activity or access to any such activity, or any disposition to enable any other activity, except . . .

Of course this is where we have some amendments. We don't like (a) at all. We would like to strike that out, and that is reflected in B: in the proposed section 26(1)(a) by striking out clause (a). This talks about

> a disposition to provide access in relation to an existing petroleum or natural gas disposition referred to in section 25(3)(a) where that petroleum or natural gas disposition contained no restrictions on surface access immediately before the designation.

Now, this is where the Government House Leader tried to tell me the other night that a situation that happened in Rumsey could no longer happen. I don't see how that is possible here. If it is, perhaps the minister could address that for me. I don't think the Government House Leader understood the intent of this. Perhaps I'm wrong, and I'm ready to be clarified on that.

Even if that's the case, we don't like this section, and we would like it to be gone. The minister can just make a plan in this regard, but we don't think that's good enough. It's got to go out of there. So we're asking that it be eliminated.

Then the next one, (b): in clause (b) by striking out "or privately owned minerals." So it would then read: "a disposition to provide access to privately owned land in or surrounded by an area." We think that strengthens that from an environmental protection perspective and would like to see that part stricken from the record in that regard.

Section (c) for us: in clause (c) by striking out "significant." So it would then read: "a disposition in a recreation area allowing prescribed activity that has no potential for impact on people's recreational use and enjoyment of the area." This amendment is quite important, because significant impact really provides too much discretion. Who decides what significant impact is on people's recreation use? What some people think has significant impact on their recreational use could have significant impact on the environment, and in other cases it's used with different filters. So we think it's just way too much discretion in this regard, and we would like that particular word withdrawn from the minister's amendment.

As we flow through the rest of these, (d) is okay if we get rid of (3)(a); (e) we think is also okay; (f) we don't have a real problem with; and (2) we don't have a problem with.

So that is the extent of our amendments then. That's the fourth subamendment we've brought in, and that amends the minister's amendment dealing with sections 25 and 26. We would ask for the House to support that.

Thank you.

THE CHAIRMAN: The hon. Minister of Environmental Protection on subamendment SG1.

MR. LUND: Thank you, Mr. Chairman. Well, if we were to accept this subamendment to the amendment, we would be in a situation where we'd have a choice. When we wanted to designate an area that had, say, an oil and gas lease on it, we would either have to go around it or pay the company for the lease. Because these are contracts and we believe in living up to our contracts, this in fact could cost hundreds of millions of dollars, and I haven't heard one Albertan come forward and say that they want us to take hundreds of millions of dollars out of health and education and pay it to multinational corporations. I haven't heard Albertans say that. So that really is not in the deck for us.

As far as going around them, there are areas that we think are important. This would have been really easy 30 years ago or 40 years ago, but the fact is that a large portion of Alberta is now covered by mineral leases, be they oil and gas or other types of minerals. So we are faced with a situation where we have to compromise, and we talk in our amendments about phasing out the leases as quickly as possible. As far as section 26 in our amendments, we talk clearly about not issuing new dispositions. It's very, very stringent where we would be issuing a new disposition after an area is designated.

I caught one of the questions that the hon. member wanted me to answer, and that was in section 25(6)(b) where it says: "the Forests Act or the Public Lands Act in relation to land that formed part of the Willmore Wilderness." Well, there are trap lines in there, and those are dispositions. So that's what we're talking about in there. We will honour those trap lines. I didn't catch the other questions.

I would urge the House to vote against the subamendment.

[Motion on subamendment SG1 lost]

[Motion on amendment G carried]

MR. LUND: I would move amendment H.

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. In reviewing amendment H, we think it's okay, and we'll be happy to accept this one.

[Motion on amendment H carried]

10:00

MR. LUND: I would move amendment K, which amends 48(b).

THE CHAIRMAN: Are you following in sequence, hon. member? I'm sorry. I may have thrown you off, but it's section I that we need.

MR. LUND: I'm sorry. I looked at the I and thought it was 1. I would move amendment I, amending subsection 32(1)(a).

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. Once again this amendment looks okay to us. I would just ask if the minister had in mind when he was writing this amendment trappers or, if not, who else it might have applied to.

MR. LUND: I'm sorry. I didn't catch that.

MS CARLSON: I'm wondering what you had in mind when you were putting this amendment forward. Were you thinking in terms of trappers? Because it's asking for written authorization by the director.

MR. LUND: Yes.

MS CARLSON: Okay. Thank you. We're happy to support this amendment.

[Motion on amendment I carried]

MR. LUND: I would move amendment J, which amends section 37(5)(b), please.

MS CARLSON: Once again we're going to support this amendment. Could the minister just clarify for us if this amendment could allow things like spraying?

MR. LUND: Mr. Chairman, no. I don't see how it could allow spraying.

MS CARLSON: Then could we just have some further clarification in terms of what he had in mind when he's saying "to the extent contained in a written authorization given by the Director for a purpose involved in managing a disposition, by the holder of the disposition"? If not tonight, then the next time this comes up for debate or whenever would be satisfactory for us.

MR. LUND: Yeah. I'll have to get back to the hon. member with the full extent. I believe this was dealing with things like fire.

[Motion on amendment J carried]

MR. LUND: Now we'll try amendment K, section 48(b).

MS CARLSON: Once again in the spirit of co-operation we are happy to support this amendment, and in the spirit of co-operation we're hoping the government will consider supporting one of our two remaining subamendments, which are coming up shortly.

[Motion on amendment K carried]

MR. LUND: I would move amendment L, amending section 49(2).

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Okay, Mr. Chairman. We have a little problem with this one, so we have a subamendment to it. I will send that to the table now.

Section 49(2) is struck out by the minister's amendment, and the following is substituted under (2): "a person shall not be in possession of a power boat in an ecological reserve or special preservation zone." We think that isn't tight enough, Mr. Chairman. There needs to be more definition even than what is in here. Although I think this improves what was there originally in the bill, it's not comprehensive enough. So what we're requesting to do in this instance is in section 49(2) strike out "in an ecological reserve or special preservation zone" and substitute the following:

(a) in an ecological reserve, wildland park or special preservation zone,

so that's splitting out what was there before,

(b) at any location on water in a provincial park or heritage rangeland, except on a prescribed river, lake, or water route or a prescribed portion of one, or

(c) at a prescribed location elsewhere in an area,

and in any case shall not do so in contravention of any rules that are prescribed.

This tightens up where particularly powerboats can be. We don't want them in wildland parks. This is, I think, essential in terms of preserving the integrity of the area. This is on page 27 of the act for any of our colleagues who are following along here. Mr. Chairman, this won't prevent situations like times when boats may be needed for rescues or administering the act, things like that. This is for people going in and using powerboats in a recreational kind of capacity. We think it strengthens the act and strengthens the minister's amendment, and we would ask that all members in the House please consider supporting this amendment.

THE CHAIRMAN: The hon. minister.

MR. LUND: Thanks, Mr. Chairman. I'm at a loss to see what this does except rearrange the words. It lengthens it, makes it more awkward, but it certainly doesn't do anything to protect the environment, which of course is our reason for passing Bill 15. So I would urge the House to vote against this subamendment.

MS CARLSON: I think the minister knows that any time you tighten up regulations and make them clearer, not more awkward, as he would suggest, you improve the ability to protect the environment, and that is the essence of what this amendment is addressing.

[Motion on subamendment SL1 lost]

[Motion on amendment L carried]

MR. LUND: I would move amendment M, which deals with section 79.

MS CARLSON: Mr. Chairman, this section 79 is on page 40 of the Act and deals with transitional provisions. Once again we see an example here where we have a fairly significant amendment that the minister is proposing, and we are wondering what occurred from the time they originally heard the consultations till we see the amendment coming in now for him to have changed his mind in terms of expanding this particular section. We think the changes are good, Mr. Chairman. They do strengthen the bill, but it does make us wonder about the process from original input to output in a printed bill. We would have thought the bill would have come out stronger in the first instance, when it was first published. So if the minister could expand a little bit for us in terms of the process they go through in their department and why this additional information, which is good information, wasn't in the original edition of the bill.

10:10

MR. LUND: Well, very briefly, Mr. Chairman. For the process the hon. member talks about, we set out the guidelines and we turn it over to lawyers, and they write it. This amendment doesn't change anything that was in the bill, but it clarifies what is in the bill so that Martha and Henry out there can understand exactly what's going to happen. It's a clarification of what was in the original bill.

MS CARLSON: We support clarification, Mr. Chairman, and that was our intent with many of the subamendments.

[Motion on amendment M carried]

MR. LUND: I move amendment N, amending section 80(11)(d).

MS CARLSON: Mr. Chairman, we support this amendment.

[Motion on amendment N carried]

MR. LUND: I would move amendment O, amending section 80.

MS CARLSON: Mr. Chairman, we have a question on this amendment, and that question is on subsection (14)(a)(ii). I'm just trying to find the page in the bill where this is so I can give the minister a better reference. I can't seem to find it. What we're looking at is section 80(14)(a)(ii) where it says "by repealing subclause (vii)." We're wondering if this is talking about wildlife officers who are no longer peace officers and what's going to happen in that regard and how they see this improving this section of the bill. Is that clear enough for you, Mr. Minister? Did I explain that?

MR. LUND: Mr. Chairman, I'll have to get back. I don't have subclause (vii), so I'm not sure what it's talking about.

MS CARLSON: That's okay. We think it's a minor concern, Mr. Chairman, so we will be supporting this amendment, and we appreciate the minister's efforts to get back to us on this particular point.

[Motion on amendment O carried]

MR. LUND: Finally, Mr. Chairman, I'll move amendment P, which amends section 82.

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman, and finally we have one more subamendment. So I will send this to the table.

THE CHAIRMAN: This subamendment will be known as SP1.

MS CARLSON: Thank you, Mr. Chairman. What we see as the intent of this amendment is that the minister is looking for some transition time when he states that . . .

THE CHAIRMAN: Sorry. [interjection] All right; you can go ahead.

MS CARLSON: Thanks. The minister is looking for some transition time. When we look at 82(1), it says "subject to subsection (2), this statue comes into force on Proclamation," and we say that this needs to be done at the same time as is referenced in section 24. We think that in the absence of having this stated time line here, there is potential for new developments to be proposed in the meantime. That is of some considerable concern to us, Mr. Chairman, so we are proposing a subamendment to section P in the proposed section 82(1) by striking out "Proclamation" and substituting "January 1, 2000."

We think this is responsible, but we would be quite interested in hearing what the minister has to say about the transition time.

THE CHAIRMAN: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Chairman. I don't like the amendment. We aren't exactly sure of the amount of time it's going to take to write the regulations. We need to have the window broad enough so we can go out for public consultation with the regulations.

As far as rushing it, I'm not sure what the purpose would be in rushing it. The transitional plans that we put in here, dealing with the period from the time the act comes in until the management plans are in place, protect the areas. There will be no activity in an area that doesn't currently exist.

So I would urge the House to vote against the subamendment.

THE CHAIRMAN: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Well, Mr. Chairman, we are very disappointed that the government did not accept one of our subamendments. We thought they were quite responsible and strengthened the bill. But having said that, all of my colleagues look forward to entering into debate in committee on this bill as amended.

[Motion on subamendment SP1 lost]

[Motion on amendment P carried]

THE CHAIRMAN: The hon. Deputy Government House Leader.

MR. RENNER: Thank you, Mr. Chairman. I move that we adjourn debate on Bill 15 and that we report progress when the committee rises to report.

THE CHAIRMAN: The hon. Deputy Government House Leader has moved that we adjourn debate on Bill 15 at this time and report progress when the committee rises and reports. All those in support of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

The hon. Deputy Government House Leader.

MR. HAVELOCK: I move that the committee now rise and report, Mr. Chairman.

[Motion carried]

10:20

[The Deputy Speaker in the chair]

MR. SHARIFF: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: Bill 29. The committee reports the following with some amendments: Bill 27. The committee reports progress on the following: Bill 15. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE DEPUTY SPEAKER: Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

[At 10:22 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]