

## Legislative Assembly of Alberta

Title: **Monday, May 3, 1999** 1:30 p.m.

Date: 99/05/03

[The Speaker in the chair]

head: Prayers

THE SPEAKER: Good afternoon.

As we begin our deliberations in this sitting of the Legislature, we ask You, O God, to surround us with the insight we need to do Your will to the benefit of our province and its people and to the benefit of our country.

Amen.

Please be seated.

head: Introduction of Visitors

MR. JONSON: Mr. Speaker, it is my great pleasure today to introduce to you and through you to members of the Assembly representatives of the Multiple Sclerosis Society of Alberta, this being the occasion of the commencement of Multiple Sclerosis Week in the province of Alberta. They are seated in your gallery, and I would like to introduce them to the Assembly: Jon Temme, president; Marjorie Zelent, vice-president, development; Delores Knudsen, executive director, Edmonton branch; Lynn Leenheer, carnation campaign chairman; Louisa Bruinsma, public education co-ordinator; and Josee Pinsonneault, special projects co-ordinator. I would ask them to rise, and I hope they will receive the warm welcome of the Assembly.

head: Presenting Petitions

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

DR. MASSEY: Thank you, Mr. Speaker. With permission I'd present a petition signed by 104 Edmontonians from the SOS group urging

the Government to increase funding of children in public and separate schools to a level that covers increased costs due to contract settlements, curriculum changes, technology, and aging schools.

This brings the number of petitioners close to 10,000.

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

MRS. SLOAN: Thank you, Mr. Speaker. I'm pleased today to also rise to table a petition signed by 74 Albertans, the majority residing in the city of Calgary. They urge the Legislative Assembly

to urge the Government to increase support for children in public and separate schools to a level that covers increased costs due to contract settlements, curriculum changes, technology, and aging schools.

This is also part of the SOS campaign.

Thank you.

THE SPEAKER: Edmonton-Glenora.

MR. SAPERS: Thank you, Mr. Speaker. With your permission I would like to table some further petitions circulated by the SOS group, in this case signed by 105 Albertans, several of them residents of the Edmonton-Glenora constituency but also from Spruce Grove and downtown Edmonton as well. The petition urges the Legislative Assembly

to urge the Government to increase funding of children in public and

separate schools to a level that covers increased costs due to contract settlements, curriculum changes, technology, and aging schools.

Thank you.

head: Tabling Returns and Reports

MS EVANS: Mr. Speaker, today I would like to table with the Assembly five copies of some 561 pages of information on pine shakes released by Alberta Municipal Affairs. I have one copy with me, and the balance of the copies are in the Clerk's office. If anyone is interested in reading this material, it's in the Alberta Municipal Affairs resource room.

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

MR. SAPERS: Thank you very much, Mr. Speaker. With your permission I would like to table six copies of a program. I had the honour of participating in one of the events this weekend. It's entitled Muslims in Canada: A Century of Achievement, and it commemorates as well the 60th anniversary of the Al Rashid mosque. It was a wonderful weekend of events, and I'd like to leave these with the Assembly.

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

MR. DICKSON: Thank you very much, Mr. Speaker. I'm pleased this afternoon to table the requisite number of copies of a letter to the Minister of Justice pointing out that not only does his view of Bill 38 not accord with the terms and words of the bill itself but also is contrary to the interpretation of Premier Getty and then Attorney General Jim Horsman at the time that the Constitutional Referendum Act was introduced in the Assembly.

Thank you.

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

MR. GIBBONS: Thank you, Mr. Speaker. I have five copies of a CFIB report, User Fee Fast Facts - Municipal Affairs.

THE SPEAKER: The hon. Minister of Family and Social Services.

DR. OBERG: Thank you very much, Mr. Speaker. I rise today to table five copies of a letter from Bob Rechner, the Children's Advocate, to myself correcting particularly erroneous statements about the office of the Children's Advocate attributed to the Member for Edmonton-Riverview in *Alberta Hansard*.

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

DR. PANNU: Thank you, Mr. Speaker. With your permission I would like to table five copies of a sulphur emissions report on the Rimbey gas plant for the first two months of this year.

Thank you.

head: Introduction of Guests

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

MR. STELMACH: Thank you, Mr. Speaker. Today it's a real pleasure to introduce to you and through you to Members of the Legislative Assembly my distinguished colleagues visiting us today from Chile. They are seated in the Speaker's gallery, and they are

as follows: the Hon. Carlos Mladinic, Minister of Agriculture; His Excellency Jose Tomás Letelier, ambassador of Chile to Canada; Mr. Juan Carlos Collarte, adviser to the Minister of Agriculture; Dr. Eduardo Santos, attache from the embassy, accompanied by Mr. Brian Manning, who's president of the Agriculture Financial Services Corporation. I would ask them all to rise and receive the traditional warm welcome of the Assembly.

Mr. Speaker, recognizing as well that we have a few guests that have arrived in the members' gallery, I'd like to introduce them to you and to members of this Assembly just going by recognition: Mr. Alejandro Palacios, who is the president of Andes International Consulting, accompanied by Antonio Plaza, liaison officer to the Ministry of Agriculture. This gentleman did his MBA in Japan in the Japanese language. Also accompanying them is Mr. Bill Schissel, from the federal government, based in Ottawa, a former resident from central Alberta, and also, Mr. Rick McConnell from AFSC. I'd ask everyone to join me in giving them a very warm and traditional welcome to this Assembly.

MS EVANS: Mr. Speaker, it is a distinct pleasure this afternoon to introduce to you and through you to the Assembly three classes from Westboro elementary school in my constituency. They're accompanied by teachers David Canning, Carolle Kraemer, and Eileen Stephenson, and they're here to tour our beautiful historic building and to view the proceedings in the House. I'd ask the Assembly to join me in a warm welcome as they stand and receive our applause.

THE SPEAKER: The hon. Member for St. Albert.

MRS. O'NEILL: Thank you, Mr. Speaker. It gives me great pleasure today to introduce to you and through you to members of this Assembly three guests who are seated in the members' gallery. Tom and Joyce Barker are visiting from England. They have just arrived and will be here for several weeks to see our province. They are accompanied by their daughter Christine Barker, who is a lawyer who practices in Edmonton and lives in St. Albert. She's the former president of our constituency association. I would ask the three guests to rise and receive the warm welcome of this Assembly.

1:40

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

MR. GIBBONS: Thank you, Mr. Speaker. I'd like to introduce through you to the Members of the Legislative Assembly a gentleman who is on the school council of Londonderry junior high, a very hard-working constituent, Mr. Jeff Hollands, and his son Ryan. Ryan is the president of Londonderry junior high and also just came back from a trip with the school to China. They are up in the public gallery, and I'd like everybody to recognize Mr. Jeff Hollands and his son Ryan.

head: Oral Question Period

THE SPEAKER: The first Official Opposition main question. The hon. Member for Edmonton-Meadowlark.

### Health Care System

MS LEIBOVICI: Thank you, Mr. Speaker. Doctors in Calgary are drafting a letter for patients to sign to explain their options and at the same time protect themselves from liability should the patient die before receiving the treatment they need. Long waits in emergency for admission to hospitals can also put patients at risk. Unfortunately one of the options for patients is to travel to the United States

and pay the excessive costs for private, for-profit health care. My questions are to the Minister of Health. Is it this government's policy to allow Albertans to be held hostage before they can access health care?

MR. JONSON: Mr. Speaker, certainly that is not the case. The premise of this question is quite incorrect. I think it is an occasion to reinforce a number of things with the opposition and with, I think, everyone here attending. As I've indicated in the Assembly prior to this, the provincial government has put a major priority on health care in this province both in terms of its overall planning and development of policy and certainly as far as the budget of the province is concerned.

Mr. Speaker, I would like to just use a few examples, and there are many. There is an additional \$386 million in this year's budget for health care in the province. In the context of that budget we have targeted funds to additional frontline staff, for which we hope there will be the resources. There certainly is in the \$386 million as it stands to hire those people. Another very, very significant area of expenditure is an increase of some 13 percent, or 30 million additional dollars, to the whole area of what are often referred to as lifesaving surgeries. So this provincial government is making an effort that I think is as great or greater than any other province in this country in terms of addressing that very important area of waiting lists.

MS LEIBOVICI: Thank you, Mr. Speaker. Given that in January over 12,000 Albertans were waiting for surgery in Calgary alone, what is this minister doing now to ensure that doctors are not held liable for waiting lists that are too long as a result of this government's cuts to health care?

MR. JONSON: Mr. Speaker, we are increasing the capacity of the health care system in this province to provide these high-priority procedures which patients in this province of course need, and we have been making progress in reducing waiting lists. I know that we would not want to take too much time from question period today, but I could quote statistics with respect to reductions in the waiting lists for cardiac surgeries, and I could go on with the increased capacity for magnetic resonance imaging and a number of other things.

MS LEIBOVICI: Thank you, Mr. Speaker. With the long waits that we're seeing in emergency rooms, can patients now expect to sign waivers protecting hospitals from liability? Is that the next step in this province?

MR. JONSON: I think that to date, Mr. Speaker, the publicly funded, publicly administered health care system in this province is responding by increasing its overall capacity to serve Albertans, particularly in this area of waiting lists. The particular approach that certain doctors in Calgary have taken to draw attention to this particular issue is theirs to take. Our focus is on improving the capacity of the system to deal with this need within it.

THE SPEAKER: Second Official Opposition main question. The hon. Member for Edmonton-Centre.

### Widows' Pensions

MS BLAKEMAN: Mr. Speaker, on April 21, the Alberta Human Rights and Citizenship Commission ruled that the Widows' Pension Act discriminates against Albertans on the basis of marital status.

The commission recommends that the government amend the act so that it complies with the Human Rights, Citizenship and Multiculturalism Act and instructs the Department of Family and Social Services to contact the commission within 14 days to settle the complaint. My first question is to the Minister of Family and Social Services. Given that the department has only three days left to respond to the report, what action is the minister planning to take in response to the commission's ruling?

DR. OBERG: Thank you, Mr. Speaker. We will be doing exactly what the commission has asked us, which is sending back within 14 days our rationale for the widows' pension and that we feel that the widows' pension is compliant with the Alberta Human Rights Commission.

Perhaps I'd ask the Minister of Community Development to add to my comments.

MRS. McCLELLAN: Mr. Speaker, first of all I would like to inform the Assembly and the hon. member that this is not a ruling. It is simply a part of the process.

Secondly, I would like to remind all members that complaints of this nature are considered to be confidential. I'm sure the hon. member had a good reason for laying that report before the Assembly and somebody's permission or recommendation to do so.

I personally do not get involved with the work of the Human Rights Commission when it is reviewing a case such as this, Mr. Speaker, or at any time, but I want to make it very clear to the hon. member that this is not a ruling. This is part of a process that has been laid out and has been accepted and has worked over time with the commission. The Minister of Family and Social Services has laid out very clearly what the department's role is in this.

MS BLAKEMAN: Thank you, Mr. Speaker. My second question is to the Minister of Labour. Given that benefits cannot be denied based on marital status – or that is what the commission's ruling or suggestion in the process is – what advice has your department offered regarding the WCB widows who've been denied benefits based on their marital status?

MR. SMITH: Mr. Speaker, the Department of Labour is working with the Workers' Compensation Board, and that board, which is examining the issue, has met with the widows who had legislative changes in 1982 in that area. It's a difficult issue. It's an issue that's handled province by province, and the WCB is working with those widows to come to an appropriate conclusion.

MS BLAKEMAN: Thank you. My last question is to the Minister of Justice. Given the many recent examples of this government's discriminatory policies against women and others, when will this government conduct a gender analysis of all legislation in order to correct gender inequities now instead of being forced to by the courts?

MR. HAVELOCK: Well, Mr. Speaker, the hon. member across the way has made an assertion which clearly is not true. This government is very supportive of equality. Quite frankly whenever we are considering legislation or its impact on Albertans, we do take into account not only men and women; we also take into account how it impacts visible minorities, for example. We have a very diverse caucus, and those views are I think very fairly represented when we debate anything. I feel that the track record of this government and Premier Klein is very supportive of that.

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

### Tourism Industry

MR. BONNER: Thank you, Mr. Speaker. This government's lack of commitment to Alberta's fourth largest industry, the tourism industry, reminds me of that old Joni Mitchell song: "You don't know what you got till it's gone; they paved paradise and put up a parking lot." When it comes to striking a balance between tourism and economic development in this province, this government has clearly struck out. My questions today are for the minister responsible for tourism. How can this government possibly achieve a goal of a \$4.2 billion tourism industry by 2002 when it continues to receive failing grades for its protection of special places?

1:50

MRS. NELSON: Well, Mr. Speaker, I want to correct some of the lead-in the hon. member mentioned. He talked about tourism being separate and apart from economic development, and quite frankly it is one of the large economic drivers within this province and in fact is the fastest growing industry in the entire country.

We have put a major focus on tourism development, working with our industry players very hard to ensure that the imaging of Alberta is a place where people want to come, people want to play, people want to reside, and people want to return because of the opportunities that are here in the province of Alberta. Quite frankly our imaging involves all of our pristine areas throughout this province as well as the opportunity for people to experience what is here. So I think the hon. member is a little bit out to lunch.

MR. BONNER: Thank you, Mr. Speaker. Will the minister explain how industrial tourism is compatible with the outstanding scenery, clean air, and untouched wilderness that were once a cornerstone of Alberta's tourism marketing strategy?

MRS. NELSON: You know, Mr. Speaker, it's very sad when you sit in this Legislature and you realize how little the opposition knows about the province of Alberta. I go up to Syncrude and look at how the industrial body of Syncrude has brought together environmental protection with economic development and made a tourism attraction there by breeding baby buffalo on reclaimed lands right on-site that attracts tourists not only through their interpretive centre but on-site to visualize and see baby buffalo being bred and raised there to go back up to Wood Buffalo park through co-operation between a corporate entity and the Fort MacKay aboriginal peoples.

I think it's sad. Get out and see the province. Get out of here.

MR. BONNER: Mr. Speaker, why does this government continue to promote economic development policies that undermine the \$4 billion tourism industry in this province?

MRS. NELSON: Well, again, Mr. Speaker, maybe this hon. member has spent too much time inside. I introduced in this Legislature about a week and a half to two weeks ago the new director of the Strategic Tourism Marketing Council, Patrick Gedge, who was the vice-president of marketing for TransAlta Utilities I might add, who came into this Legislature to be introduced as part of the joint partnership between the industry players and our government for exactly the promotion of tourism because this is a critical industry for all Albertans, not only for people living here. But we have an opportunity right now by adding 55 percent to the budget of tourism promotion through my department, which this Assembly voted on, to promote Alberta globally. That's exactly what's happening, so pay attention.

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

### Sour Gas Plant Emissions

DR. PANNU: Thank you, Mr. Speaker. Each and every day around the clock 852 tonnes of sulphur and other toxic pollutants go up the stacks of Alberta's sour gas plants thereby contributing to acid rain and global warming. Thirty-three Alberta sour gas plants, including at least two in the Health minister's own constituency, still don't meet the standard of sulphur recovery that was established 11 years ago. Meanwhile the health of livestock and people in the surrounding farm and rural communities is being put at growing risk. To the Minister of Health: why is the minister willing to put the health of rural Albertans, including his own constituents, at risk by failing to urge his government to require companies to upgrade these polluting old gas plants so that they at least meet the standard for sulphur recovery adopted 11 years ago?

MR. JONSON: Mr. Speaker, I would just like to make a comment. I'm not sure if this is according to procedure, because I'll be answering as an MLA for my constituency. It's my understanding that the Rimbey plant, which was the subject of a tabling earlier today, does have plans and an overall strategy with respect to dealing with this matter as far as that plant is concerned.

I think, however, Mr. Speaker, that it would be appropriate if I could refer the question to the minister of environment or the Minister of Energy.

MR. LUND: Thank you, Mr. Speaker. The plant that the hon. member is referring to is a small sour gas plant. When the guidelines were established about 10 to 15 years ago, that size plant was grandfathered. Therefore they don't have to meet as high a standard as the new plants. The fact is that between my department and the Energy and Utilities Board they are currently looking at those guidelines and will be updating them.

DR. PANNU: Mr. Speaker, the grandfathering of these plants is the real problem. The minister is right on this.

My next two questions are to the Minister of Energy. Why doesn't Alberta follow the lead of some U.S. states and other Canadian provinces and adopt a policy under which older, more polluting gas plants are required to upgrade their plants over a period of years to meet current sulphur recovery standards, Mr. Minister?

DR. WEST: Well it's very timely, Mr. Speaker, that the member has asked this question. I think it's a fair question rather than to criticize some of the comments that are related to this issue. I have here today a note from the EUB to me that the EUB, the Alberta Energy and Utilities Board, in co-operation with the department of environment is initiating a review of IL 88-13, and that is the grandfathering policy that we have in place. They're going to update or clarify the sulphur recovery requirements for grandfathered sour gas plants, the application of sulphur recovery guidelines to other facilities, and the small gas plant proliferation guidelines. The review will also identify time lines for compliance with any updated or clarified regulatory requirements in these plants.

A work plan for the review is now being constructed, and the multistakeholder consultation will take place once the review begins in midsummer 1999. The industry will be formally advised, and a media release will be planned. This will incorporate those 34 of the 48 operating sulphur plants and that grandfathering clause that came in sometime ago. It will also include any of the new small gas plants that are emitting less than one tonne of sulphur on a yearly basis.

These plants at the present time are not required to remove that sulphur, but we are going to look at the policy.

I've also indicated – and I will be sending it forward directly to the EUB – that I want a time line for removing complete flaring of gas in the province of Alberta, not only from sulphur gas wells but other ones also.

DR. PANNU: Thank you, Mr. Speaker. My last question is to the Minister of Energy again. What action is the minister prepared to take to prevent Petro-Canada from upgrading its sour gas plant near Rimbey by adding new compressors while allowing them to continue sending 7.61 tonnes per day of sulphur up the stack when the current standard is one tonne per day and the plant will still be spewing about seven or more tonnes a day? What can you do to stop that from happening, Mr. Minister?

DR. WEST: Well, as I just indicated, starting very soon we'll be looking at not only the issues I talked about in grandfathering but the very issue that you bring up. I think that we will be ensuring and sending a message to the people of Alberta that we'll do everything we can in such a time frame as well as applying new technology and requirements to ensure that the least amount of release of these products into the air takes place.

Now, the Minister of Environmental Protection . . .

THE SPEAKER: Okay. We've been over six minutes.

The hon. Member for Highwood, followed by the hon. Member for Edmonton-Manning.

2:00

### Transportation Infrastructure

MR. TANNAS: Thank you, Mr. Speaker. My questions today are to the Minister of Alberta Transportation and Utilities. Urban and rural municipalities in Highwood are concerned about the transportation pressures they face in coping with growth, changing development patterns, and aging infrastructure. To the minister: is the minister prepared to do anything beyond budgetary funding to meet the increased demand for transportation infrastructure in Highwood and in the province?

MR. PASZKOWSKI: AT and U is working with municipalities, with Alberta Municipal Affairs, with Alberta Treasury to see if there is a new way that indeed we can fund infrastructure, if there is some way that municipalities can become involved in actual development of funding for the infrastructure pressures that are there, particularly in the rapid growth areas. Immediate discussions are taking place in Calgary, where the transportation pressures are huge, especially in the area of LRT. As these discussions progress, certainly if there is something beneficial that comes from these, we'll be sharing it with all of the municipalities throughout the province.

MR. TANNAS: Mr. Speaker, my first supplemental is again to the Minister of Transportation and Utilities. Mr. Minister, what innovative approaches to cost sharing have been developed in and for urban areas in Alberta?

MR. PASZKOWSKI: The latest example where we've developed a partnership – and it's been a very successful partnership – is with the Calgary Airport Authority, the city of Calgary, and Alberta Transportation and Utilities. This is a \$22 million project that is being cost shared: 51 percent by the Calgary Airport Authority, 31 percent by Alberta Transportation and Utilities, and 18 percent by the city of Calgary. Obviously these types of proposals have got some benefit.

We have considered other alternatives such as tolling. Certainly with the masses needed to make tolling work, we simply don't have the demographics that would allow that particular formula to work properly in this province. So at this stage we're working together with those agencies that have the most transportation needs or infrastructure needs in a particular area to see if we can define and work towards developing significant partnerships.

MR. TANNAS: Mr. Speaker, my final supplemental, again to the same minister: what opportunities are there for rural municipalities to advance high-priority projects which might not be addressed through budgeted transportation dollars?

MR. PASZKOWSKI: I met with many rural municipalities and basically pointed out, particularly where there's a single industry involved and the need of a particular piece of infrastructure, that we'd be quite willing to discuss partnerships of a third, a third, a third. All the municipalities have been advised of that. Certainly if there is some significant interest, we'd be more than prepared to sit down and meet with them and try and develop a strategy that would work for their particular need.

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

#### Municipal User Fees

MR. GIBBONS: Thank you, Mr. Speaker. This government's policy of off-loading its deficit on the municipalities is reflected not only in an infrastructure deficit but an increase of tax burden on the ratepayers in local communities over the past five years. My questions today are to the Minister of Municipal Affairs. Will the minister confirm that a 20 percent increase in local government user fees, the third highest among provinces, is a direct result of this government's downloading policy?

MS EVANS: Mr. Speaker, no, I will not confirm that.

MR. GIBBONS: Mr. Speaker, there's only one taxpayer.

My second question: what analysis has been conducted by the Department of Municipal Affairs to determine whether fees authorized under the MGA are linked to cost of service data?

MS EVANS: Mr. Speaker, I think it's important to get some of the key messages out that the member is alluding to in terms of our government's action with municipalities. Certainly the increased costs and the increased expenditure of our government in health and education will have an indirect benefit to municipalities, but over the four-year period of the \$580 million that are being provided through the infrastructure funding – and the Premier's task force is clearly one measure to assist municipalities with their infrastructure.

Mr. Speaker, in terms of a particular analysis of user fees imposed by municipalities, we do not conduct that review. We have not been asked to do that by the municipalities. The recent KPMG study that analyzed a number of things for both this city and Calgary alluded to a number of the costs but did not identify user fees as being exorbitant or being in any way, shape, or form out of line with other Canadian jurisdictions.

MR. GIBBONS: To the same minister: given that the government has decided to review user fees and charges, will the minister request local governments to review user fees and charges imposed by the MGA that have resulted from this government's off-loading?

MS EVANS: Mr. Speaker, that is one thing that we could in fact review, although I have asked, beyond the scope of the review that the Treasurer has conducted for our department, to review any fee and charge that is currently in place as a result of any action that we're taking with housing management bodies, any fee that might be implied in terms of work we're doing with any of our partnerships, and should we determine that is a valid consideration or something that the AUMA and AMD and C feel would bring value in the long term of their management of municipalities, of local governments, then it's certainly something we could consider.

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

#### Pine Shake Roofing

MR. ZWOZDESKY: Thank you, Mr. Speaker. Over the past several months I've had numerous meetings with constituents who live in homes where untreated pine shakes have been used as a roofing material. We have all heard that although the use of untreated pine shakes was allowed in our province, the government of Alberta did not promote their use nor approve them to last for 20 years. Nonetheless, this is a serious issue involving manufacturers, retailers, suppliers, installers, homeowners, and so on, and some clarification is still needed. So I have a first question to the hon. Minister of Municipal Affairs. What actions have you or your department taken or been involved with to deal with manufacturers and sellers who used the slogan "government approval" to promote their product?

MS EVANS: Mr. Speaker, recently 561 pages of materials were released from our department, joining with 3,419 pages of material that this government has released on the overall subject of pine shakes.

In 1991 a written complaint by a local manufacturer in the city of Edmonton resulted in a call from our department to determine whether or not a brochure promoting pine shakes was classified in that brochure as CMHC or Canadian construction approved. It was determined that the brochure did in fact claim that. We checked at that time with CMHC and Canadian construction and determined that that approval had not been given, so the manufacturer was alerted that this was potentially misleading, and it was withdrawn from the market.

Mr. Speaker, we are in the business of adjudicating misrepresentation between buyer and seller. Our business in 1991 and since that time has focused on the action between the buyer and the seller. When the Fair Trading Act is proclaimed in the fall, it would be interesting to reflect that when it went through the House last year, not one question from the opposition party or from the New Democrat Party alluded to any other type of question that should be posed by consumers relative to the action between a buyer and seller.

MR. ZWOZDESKY: Well, Mr. Speaker, I have a supplemental, then, to the Minister of Labour. Given that the Canada Mortgage and Housing Corporation has apparently been quite clear that its acceptance of a building product such as pine shakes is not an endorsement of the product, how does their position differ from Alberta's as it relates to inclusion of a product within the building code?

MR. SMITH: Thank you. Mr. Speaker, as has always been the policy of Alberta Labour consistently, the use of untreated pine shakes was allowed in this province based on evaluation reports by

CMHC, Canada Mortgage and Housing Corporation. The CMHC in Alberta, Alberta Labour, have been consistently clear that our evaluation reports, building code listings standards are not product approvals and do not deal with how long a product is going to last. Durability is now and always has been the responsibility of those who produce the product.

What is also consistent is the government's assertion that it did not promote the use of roofing materials, as the minister has pointed out, as far back as 1991. Clearly, Mr. Speaker, the government does not approve building code products.

2:10

MR. ZWOZDESKY: My final supplemental is to the same minister. My constituents want to know: what is the status of the assessment that the Minister of Labour has conducted regarding treated pine shakes, and what outcomes can my constituents expect from that assessment that you are doing?

MR. SMITH: That's a good question, Mr. Speaker, because the department and the Safety Codes Council did recently conduct a spot-check assessment of treated pine shakes manufactured in Alberta to determine if the product was meeting the national Canadian Standards Association grading and preservative retention standards. Our reviews only looked at those issues dealing with the building code, those being CSA standards related to grading and preservative treatment.

The review is complete, and the independent assessment of a small sample indicates that some are meeting or exceeding standards put out by the CSA and some are below the standard. The bulletin was tabled last Friday. I'm going to just table that if I can today. The department and the Safety Codes Council intend to continue to conduct spot-check assessments of treated pine shakes. We also continue to keep manufacturers, builders, roofers, and consumers informed.

THE SPEAKER: The hon. Member for Edmonton-Gold Bar, followed by the hon. Member for Wetaskiwin-Camrose.

MR. MacDONALD: Thank you, Mr. Speaker. A 1998 letter tabled today by the hon. Minister of Municipal Affairs was from the chairperson of Millar Western Forest Products: "In the mid-1990s, we began to notice that some pine shakes in the Edmonton area were succumbing to premature decay . . . the cause was an air-borne fungus." He goes on to say, "We also brought this problem to the attention of government . . . officials." My questions this afternoon are to the Minister of Labour. Given that the statement by Millar Western that government officials were informed about the fungus in the mid-1990s, can the minister please tell us exactly when the government became aware of the fungus problem? The month, the year, please.

MR. SMITH: Mr. Speaker, it's very clear that we have been consistent in relaying on to Albertans as well as to people who have been affected that we were made aware of when a shake was detrimentally affected by a fungus. I believe the date I've quoted in *Hansard* is July of 1998, and that remains consistent. [interjection] Or '97, one or the other.

We're going over ground that the member has covered in previous questions. The date that we've said before is the date that we're sticking to, and it's entirely accurate, Mr. Speaker.

MR. MacDONALD: Thank you, Mr. Speaker. My next question to the Minister of Labour: given that Millar Western has said that they

informed the government in the mid-1990s, why have no letters, no faxes, no records, not even any records of telephone conversations from Millar Western to the government regarding the fungus dated from the mid-1990s been released through freedom of information?

MR. SMITH: Mr. Speaker, again we're using up valuable time in this House that I know you deem to be important to cover grounds where the questions have been asked on over 39 previous occasions. Another 591 pages of information were tabled today. Only the tempo of the questions changes; the facts do not.

MR. MacDONALD: Thank you, Mr. Speaker. Is the president of Millar Western not telling the truth about informing the government in the mid-1990s, or have these records been misplaced by your government?

MR. SMITH: Mr. Speaker, we see two questions there, one asking whether in fact a private-sector member who is not here to be able defend himself has been lying. I would suggest the member would want to take that up in a venue appropriate to that.

Secondly, Mr. Speaker, we've been extremely clear again in seeing the disclosure of information on this topic for the last 16 months. We've been very clear. It's been very open. We continue to maintain the position of the Alberta government. While we've been doing that and while the member's been keenly addressing the issue and doing the diligence required to bring forward those questions, not once has he or any member of that government – or that opposition . . . [interjections] Not one member of that opposition . . .

Mr. Speaker, I'm stuck by the title of the song the member brought up earlier, and the title "dream on" comes to mind.

Not once has the opposition come forward and said: this is our policy; this is what we would recommend; this what we would do. All we hear again is: continuing to work on various issues. Not once do we hear: this is the policy of the Official Opposition of the government of Alberta.

THE SPEAKER: The hon. Member for Wetaskiwin-Camrose, followed by the hon. Member for Edmonton-Norwood.

### Tobacco Sales Restrictions

MR. JOHNSON: Thank you, Mr. Speaker. All members here are no doubt well aware of the serious health problems caused directly or indirectly from the use of tobacco products. In fact Health Canada tells us an estimated 45,000 Canadians will die of tobacco-related illnesses this year. Recently the members of the Alberta Pharmaceutical Association voted to ban the sale of tobacco products in any licensed pharmacy in Alberta. My question is to the Minister of Health. Will the minister be following up on this vote by pharmacists and banning the sale of tobacco products in licensed pharmacies in our province?

MR. JOHNSON: Mr. Speaker, I am aware, at least in terms of reports that have been in the media, of the resolution passed by the Pharmaceutical Association. I believe I read that it was somewhere in the neighbourhood of 71 percent of the membership present taking part in that vote. To comply with that particular recommendation from the association when received, it would be necessary to look at the necessary legislative changes, which I'm sure would involve changes to the Pharmaceutical Profession Act. It would probably have an impact on some of our business or commercial legislation in this province.

To this point, Mr. Speaker, I think it's important to advise the member and the Assembly that we've not received any official contact from the Pharmaceutical Association on this particular matter. I also would like to add that I'm quite sure that the Minister of Labour and myself would be very seriously considering the viability of such a recommendation should it come forward.

MR. JOHNSON: My second question is also to the Minister of Health. Can the minister advise whether or not prohibiting the sale of tobacco products in pharmacies has been undertaken in other provinces in Canada and whether or not this action was successful in reducing the use of tobacco products?

MR. JONSON: Mr. Speaker, to my knowledge there is only one province in Canada that has passed legislation to ban the sale of tobacco products in retail pharmacies. Further, we have followed up on that, and they have in Ontario done an assessment or a survey of the impact of that particular legislation. I guess the best way to summarize the results is that it's rather inconclusive. It seems that there's some evidence one way and some the other. However, certainly we would want to follow through on this particular request if it comes forward from the Pharmaceutical Association. I might add that it is always of course open to the pharmacists of this province, where they have either ownership or control of the retail side of a particular store's operation, to voluntarily cease selling tobacco products.

MR. JOHNSON: The final question is to the same minister. Could the minister advise what other action government might be taking to reduce the use of tobacco by Albertans.

MR. JONSON: As part of our overall program dealing with health prevention in this province, there is a number of initiatives. I will just this afternoon report on one of the major ones, and that is the funding that was established last year and increased by some 33 percent this year to a million dollars to the large group of organizations that form the Alberta antitobacco alliance. We are looking forward to the overall recommendations and plans of that umbrella group in the coming year to address this particular issue.

2:20

THE SPEAKER: The hon. Member for Edmonton-Norwood, followed by the hon. Member for Calgary-Egmont.

#### **Investigation of Edmonton Police Service**

MS OLSEN: Thank you, Mr. Speaker. Not only must the current RCMP investigation into the allegations about the Edmonton Police Service and the chief be complete and thorough, but the public perception must be that the investigation was complete and thorough. My questions are to the Minister of Justice. Will the RCMP be investigating all the allegations regarding the Edmonton Police Service and the chief?

MR. HAVELOCK: Mr. Speaker, that is a good question from the hon. member. What I referred to the RCMP to investigate was the letter which was given to us by the Edmonton Police Commission, and that letter was from, I believe, Detective Montgomery, outlining a number of issues. It's up to the RCMP to conduct that investigation. I'm not giving them any direction on how to do that. I was pleased to note that Assistant Commissioner McDermid referred the matter to an individual who works out of Regina, Saskatchewan, to ensure that there was a perception that it was entirely independent.

I can tell the hon. member that as Attorney General it's inappro-

priate for me to direct the RCMP as to how to conduct this investigation, but I have every confidence that they will review the matter thoroughly, entirely, independently, and cleanly.

MS OLSEN: The second question is to the same minister. Will the minister release the investigation report to the public upon its completion?

MR. HAVELOCK: Whether the report will be released, Mr. Speaker, basically depends on what the report comes back with. It's really premature for me to suggest whether it will be released or not. It depends on the contents. It depends on the findings. It depends on whether there's any issue relating to a criminal offence or civil matters or internal disciplinary matters. I really can't tell the hon. member at this stage whether it will be released or not because of course we'll have to have an opportunity to review it. Also, depending on the content of the report, it will have an impact on actually who will be releasing what. So it's a little premature for me to be able to indicate what will be released.

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

#### **Workers' Compensation Board**

MR. HERARD: Thank you, Mr. Speaker, my questions are to the Minister of Labour. Last weekend the *Calgary Herald* published a well-researched, comprehensive investigative report on seriously injured workers who have experienced a myriad of service problems in dealing with the WCB and their injuries. Sadly, many of these seriously injured workers are now being supported by family, friends or are on the welfare rolls. Since the main principle of the WCB legislation is to ensure that injured workers do not become a burden to family, friends, or society as a whole, when will the minister have enough evidence that problems do exist with the case management of a significant number of seriously injured WCB workers?

MR. SMITH: Mr. Speaker, I think to deal with any topic this sensitive, dealing with an injured worker in a position where he or she is receiving compensation, is always a difficult business. Whether it's the Workers' Compensation Board, whether it's a private insurance company, these issues are difficult because it's never anybody's choice to get injured in the workplace. What we do know is that the WCB is responding by conducting the largest and most comprehensive consultation process in its 80-year history. We do know that we'll be able to get answers from that. We also know already from what's going on in that review that a direct result has been an increase of benefits by an extra \$66 million to severely injured workers. Effective January 1, 1999, these benefits will accrue to those workers. So we are seeing progress in that stage.

MR. HERARD: Mr. Speaker, to the same minister: given that conflicts of medical opinion continue to play a large role in the reduction or termination of WCB benefits, when will the minister ensure that appropriate medical panels, panels that can include the injured worker's doctor, are implemented as promised by the WCB?

MR. SMITH: Mr. Speaker, I'm pleased to answer this question on behalf of the WCB on WCB policy, although it is not the legislation which the department is responsible for. The WCB does rely on the professional standards and ethics of members of the medical community and considers all the evidence in making these decisions. If there's a difference in medical opinion, the WCB medical adviser

contacts the injured worker's physician to discuss the case in question. We know that the WCB's intent is always to have three independent physicians involved in medical panels.

In this policy, Mr. Speaker, if the member is not at this point entirely satisfied with the performance of these medical panels, I can also point to the three public members that operate in the broader public interest of the government of Alberta, Mr. Barry Munro, Sandy Beagle, and Mr. Gary Cerantola, who would be pleased to entertain discussions from members who are aware of difficulties inside the WCB that might be best addressed to the board of the WCB, which has a clear governance policy. As the article points out, from the discussions of both members who have intense interest in the WCB and who were here for the amendments of 1995, there's a number of approaches including the Minister of Labour's office, direct representation with the public members of the board, as well as direct meetings with the senior executive of the Workers' Compensation Board.

MR. HERARD: My final supplemental to the same minister: given the mounting evidence that systemic problems do exist in the way the WCB deals with some seriously injured workers, what's it going to take to convince the minister that an independent inquiry is needed dealing with the 13 percent of WCB cases that are those of seriously injured workers?

MR. SMITH: You know, Mr. Speaker, it's interesting that about two weeks ago the Premier mused on the value of an opposition. I think when you see questions like this come from this side of the House and from people who are interested in tough issues, you can see that this government, which is composed of Executive Council and its private members, is not afraid to take on the tough issues. That's exactly what this member has done, and I applaud him for it, because in fact what may come out of the long-term policy consultation is a move to an independent inquiry. We don't know. But we do know that they're addressing these issues now and that this member, who has worked hard on this issue, if he has information that is verifiable, that is new and wants to work with the board, with the public interest members, with the chair, with the CEO, those doors are open. Again, we can only applaud this side of the House for its work in bringing key issues like this to the Assembly.

THE SPEAKER: The hon. Member for Edmonton-Calder, followed by the hon. Member for Red Deer-South.

### Forest Management

MR. WHITE: Thank you, Mr. Speaker. Today my questions are for the Minister of Environmental Protection. Last year's disastrous forest fires will reduce the annual allowable cut for several companies by up to 10 percent. Because several major wood processing expansions have not proceeded, over 1 million cubic metres of fibre, including 5 percent coniferous, is in fact available for reallocation. In that the severity of last season's forest fires are partly due to this government's lack of fire preparedness, will the minister use some of this allocation for those companies that sustained some of these losses?

MR. LUND: Mr. Speaker, I think it's important that the public understand that it wasn't a lack of preparedness that caused the huge losses last year. In fact we have never since history has been kept had a situation where the risk was so high. Quite frankly I was very proud of what the forest service did last year. When we look at the fact that there were a record number of fire starts, we didn't even

come close to having a record number of hectares burned. In fact the staff did a tremendous job, and I will challenge any time when a member opposite or anywhere else indicates there was something wrong with the way the department handled the situation.

The fact is that we are looking at how we can mitigate the effects of fire relative to the annual allowable cut. The department has been working diligently with all of the companies that have been affected. Of course the impact won't be felt for at least another year because there is still so much burnt wood to be salvaged, and that will take another year. But we're looking into the future at how all these areas might be mitigated.

2:30

MR. WHITE: Thank you, Mr. Speaker. Does the minister intend to allocate the entire provincial annual allowable cut without any reserve or flexibility to compensate for future fire losses or for special places replacement?

MR. LUND: Mr. Speaker, two years ago we released a very detailed study of the amount of fibre that grows in the province of Alberta in one year. We found that there are some 44.5 million cubic metres grown in this province in one year. When we're establishing the annual allowable cut, we say that we will not allocate more than what grows in a year, but even after all of the allocations, we will only be at about 23 million cubic metres. For example, last year the annual cut, the total cut in the province, was only about 17 million cubic metres. Bear in mind that the annual growth is about 45, so the fact is that we are not even coming close to overallocation.

There's quite a bit of fibre that's not accessible: steep slopes, setbacks from streams and rivers, all of those kinds of things that we have to take into consideration. Another area where there's a lot of room for expansion is as soon as we move into intensive forest management. The production on the land base currently could be up by at least 30 percent. Many experts are telling me 50 percent.

MR. WHITE: Thank you, Mr. Speaker. The final question to the same minister: given that the northwest part of our province is particularly prone to forest fires and that if the province allocates the entire timber allotment as you plan to do, just where would the timber-dependent communities of High Level, Manning, and Hines Creek get replacement wood fibre?

MR. LUND: Mr. Speaker, as I indicated in the answer just previously – no, I won't go through the whole answer again. I'd just remind the hon. member to read what I said, and he will get an answer to a good deal of his question, because I said that we were not allocating all of the fibre.

One thing I need to mention as well to help in the future is that we're going to have all of the cutting plans try to address the whole issue of fire: how do we work fire prevention into the cutting plan? That will be a main emphasis as we're looking at cutting plans in the future. It will be one of the components that must be in the cutting plan before it will be approved by the department.

### Recognitions

THE SPEAKER: Hon. members, seven members today have indicated their desire to participate in Recognitions, and we'll begin with the hon. Member for Lacombe-Stettler 30 seconds from now.

### Multiple Sclerosis Awareness Month

MRS. GORDON: Mr. Speaker, May is Multiple Sclerosis Awareness Month. Canada has one of the highest rates of MS in the world



with some 50,000 affected. Alberta has the highest prevalence rate in Canada. This debilitating, chronic disorder attacks the central nervous system. MS causes a range of symptoms from speech impairment, vision loss, numbness, and loss of balance to extreme fatigue and sometimes paralysis. The cause is unknown, its course unpredictable, and its cure is yet undiscovered, although great strides have been made recently in regards to new drug therapies.

The MS Society of Alberta is strong. Many individuals willingly volunteer their time and energy towards service programs, fund-raising events, and public awareness campaigns. Many such events are planned across this province this month: bike tours, walking tours, and of course the annual MS carnation campaign.

I encourage members of this Assembly and indeed, Mr. Speaker, all Albertans to support the good work and activities of the MS Society of Alberta. Only by working together and with your continued help can a cure be found.

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

#### **A Century of Muslim Achievement in Canada**

MR. BONNER: Thank you, Mr. Speaker. This weekend the Muslim community celebrated a century of achievement in Canada. I attended several of the activities planned for this celebration and marveled at the accomplishments and contributions of the Muslim community. Included in the celebrations was the anniversary of Canada's first mosque, Al Rashid, built in the late 1930s in north Edmonton. The mosque has recently been relocated to the city's living history museum, Fort Edmonton Park.

I think we can all agree that Muslims have contributed to the development and rich cultural diversity of Canada. Contributions have been noted in the areas of medicine, mathematics, and architecture, just to name a few.

On behalf of the Alberta Liberal caucus and the Legislative Assembly I extend my heartiest congratulations to the Muslim community. In your words, Mr. Speaker, may the next hundred years prove to be as fruitful as the first hundred.

Thank you.

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

#### **Calgary Urban Project Society**

MRS. LAING: Thank you, Mr. Speaker. On Tuesday, April 27, 1999, I attended the mortgage-burning ceremony for the Calgary Urban Project Society, known as CUPS. CUPS was started by downtown church leaders as a referral service, a medical clinic staffed by volunteers, in 1988. Today it is a comprehensive community health centre that serves the homeless and the poor population of Calgary.

The services it provides are many: a health clinic which utilizes nurse practitioners, physicians, and dentists, many of whom provide a volunteer service; outreach programs which offer crisis counseling and referral programs to assist people in locating the services and resources they need; a family resource centre which assists families to meet their basic needs through parenting classes, peer support, addiction support groups, and collective kitchens, to name a few of the programs.

The paying off of the over \$700,000 mortgage in just five years is truly an expression of the community's support for the excellent service provided by CUPS. I would like to congratulate executive director Lorraine Melchior, past chairman of the board Bob Miller, and the two businessmen who chaired the capital funding committee for a job well done.

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

#### **Miss Italia Pageant**

MS OLSEN: Thank you, Mr. Speaker. It's a pleasure to rise today to acknowledge Miss Italia in the world, Edmonton. The Miss Italia Edmonton Society recently crowned Vanessa Martire at their 1999 pageant. Miss Martire is a resident of Edmonton studying at the University of Alberta with the goal of being a French elementary school teacher. She will be representing Edmonton at the national pageant in Toronto on July 15. I wish her success in this national competition.

My congratulations also to Rosanna Verdicchio, president of the Miss Italia Edmonton Society on the excellent job she did to organize this successful annual pageant.

THE SPEAKER: The hon. Member for Grande Prairie-Wapiti.

#### **Ryan Lewis**

MR. JACQUES: Thank you, Mr. Speaker. On May 10 14-year-old Scout Ryan Lewis of Beaverlodge will receive the highest achievement award possible for a Boy Scout, the Chief Scout's award, presented to only a very few, represents the culmination of three years of hard work. In addition to actively participating in scouting activities, Ryan has had to earn numerous badges ranging from citizenship, first aid, and camp craft to exploring. He's also had to perform many hours of community service, including 4-H, helping with the swim club, and helping with the Cub pack.

Ryan joined the scouting movement in Beaverlodge in 1990 as a Beaver, entered Wolf Cubs in 1994, and into Boy Scouts in 1996. He plans to move up to Venturers this year.

We extend our congratulations and best wishes to Ryan on achieving the Chief Scout's award and wish him every success in his future endeavours.

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

2:40

#### **Walterdale Theatre**

MS BLAKEMAN: Thank you, Mr. Speaker. A few months ago in Edmonton the Walterdale Theatre celebrated its 40th anniversary, and I have been remiss in not recognizing that accomplishment and with it all the talented, hardworking volunteers who have made this 40 years happen. Len Crowther, Jennie Diment, Frank and Mary Glenfield, Marjorie Knowler, Jack McCreath, John Rivet, Judy Unwin Tilley, Ron Wigmore: these are the names who started and nurtured Walterdale. There are names too numerous to mention who have sweated, sang, and sanded their way through productions.

Walterdale has given Edmonton both the opportunity for everyone to participate and the productions for every possible taste to see and enjoy. From summer melodramas to Christmas pantos, Canadian premieres to well-loved classics, they've done it all.

I remember my years on the Walterdale stage with great fondness. It provided me and others with a stepping stone to professional theatre and, in doing so, set the bar high. Walterdale continues to give a creative outlet to many, many people who just want to be part of the magic and part of the family.

Congratulations, Walterdale, and thanks.

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

#### **Millet Lions Club**

MR. JOHNSON: Thank you, Mr. Speaker. Recently I had the

pleasure of being a part of the 25th anniversary celebrations of the Millet Lions Club. For 25 years the Millet Lions have played an instrumental role in improving the lives of people not only within the community of Millet but worldwide through community service activities, diabetes research, eye care programs, victims' services, and the support of youth and students through such programs as the Jack Wilkinson scholarship program.

Mr. Speaker, I'd like to recognize in particular six charter members of the Millet Lions who have the enviable record of perfect attendance over 25 years. These dedicated members include Gary Pahl, Garth Rudolph, Jim Larson, Mike Goin, Laurie Linaker, and Wayne Meyers. By bringing people together and encouraging lifelong friendships, the Lions organization fosters a greater sense of community spirit within all of us.

On behalf of my constituents thank you, Millet Lions, for 25 years of caring and service in your community and beyond.

### Special Days and Weeks

THE SPEAKER: Hon. members, we're now into the month of May. In the last few days and going through the next number of days there'll be a number of provincial, national, and international events which might come in under the category of Recognitions.

Of course, we now all know that May 1 was May Day, but hon. members would like to know that May is also Asian Heritage Month, Better Speech and Hearing Month, Cystic Fibrosis Month, MedicAlert Month, and Motorcycle and Bicycle Safety Awareness Month. The hon. Member for Lacombe-Stettler has already pointed out that May is also Multiple Sclerosis Month. It is also Red Shield Appeal Month. It's also the month designated for the Osteoporosis Walk. It's also the month in which the Shoppers Walk for the Cure will occur in both Edmonton and Calgary on behalf of the Juvenile Diabetes Foundation.

Then in the month of May the Easter Seal mail campaign will come to an end, and hire-a-student office openings will occur throughout the province and throughout the country. May 9 will end Girl Guides Sandwich Cookie Weeks. May 1 to 7 will be known as National Summer Safety Week. May 2 to 8 will be known as Alberta Library Week. May 2 to 8 will also be known as International Be Kind to Animals Week and Animal Health Week. May 2 to 8 will also be known as National Composting Awareness Week. May 2 to 8 will also be known as National Forest Week. On May 2 the Super Cities Walk will occur in Edmonton on behalf of the Multiple Sclerosis Society of Canada. May 3 to 9 will be known as Emergency Preparedness Week. Some of those same dates will also be known as Mental Health Week and Pitch-In Canada Week.

Today, May 3, is World Press Freedom Day. May 6 is Arbor Day, celebrated since 1872 for tree planting throughout the world. May 8 to 14 will also be known as Alberta Crime Prevention Week. As already pointed out by the hon. Member for Lacombe-Stettler, May 8 will also be known as the multiple sclerosis carnation campaign. On May 8 World Red Cross Day will be celebrated, and on May 8 as well the World Walk and Run on behalf of the Schizophrenia Society of Alberta will occur.

It is indeed a busy time.

head: Orders of the Day

head: Government Bills and Orders

head: Second Reading

### Bill 30

#### Employment Pension Plans Amendment Act, 1999

[Adjourned debate April 26: Mr. Renner]

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

MR. DICKSON: Mr. Speaker, thank you very much. I'm pleased to join debate at second reading on a bill which I think affects more Albertans than many other pieces of legislation we deal with in this Assembly. I thought: this is a complex, technical bill. I was looking for some kind of a jumping-off point to be able to join debate.

You know, I looked no further than comments made by the government whip and Deputy Government House Leader, who was bringing us home on April 26 and summarizing debate before he adjourned debate. He made what I thought was a particularly telling observation. We look to the Member for Medicine Hat for thoughtful analysis, so I think others as well as this member pay close attention to his comments when he involves himself in debate on a bill. He made an observation; it's on page 1253, April 26, 1999. He was talking about this bill, Bill 30, representing minimum standards. He went on to say that

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

Mr. Speaker, it's actually more like if the provincial government set out a chassis and insisted on some odd type of specification and then you went to add a particular power plant or you went to add some other equipment and found that it couldn't fit on the chassis that the provincial government had given you. Indeed, that's what we've got here. The platform that we have in terms of public-sector and private-sector employee pension legislation is something you cannot readily add to. In fact, what I encourage the Member for Medicine Hat and anyone else who may be of like mind in dealing with Bill 30 to do is to recognize that sometimes there's good advice, darn good advice that comes from the private sector.

I'm not talking about opposition researchers, and I'm not talking about political junkies. I'm talking about people, men and women, who are professionals, whether they're actuaries or they deal in this field. I want to specifically commend to my friend from Medicine Hat the memorandum from Watson Wyatt. It's one of I think the most prominent actuarial firms. It's a firm I used to find provided good counsel when I used to do family law work. They've had a long and distinguished history in terms of valuing pensions and whatnot. They produced a memorandum in April 1999, and the heading is Financial Services Commission of Ontario Releases Policy Regarding Same-Sex Survivor Benefits. Indeed this is a supplement to a February 1999 special memorandum also from Watson Wyatt.

I don't have the requisite number of copies right now, Mr. Speaker, but what I'll undertake to do is ensure that I do make the appropriate number of copies, and I'll table it first thing tomorrow afternoon in the daily Routine. If any other members wish to look at the Watson Wyatt document, I want to encourage them to do that.

I won't read it all out, but the gist of it is this. Contrary to what the Member for Medicine Hat had suggested to us when this bill was last up for debate on April 26, this is not a situation where the government simply sets the minimum standards and then you sort of add on the options. In fact, what we've got is a narrow frame chassis. It's like when nations go through this issue of changing the gauge of railroads. You can have a railroad system, but if it turns out that you want to come along and run larger railcars on that that need a wider rail track bed, what you discover is this notion of an add-on isn't very darn helpful. In a country that was, frankly, forged through rail lines, maybe it's an analogy that makes some sense.

2:50

Mr. Speaker, I want to disabuse any member in this Assembly

who thinks that a private employer could add on same-sex survivor benefits. You cannot. Watson Wyatt, an actuarial firm, has made it clear. If you look at the February 1999 amendment, the April 1999 amendment, what you find is that these organizations are bound by the definition of spouse in the pension plan legislation. So it is just absolutely wrong for our friend from Medicine Hat to suggest that you can add these things on or that a private-sector corporation can add them on. You can't.

This puts me in mind of an interesting event I attended last year, before I had seen this bill. It was the Managing Diversity conference. Mr. Speaker, sometimes government does things right, and sometimes they do some really innovative, exciting things. What I'm referring to is the Managing Diversity conference, that took place at the Westin Hotel in Calgary. It was sponsored by the Alberta human rights, citizenship, and multiculturalism commission. Really they brought together, it looked to me, like all the large employers in the province of Alberta. They had the cities of Edmonton and Calgary, and they had all of the corporations that we think of as the economic locomotives. These were the engines of growth, of prosperity, of employment in this province.

What was so interesting was that virtually every one of these companies that I spoke with, every one of these large employers, including the *Calgary Sun*, the *Sun* newspaper chain and other ones, had very progressive and farsighted pension plans. They had very progressive and farsighted employee benefit plans. They had very farsighted and imaginative employment equity plans. I would ask some of these employers: tell me about some of these programs you have; help me understand whether the provincial government is leading or following in terms of employee benefits. What became very, very clear to me, Mr. Speaker, in a matter of just a few conversations, something that was reinforced, then, with every other person I spoke with, was that the provincial government lags so far behind in this respect that it becomes a bit embarrassing.

I naively thought, before I became an MLA in this August Chamber, that government was about leadership and government was about not waiting to do something until you got beat over the head by the courts or the electorate. You decided what was in the public interest. You determined what kinds of things your community needed and wanted to be able to do what they had to do. You determined what private industry needed to be able to do what they wanted to do. Then you assisted that without compromising the public interest. You didn't put up a bunch of foolish regulations that impeded the work of large employers.

Well, what we have here is a perfect example where this government, that talks so much about creating a business-friendly environment – and it may well be if we compare it with British Columbia, but there's still some distance to go. If this were really a business-friendly environment, provincial legislators at that Managing Diversity conference last year could have held their heads up and said: yes, the provincial government is also moving on allowing private corporations to provide survivor benefits in same-sex relationships. But, no, that seems not to be – I was going to say not the Alberta way, but I correct that. Albertans are farsighted and progressive. It's not the way of the current Alberta government.

There may be some members who don't think it's important to have a business-friendly environment. There may be some members who are perfectly happy to see large employers have to change the rules when they come to Alberta because we're not progressive or we're not creative enough to provide the sort of environment for them to do what they had to do. Large corporations are in a tough time. They want to attract the best qualified people they can find. Often those are people from outside the province of Alberta. Whether it's ATCO or EPCOR or ENMAX or any of these large

corporations, the universities, is it not in our best interest that they can attract people? We want the very best and brightest we can find to be working in this province. That's what generates jobs and research and investment. But there are some – and they seem to have a stranglehold on policy development in the existing government – who have a very different view, and that is that in some areas it's okay to not be so business friendly, that in some areas it's okay not to have farsighted, flexible legislation. That certainly is manifest when we look at the existing Bill 30.

Now, the concern, I think, is with the definition in the act, but members shouldn't be fooled. If we look at the implication of section 20(2) of the Employment Pension Plans Act, it's very clear that a plan in this province has to incorporate the act's definitions. In this case the narrow definition of spouse does not allow the employer to extend survivor pensions to persons other than spouse as narrowly defined. That's what's been confirmed by Watson Wyatt Canada, consultants and actuaries. So if Alberta legislation does not allow employers to extend same-sex pension benefits, then suggestions by the government to the contrary seem not to be well founded. When the Member for Medicine Hat, who customarily does his homework, suggested otherwise, I'm going to suggest that he was mistaken. I'm sure an innocent mistake, but I'll be sure I send over to him some of the material I've seen that means he cannot stand there and say: this sets minimum standards. This also restricts by way of definition what kinds of benefits can and will be available.

The other thing that's important to note is that Watson Wyatt identified Alberta as one of only three Canadian provinces where employers are prohibited, absolutely statutorily barred from providing same-sex pension benefits. [interjection] Well, Mr. Speaker, I think I hear the sound of dinosaurs. I'm from Drumheller, and you get to recognize that sound. When the ground starts to shake, it's a dinosaur coming back to reclaim his area in the field. We may have a few who think like dinosaurs in this Assembly. I don't think many, fortunately, but we'll be waiting for that thump of the dinosaur footprints.

Of these three provinces that prohibit employers from extending same-sex pension benefits, Alberta being one, one of those three, British Columbia, has announced its intention to amend the definition of spouse. So what we have is that we're soon going to be one of only two. This is a little bit like when we were the last province to deal with sexual orientation discrimination. We were virtually the last province to have a freedom of information law, and one could go on. We were the last province to grudgingly acknowledge the UN convention on the rights of the child. Does anybody think that this presents our province in a better or stronger light? I don't, Mr. Speaker. Let's see if we can't do some amendments to this to purge this continuing embarrassment. I know that the Minister of Labour understands what it takes to be a business-friendly environment. I know he doesn't want to see this province going the way of some other provinces like the one to our west, where people are discouraged from coming here.

Now, the other concern I've got, Mr. Speaker. It is absolutely a very positive thing to see provision for distribution of pension benefits on dissolution or breakup of marriage. This is something that has been long, long overdue, so I'm encouraged to see us now address that in legislation. For a long time in Alberta lawyers and judges have come up with some common-law formulas to divide pension benefits. Lawyers and judges are creative people; they will find ways of doing it. But surely the appropriate way to do it is in legislation. So although it's very late, I'm glad to do it.

3:00

The interesting thing is that I went back and looked at some of the

material from the Alberta Law Reform Institute. When they did a consultation memorandum in September of 1995 and they talked about the importance of this, one of the things they looked at was: where should the legislation be found for dividing up pension benefits? What bill? Where would that be found? In the conclusion of the Alberta Law Reform Institute – and these are the people that spend their time thinking about these things far more than we have the chance to do in this Assembly – they said:

We think it best that the Alberta pension-division legislation go into the Matrimonial Property Act and the regulations under that Act.

Just one other quote.

We think that it is in the interests of spouses to have their affairs dealt with under one integrated legislative scheme for the division of matrimonial property. Therefore we think that the proposed Alberta pension-division legislation should be made applicable to PBSA pensions where the MPA applies to the division of spouses' matrimonial property. We think that, given the legislative situation described in the preceding paragraph, this is an additional reason for including the pension-division legislation in the Matrimonial Property Act rather than in pension legislation.

So, Mr. Speaker, I don't know whatever happened in this Assembly. We used to hear a lot about friendly legislation, about consumer-friendly information, about Albertans not having to go and spend a lot of money hiring a lawyer to find out basic legal information, that people should be able to look at a single statute and find out what their rights and their remedies are. They're going to need a lawyer to get specific legal advice, but, you know, we shouldn't make it so darn difficult to get this information.

At one point this government believed in plain language, and we heard some wonderful speeches about plain language. I don't know where those people have gone to or where they've lost their voice, but if you believed in plain language legislation, you would say in a moment that the Matrimonial Property Act is the place that should deal with pension division. I don't know if the Minister of Environmental Protection or the Minister of Labour would disagree with that. These are people who think logically most of the time. You know, we have some people in this Assembly – I look and I see the Member for Calgary-Lougheed here. She's busy reading the bill. I'm sure she can see some value, some merit in integrating it in the Matrimonial Property Act. I look around and I see the Member for Bonnyville-Cold Lake, and I think there are certainly people in his part of the country – he's studying the bill too. You know, Mr. Speaker, I hope that they'll look at it and see what advantages would accrue to just tuck it so neatly into the Matrimonial Property Act.

The two things I'm challenging members to do. Firstly, let's allow this to do what the Member for Medicine Hat thought it did, inaccurately, that you could add things to it. So let's make sure that the definition of spouse is changed so that it recognizes those people who wish to leave survivor benefits to a partner in a same-sex relationship. Let's move that portion of the legislation dealing with distribution on marriage breakup into the matrimonial act, where it properly belongs.

Those were my two main concerns, and I'll look forward to the committee stage. Thanks, Mr. Speaker.

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

MRS. SOETAERT: Thank you very much, Mr. Speaker. I'm pleased to take the opportunity to speak to Bill 30. I realize it's an act that will in a way try to update Alberta and in another way keep us a bit in the dark ages. I realize it's needed. It's regulated private pension plan legislation. There's been some consultation from what I understand. This act will affect quite a few people in this province,

so I would hope every member is familiar with it. I intend to get even more familiar with it as it goes through committee, because I'm sure we'll have some amendments to it. This will probably affect 275,000 people. I think for everything we pass through this, we have to consider that it will be affecting people's lives, so let's make sure that it's as good as we can possibly make it.

It's interesting that today we heard in question period the Minister of Municipal Affairs say: well, four years ago you guys didn't ask the question about it. I think that's hilarious. When people in here say, "Why are you taking so long on a bill?" it's because obviously you need us to, because if you fumble, suddenly the minister thinks it's our fault. That's rather hilarious. [interjection] Oh, we hear "right" from across the way there. Well, maybe it'd be a little bit less adversarial in here if you guys do your homework. Just in case, I want it known that we're going to say that we have some concerns, so that a few years from now, when this is challenged . . .

[Mr. Pham in the chair]

Oh, well, welcome, Mr. Speaker. You look mighty fine there today. He's looking quite cosy there.

Anyway, back to Bill 30. I want to say today that we have some concerns about it. In a few years from now, when we're all dealing with a Supreme Court decision and having to amend other legislation, at least we'll be able to say: yes, well, we knew that was going to be a problem then, and we spoke about it. Just look in *Hansard*, May 3. We'll be government. We'll fix it up so that people aren't running to the Supreme Court all the time.

MR. YANKOWSKY: Wrong.

MRS. SOETAERT: The Member for Edmonton-Beverly-Clareview says, "Wrong." But you know what? He's wrong.

The definition I think will end up being challenged. No matter how people may individually feel about this, the reality is that the issue of the definition of spouse is going to be challenged. If it's not amended, Bill 30 will definitely lead to a court challenge, which I think could wind its way through the judicial system all the way to the Supreme Court of Canada.

MS OLSEN: Costing taxpayers phenomenal amounts of money.

MRS. SOETAERT: Yeah. We're going to cost taxpayers phenomenal amounts of money.

MR. YANKOWSKY: It's worth fighting for.

MRS. SOETAERT: Edmonton-Beverly-Clareview, I'm just dying to hear you stand up and speak on this, just dying. I'm afraid it's rather a narrow focus, but you should get up and prove that.

Anyway, Mr. Speaker, through the chair, of course, we hear these complaints all the time about elected politicians and how often they are overruled by the judiciary. Well, these complaints against judges are not based on facts. We must all recognize and respect the role of the judges in our society. When the Charter of Rights was created, the judges were left to ensure that the laws and customs of the land do not infringe on the fundamental Charter of Rights. I want to quote, if you don't mind, what the Charter states.

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

Well, Bill 30 would legally exclude recognitions of some Albertans,

and it explicitly defines the term "spouse" as "a person of the opposite sex who had lived . . . in a marriage-like relationship" for at least three years. "Marriage-like relationship," you know, I think that's quite the definition. I mean, does it mean we argue a lot? We could look around here then. There might be some marriage-like relationships in here. Does it mean we get along? Does it mean we spend tonnes of hours together? Because then we're really in trouble in this House. But I just chuckled when I saw that "marriage-like relationship".

3:10

AN HON. MEMBER: You don't know what a marriage is like?

MRS. SOETAERT: I don't like my marriage to be like. Is that what you're saying? Sometimes Environment and Energy seems like a marriage-like relationship with all the issues they have to deal with.

But being serious – I knew I'd wake them up – about Bill 30, one of the concerns I have is that it is going to end up being challenged all the way to the Supreme Court, costing taxpayers all these dollars, because we can't make good legislation.

So, Mr. Speaker, there are a few things that this bill will address which probably need to be gone through. It's always difficult when you see a bill with some good parts to it and others that are very difficult to support. So I do look forward to committee, where we can address those issues.

From my understanding, some of these changes are needed, but my understanding, though, is that the public service pension plan and the local authorities pension plan don't feel that they were adequately consulted. So I'm hoping that before this comes to committee, maybe the sponsor of the bill will have a chance to meet with them and address some of their concerns that they have about this bill, because we do want it to be as good as it can possibly be. When you think they have some concerns, these are the two largest pension plans in the province. Changes to this act have the potential to significantly affect their administration, and there is some speculation that amendments dealing with this could cost them between \$30 million and \$70 million. So I would hope that the sponsor of this bill would take the time to talk to them to address some of their concerns. If that were brought forward and tabled in the Leg., I might have an easier time supporting certainly sections of it.

There is a multi-unit plan section in this act. It actually creates a third type of pension plan along with single employer plans and plans that are part of a collective agreement. It is specifically defined as

a pension plan administered for employees of 2 or more employers that is not designated by the Superintendent . . . as a specified multi-employer plan.

It is further defined as a plan where an employer is "required under a . . . participation agreement . . . to make contributions to that plan." The term specified "multi-employer plan" is added and defined as

a pension plan administered for employees of 2 or more employers and designated by the Superintendent as a specified multi-employer plan.

The term "participating employer" is amended.

It's a complex bill. I don't deny that. To say that I 100 percent understand all of it wouldn't be a truthful statement, but I am grasping at trying to understand the main issues and the main controversies of this bill. My understanding is that this will allow for greater flexibility for plan members with locked-in pensions. I have had constituents call who actually took a buyout not understanding quite all the details. I know we're all responsible for our own decisions and I don't deny that, but maybe there will be some

flexibility in this, where people can reassess and readdress their situation.

For example, this constituent of mine took an early buyout and receives extra money every month until he reaches the age of 65, and then he pays back what he got because by then he's getting Canada pension. But he pays back until he dies. So there he is saying: well, if I die younger, I won't pay that much back, but then on the other hand I don't really want to die younger. Maybe the balance could be that he would pay back with interest even on the money that he used but that it does have an end date. Right now, the way it is, it doesn't have an end date, and he finds himself in a difficult situation. He thought he was making a good decision but didn't realize all the repercussions and now would like to change some of those things.

[The Speaker in the chair]

It's fair enough to say, "Look; you made the deal when you got it," but he wasn't aware of all the implications and all the far-reaching effects of what this plan would do. Maybe this greater flexibility in this plan would help address former members. This was a government employee. I'm wondering if I could put that question to the sponsor of the bill and ask her, maybe when she closes debate on second reading or when we come into committee, if that will address the type of situation I've just described. That would be really interesting to know. I will quickly ship that information out to my constituent. Actually, there are two constituents with the same issue, and they have been working with the department, but it seems that legislation is tying people's hands. I'm not sure if that will address that type of situation, but I would appreciate knowing.

There are new rules that are introduced for employers who wish to withdraw surplus or excess assets from pension plans.

Mr. Speaker, I realize some parts of this bill are needed and some parts of it are going to end up being challenged and wasting taxpayer dollars. I have those concerns, and I'm hoping that the member can address my concerns when she has a chance to speak again to this bill. So with those few remarks, I've addressed some of the concerns I have on this bill and hope that with further debate and hopefully in Committee of the Whole we can see some strong amendments. It certainly would be nice to see amendments from the government side, to just once show a little vision on that. However, thank goodness for opposition, though some people have questioned our role. Mind you; we got blamed for not doing our job well enough today during question period. That's hilarious. We always strive to do the best we can with this government, that is sometimes pretty frustrating to live with, but we don't want to call that a marriage-like relationship.

With those comments, Mr. Speaker, I appreciate the opportunity to speak to Bill 30.

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

DR. PANNU: Thank you, Mr. Speaker. I rise to speak on Bill 30, Employment Pension Plans Amendment Act, 1999. The bill before us clearly is intended to update the existing legislation and the degree to which it's responding to changes since the last set of changes were made in the act. The bill clearly should be addressed seriously, and it is timely.

The bill comes at a time when all across Canada different courts have made some important decisions which may have bearing on whether or not this bill will stand if legally challenged, especially with respect to the definition of the spouse that is embodied in it. That definition has been expanded, of course, to include common-law partners and spouses. So there is certainly the degree to which

it does that. It responds to court-required changes that are being made. That's welcome. That's good.

The bill, in the judgment of the New Democrat caucus, also appears to prohibit private-sector pension plans from extending benefits to same-sex couples even if they wish to. That is because the Employment Pension Plans Act, which Bill 30 amends, seems to require all plans to comply with the government-mandated definition of spouses which excludes same-sex couples. It's in that regard that I'd like to review some of the difficulties that this definition of the spouse or spouses might face if the matter is taken to the courts.

3:20

I just want to draw the attention of the House to a decision that was made by the Ontario Court, general division, in December of last year, on December 8 to be exact. On that day the Ontario Court, general division, released its decision in the Ontario Public Service Employees Union case, and the court found that the opposite-sex definition of spouse in the Ontario Pension Benefits Act, OPBA for short, violates the Canadian Charter of Rights and Freedoms; that is, the Charter. As a result, the court ordered that the definition be amended by striking the words "either a man or a woman" and reading in the words "either one individual or another, whether of the same or opposite sex." The outcome in the OPSEU case is not surprising, especially given last year's Ontario Court of Appeal decision in Rosenberg, which read the words "or the same sex" into the spouse definition of the Income Tax Act for the purpose of registering pension plans.

Notwithstanding the government of Ontario's recent decision to appeal the OPSEU case, the Financial Services Commission of Ontario has indicated that it will accept pension plan amendments that contain a same-sex definition of spouse for registration, at least until a higher court rules otherwise. The Financial Services Commission of Ontario's position is based in part on the fact that the government of Ontario did not request a stay of proceedings, which would have suspended the application of the court's decision pending the outcome of the appeal. The Financial Services Commission, however, will not require inclusion of a same-sex spouse definition as a minimum standard in all plans unless the OPSEU case is affirmed on appeal or the appeal is abandoned by the government of Ontario.

In light of this decision by the court in Ontario and other decisions, such as the one that affected the situation in this province, the Supreme Court of Canada's decision on the Vriend appeal, it again has a bearing on whether or not this proposed bill with the definition of the spouse that it contains will stand the court challenge, when and if that's undertaken or that happens. I have no doubt that if the bill goes through as is, it's highly likely that such a challenge will be made. It's just a matter of time. So in light of that, I would like to suggest that it's not prudent to proceed with this bill, with the definition of a spouse as presently contained in it.

I certainly would urge the member who's the sponsor of the bill to take this matter seriously and perhaps reflect on it. I would like her to advise us, once she has given it some thought and has a chance to look at some of the relevant information that has been put on record, on what might be the status of this bill if it's taken to the court for ruling. There is certainly a set of reasons based on court decisions which would suggest that the bill needs to be modified with respect to the definition of a spouse.

The bill, as I said, has quite a few positive features about it. It certainly is an attempt to update the existing legislation, so we needed to proceed with some of those changes, but there's no point in putting the public dollars at risk by proceeding with a bill that might lead to lengthy litigation, court challenges, and ultimately

might be scrapped because it did not do what was very clear when the bill was being discussed, what needs to be done.

The statutory definition of a spouse is really the problematic issue here, and our legal advice on that particular issue tells us that the bill is flawed in that regard and the reasons which cause us concern, all of us in this House, and we should use prudent judgment and not rush the bill through until those serious legal concerns are addressed.

Let me go back here to make a couple of points, Mr. Speaker. The EPPA is a regulated, discretionary private-sector plan set up by Alberta employers. It regulates public-sector provincial pension plans such as the local authorities pension plan, the universities academic pension plan, the special forces pension plan, management employees pension plan, and private-sector plans must also be registered under this act. So the effect of this proposed bill will be quite far reaching.

The pension plans regulated by this legislation are subject to the Income Tax Act and must be properly registered with the department of revenue to obtain the tax shelter advantages offered to registered pension plans.

The one effect of maintaining an opposite-sex definition of spouse in the provincial pension legislation is to perpetuate a provincial obstacle to same-sex spousal pension benefits, although that obstacle has been, ironically, conceptually removed at the federal level by the Ontario Court of Appeal. Unfortunately, the Rosenberg decision does not bind the Alberta courts as it is a decision from another jurisdiction under a federal piece of legislation, and therefore Alberta judges are free to decline to follow the line of reasoning found in Rosenberg and uphold the opposite-sex definition of spouse.

3:30

The obstacle of the opposite-sex spousal definition in the Income Tax Act will remain until the federal government amends the definition to recognize same-sex spouses or the Supreme Court of Canada follows the Ontario Court of Appeal and reads in the phrase "or same-sex" to the statutory definition.

[Mrs. Gordon in the chair]

Alberta seems to be out of step with the developments elsewhere in Canada. In the aftermath of the Court of Appeal level decision in Rosenberg, the British Columbia government tabled legislation to extend pension benefits for public-sector employees to same-sex partners. New Brunswick was also reportedly contemplating a similar change to its provincial plan legislation. The status of these initiatives is presently not clear.

The situation certainly is changing across Canada, and the courts are telling us that the definition of the spouse as contained in this bill – it's a very foundational definition as far as the bill is concerned, and it's provisions are to be interpreted – is flawed, could be subject to challenge, and could be struck down. So would it not be wise in fact to respond to what we already know and include in the definition the same-sex couples as well?

I look forward to hearing from the government side, particularly from the member responsible for this bill. Thank you.

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

DR. MASSEY: Thank you, Madam Speaker. I appreciate the opportunity to make a few comments about Bill 30, the Employment Pension Plans Amendment Act, 1999, at second reading. This is a significant bill in terms of the number of Albertans that it affects. There are over 1,200 private-sector registered pension plans in our

province, and they include close to 275,000 employees. So it's a significant number of Albertans who are involved in these plans and who will be affected by the legislation that we have in front of us.

As it is our mandate at second reading, I'd like to talk about some of the underlying principles in the legislation and address some of the changes that those principles seem to invoke. The first principle that seems to run through the legislation and that has been commented upon by a number of speakers, particularly the mover, is that there seems to be minimum standards set for funding private pensions and for the benefits that those pension plans provide for the participants. That's just good sense. The experience in the province with the private pension plans by some participants has been less than happy. I know, for example, of a personal case where the employee paid into such a plan for a number of years, and just months before the employee was to retire and start to receive benefits, the employer defaulted on the plan, and the employee was left without the benefits that he and his wife had intended for their retirement.

It's a most serious case when that happens to people who find their financial future suddenly placed in jeopardy through no fault of their own and who have acted over a number of years in good faith, only to find that that faith was misplaced and that there is no recourse within the law for them to recover their loss and to regain the kind of security they thought they had in place as a family. There are enough of those kinds of stories that we've all heard that they alone, I think, were cause for this kind of legislation to be brought forward.

There have been questions about the solvency of plans. How well are they funded? Are they viable? Will they provide the benefits that have been promised for the participants? Will they provide the benefits participants who pay into the plans have been assured will be there when the time comes for them to collect on the plan that they've paid into? There have been concerns about plans that have folded, that have failed, and what's happened to the assets of those plans. There hasn't been the kind of clarity and the kind of direction that I think most would see as being reasonable and desirable in terms of directing the assets of those plans. The act tries to address those problems.

The notion of minimum standards is one that's acceptable and I think runs through the legislation. Except for the one provision in terms of spousal relationship breakdown, I think the act has been fairly successful in consistently addressing that principle.

The second principle the act seems to be based upon is that those affected by plans should be involved in decision-making about changes to the legislation. There's been great effort made to consult with Albertans and those individuals who are involved with private pension plans. It's our understanding that close to 4,000 discussion papers were distributed throughout the province to those stakeholders. So there was an effort to gather the opinions of those affected.

Unfortunately, only 75 were returned to the department. It is unfortunate that that was the case. It seems that there were a couple of major players overlooked in the early consultation. The public service pension plan and the local authorities pension plan were initially not adequately consulted. I believe that was rectified. The consultation was, I believe, curtailed because of the lack of response, but I think a second reason was that it was determined that the language of the bill was too technical and that because there weren't fundamental changes to the principles of the act, further consultation was not required. That's unfortunate.

One of the things that we have asked for time and time again is plain language legislation. I realize that in some of the legislation we deal with there is need for the use of technical language, but I

think there also can be a greater effort made on the part of the drafters of legislation to put those laws in language that ordinary individuals who aren't specialists in the area but who will be affected by the legislation can understand. This is one of those acts.

Because the participants are involved in a large number of private-sector plans, it means that there is need for the legislation to be understandable to a lot of individuals who are not specialists. Unlike some of the very large public-sector plans where there are specialists running them and there are employee groups overseeing the legislation and they have at their disposal legal staff to help them monitor the legislation, this plan focuses on individual citizens and individual participants who, then, are in many cases left to their own devices to try to interpret the legislation and see how that legislation affects them. I think that in itself is good argument for the legislation to be written in the kind of language that would be normally understood by ordinary Albertans, workers who are engaged in occupations other than financial fields. So I think it's unfortunate that there wasn't a greater attempt to make the language more commonplace and understandable. That would have furthered the principle that those affected by the plan should be involved in decisions about the plan.

3:40

A third principle that was followed was that the legislation was dated and needed to be brought up to date. I think there are a number of provisions where that has been done: the regulations, the overseeing of plans. I think there's been some good work done in bringing the legislation up to date, and that seems to have been pretty well the case except for the area that has been the centre of much of the debate at second reading, and that is the portions of the act that deal with spousal relationships.

I'm sure that all members of the Legislature have received correspondence on this bill from constituents. We have as a caucus, and I thought I would just read a paragraph or two from a letter we received from a barrister in terms of the spousal relationship. The correspondent starts by questioning whether this is "minimum standards legislation." She says that statements that say in this legislation that it "would allow employers to extend benefits to same sex couples if they chose" are incorrect. She says:

I disagree, as you know, with their interpretation . . .  
And she's referring to the government.

. . . as do other persons and institutions. I expect, however, that the comments from the government might be helpful in assisting the Superintendent of Pensions and, if necessary, the Courts in interpreting the provisions of the Bill in the event that an employer attempts to extend such benefits and suffers consequences.

This is a local barrister who doesn't think that the minimum standards that need to be set in the bill with regard to spousal relationships have been met or that the bill does what the sponsors of the bill indicate the act does in this regard.

That constituent also asked for amendment to the act to put in place the appropriate wording that would provide a minimal standard for those individuals in relationships other than ones that have been traditionally included in this legislation.

A fourth principle that seems to run through the act is that there's a need for private pension plans to better reflect the work realities of Albertans. Over the last number of years there's been a significant shift in the work that Albertans find themselves employed in, and the days when someone chose a career and looked forward to entering that career and in most cases retiring in that career are gone. Most of us will find ourselves and our children employed in a number of different positions throughout their lifetime, and in those positions they will find themselves not only employed within the borders of our province, but also they'll be elsewhere in the world, elsewhere

in our country. So it's important, if that's going to be the case, for pension plans to reflect those work realities – I think we only need to look at the kinds of provisions we're trying to make in some of our educational institutions to make graduates more flexible so that they can respond to that – and give rise to the provisions in the bill that allow for more flexibility for a workforce that's moving about geographically.

I think those four principles, Madam Speaker, dominate the legislation. They're principles that I think most people find sound and most people would think reasonable in terms of any amendment to the act.

With those comments I would conclude the look at the principles under the bill. Thank you.

THE ACTING SPEAKER: Thank you, hon. Member for Edmonton-Mill Woods.

The hon. Member for Edmonton-Norwood, please.

MS OLSEN: Thank you, Madam Speaker. I'm pleased to rise to speak to this bill. I understand that the object of this particular piece of legislation is to modernize Alberta's regulated private pension plan legislation, and in doing that, the government hopes to further safeguard pension earnings while increasing the flexibility of plan sponsors and members to meet and deal with retirement needs.

Our retirement needs are going to look much different down the road than they do now. Many of my colleagues have spoken to issues of the multi-unit plan and the ancillary benefits and the issue that the government has failed to deal with, and that is how do we include same-sex partnerships in relation to the whole act, and how can we become constructive when looking at relationships that have some permanence? I think that's where this legislation falls down in its attempt to modernize, and I use that word because modernize has a specific meaning. It means to update something, and as we as a society evolve and become more accepting and open, we still have laws in place that are somewhat antiquated or we fail as a Legislature to address the needs of others in society and think we can hide through legislation. That's not the attitude we need to be taking in this province.

Just to reflect on that whole issue, the term "spouse" in this piece of legislation is redefined as,

in relation to another person,

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

That marriage-like relationship would be defined, I'm assuming, as a common-law relationship, a sense of permanence albeit a lack of registration or legalizing that relationship.

3:50

The new definition of spouse is not very different from the current definition, Madam Speaker. The only difference is the inclusion of "3 or more consecutive years," that provision for those who are married, and the inclusion of the term "marriage-like" to replace "held out by that other person in the community in which they lived as his consort" for those who are not married. That's very clumsy wording and very tough to walk over. This allows a legally married spouse for the purpose of the act to remain a spouse for three years after separation. That then allows, as the divorce proceedings go down the road – and we're talking about the need to address the pension benefit that is currently in place right now, which is the legislation I believe from 1987 that allows for one spouse to obtain

half or a portion of the pension. That's what this does. It only allows that to happen on a longer term after the separation.

The government's justification for this, Madam Speaker, for using this definition and not definitions like the one used in Bill 12, the Domestic Relations Amendment Act, is that a clear-cut hierarchy must be established to clearly identify a spouse when dealing with the pension division; other definitions of spouse are simply not specific enough. The government also argues that the Employment Pension Plans Act sets the minimum standards for regulated private pensions; nothing is stopping employers from raising this standard if they so choose. However, the key to same-sex pension benefits in the Employment Pensions Plan Act is not the definition of spouse. Rather, it's not amended, period; there is no definition. So that creates a number of problems again.

We've been dealing with these issues, and I don't understand why the government just doesn't get it. Nobody is asking the government to redefine the term "spouse." In our society "spouse" has a specific meaning and a specific connotation. We've argued in this House that that's fine and we can leave it at that, but that doesn't mean that we should be exclusionary of other relationships that exist. The reality is that there are same-sex relationships that have existed in society for quite some time, whether it's 10, 15, or 20 years, and in fact I believe a case that went before the Supreme Court of Canada was 40 years.

So why would you want, at the dissolving of a relationship or in fact at the death of a partner – I'll use that term for the time being – the other spouse or the other individual in that partnership to suffer financially and then become dependent on the state? It's a matter of people addressing their obligations in their relationships and their responsibilities in their relationships. Quite frankly, I'm not quite sure why it matters to the government who gets somebody else's pension in a relationship. It just shouldn't matter.

Madam Speaker, I guess I would like to know what has come out of the government's study on the definition of spouse and why they specifically exclude relationships of the same sex in this particular piece of legislation. I don't believe that the question of what is the intent of this act has been answered. Will it allow for same-sex pension benefits? No. Do they exist now? No. But do other benefits? Yes. In fact, in North America it's been the corporate culture that has addressed this issue because they recognize that they want their employees working to the best of their ability. They don't want a turnover of employees, and they recognize that there are relationships in this society that are not the same as we've all grown up to know and that in fact those same-sex relationships do exist. They want to be able to ensure they're doing their part as an employer to support those relationships.

In fact, Nova Corporation, the TD, the Coors beer company, Tropicana orange juice – it could go on. There's just a tremendous number of different organizations who have said: "Look; we're not going to fight the same fight that governments are. We want to be progressive and we want to move forward because we value our employees and our employees' work records. So you know what we're going to do? We're going to offer benefits." But you know what they can't offer? They can't offer pension benefits. They can't have that held out to the other partner. You know, in some of those companies they can have hospital medical benefits, dental benefits; they can have travel benefits. Whatever the relationship is and whatever those benefits are for heterosexual couples, same-sex couples can get those particular benefits in most companies, except pension benefits.

So I go back to that question: why does the government care? I think that's what we have to be asking. I find it very interesting that we have a government here that says, you know, we have to keep



our nose out of other people's business. Putting your nose, as a government, in somebody else's pension plan and crafting legislation that doesn't meet the Charter standards in my view is putting your nose in somebody's business.

Quite frankly, that kind of legislation has to stop. We have to look at the Charter. We have to say: does it meet the test? If it doesn't, we have to ask why, in fact, we would want to bring in a piece of provincial legislation that doesn't acknowledge a reasonable discrimination under the Charter and then go to the lengths, Madam Speaker, of challenging that in the courts. And that doesn't cost a few dollars; that costs hundreds of thousands of dollars. This government consistently spends hundreds of thousands of taxpayers' dollars on these kinds of issues, and they keep losing.

At some point somebody over on that side of the House is going to say: "We're not going to go down this road. We're just going to leave it. We have to look at all of society, not certain segments of society. We don't have to just address the needs of one group of people in this province. We have to address the needs of every single person." Quite frankly, I want to know – and I'm hoping the sponsor of this bill can tell us – why it's the government's business to determine who gets the pension benefits. What is the impact on the bottom line? Is that the concern? I don't know. I don't think it's reasonable, and I don't think it's a place we should be going. With the number of court cases ahead of us already that everybody is waiting for decisions on, this Legislature continues just to press through regardless and to not bother waiting to see the outcome of that legislation.

The right thing to do would be to be out in front and say: "You know what's going to happen? We're going to have to change the legislation, so let's do it now." There are 70 some pieces of legislation in this province that could stand to be amended in the same manner that the pension act can. We have put forward a model under the Domestic Relations Act, a model that would be appropriate for many other instances in defining same-sex relationships, not altering the terminology of spouse, leaving that as it stands but giving something new to be considered.

Again, I think my biggest question is: what, in fact, is it of the government's business to go through and pass legislation that challenges the Charter, in my view, before it even gets off the floor? Given that, Madam Speaker, those are my comments, and I would adjourn debate on Bill 30.

4:00

THE ACTING SPEAKER: Having heard the motion by the hon. Member for Edmonton-Norwood, does the Assembly agree with the motion?

SOME HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: It's carried.

**Bill 31**  
**Agricultural Dispositions Statutes**  
**Amendment Act, 1999**

[Adjourned debate April 14: Mr. Thurber]

THE ACTING SPEAKER: The hon. Member for Drayton Valley-Calmor.

MR. THURBER: Thank you, Madam Speaker. Apparently, according to our Standing Orders I have somewhere near 72 minutes left in my opening remarks. I may not use all of them up, but there are some points I want to clarify since we've opened debate on this in second reading.

Over the past few months there's been a lot of discussion in newspapers and other media about the contents of the Agricultural Lease Review Report released by this government. More recently the discussion, of course, has been centered around Bill 31, the Agricultural Dispositions Statutes Amendment Act. Some of the misconceptions that have been made regarding the report and Bill 31 need to be clarified.

Madam Speaker, the first point that I would like to make is that Bill 31 deals with public land only. Throughout the review process we were very careful to not have it slop over or try and enter into the private land sector. Public land is owned by this province, and Bill 31 was written to clearly reflect this. Although we have clearly stated this throughout the process, there are some folks who do not want to accept this. I note in some recent advertisements: traditional property rights are being terminated; deeded lands will be next. That is not true. The province as the landowner is changing arrangements under which it leases its land after consulting with Albertans for nearly two years.

I suggest that those of you who own deeded, private land would from time to time want to make adjustments in your agreements with your tenants as times and situations change. Most grazing leases are issued for a period of 10 years. For this reason the changes to the surface compensation payments have been grandfathered for 10 years, rather than waiting to make the changes when the lease expires in one to 10 years. This grandfather period gives notice to all leaseholders that in 10 years the process will change.

The Alberta Grazing Leaseholders Association have suggested a cap on compensation for land that has more than a certain number of well sites. This would be a major change in the Surface Rights Act, Madam Speaker, and would be a very significant philosophical shift in that legislation. It would be very difficult for their proposal not to apply to private, deeded land. There is no intention nor has there ever been an intention for Bill 31 to apply to private, deeded land.

Some of the groups have indicated that Bill 31 contains expropriation without compensation. The use of the term "expropriation" is inappropriate. Grazing lessees hold a leasehold interest, but the province owns the land. The province cannot expropriate property it already owns. Public land leases are statutory leases, not common-law leases, so the statements made by some groups about changes to leaseholders' common-law rights are also inappropriate.

Agricultural dispositions are issued under the statutes of Alberta. Grazing leases are issued to ranchers for grazing on land owned by the province in the right of all Albertans. When a person signs a grazing lease, one of the conditions of the lease is that all of the provisions of the Public Lands Act apply. By signing the lease, they already consent to withdrawal of land for industrial or commercial development, which is provided for in the Public Lands Act.

Madam Speaker, Bill 31 requires oil and gas companies to address the operational concerns of the grazing leaseholder and pay for those damages. Operational concerns and damages referred to in Bill 31 for industrial development will, with stakeholder involvement, be defined in regulations. These definitions could easily include some form of compensation, but that remains to be dealt with in the stakeholder consultation process.

Grazing leaseholders' ability to deal with concerns over oil and gas activity will be maintained through their discussion with the oil and gas companies in addressing operational concerns. In addition, all dispositions will be inspected more frequently, and stewardship

principles and practices will be developed for agricultural dispositions and industrial dispositions. Industrial dispositions will be issued with these principles and practices forming part of their lease agreements and will be enforced.

We are not sacrificing environmental protection in Bill 31. Bill 31 will increase environmental protection by the following provisions. Environmental protection will be increased through the definition of reasonable and unreasonable access in the regulations. Where access is unreasonable, the leaseholder will have the ability to deal with those situations which may involve damage to the land. Stewardship principles and practices will be developed through public consultation for public land users. All dispositions will be inspected at least every five years. Conservation and resource management funding will be used to improve wildlife habitat, reclaim disturbed or eroded areas, and improve livestock distribution and use. New funds raised by an increased rental for industrial sites will go into this funding.

Madam Speaker, the intent of amendments to the Surface Rights Act are to redistribute payments to the landowner and agriculture disposition holder more in line with private land arrangements. The Surface Rights Act has always recognized the landowner as a party directly affected. The landowner for public land is the province. Changes to the Municipal Government Act will provide for the landowner to pay the taxes. Again, the landowner is the province. The MGA currently allows for anyone in a municipality to appeal an assessment. This would continue to allow leaseholders to appeal assessments. Every municipality in the province now receives payment in lieu of taxes for all government-owned property in this province. They will continue to receive the equivalent in taxation revenue from leased land through this payment-in-lieu-of process.

The intention of changes to the Occupiers' Liability Act reduces the liability that ranchers face when allowing recreational users on public land grazing leases. This provision will place the liability on the user, where it should be.

Madam Speaker, as one of the key stakeholders, grazing leaseholders will be consulted in the development of all of the regulations. Issues such as what constitutes reasonable access, operational concerns, damages, and what is the most appropriate due process will be developed, again with the stakeholders, and written into the regulations under the Public Lands Act. Although the exact timing and stakeholder review process has not been finalized, there will be several times prior to late fall when stakeholders will be asked for their input. Discussion papers and focus groups of stakeholders can and will be used to address the issues. Once the issues have been discussed, draft regulations will be developed by fall. They will then go out for a further review prior to final regulations being drafted and implemented early next year. Preliminary discussions with stakeholders will begin right away, and in fact some of them have taken place already.

Thank you, Madam Speaker. I look forward to other comments on this bill.

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

**MRS. SOETAERT:** Thank you very much, Madam Speaker. I'm pleased to be able to speak to Bill 31, and as the hon. sponsor of this bill across the way got extra minutes, I know people in here will be glad to know that I get to use 30 minutes. I'm not sure if I truly want all those, but there certainly are 30 minutes' worth of debate on this. So we'll see, but because this is an omnibus bill, it's going to take a bit of debate.

Madam Speaker, I do want to thank the sponsor for this bill. Once again the hon. Member for Lethbridge-East and I met with him and

discussed some of the issues. We were informed, got some pizza once again – I thought that was very gracious of him – so we could discuss the matter. Seriously, I do appreciate that this member has done a great deal of work on this for quite a few years, and he probably had to wear a helmet and flak jacket to some of those meetings, because I'm sure they weren't easy. I'm sure they weren't. Some of these people are pretty upset and concerned about the changes, and change is difficult. So I appreciate the work you have done.

I want to speak for a few minutes about what this truly means and how I understand it and probably members on this side. The Member for Lethbridge-East has done a great deal of work on this as well and I know has been in several discussions with the Member for Drayton Valley-Calmar. They have even spoken about amendments that may or may not come forward in committee.

**4:10**

To give a little background and take an opportunity to speak to this bill, this is really a bill that has come forward to try to address the issues of public access, occupiers' liability, and surface rights access and compensation. Just a bit of background. The public land in the white area is about 6 percent of our province, about 10 million acres. Grazing occurs on about 6 million of those acres and provides summer forage for about a quarter of all Alberta's beef cattle. Most of this occurs in the 5,700 grazing leases in the white area of this province, so we're talking about quite a bit of land here, and a few people are concerned.

Of the leaseholders 2,300 have one or more oil or gas wells on their land. It's estimated that a total of about \$40 million per year comes in as compensation. The 3 percent who have more than 10 wells on their land – and I know the member was talking about this earlier – receive considerable revenue. The annual compensation for the leases can range from a few hundred dollars to \$7,000, \$8,000, and a few ranchers actually receive about \$70,000 from energy companies. That's quite a bit of coin.

Alberta grazing leaseholders claim that grazing leaseholders with oil and gas wells on their land average about \$1,100 in compensation. They feel the money they receive is to compensate for loss of use, nuisance, and inconvenience, and they don't get any payment for allowing access. Now, these leases are important to the viability of many farm operations. Some leases have stayed in some families for generations, and where leases are transferred, considerable sums of money are paid to the former lessee. These payments are nominally for the improvements the lessee has made, such as maybe fencing or improving access to water. However, sums also reflect the competition to obtain a Crown grazing lease. These transfer fees mean that those who have obtained leases have invested considerable capital to obtain them, and I know the hon. member knows this.

The Agricultural Lease Review Committee was set up in the fall of '97, and the Member for Drayton Valley-Calmar was the chair of that. The draft report for Bill 31 came directly, as I see it, from the recommendations in the Agricultural Lease Review Report. It provides essential background to understanding this bill. I'm sure members have read this through, and I know there was a considerable amount of work and consultation on this. So I think those people trying to understand the history of this and some of the issues involved would do well to read this. I hate to give them a compliment, but the history and the issues are in here, and as I understand it, the bill has stemmed from that report.

There have been all kinds of reactions to this bill. I know there has been a strong negative reaction from the Alberta Grazing Leaseholders Association. They object to some proposals to change the system with respect to surface rights, access on Crown grazing

leases, over public access to land. I know this is going to be an issue, and I know it's going to need some clarity. I will get to that further in my comments, about some concerns that I have and some letters I've received from some people. In fact, the Alberta grazing leaseholders action committee, which was set up to protest some of the changes, believes that the changes will affect property rights and lead to serious reduction in agricultural land values. Some have been quite vocal and expressed that they may want to delay some oil and gas operations, but I hope it doesn't get to that point.

With respect to surface rights compensation, Madam Speaker, traditionally the leaseholder has received compensation for surface rights operations such as oil and gas wells on Crown grazing leases. This is meant to cover loss of use, adverse effect, nuisance and inconvenience. Now, the government has proposed to change this by removing the land affected by the surface rights provisions from the agricultural disposition. They will then collect the rental payment from the energy company, although the company will still have to address the leaseholder's operational concerns and pay for damages.

That 10-year period during which existing conditions are grandfathered. Now, the grandfathering clause of 10 years I know some people have brought up as a concern. Some would argue that 10 years is long enough, though if you just acquired a lease and you had to consider that as part of your mortgage payment or part of the payment on a huge piece of farm equipment or as collateral, you might find yourself in a bit of a difficult situation, because certainly I know my mortgage will last more than 10 years. That would be . . . [interjection] Unless the well went dry? Is that what you said? Oh, if only I had a well on my property, but I don't.

Some concerns have been expressed that these changes could affect the viability of some farm operations. Maybe there aren't that many; maybe there are. This has come to our attention where there is a long-term mortgage that is partly based on the value of the grazing lease and the surface rights revenue. So when ranchers want to renew loans this fall, banks have indicated to them that their lease land will not be accepted as a backing for the loan. In fact, we've even heard that somebody said: "Your lease is worth nothing to me. What else do you have for collateral so we can keep your operation rolling?"

In some ways 10 years may be enough. In other ways when you change the rules in the middle of the game, sometimes it's difficult for some of the players. So I would leave that, which I know the hon. member will respond to in committee or at the end of second.

I know that members of the Alberta Association of Municipal Districts and Counties appear to support compensation for surface rights access going to the government, but they believe that the same rules should apply across the whole province, not just on grazing leases in the white areas. Does that mean that there might be a whole review of the green area? Are you dodging from that one? I'm sure you'll be the first to put up your hand and say: pick me; I want to do this MLA review. I guess I wonder if that will be addressed.

MR. PHAM: Question.

MRS. SOETAERT: I think I liked it when he was in the chair. He couldn't heckle me, Madam Speaker, but that's okay. I'm tough; I can take it.

I want to speak about access for a minute. The current legal situation about public access I think is a bit ambiguous. There are different interpretations. Most agricultural leaseholders believe they have the right to deny access, but it hasn't been confirmed in a court. In 1996 there was a case between a ranch and somebody trying to

get access. The court ruled that the leaseholder has the right to exclude access for any use that is incompatible with rights under the grazing lease, though not all uses. The court found that hunting on grazing leases without express consent would be an incompatible use, and I think that's fair. If you're running cattle or all kinds of things, some hunters might mistake a cow for a moose. Certainly not any hunters in here or any that I know, but I bet there are some in this province who could do that, and I think a person running a few cattle has every right to be concerned about that.

4:20

However, this ruling didn't cover access for hiking, horseback riding, et cetera. In fact in 1987, which is quite a ways back, that task force on the grazing lease conversion policy recommended that foot access be allowed at all times and that vehicle use be restricted to established roads or designated trails or by permission of the occupant of off-road lands. I think that was a fair proposal in the past provided that the person who entered onto the Crown grazing lease entered at their own risk. Maybe we should look at it being acceptable to have restrictions on access during certain times of the year, such as during calving season. That would be a time when really I think a leaseholder could legitimately say: "Listen; this is a time that's very busy for me. I'm out there lots. My cows are calving, and we really don't want trespassers – I shouldn't say trespassers – or people trying to get access on there." [interjection]

Now, the minister of public works groans, because actually in this bill I think there is going to be controversy about trespassers and the term. Is it trespassers or people having access? But I'm going to get to that. He's maybe a jump ahead of my plans. I'll get to that.

Maybe the hon. member sponsoring this bill got the letter from the Northwest Voyageurs Canoe and Kayak Club. That's just one of the many examples of people who are concerned about access. They held a meeting, and they're concerned about Bill 31. They're worried about maintaining access to rivers and lakes which are bordered by Crown lands. They want the government to consider that leaseholders must allow reasonable access to Crown lands for recreational purposes – hikers, horse riders, fishers, canoeists, kayakers – without the leaseholder's written consent. I'm anxious to see how you're going to reply to those people.

Reasonable access has to be clearly defined, and I'm wondering: is that going to happen in the regulations or in the legislation? Then there's the dilemma of supporting a bill without knowing what the regulations are, which gives me another 30 minutes on regulations and my cart-before-the-horse speech, but I'll save that for committee. I'm sure we'll have an amendment to that effect.

Other things that these people in the Northwest Voyageurs Canoe and Kayak Club say are that leaseholders cannot cite liability as reason for withholding access; these situations call for a "use at your own risk" policy and signage, and an appeal process should be in place to ensure reasonable access. Maybe that would be fair. Maybe that might be an answer to some of these concerns. The sale of public lands with lake or river access should be prohibited to maintain access for recreational users. I don't know if that's addressed in this bill at all, the sale of these lands. Is it? I have a yes and a no, and I have a maybe. I'm sure that throughout the course of this debate, Madam Speaker, I'll get some clarity from yes-and-no over there.

I think they've brought some reasonable concerns forward, and I look forward to hearing about that. I know this is one of the hardest ones to find the balance on: the person who is using that for cattle or whatever they're using it for, yet, since it's Crown land, the access of people. I don't have the answer. I bet Lethbridge-East does, but I see it as one of the dilemmas that this bill I hope can address.

When we're talking about access, it says that the minister may make regulations "classifying agricultural dispositions for the purpose of this section and the regulations." Does this mean that access will be allowed on some types of dispositions and not on others? To me that's what that says. So if it allows the minister to make regulations "respecting what constitutes reasonable access in respect of agricultural dispositions or classes of agricultural dispositions," you know, this is going to be a lot of work for somebody in the department to figure out. Is there going to be a whole section of the department that's going to address this? How are you going to do this? Each individual one is going to be different.

So I look forward to maybe another task force that travels the province to meet everyone with . . . [interjection] No. A lease. Really, I'm hoping that this bill will address some of that.

If the public is required to request access in all cases, even if it's not mandatory to obtain a permission slip – and we're told it won't be, but that may change – the public would still be I think wise to get written permission. To me, if I were somebody like that, I probably would, because if you end up in court – and I know this bill is hoping to avoid that kind of thing – then it's going to be one word against another, and we're going to have all kinds of difficulties. Now, even if somebody requests permission, the public then kind of enters the lease at their own risk.

Many members of the public would agree that this change is reasonable, that persons entering a grazing lease should do so at their own risk. However, the way in which this is worded in the bill I think may create some problems. This new section states that the liability of the leaseholder with respect to a person who enters "land that is subject to the agricultural disposition shall be determined as if the person entering the land were a trespasser." I know the hon. minister of public works is now keenly attuned to the debate.

Some legal people who have been informed on this issue have said that this section maybe could have been worded in a less negative manner. There's the opposition, always offering positive suggestions. [interjection] I like to stir 'em up. Every time they get a little lax, I like to stir 'em up again.

So maybe it could state: a person who enters an agricultural disposition for recreational purposes voluntarily accepts the risks, and the leaseholder owes no duty of care for injury or death unless it results from the leaseholder's willful or reckless conduct. Maybe you've heard of that one coming forward from this side already, and maybe that will be addressed in Committee of the Whole.

Now, the leaseholders have every right to be concerned about access and liability. Leaseholders are concerned about public access to their agricultural dispositions because they can be held liable. Some of this may be addressed in the Occupiers' Liability Act, so maybe I'm worried for nothing there. [interjections] I am? That's good.

AN HON. MEMBER: Agreed.

MRS. SOETAERT: Agreed. I'm glad everyone on the other side is so well informed on this bill. Believe me, this has taken a little bit of homework on my part. They can just be glad I'm not still the agriculture critic, or I may have taken two rounds of 30 minutes. [interjection] I think there are a few people that would agree.

However, despite the changes, I know there's some legal concern that some leaseholders could still be sued in some circumstances: a leaseholder is not liable for a trespasser unless injury or death results from the occupier's willful or reckless conduct. So, you know, it all depends how one defines willful or reckless conduct. Will reckless conduct be an aggressive bull with cows on a Crown grazing lease? That would be pretty aggressive. I'd stay out of there. Would a

trespasser now be able to sue in such circumstances? [interjection] I love waking them up.

I know we're chuckling and it sounds ridiculous, but you and I know the types of suits that have gone on. Somebody breaks into my house, slips down my stairs, and he can sue me. That gets ridiculous. So people can chuckle about a bull out in the pasture, but this could be a real lawsuit someday. Anyway, enough of the bull; let's keep going. I do want to keep going. Just a few more things. I have 30 minutes. I do have 30 minutes, yes. I wonder how much time I have left? How many?

THE ACTING SPEAKER: Eight.

4:30

MRS. SOETAERT: Okay. I'll probably only go five, Madam Speaker, and then I will most likely adjourn debate, though I know some of my colleagues have been really excited, and they want to get right into this. They're saying: no, no, no; don't adjourn. But the agreement has been made, and I believe in keeping an agreement.

Now, compensation for the removal of leased lands. According to the new section under the Public Lands Act, the government will not be required to pay compensation for lands withdrawn from an agricultural disposition for industrial or commercial purposes after a 10-year transition period. In the past compensation has always been paid. Has this disagreement been worked out or taken to the Land Compensation Board? Maybe you can explain that to me later. It may not seem like it's serious for the relatively small area that could be withdrawn for an oil or gas well and later turned into a lease, but it is possible that a considerable area could be withdrawn for other purposes, so I'm wondering if that will be addressed.

Just briefly, some of the concerns I see that I hope will be addressed either through amendments or through committee, Madam Speaker, are on the issue of access. I'd like some indication from the hon. member of the makeup of the consultative committee for the regulations before this bill is passed. I don't want anybody to say that the government had a stacked deck. I'm not saying that it would be; I'm saying that they don't want anybody out there to think that it's a stacked deck. So if you don't mind, I'd like to know who's on that regulations committee so that all the players can come to the table so we've got a good balance.

The second point is on the contract issue for compensations: a commitment that the government will allow for the collection of detrimental impact payments from the resource or other commercial sublease holder. The value of this compensation should be negotiated between the agricultural disposition holder and the new commercial disposition holder with appeal to the Surface Rights Board. I'm glad I see the nodding of the head. This is all going to be so clear by the end of this that even I will understand it.

On the expropriation issue, which you've explained is not about expropriation, the government has a responsibility or must look at the responsibility of paying for the asset value of the acres removed from the lease. I don't know if that's being considered, but that's certainly a concern we've heard. Correspondingly, the leaseholder must pay for the acres when they are returned. Alberta has a process for valuation of assets when expropriated, and this procedure should be authorized to be the final appeal on valuation of these assets.

Madam Speaker, I actually have a few more issues to go through, but considering the time, I would like to adjourn debate on Bill 31.

THE ACTING SPEAKER: Having heard the motion by the hon. Member for Spruce Grove-Sturgeon-St. Albert, does the Assembly agree with the motion?

SOME HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: Carried.

**Bill 32**  
**Assured Income for the Severely Handicapped**  
**Amendment Act, 1999**

[Adjourned debate April 19: Dr. Oberg]

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

MRS. SLOAN: Thank you, Madam Speaker. I have a number of comments to make with respect to Bill 32 this afternoon, so I will proceed.

I think to begin, it's important to establish some of the history surrounding the AISH program and how in fact the preamble and intended amendments to this act fundamentally change the nature and intent of this program. The Assured Income for the Severely Handicapped Act was established in 1979 as a pension program for persons who were severely handicapped and unable to work. In September of '98, by the Minister of Family and Social Services' own figures there were approximately 23,000 Albertans on this program. According to the ministry, 27 percent were due to mental disabilities, 18 percent due to developmental disabilities.

Everyone on AISH currently receives \$823 per month, regardless of the assets they may own. Recipients may lose some or all of their benefits if they participate in the workforce, based on a sliding scale of income. Recipients also receive free medical benefits under this program. Currently, if a recipient's needs cannot be met by AISH because of children or the nature of their disability, they may apply for assured support, where they would then need to meet an asset test and income testing. Every other source of income must be accessed before assured support. If the AISH recipient believes he or she is eligible for other disability support, e.g. CPP, that must be applied for first.

Now, because there has been a very tumultuous introduction to this review and the act, I believe it's also important to highlight how in fact the government introduced this review and to provide some background with respect to that.

In December of 1998 the minister announced that seven Albertans were collecting AISH benefits while sitting on million-dollar nest eggs. He admitted the millions were in the form of trust accounts set up to provide for the AISH recipients' continued care. While the minister subsequently provided a very sketchy outline of these seven individuals, very little detail if any was provided on how in fact these amendments would apply to those individuals.

I can tell the Assembly that I have had numerous calls from both citizens and solicitors in this province wondering exactly what the government's intent is with respect to asset testing and how in fact they are supposed to advise clients in this very uncertain climate and period of time.

A month after the announcement of the AISH millionaires, on January 15, the Official Opposition released a copy of a cabinet report to the *Edmonton Journal*, which subsequently broke a story on the cabinet report from the Alberta government's Ministry of Family and Social Services. This report, on redesign of income and employment programs, dated September 8, 1998, had been addressed to four cabinet ministers. It outlined a variety of changes which fundamentally compromised and changed the intent of the AISH Act.

There are a number of additional flaws that occurred through the government's consultation and survey which I would like to highlight this afternoon. In fact, when the cabinet report was leaked, the government had already engaged in a process of, quote, unquote, consulting Albertans. The consultation process used by the government is quite well known, Madam Speaker, and it historically shows us that there is a very similar pattern followed.

The process is to hold the consultation within the context of the aim of reducing funding to the program. Generally, the government precedes the consultation with a media blitz pushing the government's agenda. They handpick consultation participants, supply participants with a discussion paper that promotes the government's point of view, set the agenda for the meeting so the consultations reach the government's predetermined consultations, ensure the meetings are orchestrated so that any opposition to the government's agenda is attempted to be stifled, and report that consultations indicate Albertans support what the government wants to do.

In fact, Madam Speaker, there were two large public forums that were initiated surrounding the reporting of the government's plans to change AISH, and I only recall at those consultations seeing one member, one backbencher member, of this government in attendance. In fact, at the forum in Calgary, which was quite large for public forums by Calgary standards, approximately 500 people, there was only one government member in attendance. I think that speaks very clearly, Madam Speaker, to the sincerity of the government's desire for public input into this review.

The fact, as well, is that the cabinet report clearly cited that four months prior . . . [interjection]

MR. SMITH: Point of order, Madam Speaker.

THE ACTING SPEAKER: The hon. Minister of Labour.

**Point of Order**  
**Clarification**

MR. SMITH: Thanks, Madam Speaker. Under 23(h),(i), and (j). This government never, ever has or ever will refer to front bench, back bench. This is a government that is composed of private members and Executive Council. I know that the member appreciates that, and I would ask her to correct.

4:40

THE ACTING SPEAKER: So basically, hon. member, you could be seeking clarification.

MR. SMITH: And withdrawal of the comment about the backbencher.

MRS. SLOAN: I don't believe there's a citation for clarification, Madam Speaker, and I would very much like to proceed with debating the merits of the amendments this afternoon.

**Debate Continued**

MRS. SLOAN: In fact, not only was the consultation process questionable and contentious, but the survey the government circulated was itself very much intended to produce the predetermined changes the government desired. The government survey, which they circulated in this same period of time, asked four questions, only four. What should support programs attempt to achieve? What changes should we be considering? How can we be sure that benefits are allocated according to need? How should changes be managed?

Again, I would suggest that even when citizens who are strongly

involved and aware in the compilation of questionnaires – Kathleen Biersdorff, the research director for the Calgary-based Vocational and Rehabilitation Research Institute, publicly criticized the government survey for several reasons. She, by her own analysis, said that the survey was strongly biased, that answers were limited, that the word “improvements” was used instead of “changes,” that it was poorly designed and unreadable for many disabled clients. Again, an indication that the government was not sincere in their desire to incorporate Albertans’ views in the review of this program.

As a result of that survey, the summary of recommendations released was also conflicting, and I would like to highlight a couple of those this afternoon. It should also be noted that this survey was conducted by a private company, and when the results were released in mid-March, the minister touted this survey report as support for the government’s plan to implement asset testing for AISH.

The notion that the survey’s results supported asset testing is dubious at best. It should be noted that only 7 percent of the respondents had experience with a person with disability in their household. Only slightly over 50 percent of the respondents supported the proposal to place a \$100,000 limit on assets. The survey results are relevant to AISH because the survey makes no distinction between the disabled and severely disabled.

Before I proceed to review the Official Opposition’s consultation and survey on this review, I’d like to also provide the Assembly with some conflicting statistics that exist in the context of changes being made to this act. What we see when we examine the ministry’s own statistics surrounding the caseloads for AISH and assured support is a net decrease in assured support cases in contrast to a net increase in AISH. Now, these figures indicate in every region of the province – and there are six regions where the government tabulates these results: northwest, northeast, Edmonton centre, central Calgary, and south – that the assured support caseload since 1994 has dropped, in some regions by the tune of 58 percent. Correspondingly, the AISH caseloads in every region have risen by as much as 73 percent. So the trends would suggest, Madam Speaker, that the government has in fact over the past five years reduced the parameters of assured support, creating a funnel, if you will, to AISH.

Now the amendments proposed in the act before us this afternoon will further configure AISH or, perhaps intended all along, make changes to AISH to make it like assured support. The Minister of Family and Social Services has told the public that he has abandoned his plans to make AISH into a welfare-like program or, as it was titled in the cabinet report, the Open Doors program, but in fact the changes that are proposed in these amendments will make AISH into a welfare-based program, changing it fundamentally from the pension-based program that it was intended to be when it was first introduced in 1979.

Now, we have done a substantive inquiry of the public with respect to their thoughts and recommendations, and I have read many, many letters handwritten by Albertans who are either AISH recipients or advocates of AISH recipients or family members of AISH recipients. In light of the way in which the government chose to privately consult and configure their survey to achieve the intended outcome, Madam Speaker, I think it’s very important that in the course of debating this bill, we give voice to those Albertans whose views were not reflected – and I would indicate that the majority of Albertans’ views were not reflected – in the findings of the government surveys.

I’d like to provide one submission that was made to me that I thought quite aptly outlined the fundamental changes that these amendments will bring and the concerns that this individual identified. In section 5 the provision allows AFSS to “refer the person to any employment training program and services that are

designed to enhance the person’s ability to become employed.” Revised section 6 will still empower the director to deny benefits to anyone who “has refused or neglected to avail himself of appropriate training or rehabilitative measures.”

Under the current system there was no mechanism to refer people to employment training, hence no way to know if the person had refused to avail himself. If a person now agrees to be referred, as these amendments suggest, it will be easy to know if the person refuses training. In other words, if a person agrees to be referred and then decides that the training is inappropriate or too difficult, they will have to convince the director that they had grounds for quitting the program or lose benefits. The voluntary nature of the employment program seems to end after the person agrees to be referred.

This person writes:

Now that I see the legislation, it all begins to make more sense to me. Although the act always allowed for people to be cut off, there was no way to know if people were denying training or employment, because any training that people could find would not be controlled by AFSS for the purposes of determining eligibility. They will now have the means to use section 6(2). They will refer to programs they fund, and compliance will be a mandatory part of the contract expectation. In other words, if the department wants a contractor to say that a person had no reason to quit a program, they’ll be able to say it or lose funding.

The only protection the new AISH legislation gives recipients against the kind of heavy-handed tactics used to cut people off welfare is that the initial referral is voluntary by the client. After that point it is identical to the approach taken by welfare. In other words, this makes AISH a welfare program in all but name.

Those comments, Madam Speaker, I think serve to magnify the serious nature of the amendments proposed and how in fact in the future they will compromise the existence of the disabled in this province.

4:50

Before I provide the findings of the opposition survey, I would also like to magnify our concern surrounding the incorporation, in the preamble of the act, of the statement:

Whereas the government of Alberta is committed to balancing the needs of persons who receive handicap benefits with accountability to the taxpayers of Alberta.

I was wishing as I read that, Madam Speaker, that the government had provided an explanatory section to specify exactly what they meant by that statement. It causes me grave concern when we say in this province that we’re going to balance the interests or the needs of the vulnerable with the interests and the needs of the taxpayers.

We’ve seen the introduction of another act, which is on the Order Paper later this afternoon, the Constitutional Referendum Amendment Act, which entrenches the tyranny of the majority into legislation in this province. In my mind it’s in the same vein, the same calloused type of intent that I see in the preamble that’s been incorporated in the amendments before us this afternoon.

The Official Opposition received well over 500 written submissions to our questionnaire. It was open-ended. The survey was sent out as well as being distributed to the public.

THE ACTING SPEAKER: The hon. Member for St. Albert on a point of order.

#### **Point of Order Imputing Motives**

MRS. O’NEILL: I would invoke section 23(h), (i), and (j). She is imputing motives to the government, which I find quite unacceptable, Madam Speaker.

MRS. SLOAN: I'm happy to educate the member on the use of Standing Orders. Government is a collective, Madam Speaker, and the Standing Orders apply to individual members. I did not name an individual member. I am specifically talking about the application of amendments made to this act on the public and particularly the vulnerable public in this province.

THE ACTING SPEAKER: Under 23(h), (i), and (j), these sections do refer particularly to an individual member. I would ask all members to be very careful and considerate when you are making a speech, but (h), (i), and (j) do talk about "motives to another member," not to a collective group, which could be said to be the government.

### Debate Continued

MRS. SLOAN: Let me summarize in my concluding minutes the main findings of the opposition's survey. They were as follows. There is a great deal of fear and worry focused around changing the AISH program. The government's information on the proposed changes has been poor. The main concern is to review the benefit level; the other two main concerns are program flexibility and eligibility requirements. The benefit level is inadequate. There is concern about access to other needs, medical, housing, and food. Asset testing is a concern. There is little support for the notion of cutting clients off AISH via asset testing. There are serious concerns about AISH recipients going to work. Those are a summary, Madam Speaker, of our findings. I expect that my colleagues will elaborate on those concerns as we proceed with debate.

At this time I would like to adjourn debate, please, on Bill 32.

THE ACTING SPEAKER: Having heard the motion by the hon. Member for Edmonton-Riverview, does the Assembly agree with the motion?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? Carried.

### Bill 38 Constitutional Referendum Amendment Act, 1999

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

MR. HAVELOCK: Yes. Thank you, Madam Speaker. It's certainly with pleasure that I move second reading of Bill 38 this afternoon.

SOME HON. MEMBERS: Question.

MR. HAVELOCK: I'd like to make a few introductory remarks, hon. members. Thank you.

Madam Speaker, Bill 38, the Constitutional Referendum Amendment Act, allows Albertans to directly participate in determining their rights and freedoms. This bill clearly states that Albertans must be able to have their say in a provincewide referendum before the notwithstanding clause is used in Alberta legislation.

There is, however, one exception to this referendum requirement, and that is when the legislation deals with who can marry. The Alberta government supports the existing law that only recognizes marriage between a man and a woman and will oppose any legal challenge to this existing law, even if it means using the notwithstanding clause. Nevertheless, our position on the issue is not meant

to deny benefits to those in same-sex relationships. As members of the Assembly know, our government is currently examining the whole area of government involvement in family and personal relationships. Having said that, I will leave further discussion on that issue for another time, because today we are talking about the use of the notwithstanding clause.

Madam Speaker, on March 4 I filed a report in this Legislature that contained the results of our ministerial task force following the Vriend decision as well as a comprehensive survey of Albertans' opinions. Included in that survey were questions about using the notwithstanding clause. I would like to point out that close to 70 percent of those surveyed supported using the clause if this decision were backed up in a referendum of Albertans. This demonstrated to the task force and all government members that Albertans do not want us to use the notwithstanding clause unless they are substantially involved in that decision. The task force therefore recommended that legislation be introduced to make sure the majority of Albertans agree in a referendum on using the notwithstanding clause in proposed legislation.

Bill 38, Madam Speaker, is that legislation. It shows we recognize the notwithstanding clause as a powerful tool that requires careful use. In fact, when Bill 38 becomes law, Alberta will be the only Canadian jurisdiction requiring public support before legislation using the notwithstanding clause can be introduced. I think that's something we can all be proud of because it shows we believe in the democratic right of all Albertans to determine their own future and the future of their families.

I would now like to quickly outline how this legislation will work. Before I do that, however, it is important to mention that a declaration invoking the notwithstanding clause is only in effect for five years, but it can be renewed every five years. This means that there will always be a provincial general election between the time that a notwithstanding clause is used and when it must be renewed. This is significant because it amounts to a built-in review of any decision to use the notwithstanding clause after it has been invoked.

Madam Speaker, if the Alberta government ever decides to use the notwithstanding clause in legislation, Bill 38 says that it must hold a referendum before introducing that legislation. This gives our citizens protection both before and after to ensure their rights are preserved. Also, the referendum must be conducted according to rules already in place in the Constitutional Referendum Act. These rules allow a referendum to take place either in conjunction with an election or independent of other elections. They also stipulate that anyone who can vote in a general or municipal election can vote in a referendum. Once the referendum is held, the government is bound by the results of the referendum.

[Mr. Clegg in the chair]

Now, I've had some interesting discussions with the Member for Calgary-Buffalo with respect to what this actually means. We have had this reviewed through the department extensively. In fact, I will be responding to the letter that the hon. member tabled today in the Legislature with respect to what the department views is a legal position regarding this matter.

Our interpretation of the present act and legislation means that if the results of the referendum are against using the notwithstanding clause, the government cannot introduce the proposed legislation containing the clause. On the other hand, if the results support using the notwithstanding clause, the government must introduce the proposed legislation containing that clause. That, in our view, is taking all steps necessary to ensure that the referendum is supported.

However, as has been established in case law and is well-known

parliamentary tradition, when the government introduces legislation using the notwithstanding clause, the Legislative Assembly retains its absolute discretion to accept or reject any legislation placed before it. So on that basis we tend to disagree with the hon. Member for Calgary-Buffalo's interpretation that the government would be required to pass legislation if the referendum dictated so. That's not our view. Our view is that the Legislature and government would be required to table the bill, and then there would be free and open debate with respect to the content of that bill and the use of the clause.

To conclude, Mr. Speaker, Bill 38 is all about democratic rights and freedoms. Not only does the bill preserve the power of the Legislative Assembly while empowering Albertans to decide whether legislation suspending some of their rights and freedoms is introduced in the Legislature; it acknowledges the importance that Albertans place on their rights and freedoms under the Charter. The bill also recognizes their democratic right to have a say in whether or not these rights should be suspended.

Bill 38 protects and preserves both individual rights and the principles of democracy. In fact, Mr. Speaker, it provides an additional level of safety and security so that a Legislature would not introduce such legislation unless and until, one, a referendum had been held and, two, Albertans indicated support for such legislation and the use of the clause.

5:00

On that basis and again having regard to the fact that I will be responding to the letter that the hon. member tabled today, I urge my colleagues in the House to give this legislation full support. Albertans have indicated that they support it. In fact, as I indicated earlier, 70 percent of Albertans would like to be involved in the decision to use the notwithstanding clause. So I urge all members of the Assembly to support this legislation.

Thank you.

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

MR. DICKSON: Mr. Speaker, thank you very much. Not very often but occasionally in this Assembly we see a bill that when it comes forward represents a real point of divergence, allows us a real comparison and contrast between the government and the Official Opposition, a bill which is invested with the kind of importance that, depending on how we vote and we respond to it, tells us a lot about the differences in political parties. I've listened to the explanation of the Minister of Justice, and I listened to his response to my questions last Thursday, when Bill 38 was introduced. I find that there is such a chasm, there is such a gap in terms of our view and our different understanding of what fundamental rights are, I'm not sure we can bridge it in a single debate on a single bill.

Let me start off by talking about what I understand Bill 38 to do. We hear a lot of talk about 78 percent of Albertans think this; a majority think that. Let's recognize that we're talking about section 33 in the Charter of Rights and Freedoms, the Charter that seems to have so little support on the front bench and in the caucus opposite. The Charter is the sole device that protects individual Albertans from abuse by government. It's the Charter of Rights and Freedoms that says that any single citizen in this country has certain protection from government, and it's significant.

Section 33(1) of the Charter says:

Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

So what's in section 2? What kinds of rights are we talking

about that might be suspended? Well, not to list them all, but it includes the

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

Sections 7 to 15: what kinds of rights do individual citizens have there? Well, legal rights. Things like

the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

8. Everyone has the right to be secure against unreasonable search or seizure.

9. . . . the right not to be arbitrarily detained or imprisoned.

10. . . . the right on arrest or detention

(a) to be informed promptly of the reasons

for arrest or detention. And on it goes, including the right to be free from "cruel and unusual treatment or punishment," the right not to incriminate yourself, "the right to the assistance of an interpreter" if you're deaf. You know, these are basic kinds of rights that exist not for the benefit of members in this Assembly but for the citizens, the 3 million people who choose to live in this province.

Now, Mr. Speaker, what the act does is take an act which came into being in 1992 and graft onto it. The Constitutional Referendum Act came into force in 1992 to deal with constitutional change, and that's if we wanted an elected Senate, if we wanted a different appointment process for the Supreme Court, if we wanted a different kind of representation in the House of Commons. But what's happened is that government has now used that vehicle for an entirely different purpose, and why this is significant is, if you look at section 4 of the Constitutional Referendum Act, it says:

(1) If a majority of the ballots validly cast at a referendum vote the same way on a question stated, the result is binding, within the meaning of subsection (2), on the government that initiated the referendum.

(2) If the results of a referendum are binding, the government that initiated the referendum shall, as soon as practicable, take any steps within the competence of the Government of Alberta that it considers necessary or advisable to implement the results of the referendum.

Now, the Minister of Justice suggested last Thursday and he said again – and what's scary is he says that it has the backing of the 200 lawyers in the civil law section of the Department of Justice; I don't know what's a more frightening prospect. He suggested that this is not binding. Well, let me put this to you, Mr. Speaker. I went back to 1992, because I thought: when they brought this act in, what did they say about it in terms of whether it was binding? It's instructive if we go back and look at *Hansard* of 1992. Let me just quote a few items.

March 19, 1992, Premier Don Getty introducing the Constitutional Referendum Act, and this is what he had to say about it. He said:

Before any resolution to amend the Constitution of Canada can be passed by this Assembly, a referendum must be held, and it will be binding upon this government to implement the results of that referendum.

If anybody thinks that you do the referendum, you come in, and you have some kind of a free vote, as the Minister of Justice implied by his answers yesterday, let me quote further. On March 31, 1992, when the Provincial Treasurer was then able to ask questions, he put a question to the Premier then, Mr. Getty. This is what Mr. Getty had to say at the time: "Obviously, Mr. Speaker, by this legislation" – and I say parenthetically that he was talking about the Constitutional Referendum Act, which is being amended by Bill 38 – "which



the government is bringing in, that voice of the people will be binding on this government.”

Now, we went on. We looked at June 17, 1992, in debate at second reading on Bill 38, and the quote is there once again from Premier Getty: “It’s different as well and significant as well in that this is not merely seeking advice.” This is the key part.

I know that most referendum legislation that’s being discussed is really like a kind of plebiscite. Well, this is not that type of legislation. This legislation is binding upon the government of Alberta, and no constitutional amendments will go before this Assembly that haven’t first been approved by the people.

Well, there are two elements to it, but we go on, and we see a little further Mr. Jim Horsman. Now, some members here may not have worked with Mr. Horsman, but I have to tell you that even though he may have been a Conservative, he’s one of the finest ministers of justice and attorneys general we’ve had in this province. He understood the Constitution of Canada . . . [interjection]

MRS. FORSYTH: And Dr. West. Dr. West.

MR. DICKSON: Well, Dr. West was never an Attorney General. He was the solicitor general for a brief period that I’ll never forget, but that takes us down another path altogether, Mr. Speaker.

You know, when we talk about punishment in the sense of what happens and we look at those rights in sections 7 and 8 and 9 of the Charter and we think of some people who might hold the position of Minister of Justice, then we think how scary a prospect that would be in terms of lack of respect for those fundamental freedoms.

5:10

Let me come back to a comment, and this is Mr. Jim Horsman, who, as I say was one of the finest Justice ministers we’ve had in this province, somebody who I think was a competent lawyer, somebody who I think understood the legal system in this province. I just want to quote the comment that he made in speaking to this on June 17, 1992. This is the comment of Mr. Horsman.

This is an historic document because it will give Albertans the right to vote directly. Every eligible voter in this province will have their say. The government will be bound, and it will be the people, not the politicians, that will make the final decision on those issues that are extremely important to the future of Alberta and to Canada.

Earlier he referred to section 4, and he talked about the government being obligated “as soon as practicable” to decide “the best way to implement the results.”

In fact, if the Minister of Justice would look back at the debate in June of 1992, some people said: well, could we have, like, a plebiscite where some people suggested – and you can go through the debate. Yolande Gagnon, who was a member in 1992, and a number of other people – this is what they said, Mr. Speaker. They said: well, could we just ensure that a bill is introduced and that we have a free vote? That’s what the Minister of Justice suggested last time. In fact, as you go through, what is clear throughout the debate is that this act was sold on the basis that if 51 percent of the people who participated in a referendum said, “We want to suspend the rights of gays and lesbians, or we want to suspend the rights of new Canadians, or we want to suspend the right of refugee claimants, or we want to suspend the rights of any other group in this province, of gun owners or any other group,” we will be able to introduce a bill, and we will be bound to pass it.

Now, the Minister of Justice says that Parliament is sovereign, and indeed it is, but what he chooses to ignore is that he is part of a government caucus, a big powerful government caucus that has 64 men and women in this Chamber of 83. What that means is that it’s fine for him to say that we can’t bind the hands of people in terms of

how they’re going to vote, but we all understand what party discipline is. We understand what the job of the whips is, and we understand that the pronouncement here is that the whips will be on, that the government will not only bring in the bill but the whips will be on so that the government members have to vote with it.

Once again if we look at the questions that Barry Pashak, the MLA from Calgary, asked Mr. Horsman – I’m not going to take the time to read it all through here, but it’s clear to me. They talked about whether the government would be obligated to take all steps, and at page 1662, June 25, 1992 – and the Minister of Justice can protest all he wants – Jim Horsman said:

We wrestled with this as to whether or not it should say “may” or “shall.” But in order to be absolutely clear to the people of Alberta that the end decision is theirs . . .

the end decision, Mr. Speaker, not the interim decision, . . . the people’s decision and not the politicians’ decision, we included the word “shall.”

So in fact what we’ve got – and I invite every member in this Assembly to go back and read what was said in 1992 in June when this bill was being debated. You’ll find there’s absolutely no question that Mr. Jim Horsman thought when he was introducing this bill that government would be bound not only to introduce the bill but to pass the law.

Mr. Speaker, the reality is that this is not a free vote issue. If we wanted a free vote, they could have said we would have a plebiscite. You bring in the opinion, and you table that result of a plebiscite. That’s fine, and then the government does what they’re going to do with it. In this case, the government is obligated to have the vote. They’re then obligated to introduce the bill. They are then obligated to pass the bill. [interjection] They are as well.

If the Minister of Justice goes back and reads the debate – why would we be prepared to allow 51 percent of the people who choose to vote in a referendum to suspend the rights of citizens in any particular area, Calgary-Shaw, Medicine Hat, or any other community around this province? Why would we then allow those people to handcuff the government to come in and introduce and pass a bill that would suspend the rights of other Canadian citizens?

So, Mr. Speaker, the tyranny of the majority is entrenched in this. The Minister of Justice is more agitated than we’ve seen him for a while. We have here the only member in this province that’s ever had the audacity to try and invoke the notwithstanding clause. It was this minister who gave the legal advice to his government a year ago on Bill 27 that that was the thing to do. This is the man who told the Premier, because I was at the news conference after, that this is a small administrative matter; this is no big deal. Well, that’s what the Premier said.

Mr. Speaker, section 33 of the Constitution has been used so rarely: once by Saskatchewan to pass some labour legislation, three or four times in the province of Quebec to pass some language legislation. But this is the only other Canadian province that’s attempted to invoke the notwithstanding clause.

[Mrs. Gordon in the chair]

This Minister of Justice is going to give lectures on the importance of party discipline. This Justice minister would choose to give lectures to members about the significance or the import of section 33 of the Charter. Well, Madam Speaker, I’m not buying that legal advice. Is there anybody else in here that’s going to take that legal advice from this minister? I don’t think so.

The point would be this. If we look at the response given by the Justice minister last Thursday, he said that the government’s obligation is to introduce that legislation in the House. Well, if that were it, then why would it say in section 4(2) that

if the results of a referendum are binding, the government that initiated the referendum shall, as soon as practicable, take any steps within the competence of the Government of Alberta that it considers necessary or advisable to implement the results of the referendum.

The Minister of Justice would be absolutely right, Madam Speaker . . .

**Point of Order  
Repetition**

MR. BOUTILIER: Point of order.

THE ACTING SPEAKER: The hon. Member for Fort McMurray.

MR. BOUTILIER: Under the Standing Order on repetition.

THE ACTING SPEAKER: Hon. member, do you wish to comment on this point of order?

MR. DICKSON: There is no point of order. I'd like to continue my debate, Madam Speaker.

THE ACTING SPEAKER: Well, please do your debate through the chair.

AN HON. MEMBER: It was.

THE ACTING SPEAKER: No, it wasn't.  
Go ahead, hon. member.

**Debate Continued**

MR. DICKSON: Madam Speaker, for the Minister of Justice's interpretation and opinion to be correct, we'd have to read section 4(2), if it were to end where it said that the government could take any steps that it "considers necessary or advisable," full stop, but it doesn't stop there. It goes on to say: "to implement the results of the referendum."

Now, perhaps the Minister of Justice would be good enough to tell us how on earth a government can implement the results of the referendum . . .

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

5:20

MR. DICKSON: Well, I am addressing it through the chair, Madam Speaker.

How on earth you are going to be able to implement the results of a referendum to invoke section 33 without the government doing what the government always does, which is put on the whips and say that this is a government bill that has to be passed? So, you see, if the Minister of Justice . . . [interjections]

Well, we've got lots of people offering free legal advice here, Madam Speaker. Free advice is usually worth exactly what you pay for it, so I'm going to rely on the advice of people who have a little more experience than those who are offering advice this afternoon.

The issue comes down to this, Madam Speaker. If the government did not want to bind their hands and obligate themselves to bring in legislation under section 33, there's a very simple way they could have done it. They could have in legislation provided, "We will do a plebiscite to sound out Albertans," and we could have a free vote in the Legislature. There's a host of things they could have done, but they chose not to do that. They chose to graft this section 33 notwithstanding vote onto the back of a bill which was passed on the basis and on the representations that the will of the people would be reflected, and that's the will of the majority of people who participated. So now what's happened is that the minister is trying to revise history.

Thank you very much, Madam Speaker.

THE ACTING SPEAKER: The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Madam Speaker. Although I would dearly love to and fully intend to get involved in the debate next time this bill is before the House, at this time I would like to move that we adjourn debate.

THE ACTING SPEAKER: Having heard the motion by the hon. Member for Medicine Hat, does the Assembly agree with the motion?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? It's carried.  
The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you, Madam Speaker. I move that the House do now stand adjourned until 8 p.m. and reconvene in Committee of the Whole.

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

SOME HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: Carried.

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