

Legislative Assembly of Alberta

Title: **Wednesday, May 5, 1999 8:00 p.m.**

Date: 99/05/05

[The Deputy Speaker in the chair]

THE DEPUTY SPEAKER: Please be seated.

head: Government Bills and Orders
head: Second Reading

Bill 35

Government Fees and Charges Review Act

[Adjourned debate April 29: Mr. Hancock]

THE DEPUTY SPEAKER: The hon. leader of the ND party.

MS BARRETT: Thank you, Mr. Speaker. As per usual, I won't take long in offering my comments on this bill. Last week after it was introduced, I asked the sponsoring member, the Provincial Treasurer, if he would entertain expanding the scope of the bill so we could include looking at the fees that the private registries charge on top of what the government charges the private registries for information. During that exchange the Provincial Treasurer said he would happily keep that in mind.

The following day I wrote to the Provincial Treasurer to remind him that this was what I was asking, and I sent a copy of that letter to the Member for St. Albert, who will be chairing the committee overlooking the review of all the government fees that are being considered under the scope of this act. I have not heard back from the Provincial Treasurer as to his intentions. In fact, I wrote him a memo in the Chamber today, but I believe he needed to leave and was just on his way out, and I didn't get an answer from him.

So I'd like to reiterate my pitch, number one, that the scope of the bill be expanded so we can take into account all the markups that the private registries charge on top of the fees we pay indirectly now to the provincial government for such things as motor vehicle registration but even including death and birth certificates. At about this time last year I found out that there was no cap on many of the services provided by the registries, even when those services pertain to information and services that are controlled by the provincial government. I believe I found that getting a copy of a birth or death certificate could range from about \$20 in some cases as the marked-up fee to as high as \$68, and I was quite shocked by this revelation.

The government, I know, will say: well, the marketplace determines those fees. But that's not necessarily true. First of all, if you believe – and most consumers do – that those prices are controlled, they're not going to shop around to see who charges more and who charges less. Secondly, if you live in small-town Alberta, you might only have one registry that offers these services. You're facing a monopoly, let's face it, and monopolies can charge what they want. So I think it's wrong to say that it's market driven.

Ultimately the difference between the way things used to be before privatization and the way things are now postprivatization: consumers, in my opinion, are being milked and in fact, I would go so far as to say, in many cases gouged. I for one don't see why, if it is the government that is providing these basic services, they should even have them privatized in the first place. Again I say, now that they are privatized, that I think it is ridiculous that the markup fees they charge are not contemplated in the scope of this bill.

I'm also worried that health care premiums are not explicitly included. To give my Liberal brethren credit . . .

DR. TAYLOR: Oh, don't do that.

MS BARRETT: Well, I have to every once in a while.

They had a good point today when the Member for Calgary-Buffalo, I believe it was, tabled a recommendation that university and college tuition fees be also included in the scope of this bill. That's a good point. Those are fees, and those fees are directly or indirectly, whichever way you care to look at it, set by government. When the government says to a university or college, "We're only giving you X, Y, or Z dollars," and our policy by legislation, by statute, is to set tuition caps at a certain percentage of the actual, at least for now, operating costs, then those are fees that are paid by the public, and I believe those fees should be included.

Worst of all is not specifically including the greatest flat tax that Albertans face, that being health care premiums. It's no secret that the NDP has always opposed health care premiums. Earlier today in the Chamber I supported a private member's bill, Bill 207, which calls for the elimination of health care premiums amongst senior citizens. I say: fine, this is great, but it's only a first step. If we really want to make tax reform an appropriate, believable, and immediate reality for all Albertans, the best way to do that is to get rid of the largest flat tax Albertans pay, that being health care premiums.

Finally, I would like to address the issue of the composition of the committee that is struck to review this legislation and to take the public input. My figuring is that it's got to be one way or another. The way it is right now, three government MLAs will sit on this committee along with two other persons. Now, if the government is so serious that it wants to make sure it's receiving public input and if the government is so serious about being transparent and democratic, then the government should be equally serious about making sure that a committee struck by legislation would be reflective of the composition of this Chamber. That is not the case.

What the government has done in this bill is set up basically a government-dominated MLA committee. That is predictable. I don't accept it. That is absolutely predictable. That is the way all the all-party committees are structured in this building. It's always: the government has the most MLAs, the Official Opposition has the next number of MLAs, and the third party has the fewest number of MLAs. I have no bone of contention with that. However, this bill does not call for that composition. It calls for three government MLAs and no opposition MLAs. So I put it to you that things need to be one way or the other: it is going to be either an all-party committee of the Legislature or a true arm's-length committee.

It'll sound like I'm straying, but I'd like to speak briefly to the concept that I would argue is the most powerful, and then I will conclude my remarks. In December the Premier was on the Dave Rutherford show, and about a quarter to 12 or so in the a.m. he said on the record something like: yeah, a health summit; that would be a good idea; I think I could agree to a health summit – the government already having conducted their growth summit and already having announced their justice summit. Well, about two minutes after 12 noon that day, the reporters started calling me on my cell phone: "Hey, Barrett, what do you think? The Premier says 'health summit.'" Apparently he hasn't even talked to the Health minister, but he's saying 'health summit.'" I said: "Good; about time, and here's how it should be structured. We should have a hundred people from the stakeholders' groups and a hundred people randomly selected such that we get a balance, a true cross reference of our society: proper regional representation, proper gender representation, proper age representation, the whole thing."

It turns out that the Health minister went ahead and structured the health summit on that basis. I was very pleased. As a matter of fact, I'll say to the Health minister right now that I was delighted he structured the health summit that way. I think it worked very well.

The argument I'm now going to make with respect to the composition of this committee is that if you're not going to have an all-party committee – and I would actually recommend against that – you structure your committee so that it is representative of society, so that it does have some representation from stakeholders and also some random selection so that the public itself can really have the hands-on experience in going through all these fees and determining which ones are appropriate and which ones are not, which ones are too high and which ones are too low, not that I can expect anybody is going to agree that they're too low, particularly when they are taxes by any other name.

So let me conclude, then, Mr. Speaker, on the subject of taxes by any other name. It is well known, but just in case some members didn't catch it, for the years that I was not in the Legislature, between 1993 and 1997, I did read *Hansard*, and I did read the government denying that user fees were taxes. I did read in *Hansard* time and again various members of the front bench saying: well, we're just recovering costs. I did read that the government was saying: well, we've still got the lowest tax regime in Canada, and we don't count in user fees. Well, user fees, particularly those which are marked up, constitute taxes by any other name.

8:10

The premise of this legislation is sound and in fact many years too late, in my opinion. If the government wants to do the right thing, it needs to do the right thing properly, and that is expand the scope of this legislation so that we get to take into account all the fees that the consumers are paying, not just those which go directly into government coffers, and all the fees to the instruments which provide for the common good, which we as taxpayers wish to access. I hope that by the time this bill gets to committee, the Provincial Treasurer will have agreed to these changes. If he hasn't, then I guess I'm just going to have to sponsor an amendment to that effect; won't I, Mr. Speaker?

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

MR. WICKMAN: Thank you, Mr. Speaker. I'm going to start my comments by reading from a publication by the Canadian Federation of Independent Business, that I'm sure we're all familiar with. This is talking in terms of the recent Supreme Court ruling. In there they state:

Supporters contend that hundreds of millions of dollars of "taxes by another name" are being raised annually by government and its agents through mandated user fees or service charges on citizens who have no other options. All three levels of government, and their agencies, are using fees as additional revenue sources without the accountability that exists when reviewing taxes. Fee-setting principles would ensure that pricing is aligned with the cost of service, and guarantee that revenues raised are used in relation to the service required.

Now, I think that is very, very supportive of what the Ontario court decision said and what this caucus has been saying for a period of time.

When we look at the scope of user fees – and, quite frankly, it's not only this provincial government that's guilty of doing it. I would say that every provincial government and territory throughout the country is probably guilty of the same thing. Probably the federal government is guilty of it and the municipalities.

We just read very, very recently that the city of Edmonton, for example, in their proposed plan by the city manager talked about a 4 and a half percent tax increase for the next three years or whatever and a 5 percent increase in user fees to raise additional dollars. And

that quote was used: to raise additional dollars. That's what citizens find so offensive in using user fees as a hidden tax. It's fine to say that we're not going to raise taxes, that taxes have been frozen for years, but when we see, on the other hand, that user fees have continuously gone up, a tax is a tax is a tax. Those user fees, of course, constitute a tax, and it's recognized in the court ruling.

Now, the Premier has said in very, very recent days that user fees should not be reflective of a requirement or a need for revenue, that they should be revenue neutral. In other words, they should pay for the service being provided. So we have to be very, very careful in this bill that user fees not only by government but by agencies under the control of the government are subject to those same requirements. Certainly in terms of the provincial budget it's going to mean a need to find additional resources from other areas to compensate for the reduction in those user fees, because we are going to end up seeing a reduction.

The question has been raised about the health care premiums. The health care premiums are very, very difficult ones to discuss because there are only two provinces that even have a health care premium in addition to taxes paying the bulk of health care costs. So I don't want to get into that one too far.

If we go back, Mr. Speaker, even prior to this term, even in the last term our Member for Edmonton-Whitemud at that particular time, who was our critic for Treasury, stated many, many times in this house, pointed it out, in fact tallied for the benefit of this Assembly something like 247 instances of increases in user fees in that one year alone and tallied it to amount to several hundred million dollars of additional revenue to government coffers. This caucus harped away at it and harped away at it, and government didn't acknowledge that user fees were being used as a means of raising additional tax, revenue, call it what you want, but again I have to say that a tax is a tax is a tax.

Now, if I go back and read into the record some of the actual quotes that have been made by principals over the last period of time, I can go back to statements quoted from newspaper clippings and such made by the Premier. For example: we will succeed by getting our financial house in order; we will succeed by not raising taxes; raising taxes is a no-brainer; you don't need brain power; you don't need to work at it. Then it goes on. In the November 2 statement, five weeks before becoming Premier, Klein vowed to freeze all taxes until at least 1994, saying: no new tax increases. The point I'm trying to make as I read these is that when user fees were increased, that was a form of taxation.

Now, this becomes a bit more blatant: you don't need a brain to introduce a new tax, Klein said back then. When quizzed whether a Premier Klein government would hike taxes, charges, or user fees, Klein blurted: certainly not; no new taxes; no increases. It refers very, very specifically to user fees.

Mr. Speaker, here we go. February 15, 1995: a fee for service or a premium is not a tax. It is not a tax, he is saying there. Then we see: in 1994 we clearly published all the, what is called here, selected premiums, fees, and charges; nothing hidden, well documented, nothing hidden; fees will be adjusted to reflect the cost of providing the services.

That was all well said and done, but that in actuality is not what has happened. I believe all members of the House now will agree that there is a need to review all those user fees and put them in line with the actual cost of the services that are being provided.

When we look at the specifics of the bill and when we look at the need for a number of amendments that will be coming forward by the critic for Treasury, which will occur during the committee stage reading, of course, it's got to make it very, very clear that it is covering all the various areas where user fees are implemented, not

just those that may be specified in the bill but are very, very specific.

Mr. Speaker, I'm going to conclude at that point on that particular note on second reading. During the committee stage, when we get into very extensive debate with various amendments and such, we'll all have an opportunity to again debate the specifics of the various user fees that will be under review.

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

MR. BONNER: Thank you very much, Mr. Speaker. I rise this evening to speak to Bill 35, Government Fees and Charges Review Act. When we look at the history of this particular bill, it was triggered by a case in Ontario when Marie Eurig's husband, Donald, died in October of 1992. Now, Donald left an estate in the neighbourhood of \$414,000. His widow soon found that she owed the government \$5,710 in probate fees. For that money she received a certificate stating that her husband's will was valid. What she and her lawyer did was question whether or not this was in fact good value for her money. Of course, this case went all the way to the Supreme Court of Canada, and there was a decision that came out in 1998.

Mr. Speaker, user fees have become a convenient and an addictive source of cash for many governments across this land, our federal government as well. We pay taxes for airports and fees for libraries. Some pay water usage charges. Services that were once paid out of general taxes now carry user fees.

In 1997 there was a study done by a University of Toronto economist, Richard Bird, and he estimated that such fees account for 6.1 percent of the total government revenue here in Canada. The consulting firm Informetrica casts a wider picture in defining user fee use by our governments here in Canada. They calculate that they constitute somewhere in the neighbourhood of 12.5 percent of total government income, and that will amount to somewhere in the neighbourhood of \$22 billion annually more than Ottawa earns each year from the GST.

8:20

When we look at how these fees are levied, each new fee, Mr. Speaker, is typically levied on the taxpayers, and it's a small portion of the taxpayers they're levied on, so what it does is minimize the complaints that would arise out of any particular group. Unfortunately, as well when these fees are levied, there is no alternative because the government has a monopoly on whatever service is being used.

MR. SMITH: Send me an e-mail.

MR. BONNER: We'll do that for the minister.

Anything that the government directly charges to its citizens for any service can be considered a user fee. Unfortunately, most governments are using an alternative source of tax revenue, and that is the user fee.

Now, when we look at user fees throughout the history of mankind, we find that they violate one of democracy's most basic precepts: no taxation without representation. When we talk about representation, Mr. Speaker, we give all members here an opportunity to represent their constituents, and I would be interested to hear the representation that the minister is going to make for his constituents. You will have an opportunity when I am finished, and I look forward to that, sir. [interjection] Well, I'm sure by 1:00 tomorrow morning you'll have plenty of time.

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: Hon. member, the theoretical person that you were talking to is the chair and not the hon. members over there, who theoretically should not be talking either to other people. So, hon. member, if you could direct your comments through the chair and the other hon. member wait his turn.

MR. BONNER: Thank you, Mr. Speaker, for that reminder and through you and to you, sir.

Debate Continued

MR. BONNER: Now, as I was going along, we should have no taxation without representation. It's a principle with deep roots in western democratic tradition. For example, in ancient Athens in order to institute any type of new tax, it would take a quorum of 6,000 citizens. Of course, perhaps one of the greatest examples we have is in the 13th century in England when King John's barons objected to his tax increase to fund the overseas wars, and as a result we had the Magna Carta.

Now, in Canada the British North America Act had a number of sections which said that governments could not institute taxes unless there was a vote in the Legislature. These, of course, occurred in sections 53, 54, and 90 of the British North America Act.

Now, when we do look at what has happened here in the province, these are just some of the examples of what's happened here when we look at government fees and charges. It's a breakdown of fees and charges by ministry. We look at Advanced Education and Career Development. We have 46 of these fees, Mr. Speaker. In Agriculture, Food and Rural Development we have 21. In Community Development we have 11; Education, 19; Energy, 28; Environmental Protection – I know the Member for Edmonton-Ellerslie is going to have a hard time believing this, but we have a total of 372 user fees in Environmental Protection. I would expect that we would get much more for that many user fees, but we still are fighting the fight. Then in Family and Social Services we have six; in Health, nine; Justice, 93; and Labour, 84. In Municipal Affairs we again soar up to 356. Under Transportation and Utilities we have 110; in Treasury, 55.

This is quite an extensive list, Mr. Speaker, and I have to wonder how many will be deemed a tax and how many will be deemed a user fee under this latest bill. This bill is to protect and freeze 800-plus user fees and charges levied by the government of Alberta for a one-year period until July 1, 2000, and at that time we will have a review of those user fees and fee collection systems by a committee of government MLAs and private-sector representatives.

As well, another highlight of this bill is that the authority to establish any new or increased fee and charge is suspended until such date of July 1, 2000, unless an act is presented in the Legislative Assembly approving the fee or charge. A fee or charge can be reduced during the review period; however, once the fee or charge is reduced, it cannot subsequently be increased except by an act of the Legislature. Of course that gets back to the whole idea of: taxes can only be levied by a vote in the Legislature.

Another highlight of Bill 35, Mr. Speaker, is it responds to the October 1998 Supreme Court decision in the Eurig estate case to ensure that the existing fee and charge regime cannot be challenged in the courts pending a review.

Now, this review committee is mandated to review user fees, charges, and premiums and to make recommendations as to which of the user fees, charges, and premiums are excessive and should be brought into line with the cost of delivering the service. In far too

many instances we've seen that where a service is being charged for, the charge far exceeds the value of the service. So again we can no longer say it's a user fee. It's just another way of taxing the masses.

Now then, the majority decision by the court determined that probate fees in Ontario are a direct provincial tax since they are intended to defray the cost of administration of justice in general rather than merely the cost of granting the probate. It was interesting in that decision in Ontario – and we have a number of lawyers in the Assembly that certainly are much better versed on how long it takes to probate a will, but for a will of \$400,000 probate fees of \$5,000 certainly are excessive.

8:30

We want to see what is going to happen here with Bill 35, Mr. Speaker. I think we will find that once all of these user fees are looked at, we will certainly see that this method of taxing the average Albertan will be eliminated.

With those comments, Mr. Speaker, I would like to take my seat and listen to further debate by other members of the Assembly. Thank you very much.

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

MR. MacDONALD: Thank you, Mr. Speaker. It's interesting to listen to members from across the way. I'm sure they're going to get their time to address the Assembly on this very important issue of government fees and charges.

Now, I think we should have a quick review of the highlights of this bill before we get on with our remarks. Bill 35 is to protect and freeze 800-plus user fees and charges levied by the government of Alberta. This is for a period of one year, and this is pending a review. I'm glad to see that we're going to have a review on this when the government is so reluctant to have a review on other matters. [interjections]

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: Hon. Minister of Labour, you've not been recognized by the chair other than for your disturbance, which is one cogent reason why one ought to sit facing the Speaker or at least facing the people over here rather than with your back to us all. Hon. member that is just beginning to add to the interruptions, I wonder if we could hear the hon. Member for Edmonton-Gold Bar and hear him without a lot of interruptions.

Thank you.

Debate Continued

MR. MacDONALD: Thank you, Mr. Speaker. We're also with Bill 35 going to suspend the ability to increase or to establish any new fee or charge. But we look at the growth of user fees across the province. We could go through each department, Mr. Speaker, and I was astonished to realize that in the Department of Labour alone there are according to my records 84 user fees. I would have thought that this would have included all the DAOs that are associated with . . .

MR. SMITH: Point of order, Mr. Speaker.

THE DEPUTY SPEAKER: We apparently have a point of order, hon. member. The Minister of Labour will give us a citation.

Point of Order Clarification

MR. SMITH: Thank you, Mr. Speaker. I'm looking for a point of clarification. I would ask him to name the 84 user fees and determine why they are user fees.

Thank you.

THE DEPUTY SPEAKER: The hon. Minister of Labour is certainly welcome to enter into debate and make those kinds of comments and others. Clarification is not really a recognized point of order, so the hon. Member for Edmonton-Gold Bar would be invited to continue his discussions on this bill on second reading.

Debate Continued

MR. MacDONALD: Thank you, Mr. Speaker. As I said before, these 84 user fees are those other, I understand, than those that are collected by the delegated administrative organizations. In the Department of Labour we have the Alberta Boilers Safety Association, the Petroleum Tank Management Association, and these fees are outside the scope of this bill. We have all the pressure vessels across the province. When they're initially designed, we have a fee. When they're installed and on a yearly basis after that, there is a fee. It is difficult to keep track of this. It is very difficult. I'm sure there are accurate records in the Alberta Boilers Safety Association, because naturally this is a source of revenue for them, and they would have very accurate records. So why would this not be included in this legislation? If the Minister of Labour in due time in the course of debate has the answers, well, then I'm going to be listening with eagerness to hear the explanation for this.

The Department of Health – I'm going to get into health care premiums a little later – has nine user fees. Environmental Protection has 372 fees and charges. Advanced Education and Career Development has 46. [interjections] Now, some would say that the user fees we've introduced in this province, Mr. Speaker . . .

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: Hon. minister of science, research, and technology, if you wish to speak to the hon. Member for Edmonton-Glenarry and he wishes to speak to you, far be it from me to stop you, but I will in this Chamber. So if you want to go outside and speak to each other, fine. Otherwise, wait your turn in debate.

Hon. Member for Edmonton-Gold Bar, hopefully we'll be able to hear you out without any further interruptions from hon. members who do know better.

Debate Continued

MR. MacDONALD: Thank you, Mr. Speaker. Now, Advanced Education and Career Development made a significant policy change two years ago. They introduced a program to allow people who had accumulated skills in the workforce the opportunity to challenge for a trade ticket. This policy existed some years back, and there was a \$25 fee for writing the exam. I'm not disagreeing with what the department of advanced education did, but they put an incredibly high fee on this examination. I believe it went to \$450. Then we had hon. members of this House complaining about the shortage of skilled workers in the province, particularly welders. If a person went through all the steps to qualify under this good program to become a certified welder, the fees could go as high as \$710. I do not understand the rationale for this.

We can go down the list here further. There are 93 fees in the

Department of Justice. The hon. Member for Calgary-Bow asked a very good question in the Assembly in this past month regarding fees in the courts and accessing information from the courts. So the problem of fees goes beyond traditional party boundaries. Every hon. member in this Assembly in the course of their duties certainly has reason to be concerned about this government and its use of user fees. [interjections]

Mr. Speaker, the recommendations that I believe should be reflected in Bill 35 are these. [interjections] I believe we should develop and adopt a comprehensive user-fee and charges policy with clear implementation standards based on the principle of a definite link . . .

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: Hon. minister of science, research, and technology, you're perfectly free to carry on a discussion with the hon. Minister of Advanced Education and Career Development. Please do so out of the Chamber. That's twice.

The hon. Member for Edmonton-Gold Bar.

Debate Continued

MR. MacDONALD: Thank you, Mr. Speaker. There has to be a definite link between the fee charged and the internal cost to government of providing or producing the good or service. No one can tell me that it costs \$450 to administer an examination to allow a tradesperson to practice their trade anywhere in the province. This is the problem that we're having.

I believe we also should establish a process to engage clients and/or users in the design and delivery of cost-recovery programs and services.

8:40

Now, if we are to eliminate user fees and charges that violate the Eurig estate decision or on a case-by-case basis bring them before the Legislative Assembly for debate, then that perhaps would be a little cumbersome, but if there is a compelling case for continuation of certain fees and charges, there must be an acknowledgment that those user fees and charges constitute taxes which should be collected as a credit to the general revenue fund. Perhaps we should look at amending the Financial Administration Act to require the annual publication of a report detailing a list of all user fees and charges, the revenues raised from each user fee and charge as well as the cost of service associated with each user fee and charge.

Now, there are some researchers in our caucus. It was even noted in the press, Mr. Speaker, that one of our researchers has made a cottage industry out of tracking these user fees by the government. Fortunately our researcher is very relieved because his cottage does not have untreated pine shakes on its roof.

Another recommendation that would be advisable for any thorough discussion on this Bill 35 is: perhaps we should look at amending the Government Accountability Act to require a detailed list of all user fees and charges and associated cost-of-service data to be included in the three-year ministry business plans and annual reports, which so many hon. members are so proud to table, in order that those user fees and charges receive the scrutiny and approval of the Legislative Assembly. Perhaps we should talk about having a formal tie or linking user fees and charges to performance measures and benchmarks for services as contained in the three-year ministry business plans.

I haven't heard anyone discuss the fact that it might be wise to amend the Alberta Taxpayer Protection Act to require that all user fees and charges proposed by the government be referred to the

Standing Committee on Law and Regulations for scrutiny. I am a member of that committee, and perhaps it's a good idea, Mr. Speaker. We could have a meeting. Private Bills has less to do, so maybe we could do some work in the Law and Regulations Committee.

I would like to know if any hon. members have considered amending the Government Organization Act to require that all delegated administrative organizations and other entities that do not fall under the government's reporting entity – I'm talking about regional health authorities, universities, colleges, school boards – provide a detailed list of all user fees and charges and associated cost-of-service data in their three-year business plans and annual reports as well.

Perhaps we should look at requiring government ministries to prepare and publicly release impact analysis statements on all proposed new or increased user fees and charges. These impact analysis statements, Mr. Speaker, would examine issues related to the cost of service, such as the impact of the fee or charge on the ministerial budget, workload volumes, unit production costs, overhead costs, and the direct and indirect cost of those fees and charges on users or clients. Perhaps we should look at developing and refining government cost accounting systems to ensure that all user fees and charges are linked to cost-of-service data in order to justify the level of user fees and charges.

We could also look at establishing a process so that governments and government departments must compare the competitiveness of its user-fee and charges regime with other jurisdictions.

Now, I think it would also be advisable, Mr. Speaker, to develop a process for the Auditor General to conduct an annual performance audit on all user fees and charges. There has been much said in the past about user fees, and it is quite interesting, because if we don't look at our past, if we don't understand our history, it's very difficult for us to march into the future.

The Canadian Manufacturers' Association questionnaire in 1992 asked the Premier of the province, the Premier of the day: what new revenue sources do you foresee to help balance the budget? This is the answer.

Increased revenues will play a role in helping balance the budget . . . Higher user fees may also be necessary to bring a better balance between consumption and payment for government services . . . an independent review (perhaps a commission or task force of eminent persons) is needed on Alberta's long-term fiscal capacity . . . The larger issue in principle as to whether in principle we should be taxing wealth creation activities or consumption should be dealt by this independent review.

Now, this is another remark from the Premier in the same year in a local newspaper. This is in reference, again, to user fees, to taxes.

"[It] is probably the most unimaginative way of raising revenue.

You don't need a brain to introduce a new tax. I can promise during my term as leader there will never be a sales tax introduced," also pledging there'd be no tax increases or user fees on government services during his first year.

When I go through this and I see these 800 fees, I would begin to wonder, Mr. Speaker.

Here's another one from a southern paper, from the fine city of Calgary. This is a year later, and this is also the Premier.

We will succeed by getting our financial house in order. We will succeed by not raising taxes . . . Raising taxes is a no-brainer. You don't need brain power – you don't need to work at it.

Again, we have 800 user fees in here, and we shall see what happens. The courts have said that a tax is a tax. It's going to be interesting to see how all this will unfold, Mr. Speaker.

We shall go on further on in 1993, and this is a speech to the Pacific Northwest Economic Region. It is a fine region economi-

cally. Unfortunately, some of the areas that are closest to the Pacific coast are suffering because of the downturn in the forest industry and also the downturn on the other side of the Pacific in the Asian economies. But hopefully it's going to work out for everyone and we're going to see a recovery very, very soon. This is 1993, and this is the Premier.

And raising taxes in Alberta is about as popular with Albertans as power failures during double overtime in the Stanley Cup Finals . . . and besides, it's sorely lacking in creativity.

Well, Mr. Speaker, I don't want to dwell on the fact that we may have a power failure during the play-off season, but this is another example of how we've had this quiet, subtle increase in user fees. It is obviously not going to continue, but how things change.

Now let's roll ahead to 1995. This is a speech to the Fraser Institute, and this is again a quote by the Premier.

Alberta stands alone as the only government who refuses to take easy way out, the cowardly way out, the brainless way out, and that is to raise taxes . . . The Alberta government stands apart from all others in its decision to leave taxes untouched . . . Too many governments still believe that they can give you everything you want, simply by raising taxes, or introducing new taxes to pay for it.

This is 1995. Now, if I could look at 1995, we'll discuss briefly health care premiums. There was, Mr. Speaker, an increase of \$52 million between 1994-95 and 1995-96 in health care premiums. The hon. Member for Edmonton-Highlands spoke very passionately about health care premiums, and we need to look at this for a moment: health care insurance premiums in the province of Alberta. I had the pleasure this afternoon of speaking to the Assembly about how health care insurance premiums affect the seniors of this province. Revenue from health care premiums has increased by 8.9 percent, on average, between 1992-93 and 1999-2000, while Alberta's population has increased by 1.8 percent per year, on average, over a similar period of time. That looks like a tax increase, but sessional paper 113/98 shows that the estimated cost of collecting Alberta health care insurance plan premiums is averaging \$11 million.

I thank you for your time, Mr. Speaker, and your consideration in allowing me to speak. Thank you.

8:50

THE DEPUTY SPEAKER: May the Assembly agree to a brief reversion to Introduction of Guests?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? Carried.

head: Introduction of Guests

THE DEPUTY SPEAKER: The hon. Member for Lac La Biche-St. Paul, followed by the hon. Member for Edmonton-Ellerslie.

MR. LANGEVIN: Thank you, Mr. Speaker. It is my pleasure this evening on behalf of my friend and my colleague, the hon. Member for Whitecourt-St. Anne, to introduce to you and to all the members of this Assembly visitors from the Lac Ste. Anne army cadet corps. We have 26 visitors; 21 are cadets, and Second Lieutenant Robert Heinz, Second Lieutenant Gail Cooper, and OC Chris Gerdaine. Also with the group this evening is Mr. Don and Mrs. Kim Copeland. I'd like to ask our visitors in the members' gallery to please rise and be recognized by the Assembly.

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

MS CARLSON: Thank you, Mr. Speaker. I am happy today to introduce two guests who are here and wish to be announced as registering their opposition to Bill 15, the Natural Heritage Act, which will later this evening be up for debate, so stick around. They are Elizabeth and G.F. Pascher. They're here today representing Canadians for Responsible Northern Development, Windsong Power Co-op, and Edmonton Friends of the North Environmental Society. I would ask that they please rise and receive the traditional warm welcome of this Assembly.

head: Government Bills and Orders

head: Second Reading

Bill 35

Government Fees and Charges Review Act

(continued)

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

MR. GIBBONS: Thank you, Mr. Speaker. I'm happy to have the opportunity to speak to this bill and the long process and the debate around Bill 35. The object of Bill 35, as we've been listening to, is to protect and freeze 800-plus user fees and charges levied by the government of Alberta for a period of one year pending the review of those user fees and collection systems by a committee of government MLAs and private-sector representatives.

The main thing that I've been listening to around the debate, Mr. Speaker, is the fact that the government looked back on the Eurig estate case dealing with the probate and the court decision that obligated the province of Ontario to do something about ensuring that the fees charged related to the cost of services provided and that if the fees go beyond the cost of recovery, the government would have one of two options. That is to either reduce the fee or to bring it before the Legislature for approval. So Bill 35 is one that is very interesting.

[Mr. Shariff in the chair]

The Eurig case deals with the probate fees used for public purpose and defraying the cost of court administration in general and not simply off-setting the loss of grants produced; that is as per the Supreme Court. The Alberta government reviewed that some of these fees could also be challenged by the courts.

In Bill 35 the sections list 800 user fees and charges that bring money directly into the general revenue. To assess for appropriateness freezes these fees until July 1, 2000, pending the review. It may decrease the amount but only increase through an act. However, there appear to be 1,300 user fees in charges, which means that there are 500 remaining which could be increased. It also protects 800 fees from being challenged for the next year so that the revenue can continue to be collected. It can be the right balance, and that is up to almost \$1.3 billion. Is it likely that the government will actually reduce any fees over the next year, more likely protecting it from one or another suits similar to the Eurig case?

Why was the government committee appointed in an era when the public is demanding transparency and accountability? For example, in its study of regulatory fees by the federal government entitled "User Fees: Where Does the Buck Stop?" the Blair consulting group highlighted the need for a neutral expert review panel to do an in-depth review. Why did the government not reflect any of the constructive recommendations made by the Official Opposition on this particular matter? We had a number of questions in the House this past week when I've brought up the fact that the government

policy of off-loading its deficit onto municipalities is reflected not only in its infrastructure deficit but the increased tax burden on the ratepayers of local communities over the past five years.

We look at, for example, that recommendations develop and adopt a comprehensive user-fee charge policy which would negate need for such a review in the future, establish a process so the government must compete or be competitive in its user fees and charges regime with other jurisdictions across the country. After all, the government credits itself for having the lowest tax in Canada. Why is it so reluctant to compare itself with the basis of fees? We on the opposition side propose that it should lead to the openness and fairness which Albertans are seeking.

As I peruse through different things that we've looked at in this actual bill, one of the major weaknesses of Bill 35 as it is currently constituted includes that there are no specifications in Bill 35 of the level of revenue raised from each of the 800-plus individual fees and charges set out in schedule 2. There are no specifications in Bill 35 of the costs of services associated with each of the 800-plus individual fees and charges set out in the same schedule. There is also no attempt to link revenue raised from each of the individual 800-plus fees and the charges set out in schedule 2 to the cost of services. Establishing a correlation between the level of revenue raised by the cost of services for each individual user fee and charge is the essence of what happened in Ontario with the Eurig estate ruling.

This government has had six months to provide Albertans with information linking the revenue with the cost of the services, but there is nothing in Bill 35 suggesting that the government has even done that work. We must note that the Provincial Treasurer has refused to release the 276 pages of analysis conducted by his department on user fees, charges, and premiums since November 1998. So maybe he has looked at the costs of services but does not want anyone to know the results since they probably show that the government has broken its no-tax pledge many times over, as it has in the last seven years.

9:00

Alberta health care insurance premiums, Mr. Speaker, are not included under schedule 2 of Bill 35. This means that effectively \$690 million, or 52 percent of the \$1.316 billion in premiums, fees, and licences raised by the government of Alberta during 1992-2000 are not subject to the terms and conditions of the act.

Nearly \$20 million in user fees and levies of delegated administrative organizations authorized under the Government Organization Act or the Environmental Protection and Enhancement Act are not included under the auspices of Bill 35. It should be noted that by law the DAO fee levels must be approved by the government. This should include fees levied by such organizations as the Alberta Boilers Safety Association, as our Member for Edmonton-Gold Bar mentioned earlier on. Over \$257 million in fees and charges from the RHA are not included under the bill.

Some of the recommendations that should be reflected in Bill 35, Mr. Speaker, are around development and adoption of the comprehensive use of user-fee policies and the clear implementation of standards based on principles and definitions linking charges and internal costs to the government for the production of goods and services.

It should also amend the Financial Administration Act to require the annual publication of a report detailing a list of all user fees and charges and revenues raised from each user fee and charge as well as the costs of services associated with each user fee and charge and formally tie or link user fees and charges to the performance measures or benchmarks for services as contained in the three-year ministry business plan.

It should require government ministries to prepare and publicly

release impact analysis statements of all proposed new or increased user fees and charges. These impact analysis statements should examine issues related to government service such as the impact of fees and charges on ministerial budgets: workloads, volume units, production costs, overhead costs, and direct and indirect costs of those fees charged to users or clients.

Mr. Speaker, it should also develop and define government cost systems to ensure that all user fees and charges are linked to cost/services data to justify the level of user fees and charges and establish a process where the government must compare the competitiveness of user fees and charges with other jurisdictions.

Some questions actually should be presented to the Treasurer, and hopefully he can answer some of them. Will the Treasurer please explain to Albertans whether it is still the government's policy to exclude from taxpayer protection legislation the 380 new or increased user fees, licences, and premiums which raise about \$174 million in taxes, or \$79 per Albertan? Is it still taxation by regulation that is the government policy?

Well, some of the sources that we actually looked at and some of the things that we put together, Mr. Speaker, are that between '92-93 and 1999-2000 this present government has introduced or increased 500 separate user fees, licences, and premiums. Over 400 have been introduced by regulation. The 500 new or increased user fees presented an additional \$289 million in new taxes. That's \$97 in new taxes for each and every taxpayer in the province.

Over the course of the next three years, '98-99, 2000-2002, the government is expected to raise an additional \$101 million, or 7.8 percent, in taxes from the new or increased user fees, premiums, and licences. That is another \$33 for each and every Alberta taxpayer. Alberta's population is expected to only grow by 6.6 percent at the same time. Over the course of the next three years, '98-99, 2000-01, and 2002, the government is expected to raise an additional \$48 million, or 7.2 percent, in health premiums. Alberta's population is expected to grow by only 6.6 percent in that particular time.

When the Premier became Premier in December 1992, the revenue from fees, licences, and premiums was at a rate of 7.2 percent of the total budgetary revenue. Today the revenue from fees, licences, and premiums is 7.8 percent of the total budgetary revenue. Right around the same time, the health care premium revenues were 3 percent of the budgetary revenue. Today the health care premium revenue is 4 percent of budgetary revenues.

Mr. Speaker, I can go on. I think other members on our side have mentioned a lot of the figures around these things. At this time I'd like to sit down but at the same time adjourn debate.

THE ACTING SPEAKER: Having heard the motion from the hon. Member for Edmonton-Manning, are you agreed?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? Carried.

May we have unanimous consent to briefly revert to the Introduction of Guests?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed?

head: Introduction of Guests

(reversion)

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

MS CARLSON: Thank you, Mr. Speaker. I see that I have another guest who's arrived in the gallery. We are joined tonight by Sam Gunsch, who is here representing CPAWS, the Canadian Parks and Wilderness Society. He, too, is opposed to Bill 15 and is here to listen to the debate. Unfortunately, it may be several hours before we get there. Anyway, we would ask that he please rise and receive the traditional warm welcome of this Assembly.

head: Government Bills and Orders
head: Second Reading
(continued)

Bill 23
Pharmacy and Drug Act

[Adjourned debate May 4: Mr. Hancock]

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

MR. MacDONALD: Thank you, Mr. Speaker. It's a pleasure to rise this evening and again say a few words about Bill 23, the Pharmacy and Drug Act. This is, as has been noted earlier by one of my colleagues, a companion piece to the Health Professions Act. This bill is going to replace the sections in the Pharmaceutical Profession Act which could not be incorporated into the Health Professions Act. It's going to allow the Minister of Health to designate drugs as schedule 1, 2, or 3. This schedule will determine how drugs must be stored and where they can be sold. I also understand we're going to prevent pharmacists from advertising designated drugs by anything other than their name, their price, and their quality.

Now, the pharmaceutical industry is an important industry and a significant contributor to this country's economic growth, Mr. Speaker. Briefly, I would like to ponder what direction or encouragement this bill is allowing the future development of this industry in this province. The pharmaceutical industry, as I said, is an important contributor to our economy. In mature, developed jurisdictions, such as the one we're fortunate enough to live in, health care expenditures, which to a large extent are funded from the public purse, have been increasing. This is a fact we live with every day. Many factors are involved in this increase, including the cost of health services. How this is being developed in Bill 23, I'm not so sure. If any hon. members have any suggestions, then I would welcome their observations in debate.

9:10

Mr. Speaker, some of these costs are physicians' salaries, hospital care, related workers' salaries, the introduction of new and better drugs, and this is, I believe, where we get into the importance of schedule 1, 2, or 3. The increasingly complex medical devices needed to care for an aging population – and I would like to note that I do not believe it is increasing at the rate alarmists on the other side of the Assembly declare. Because of the important need to control health care costs, including drug costs, governments must take a look at developing initiatives that are affordable for all Albertans, particularly seniors who are on fixed incomes.

Now, prescription drug sales in 1995, Mr. Speaker, amounted to over \$200 billion U.S. worldwide while for over-the-counter drugs, or OTCs as they're called, these sales are worth about \$45 billion. The United States is the largest market for drugs, accounting for over 40 percent of the total. This country is a small market, accounting for a small percentage of total global pharmaceutical sales. The greatest influence on how this is developed or why a drug is chosen by the doctor – of course the doctor exercises his authority by writing the prescription, and the prescription is taken to the

drugstore. But the decision of the doctor was based on the effectiveness of the drug rather than on its price, and brand-name companies are focusing their efforts on doctors. I don't know if this bill is sufficient in its effort to limit increasing costs of drugs. I don't know if it could even attempt to start, but it's something that at some point we're going to have to look at in this Assembly.

We're looking at diversifying the economy of Alberta, and I will credit the government for making significant initiatives in the last 10 years. I've said this before and I'm going to say it again about the furniture manufacturing industry in Calgary, Mr. Speaker, and how it has grown from modest beginnings to over a \$330 million export industry annually. Perhaps if we were to look a little closer at the Pharmacy and Drug Act, we could maybe attract more research and development to this province. I don't see anything the matter with trying to attract industries such as this.

I think that before I close my remarks, I would like to talk a little bit about just how important research and development are with pharmaceutical companies. There are over 18,000 Canadians who work in this country in 62 research-based pharmaceutical companies. Each member company, Mr. Speaker, shares a single primary objective: to discover new medicines which improve the quality of health care available for every Canadian. There are over \$1 billion invested each year in Canada by the Canadian research-based pharmaceutical companies on research and development of innovative medicines. This unprecedented investment represents the largest single source of medical research funds in Canada.

Now, we look through Bill 23 here, and I don't know . . .

MR. RENNER: Point of order.

THE ACTING SPEAKER: The hon. Member for Medicine Hat on a point of order.

Point of Order
Relevance

MR. RENNER: On relevance, Mr. Speaker. I've been listening very intently to the member's speech. It's a good speech. I quite enjoyed it, but it has nothing whatsoever to do with the bill at hand. This bill has to do with the licensing of retail pharmacies; it has nothing whatsoever to do with pharmaceutical research. I would ask that the member confine his comments to the bill.

THE ACTING SPEAKER: Hon. Member for Medicine Hat, the House requires a citation. Do you have a citation for your point of order?

MR. RENNER: *Beauchesne* 459.

THE ACTING SPEAKER: Okay, the point has been made, and I'd hope that you would continue and stick to the debate that's before us.

Hon. Member for Edmonton-Gold Bar, continue.

Debate Continued

MR. MacDONALD: Thank you, Mr. Speaker. I don't know if the hon. member would like to talk on this bill. He certainly is welcome to it, but we have many issues on this bill. If he hadn't been so anxious to interrupt me, if he had been listening with interest, he would have allowed me to continue.

Now, we talk about research and development, Mr. Speaker, we talk about the inspection process that is related to the development and the marketing of a drug, and we talk about the licensing of

pharmacies in this bill. All these are steps in the direction. We go from research and development through to the licensing of pharmacies.

[The Deputy Speaker in the chair]

I just need to clarify a few more items, Mr. Speaker. The first one, of course, is an elaboration on schedules 1, 2, and 3, as it was described last night by the hon. Member for Edmonton-Riverview. Near the end of section 40 we spell out what penalties and what offences there are for making false statements in an effort to operate a licensed pharmacy and whether this is going to mean a suspension or a temporary suspension. We need to discuss this. I'm sure that when I take my seat and this bill is moved to committee, the hon. Member for Medicine Hat is going to leap to his feet and explain on behalf of his colleague a few questions that we're going to have on this bill.

With those comments, Mr. Speaker, I can see that it is early in the evening and many hon. members are anxious to progress. We have a lot of discussions to undertake tonight. I shall take my seat and allow another hon. member time to debate.

Thank you.

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

MR. WICKMAN: Thank you, Mr. Speaker. I'm going to keep my comments short and to the point. When we deal with Bill 23, the Pharmacy and Drug Act, my understanding is that the Alberta Pharmaceutical Association was not fully satisfied with the contents of the bill, that they still had some outstanding concerns. If you'll bear with me on this, I simply want to pass on some communication to the minister responsible for the bill.

In the course of traveling about the city and going into drugstores, the drugstore in the mall where my constituency office is located – and I'm in there quite often; I know the pharmacist quite well. I get down to Superstore and talk to some of the pharmacists there and various places. I asked them: what are your concerns? What would you like me to say to the minister in terms of Bill 23, concerns that you have as individual pharmacists? There were two that were pointed out. One was the dispensing fees. I know that all of these may not be directly related to Bill 35, but in reviewing the whole pharmaceutical act and such, these are comments that were passed on.

9:20

The dispensing fee was a major concern, because you have this situation where there is some resentment against the giant store that runs the ads in the newspaper: dispensing fees of \$1.99. In reality, when you go there, that's what you're getting for your \$1.99, strictly the dispensing of a drug, of a prescription. You go to other drugstores or pharmacists, particularly in rural Alberta, and they not only dispense the prescription that you've asked for, but they dispense advice. What they propose is a two-pronged system, where you have dispensing fees for dispensing, but you also have consultation fees for the advice that they offer.

If I recall correctly, in the province of Ontario there's an incentive for a pharmacist – at least from what one pharmacist told me, they're actually paid to not dispense a drug, even though that drug may be prescribed by a doctor. What they'll do is they'll go to their computer, go to their records, and they'll phone that doctor, ask a few questions, and determine that drug was not really required. It may be just a repeat or such. So the decision that the pharmacist that

I spoke to took was that if there was a new system, if there was a total revamping of the dispensing fees, it could save Albertans a great deal of money in that a lot of unnecessary drugs may not be prescribed or dispensed. At the same time, consumers would be given a great deal of advice when they take their prescriptions.

All of us who have taken prescription drugs know that with every prescription there's a great number of warnings if your pharmacist deals with the matter correctly and maybe gives you a printout from the computer with 16 different warnings, to not be under the sunlight or to not mix it with this or that.

However, when you get the situation where a pharmacist simply gives you the prescription of 144 pills, whatever, and you're on your way, you really don't know the consequences that may be involved in taking that particular prescription because you haven't got the advice. That's the one concern that they've expressed to me. I think that's going to be an ongoing concern, and I think it's a very, very valid concern, because it would benefit not only the pharmacist but the consumer and the health care system itself.

The other, of course – and the Member for Edmonton-Gold Bar touched on it somewhat – is the question of your choice of generic drugs versus the brand name. I'm one of those that does tend to go for the brand name because I recognize the amounts of dollars that are required for research. Mr. Speaker, I know that's straying from the bill somewhat, but I'd point those two matters out because I want them on the record. It's very, very important that we as Albertans realize the consequences when we go to a pharmacist, that it's not just a question of getting a prescription, walking out of the drugstore, and thinking that's the end of it, because there are implications.

On that note I'll conclude and allow the member who wants to say a few words as well.

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

MR. GIBBONS: Thank you, Mr. Speaker. I stand tonight to speak to Bill 23, the Pharmacy and Drug Act. This seems to be a bill that has some merit but also some concerns. The Health Professions Act has been under development since 1994. This seems to be a companion act to the Health Professions Act, when moving pharmacists under the Health Professions Act could not include provisions to account for pharmacies and their regulations.

One of the main objects that I'm looking at is that it replaces the Pharmaceutical Profession Act section which could not be incorporated into the Health Professions Act. So as I rise tonight to address Bill 23, which I understand replaces the pharmaceutical act section which couldn't be incorporated, the question is: why? It seems that the Alberta Pharmaceutical Association is still working with the government to amend this act. So why is it in front of us at this particular time?

It is our understanding that the pharmacists have outstanding concerns, so I'm just wondering: has the process been done properly? Is this another twinning at the same time with Bill 22? As we have been in debate in the last few days on Bill 22, I think there has been a better process of consultation with regards to bills like this, and my understanding is that on Bill 23 we should be still in consultation with the actual presenters.

When we look at the final hours of this going through, the major item around all these different sections is section 4 with the licensing of pharmacies. These could be pharmacies operated by independent, or private, pharmacists. Then, we get into section 11. It states that if a pharmacy operates in a leased building, "the rent payable . . . may not be based on a percentage of the revenue obtained from the sale of [prescription] drugs." Is this currently the practice of some

pharmacies? If so, it is a totally unacceptable practice. Are any of these facilities owned by a doctor who writes the prescriptions? This would obviously be a conflict of interest. Any pharmacy currently rented would be grandfathered. Why? Are there conflict of interest guidelines from physicians in the area of pharmaceuticals? Physicians should not be receiving kickbacks from pharmacists for writing unnecessary prescriptions.

Section 21 details what the field officer's report must include and how long he or she has to produce it. The field officer's report must be provided to the registrar and to the licensee within 90 days. Doesn't this seem like an extremely long period of time for a basic report on whether there are any violations by the pharmacy? How long does this report have to be?

Under section 29 it states that "drugs may be dispensed or sold only in a licensed pharmacy." Like I mentioned before, there are a lot of different questions around that particular item.

Sections 30, 31, and 32 establish schedule 1, 2, and 3 drugs. These schedules determine how drugs can be stored, sold, and advertised within the pharmacy. This is in keeping with the federal legislation recording sales of prescription drugs, I hope.

The question is: under the current practices of the pharmacy, are any of the facilities owned and being underwritten by doctors, as I mentioned before? I do think that the Member for Banff-Cochrane has done a very good job of putting some of this together, but there are a few questions we do have around this. Usually where there's smoke, there's fire, and I hope that the minister or the presenter will be able to stand up and answer some of the questions that we do have.

Section 33 allows the Minister of Health "after consulting with the council, [to] make regulations respecting the designation of drugs" not covered under the federal statutes. The council should determine this. What expertise does the minister have? Major pharmaceutical companies would become too influential through the support of the party.

There are lots of concerns, Mr. Speaker, but at this time I'm going to take my seat.

[Motion carried; Bill 23 read a second time]

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

[Mr. Tannas in the chair]

THE CHAIRMAN: I'd like to call the Committee of the Whole to order.

**9:30 Bill 36
Gaming and Liquor Amendment Act, 1999**

THE CHAIRMAN: We'd ask if there are any comments, questions, or amendments. The hon. Minister of Economic Development.

MRS. NELSON: Thank you, Mr. Chairman. Again, I want to start off by thanking the Member for Edmonton-Rutherford for his second reading comments in support of Bill 36. In particular, I appreciate his support of this amendment that authorizes the government to give policy direction to the Alberta Gaming and Liquor Commission. I also appreciate his support of the provision that terminates VLT agreements in municipalities that voted against them in the October 1998 plebiscites and those earlier.

While these are the two key provisions of the act, Bill 36 does two other things. It limits the liability of the government, the minister, and the Alberta Gaming and Liquor Commission for removing

VLTs, and it alters the organization of the Alberta Gaming and Liquor Commission to separate the quasi-judicial board from the operational arm of the commission.

I want to focus on a couple of things I dealt with at second reading just for clarification. Section 46.2(1) terminates VLT agreements in the following communities:

- (a) County of Lethbridge No. 26;
- (b) Town of Lacombe;
- (c) Municipal District of Opportunity No. 17;
- (d) Regional Municipality of Wood Buffalo;
- (e) Town of Canmore;
- (f) Town of Coaldale;
- (g) Town of Stony Plain.

Furthermore, under section 46.2(2) it says that the Commission must remove all video lottery terminals from establishments located in the municipalities referred to in subsection (1).

Mr. Chairman, once this bill receives Royal Assent, it becomes law. The VLT agreements will be immediately terminated, and the Alberta Gaming and Liquor Commission will move appropriately to remove the machines. I think it's important for all members to realize that this is a very direct statute and deals with the commitment that our government made to honour the votes that were taken at the local communities in October of 1998 or those prior.

Mr. Chairman, I hope this House will in fact support this amendment to the Gaming and Liquor Act because I think it is time to move forward to a position where policies will be made by the government and given to the commission. The structure will be appropriate to provide a quasi-judicial environment, and we'll proceed on with the dutiful job of regulating and managing the gaming industry in this province. We will in fact be able to put some of the unrest and uncertainty we've had this last year and a half behind us and move forward.

With those brief comments, I welcome questions and comments from the Legislature.

MR. WICKMAN: Mr. Chairman, it's not our intention to hold back this bill. We will be proposing a couple of amendments to the bill that I hope the minister would consider. The minister now has them in her hands. I do want to speak a bit before I actually make the amendments. I will allow the distribution of the amendments at this time so members are ready to deal with them when I actually move the two.

Just some background information from my point of view. It would be nice to be able to say that the whole issue of VLTs, gambling, and such in the province has gone very, very smoothly. We know that that's not the case, Mr. Chairman. We can go back a number of years and trace the entire history of the VLT movement, starting as some experiments under the minister who was then responsible for lotteries and how they went from quarter machines to dollar machines and new types of machines. We saw them spread throughout bars, hotels, and we saw the problems they created. And they did create a lot of problems throughout the province, Mr. Chairman. There's no question about that. That's why so many citizens started to become concerned about the impact VLTs and the addiction to the VLTs was having on many, many families, many businesses. We even had calls of a lurid suicide due to addictions that couldn't be handled.

Prior to the last election when we set up the hot line, we had over a thousand calls in a matter of a few days. Within hours the voice mail was overflowing. We had to have staff come in during the weekend to monitor the voice mail, to record the calls and clear it, the calls were coming in so fast. We saw that momentum grow throughout the province, and we saw a number of municipalities

decide to force plebiscites on the issue. They wanted to determine within their own municipalities that they wanted the machines ousted.

When we look back at the whole scenario, ideally the answer would have been a provincewide plebiscite in conjunction with the last provincial election or the municipal elections and to have dealt with it equally in the entire province. Then you wouldn't have seen the challenges that have occurred and the intentional delays to keep the machines moving and spitting out the money to the hotel operators and of course the government as well while these court challenges went on. Ideally that provincewide plebiscite would have resolved it.

Had a provincewide plebiscite been held on the basis of asking three questions – do you want VLTs out of the province, do you want VLTs to remain as is in the hotels and such, or do you want gambling activities restricted to nonprofit casinos? – I would say that 70 percent of Albertans would have opted for the nonprofit casinos with a reasonable number of slot machines with percentages of the profits going to nonprofit organizations. Everybody I think, Mr. Chairman, would have been quite satisfied and happy with it.

We recognize in this caucus that an element of gambling is a way of life, and we're not saying we have to ban all forms of gambling throughout the province. We know that's not realistic, just like we can't say that tomorrow we're not going to allow the sale of alcohol or we're not going to allow the sale of tobacco. We know that's not going to stop it. There's always going to be some type of activity, illegal, whatever, or people will go to other parts of the country or other parts of North America to gamble. So we have to minimize the impact. That to me would have been the ultimate solution. However, that didn't happen.

Now, the minister is attempting to address the problems we've had with the municipalities that voted to take them out. Some of the votes were close. That makes it that much more difficult. Stony Plain, for example, Lacombe. There are going to be some very, very difficult situations. However, some of the votes in the other direction that said to retain the machines were very, very close. We read in the *Edmonton Journal* this morning that already hotel operators, the tourism group in Wood Buffalo have announced that they're going to have court action as soon as this bill receives Royal Assent. They're going to challenge it immediately. So government has to be prepared for it.

I've had legal advice offered to me saying that unfortunately – I hate to say it. In their opinion they're under the belief that they're going to have this bill struck down in the courts due to the way it's worded, because of the question of retroactivity. They see it as a way of dealing with the question of retroactivity that can't be done by legislation through what they call a backdoor method.

9:40

Nevertheless, we're in a situation in our caucus, because we pushed for this type of action, where we want these machines removed because the people in those municipalities voted to have them removed. So what's the best way to remove them? The bill is a step in the right direction, and we support it. However, we want to help the government out. We want to help the minister out, like we always want to help the government out, and if they'd listen to us a little more often, we would dispense some good advice like with the previous bill on the user fees, Bill 15 for example. A great deal of good advice comes from Edmonton-Ellerslie, but the government doesn't always listen to us unfortunately.

I want to deal with the two amendments that I presented separately. I believe they're being distributed at this time, and I believe most members would have them. Now, the first one I'm going to

deal with – I'll read it into the record, and I'll explain why this amendment has been proposed. We'll call it amendment 1, I guess, Bill 36, Gaming and Liquor Amendment Act, 1999. The amendment would be that Bill 36 be amended in section 2 by adding the following after the proposed subsection 6.1(2):

- (3) Policies made under subsection (1) must not be inconsistent with a resolution or bylaw passed by the council of a municipality in which the policy is to apply.

Now, why we're saying that is that if a municipality wants to pass an amendment or pass a resolution to have the machines taken out . . . Oh, I'm sorry.

THE CHAIRMAN: The hon. member has moved the first amendment, which we'll call A1, as he has described. It's the shorter of the two amendments that are handed out in case someone didn't hear that.

You may proceed, Edmonton-Rutherford.

MR. WICKMAN: Now, the purpose of the amendment is to allow the municipality to deal with these matters quickly and to determine what's best in their community. That would in my opinion address the question of retroactivity, because even if some lawyers out there wanted to challenge Bill 36, a municipality would simply have to pass a new resolution saying: we want the VLTs removed, or we want the gambling activity as stated in the resolution out of our municipality. So that would take care of the question of retroactivity. It would be a new resolution. Then the gaming commission would be directed to follow through on that particular resolution, and that's in keeping with the recognition that municipal councils are elected and they know what is in the best interests of their particular communities.

We sit back here and make decisions on behalf of the province because we feel we're in a position to sort of speak out for Albertans and set those policies in place, but at the local level, which we all appreciate and many of us have been there, we recognize it's the government that's the closest to the people. They're the ones that can best decide what's appropriate to their particular municipality.

Mr. Chairman, as this amendment is being dealt with, I ask the minister to make comment on it and, secondly, to recognize it's not an amendment being proposed to try to slow down the process of Bill 36 or throw a barrier in the way. It's a useful tool that we're offering to the government saying: here, use this; this will help in your efforts to recognize that these municipalities named in Bill 36 want those machines removed.

So on that note I'll conclude my discussion on amendment A1.

THE CHAIRMAN: The hon. Minister of Economic Development on amendment A1.

MRS. NELSON: Thank you, Mr. Chairman. I've looked at this amendment carefully. I know it's been filed with absolutely good intentions, but I have to say that when we look at section 6.1(1), the purpose of putting in the amendment that "the Minister may make policies that must be followed by the Commission, the board or both in carrying out their powers and duties under this Act" – this was put in place as a result of the identification by Madam Justice that the government did not have the ability to give policy directions to the commission. This is to correct that flaw that was in the existing legislation.

Now, the amendment the hon. member has put forward has not got the same purpose of correcting that flaw. It goes beyond that. When I looked at that, I started to read the amendment very, very carefully. It says: "Policies made under subsection (1)," which I just read,

“must not be inconsistent with a resolution or bylaw passed by the council of a municipality in which the policy is to apply.” Well, the provincial government makes policies that are provincewide. In the case of having policies that would be customized to fit individual municipalities, there are 360 municipalities in the province of Alberta. There could be contradictory resolutions coming out of those communities, which we’ve already seen as a result of some choosing not to participate in the plebiscite process and others choosing to. Others voted yes; others voted no. To make a government policy that could involve differing views or wording from 362 municipal bodies is going to be next to impossible. So I think your purpose of making sure the policy directions established by us as elected officials are the same as the local municipal government people’s is a valid point. But to make that so it’s not inconsistent with a policy that may come out of a particular group of municipalities would be very difficult when there are 362 of them.

So for that reason, Mr. Chairman, I think we would have to reject this amendment. I hope it’s evidenced to the hon. member that when the policy statement was made in January of 1997, it became abundantly clear. Part of the reason we’re here today was that there was a commitment from this government to honour the wishes of the local communities. That request actually came from the Lotteries Review Committee report, where the local AUMA representatives and the municipal representatives said, “Let us make the decision ourselves.” We accepted that. That is why we said that communities would make the decision at the local level as to whether they kept their machines or not.

This whole process, with all the legal battles, et cetera, and the amendment that we’re putting forward is to honour that commitment. We said we would honour it. It was identified clearly by the Madam Justice that there was a flaw in our legislation. We’re here to correct that flaw so we can honour that commitment and from this point forward make sure we are able to give policy directions to the commission, not get involved in the daily operations, Mr. Chairman, because that wouldn’t be appropriate because there is a quasi-judicial nature there, but to make policies here that are reflected in the operations of the commission on a regular basis.

So I would have to say that I can’t accept this amendment. I don’t think it would do what the hon. member really wants it to do. I think section 6.1(1) does the job for him.

[Motion on amendment A1 lost]

THE CHAIRMAN: Before we continue, I wonder if the committee would give unanimous consent for us to revert briefly to Introduction of Guests.

HON. MEMBERS: Agreed.

head: Introduction of Guests

(reversion)

MS CARLSON: Thank you, Mr. Chairman. [interjections] You’re right. Another visitor here today in opposition to Bill 15, Pyxie Jarvis, is avidly waiting for the debate to begin on the bill. I would ask that she please stand and receive the traditional warm welcome of this Assembly.

9:50

THE CHAIRMAN: For the benefit of those who are in the gallery, it’s probably obvious by now that this is the informal stage of the Legislature. Members are free to drink coffee or juice and to move from one place to another. The only stricture is that we only have one member standing and talking at the same time.

Bill 36

Gaming and Liquor Amendment Act, 1999

(continued)

THE CHAIRMAN: The hon. Member for Edmonton-Rutherford has another amendment before us.

MR. WICKMAN: Yes, Mr. Chairman. As I proceed into the second amendment, just in reaction to the minister’s comments. I found her comments rather interesting in that she touched on two subjects that were of particular interest: the recognition of the 362 municipalities and the difficulty in kind of juggling the needs and wants and desires of each one and the inconsistencies that may occur. Yes, I agree that those types of problems could very well arise, Mr. Chairman, but we’ve got to recognize why they occurred in the first place. It was this government, headed up by the Premier, that made the statement and set the policy that municipalities would decide one by one upon plebiscites and petitions and resolutions and such as to whether they wanted it. Had the government chose to, they had the option of having a provincewide plebiscite . . .

THE CHAIRMAN: The committee has just debated this and has made a decision.

MR. WICKMAN: I’m going to move my second amendment now, Mr. Chairman.

THE CHAIRMAN: I know that you feel it was the wrong one; nevertheless, they did make the decision, so we move on.

MR. WICKMAN: Now, my second amendment, Mr. Chairman, would be to move an amendment to Bill 36, section 2, by adding the following after the proposed subsection 6.1(2):

Where an action or proceeding is commenced in court to challenge or otherwise review a policy made pursuant to subsection (1) requiring the cessation of a gaming activity anywhere in Alberta, the Minister must instruct the Commission to suspend the gaming activity pending the outcome of the action or proceeding.

Now, Mr. Chairman, that amendment, of course, would have worked much, much better, would have been a lot more . . .

THE CHAIRMAN: Hon. member, the amendment that you have just moved will be called A2. Go ahead.

MR. WICKMAN: . . . operable had the first amendment been passed, but unfortunately the first amendment hasn’t been passed. There is still an element of benefit to the amendment, but we addressed this on the basis of looking at the 362 municipalities that I referred to, and we would have needed that requirement of having these inconsistencies throughout the province.

When we talk about this amendment, the other way we could have avoided these types of situations, period, of even having the matter of the VLTs challenged in a particular municipality or the need to have plebiscites and such would have been if right off the bat the province had gone into a municipality and allowed a vote before the VLTs went in. If the vote had happened before they went in, then of course we wouldn’t have this type of activity where now we have to look at actually suspending gaming activity while a legal proceeding is going on. This amendment very, very clearly applies to the municipalities that are named in Bill 36.

The minister is confident that the wording of the bill is such that termination of the contracts will result in the immediate removal of the VLTs; thus there will not be any valid court action that could be proceeded with. However, the advice that I’m given is different.

They're convinced they do have grounds to launch court action. As long as we maintain that position – and I haven't heard anything differently from the Premier, who has stated repeatedly that as long as there's a court challenge going on, the machines would remain inoperable. Now, the minister is making the statement that the wording of the bill is such that it's going to come to a halt because the contracts end. However, I don't think that's gone far enough, Mr. Chairman. I don't think that tightens up the process to the point that it should. I would like to see another obstacle in there to act as a deterrent to hotel operators who want to launch legal challenges simply to stall, to allow the dollars to continue to flow from the machines. I know there's some incentive for the government to allow that to happen, because of course the government continues to receive 70 percent of the dollars that flow out of the machines.

Now, this is worded in such a way that it's not specific to VLTs. It talks about "gaming activity" in a particular municipality "pending the outcome of the action or [legal] proceeding. The reason it's worded in that particular case: if we look at Wood Buffalo, for example, in the original resolution that was passed by that council, the original plebiscite, it didn't just deal with VLTs; it dealt with the matter of slot machines as well. Of course, the government never made any commitment that slot machines would be removed in seven days and such, so I acknowledge that. Nevertheless, that resolution was there. Again in keeping with my philosophy that a municipality knows what's best for its community, if they passed a resolution and if the government were to act on that resolution, as policy is developed down the road by the minister, which she has acknowledged will happen, and if there is legal action, then any gaming activity named under that resolution would be halted until the legal action is finalized or unless the court directs that an injunction be upheld like we saw in the earlier situation in Wood Buffalo, where the court dictated that the machines would be allowed to continue because we do have to respect the outcomes and decisions that are made by the court.

Again, Mr. Chairman, as I wrap up my comments on this particular amendment and ask the minister for her comments, although I suspect she's going to defend the current bill and the termination of the contracts, I ask the minister to again consider very, very carefully that we again are throwing out a tool to the government to aid the government in the process of getting out of the jam it's gotten itself into. And it has gotten itself into a jam.

If next week we see another legal challenge take place and we see those machines continue to hum, what do you think the people of Wood Buffalo are going to think after almost two years of frustration about having those machines removed by a vote of something like 66 percent of those that voted? So this, I believe, would strengthen the minister's position and would lessen the possibility of that happening, because quite frankly, if it does go to court again and if the courts do rule that the government again has not brought forward a bill that sufficiently addresses the concerns from a legal point of view, it's going to be a laughing matter. People are going to laugh and say: what is this government doing that they can't deal with this issue, that they can't manage something as simple as VLTs? The Member for Edmonton-Ellerslie, for example, is so concerned about a much greater impact on the province by Bill 15, which I won't get into, but this sort of sets an example. It demonstrates that if we can't deal with something as simple as VLTs, how can we trust the government to deal with Bill 15, the Natural Heritage Act?

I know I do tend to stray somewhat, and I don't want to do that, so I'm going to conclude on that note. I ask the minister for her comment and plead to her on behalf of the citizens in those municipalities: give this serious consideration, because it's going to help you.

THE CHAIRMAN: The hon. Minister of Economic Development.

MRS. NELSON: Thank you, Mr. Chairman. Again I appreciate the input from the hon. Member for Edmonton-Rutherford, and I know he's given this a lot of thought. I'd like to refer him, though, to section 46.2(1) of the bill, which talks about the agreements. It says:

All agreements between the Commission and retailers respecting video lottery terminals existing immediately prior to the coming into force,

which means Royal Assent,

of this section and any rights of retailers connected with or arising from those agreements are hereby terminated and canceled in the following municipalities:

- (a) County of Lethbridge No. 26;
- (b) Town of Lacombe;
- (c) Municipal District of Opportunity No. 17;
- (d) Regional Municipality of Wood Buffalo;
- (e) Town of Canmore;
- (f) Town of Coaldale;
- (g) Town of Stony Plain.

Subsection (2) says:

(2) The Commission must remove all video lottery terminals from establishments located in the municipalities referred to in subsection (1).

(3) Subject to subsection (4), if the Commission has removed video lottery terminals from a municipality before the coming into force of this section as the result of a vote held in that municipality, the Commission may not

- (a) enter into agreements with retailers respecting video lottery terminals, or
- (b) place or replace any video lottery terminals in establishments

in that municipality.

The second element, Mr. Chairman, I want to bring to the hon. member's attention is section 46.1, which deals with basically what you're saying, I think only a little tighter. I'd like you to review the wording on that.

10:00

Now, that isn't after section 6; that comes after section 46, where we believe we have tightened up the actions that may or may not arise. It says:

46.1 No action or proceeding may be instituted or continued against the Crown or a Minister of the Crown, the Commission, the board or its members, the chief executive officer, inspectors or employees of the Commission based on any claim or cause of action, whether arising before or after the enactment of this section, for compensation, for loss or damages including exemplary damages or for injunctive . . .

And that's a very important phrase.

. . . or declaratory relief, whether based on contract, property, tort, equity, restitution, expropriation or otherwise, for

- (a) the removal of video lottery terminals from establishments,
- (b) the termination or cancellation of agreements with retailers,
- (c) the termination or cancellation of any rights of retailers connected with or arising from agreements with retailers, or
- (d) any act or omission authorized by this Act.

We believe that is a very powerful section of the statute and presumably takes away the concept of challenging this move. I mean, this is a commitment. There's a commitment to remove the video lottery terminals from those communities that said to remove them. We believe that this kind of wording does exactly that. Now, what will happen in the courtroom I don't know. No one knows until that occurs, if in fact it occurs. But with this act coming into

place, we believe that this in fact is the process to follow to tighten this up, based actually on the court case we've just been through.

I believe this section deals with what you're trying to accomplish, in fact is far more encompassing and direct and is listed in this statute. So I believe it will do exactly what you want, in fact even more. Let's once again say that the intent of this bill is to make the corrections that were identified by Madam Justice but also to keep in mind the commitment and to stand by the commitment that we made as a government in January of 1997, albeit it's been a very long trek for all of us, to remove those machines from those communities that voted and asked us to do so.

I'll take the hon. member back to – I tell this story quite often – my very first day of being sworn into this ministry. I'd been in the office all of one hour when the phone call came that said: Madam Minister, the court decision is out on Rocky Mountain House; you are going to be allowed to remove the VLT machines from Rocky Mountain House. I had to say: could I just have a half an hour to go and find out about this? I'd been sworn into this portfolio one hour, and that's when it started. I can tell you it's been an interesting two years of back and forth dealing with this issue. There isn't anyone in this Legislature that wants this issue put to rest more so than I do. When I say that I believe this does the job, I say that to you with all sincerity. I sincerely hope this does the job of honouring our commitment to remove those VLTs, Mr. Chairman.

So I would have to reject this amendment. I believe that what's in the clause in the section in the act is stronger and more forthright and more direct. I hope hon. members would in fact support the bill as presented, because there's been an awful lot of effort to move forward on this act and to make sure that it's in compliance with the suggestions from Madam Justice. So I'd ask you to reject the amendment presented.

[Motion on amendment A2 lost]

THE CHAIRMAN: Before we go to the question, I wonder if we could have consent to revert to the Introduction of Guests?

HON. MEMBERS: Agreed.

head: Introduction of Guests
(*reversion*)

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

MS CARLSON: Thank you, Mr. Chairman. I have more guests who would like to be on record as being concerned and in opposition to Bill 15. They are Angela Bischoff from Eco-City, Tooker Gomberg from Greenspiration, Patsy Hough*, Heather Bessey, David J. Parker from the Alberta Green Party, Margaret Marian, Nicole Dust*, Al Warmbly*, Marcel Howrsh, Kyle Van Hauwaert, and William Lee from the Alberta Wilderness Association. [*These spellings could not be verified at the time of publication.]

Mr. Chairman, they're wondering what the holdup is on Bill 15 here tonight, and quite frankly we don't know. Hopefully, we're going to get to it this evening. We would ask that all of these folks who are here in attendance this evening please stand and receive the traditional warm welcome of this Assembly.

Bill 36
Gaming and Liquor Amendment Act, 1999
(*continued*)

[The clauses of Bill 36 agreed to]

[Title and preamble agreed to]

*These spellings could not be verified at the time of publication.

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

Bill 24
Traffic Safety Act

THE CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Mr. Chairman. Indeed I have an amendment to offer and plenty of comments. This will be my first opportunity, at some point after this amendment, to speak to this bill. I know that the minister of science, research, and technology will be listening because he's going to learn about Snell ratings and enlighten us as to helmet safety and the science of radar and photoradar and all that.

Mr. Chairman, I'd like to introduce an amendment, and I've given it to the Clerk. It's an amendment to Bill 24, and if I could read it into the record while it's being distributed, that would be appreciated.

I move on behalf of the hon. Member for Spruce Grove-Sturgeon-St. Albert an amendment to Bill 24 that adds the following section after 115:

115.1(1) No person under 18 years of age shall operate a bicycle unless that person is wearing an approved bicycle safety helmet.

(2) No person under 18 years of age shall ride as a passenger on a bicycle unless that person is wearing an approved bicycle safety helmet.

Section 116 is amended by adding the following after clause (l):

(m) respecting standards for approved bicycle safety helmets.

Section 157(1)(a) is amended by adding "115.1," after "115(2)."

Section 158 is amended by adding the following after subsection 4:

(5) A person who is guilty of an offence under section 115.1(1) or (2) is liable to a fine of not more than \$100.

Mr. Chairman, would this amendment be A4?

10:10

THE CHAIRMAN: Our records show it should be A3.

MS OLSEN: A3 is correct then.

THE CHAIRMAN: Thank you. This amendment will be A3.

You may continue.

MS OLSEN: We submitted yesterday. It's A3.

THE CHAIRMAN: Okay. We number by when you move them as opposed to when they were given to us. This is the third one that's been moved on this bill.

MS OLSEN: This is the third one.

Mr. Chairman, if I may, I think the distribution is almost complete. If I could move ahead. Last night we attempted to move an amendment to this bill on helmets . . . [interjections]

I'll take my seat for a moment.

THE CHAIRMAN: The hon. Member for Calgary-Buffalo, hopefully on amendment A3.

MR. DICKSON: Thanks very much, Mr. Chairman. I'm pleased to support this amendment. The Member for Edmonton-Norwood on behalf of her colleague for Spruce Grove-Sturgeon-St. Albert is making the proposal that if the Legislative Assembly is not prepared to ensure or to require that bike helmets be worn by all bicycle riders, adult or child, we've now come back with this amendment and said: well, at least let's ensure that children under the age of 18 must wear a bike helmet. I think all of the strong and compelling reasons that were advanced the other evening with the other amendment obtain here as well.

If you make the analogy to seat belts, would any responsible parent in 1999 not ensure that their minor child has a proper seat belt or, if the child is of tender years, an appropriate child carrier? We've come a long way in this province, Mr. Chairman. We've come, I think, a very long way in terms of understanding that through relatively simple precautions, a device that now is readily available and not inordinately expensive, we're able to drastically reduce the incidence of injuries.

While we're talking about this, Mr. Chairman, it seems to me that the Capital and Calgary health regions and some of the other ones as well produce some very comprehensive statistical reports on causes of death, causes of injury. Although I don't have it handy, my recollection in the case of region 4, the Calgary health region, is that in their last report they identified that trauma represented the largest cause of hospitalization in the Calgary region. A good part of that had to do with motor vehicle accidents. A significant part of it had to do with children being hurt in other kinds of accidents. If you talk to emergency physicians at the Alberta Children's hospital, Mr. Chairman, talk to people who deal with children who are brought in with a fractured skull, with brain injury, and that sort of thing, I don't think you have to hear very many of those stories before you understand the importance of legislated protection.

[Mr. Zwozdesky in the chair]

So one might say that if as a province we've thought it's appropriate and prudent that we should require – and I know the Minister of Health is probably going to want to share some comments on this. In fact I imagine now he's thinking of precisely what he'd like to add in support of what those health regions are doing in terms of health prevention. I've been to some of those standing policy committees on health planning, and when the Minister of Health has been there – I think he's vice-chair or whatever – he's heard compelling statistical presentations in terms of how we can reduce the incidence of serious injury to Albertans. Here is a concrete, practical proposal to ensure that we reduce the incidence of children who are hurt.

MR. YANKOWSKY: There's a shortage of policemen.

MR. DICKSON: Well, we hear the usual incisive comment coming from the Member for Edmonton-Beverly-Clareview. I'm sure he's done a thorough analysis of this issue. I'm sure he's done a comprehensive statistical review of head injuries to children riding bikes. I'm sure he's going to want to share his distilled wisdom with the rest of us so that we can genuinely have all of the information in front of us and ensure that this is an informed and meaningful debate. While we're waiting for the Member for Edmonton-Beverly-Clareview to gather his voluminous statistics and marshal his arguments, I'm just going to make a couple of further observations, if you'll allow me, Mr. Chairman.

I'm trying to imagine the arguments one might have. I think I mentioned the other day one of my concerns with requiring all Albertans on a bike to wear a helmet. I made the observation that if

you're a libertarian, you take the position that adults should be entitled to make stupid decisions, that that's sort of within the compass of individual responsibility and individual decision-making. But that argument clearly does not obtain when we're talking about children. I think that indeed I'm much more comfortable with this amendment than the first amendment that was put through, although after some agonizing introspective reflection, I ended up in a position where I would support the earlier amendment. After emerging bloodied from a vigorous caucus discussion, I was prepared to accept it, but this one I can say without any hesitation, without any equivocation is an amendment that makes darn good sense.

I think we have a chance to provide some leadership and some protection for children in this province. I know that as soon as the Minister of Health rouses himself to participate in the debate, he's going to also be able to vigorously defend the interests of children being able to be protected. We can't rely on children always to do the prudent thing. As adults we have that responsibility. As legislators we have that broader kind of responsibility.

Mr. Chairman, I know that my MLA for Calgary-North West is going to be supporting this because he's demonstrated from time to time a keen sensitivity of what his constituents want. To the extent I can right now, I want to communicate to my MLA that this is an issue I'm hopeful he's going to vote. I don't know. I want to encourage him to stand up. He produces questionnaires from time to time in his newsletter, and I always respond to them. I don't specifically remember one on bike helmets for children. I've done my own informal poll of my neighbourhood, and I think there is majority support for this. So being a good representative of people in northwest Calgary, I'm counting on my MLA to stand up and support the Minister of Health.

There may be other members who want to reinforce that point, because if we cannot provide protection for children, who's going to do it? Some parents, frankly, are not responsible, so should their children have to bear the burden of a cracked skull?

10:20

I think this is a responsible amendment. If we recognize the huge value in terms of requiring children to wear seat belts and the appropriate restraint devices, why would we expect a lower level of standard when they're traveling on a bike that doesn't even provide that minimal kind of protection that they get by being in an enclosed vehicle? I think those are all good reasons.

I'm not suggesting that I've been persuasive, but on the basis of other reasons, if there are any members who disagree with this amendment, I hope they'll share with us and with Albertans their objections, their reasons. I hope we're not going to be met with stony silence when it comes to the vote. I hope that those people who think there are good reasons why children shouldn't be protected in this fashion, if I could be so presumptuous as to suggest, I think those MLAs have a responsibility to stand and engage in the debate and stake out their positions so that Albertans can know.

I hope that the Member for Edmonton-Beverly-Clareview, who had so much advice to offer from his seat, is going to take his place and catch your attention, Mr. Chairman. I'll encourage my members to pause for a moment before they stand up to allow the Member for Edmonton-Beverly-Clareview to stand up and share with us both his research and his values.

Thank you very much, Mr. Chairman.

THE ACTING CHAIRMAN: Thank you.

The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Mr. Chairman, and I do apologize for my laughing outburst prior to the hon. Member for Calgary-Buffalo speaking.

Mr. Chairman, I think many of the reasons and the rationale behind putting forward an amendment to have children under the age of 18 wear bicycle helmets have been discussed by the hon. Member for Calgary-Buffalo. However, you don't have to have been a police officer or you don't have to have been an emergency room physician or a nurse to know the injuries that can be caused as a result of an injury to the head.

There are many people, as I've said before in this House, who use bicycles as a form of commuting. In fact the bicycles are more highfalutin. They have more gears; they go faster. We have a lot of kids who have those bicycles. We have a lot of kids who use their bikes to move around the city as opposed to public transportation. Many of those youths are 14, 15, 16, 17 years old, and many of those kids have no fear. They think they're invincible. So they hop on a bike, and they rush off to the river valley, and they think they can make every jump down in the river valley. They think that they can go as fast as they can on those bike trails without recognizing that there are other users of the trails and sometimes get themselves into some difficulty. As a result of the speed they may be going, they end up crashing, and serious injury can be the result.

I think it's only prudent to see that our kids in this province have all the safety available to them. Anything that we could do to protect them, we should do, and as adults and as legislators and as parents, we have that responsibility. I've heard many members in this Assembly talk about their own children and their cycling and helmet-wearing. Well, I would say that in my house my son doesn't go on his bike without his helmet, and if he does, then he loses his cycling time, and his bike stays locked up in the garage. I think that's so I feel comfortable that the injury to him will be reduced should he crash.

This government talks a lot about the high cost of health care, and I think that the Minister of Health would probably agree that there are preventative measures. Out of the Royal Alex hospital they have a yearly cycling clinic, and they take inner-city kids on a cycle around the downtown area. Those kids are not allowed to cycle without helmets, and those kids that don't have helmets get helmets. That is a safety program. If we want to start cutting the costs of health care, then we have to practise some preventative measures, and for those who don't make that decision or who can't make that decision for themselves, then we have to help them out.

You know, we had an hon. member earlier bring forward a private member's bill on smoking and the issues to try and deal with youth smoking. Well, I think this far more paramount than the smoking issue, because this is immediate. The consequences of cycling injuries, of being hit by a car while you're on your bicycle or having an accident in the river valley or elsewhere are far more severe. They can be far more critical. Both are important, because I think we need to target prevention in terms of youth smoking, but also we have an ability to practise prevention. I think that this is the route to do it and will help with the reduction in the costs of health care. So if we can do that, then let's do it. Let's take that step.

In my constituency I know that there are kids who can't afford helmets, but I also know that there are people who will endeavour to get helmets for kids in the inner-city and those kids whose parents can't afford them. But there are also kids whose parents won't or can't focus on the whole safety issue, and I think that it's important for other adults in communities to share some of the concerns and ensure that the kids know the rationale behind wearing such things as bicycle helmets. We've done it for seat belts, and right now I think the traffic fine for not wearing a seat belt is \$25. It's \$25 for an adult not allowing . . .

DR. TAYLOR: Fifty.

MS OLSEN: Okay, so it's 50. And if it's 50, it should be 100. I think the minister of transportation is going to look at hiking up a lot of those fees. Actually I think it's 25. In our neck of the woods it's 25 bucks.

The same with car seats. It's an offence to have an infant or a toddler not secured in a car seat in a vehicle. Well, why do we do that? Because statistically we know that it reduces the type of injury to an individual who is secured into a seat. So if we can do it for those particular instances, why can we not look at bike helmets in the same fashion? Why do we have to pretend that it's any less important or that the injuries are any less serious than those that might be sustained in another accident?

I think that if we think about it, especially with summer coming up, we've got plenty of kids that are going to be out there. In fact last night in our break I noticed five kids riding up 107th Street. None of those kids, not one of them, had a bicycle helmet on. I just thought the timing was interesting given that we've been having this discussion the past couple of days.

A hundred dollar fine I can live with. It certainly puts some onus on the offender or the offender's parents to ensure that they have a safety helmet on.

10:30

This is another one of those issues: well, who's going to police this? I think that if a police officer sees a youth without a helmet on and we have this law, then he's more likely to stop. Again, it's not going to be the first priority, but it is going to be something people will abide by because most citizens are law-abiding citizens, and because we have the law, they will therefore ensure that they abide by the law. Because this is a very visible type of traffic offence, I think there would be more of a response by the police.

The other thing is that the police also have a summer safety enforcement time when bicycle enforcement occurs on a regular basis. So much the same as you're going to give somebody a ticket for going through a red light, a stop sign, or those types of traffic offences, you could then give out a summons for operating a bicycle without a helmet.

Given that, Mr. Chairman, I think the rationale is there. It's sound. I think the docs in the emergency rooms would agree. I would hope the doc from Brooks would agree and he would stand in support of this amendment.

With that, Mr. Chairman, I would take my seat, and I encourage everybody to support this amendment.

THE ACTING CHAIRMAN: Thank you.

The hon. Member for Edmonton-Glenora, please.

MR. SAPERS: Thank you, Mr. Chairman. Speaking in support of the amendment, as I spoke in support of the previous amendment on Bill 24 which would have seen bicycle helmets for all bicycle riders put into law. I understand one of the arguments against that amendment was that we shouldn't compel adults. We should leave that choice to adults. I'm curious about that because I haven't heard anybody in the Legislature stand and say: well, I don't think motorcycle operators should have to wear helmets. I haven't heard that adults shouldn't have to wear seat belts. But that notwithstanding, I heard the argument, and I accept the will of the Legislature as assembled that night that defeated that amendment. So now we're provided with a second chance, which is a rare thing in this business, a second chance to do the right thing, and that is to at least recognize the special interests of children.

This isn't unique. There are many, many examples where we have provincial law that recognizes the special needs and the special interests of children. We have legislation, in fact, that puts a positive obligation, a responsibility on adults to do the right thing by kids. We have legislation that makes it a serious offence, in fact, to be neglectful or hurtful when it comes to children and their care.

Mr. Chairman, the other argument I heard was a more general application of the notion that somehow it's not the job of this Legislative Assembly to pass laws that control or dictate behaviour. Of course that's what we do in this Chamber every day. If you take a look at any of the laws that come out of this Assembly, in one way or another they all impact on the freedoms, that people have to do whatever it is that they will do. We limit choices. One of the things about the rule of law is that we all agree to be bound by it, and that's what we do in a civil society. So I don't buy the argument that we shouldn't pass this legislation because it's too intrusive. Then there's the argument about enforcement, which I think I covered in my remarks on the previous amendment, and I won't take up the time of the Legislature to repeat them.

I would simply add this to the debate. I would ask if there is one parent in this Chamber, one parent in this Assembly that would not see to it that their child was wearing the proper equipment when they participated in any recreational activity, if there's one parent that would send their son or daughter out on the soccer field without shin pads, if there's one parent that would allow their son or daughter to play hockey without the proper equipment, if there was one parent, in fact, who didn't insist that their young one fasten their seat belt when they were being driven to the soccer field or to the hockey arena. Is there one parent that flaunted the law and didn't use a proper child seat for their infant and then for their toddler? I would suggest that there's not one parent in this Assembly that would be that irresponsible.

So I would ask all those parents who in their everyday lives do exactly what it is that this amendment would have us do to vote with their conscience and do what they believe is right and not get taken in by this sort of simple argument that this is too intrusive but recognize that the time has come for us in this Chamber to demonstrate some leadership and protect the health of our children every way we can, including, admittedly, being just a little bit heavy handed, just like we are when it comes to car seats, seat belts, athletic equipment, and I could go on.

This is a very reasonable amendment. The bill will be improved. The quality of life for our children will be improved, and I believe that if you're looking for any final good reason to support this amendment, it would be to simply echo the public health aspects of this safety issue.

I would hope my colleagues will ignore the instructions of their whip across there in the government benches and vote the way they believe is right and approach this amendment as parents.

Thank you very much.

[Motion on amendment A3 lost]

MR. DICKSON: Well, Mr. Chairman, I'm still sort of getting over my acute disappointment that I didn't hear my MLA voting loudly enough in the fashion that this constituent was hoping he would vote.

I just want to make some observations generally about Bill 24.

MR. AMERY: You don't live in Calgary-Buffalo?

MR. DICKSON: No, I live in Calgary-North West, hon. member, through the chair. Actually, the cost of accommodation in down-

town Calgary is too expensive. Nobody can afford to live in downtown Calgary. The rents have gone through the roof, Mr. Chairman. But that's another matter for the Minister of Municipal Affairs, and we'll discuss that another time.

I wanted to make a couple of observations with respect to the licence suspension, and I had the opportunity to speak to this at second reading and distinguished myself by being singularly unpersuasive because the bill got second reading nonetheless. I just ask each member to consider this prospect. Just because a police officer pulls you over on the side of the road and decides he has reasonable and probable grounds to demand a breath sample does not mean you're guilty. We have a thing that has existed for a very long time in our system of criminal law. It's known as the presumption of innocence.

10:40

Sometimes, and we certainly see it evident in this bill, it's easy to sort of get stampeded in terms of saying that we have – if it's not quite the sky is falling, it's we have this carnage on our roads and therefore any means justifies the end. Well, unfortunately or fortunately, depending on your perspective, this is a question of trying to reconcile some competing values, some important competing values. On the one hand, of course, as a parent, as an elected representative, as a spouse I'm anxious that my family members be safe as pedestrians or as motorists. I don't want to see carnage on the roads any more than anyone else does.

But you know, at some point we have to understand that we have a system of checks and balances that means that normally before you are punished, there has to be an adjudication, an adjudication that follows a process whereby you get to present a full defence. You get to cross-examine the Crown witnesses. You get to question the Crown evidence. After that process has been completed, there is a conviction or an acquittal, and after there's a conviction, then punishment follows, and recognize that what we're doing in Bill 24 is skipping that huge step. There's no adjudication of guilt. It's the policeman on the side of the road who makes the decision which results in your licence being suspended for a number of months.

My sense is this is one of those issues there's probably a lot of popular support for, but just because it seems to be popular and even if there were majority support for it doesn't make it right. I have suggested before that what we ought to be doing is focusing our energy on a process that allows an expedited hearing in front of a judicial officer who then would have it within his power, similar to a bail hearing, to suspend the licence. Whether it's for three months or six months is far less important to me.

I remember when I read the *Medicine Hat News*, and I think, Mr. Chairman, you will remember. I'd just come back from Medicine Hat. I had a copy of the *Medicine Hat News* in my hot little hand, and I pointed out the editorial that talked about government's indifference, ignorance of, lack of understanding of presumption of innocence. My suggestion, Mr. Chairman, had been that we look at a process that would ensure, just as in a bail hearing, that there's an interim process which happens relatively soon after apprehension. After the alleged offence has occurred, there is like a bail hearing that would allow, in appropriate circumstances, the Crown to make their case why there should be a suspension. The accused would have an opportunity to make defence to that. If in fact there was a determination, just as there is in a bail hearing, to suspend the licence, it would still be subject to judicial appeal. That at least would ensure that there's the intervention of a judicial officer who makes that all-important decision about pulling the licence.

The Minister of Transportation the other day had wanted to quarrel with me: is it a right or is it a privilege? I think that's a bit

of an empty argument. Whether to operate a motor vehicle is a right or a privilege, can we agree that in a sparsely populated province like Alberta, with limited public transit outside the major urban areas, vehicular transportation is a pretty essential way for people to get around. There aren't too many of us that have the horse tethered to the garage door. So if we can't operate our motor vehicle, whether you call it a right or you call it a privilege, it may mean that you can't drive to pick up your children on your access weekend, it may mean that you can't go to your job, or it may mean that your partner can't drive to her job. You know, it goes on and on. So the consequences are severe. That's not to justify impaired driving; that's not to justify drunk driving. It's a recognition that this is not a black-and-white question. There are nuances to this. There are competing values.

What disappoints me so much – well, two things disappoint me, Mr. Chairman. The first one with Bill 24 is that the act just sort of bulldozes over all those concerns and those subtleties and tries to come up with this one size fits all, and presumption of innocence be damned.

The other thing that I found particularly disturbing was to hear the minister of transportation say in effect – and I'm not sure if it shows up in *Hansard* – that as far as he's concerned, if the policeman charges you, you're guilty. [interjection] I think the Minister of Labour shares my apprehension with that sentiment. You know, it's not to disparage police to say they're not always right. Their job is to put the case forward. It's the court's job to make the adjudication.

So I have those concerns. I continue to have those concerns. I had in conjunction with my colleague from Edmonton-Norwood, and I noticed some other members . . . [interjection] You know, I can play charades too, Mr. Chairman. I think that's usually "the." That means a small word. Small word. Okay. I don't know whether it's a movie or a book title or whatever. Okay. So we've got the preposition, and we're waiting for the rest to follow.

Anyway, just to deal with this. The Member for Edmonton-Norwood has worked incredibly hard, and I pay tribute to her right now and her diligence. She has tried mightily to come up with an amendment that would allow an early suspension in the fashion I suggested, something better than the Manitoba model, something vastly better than the Bill 24/Ontario model. We've discovered that we have not the resources nor the time to be able to craft the kind of amendment we think is appropriate.

I can't support the bill, although I support all the other elements of it. The element of the administrative suspension and the fact that it can't be reconciled with the presumption of innocence makes this bill unacceptable to me. That's too bad, because the rest of the bill is darned good, and it's effective. I invite other members to consider if they think the presumption of innocence is important. If it's worth making a statement about, certainly here's a chance to do it.

In any event, I regret that we weren't able to put in front of members of the Assembly a comprehensive alternative model for a licence suspension but one that follows a judicial determination. So with that lament, Mr. Chairman, I'll take my seat and look forward to further debate on Bill 24, the Traffic Safety Act.

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

MS OLSEN: Thank you, Mr. Chairman. I rise to speak to this bill. First of all, I would like to thank the minister of transportation for his consultation on the bill with myself and the hon. Member for Spruce Grove-Sturgeon-St. Albert, who is driving this bill through on our behalf.

This bill was a long time coming. As a past police officer, there's

a lot of good stuff in here. If I were on the street today and I looked at the ability to suspend . . .

MR. MacDONALD: If you were the Premier, would you keep the transportation minister in the cabinet?

MS OLSEN: I certainly would. If I were the Premier, I would. However, I'm not there yet, but one day, hon. member.

10:50

I need to draw the attention of this Assembly to section 88. It's the section that my colleague for Calgary-Buffalo spoke to. This causes me a lot of concern as a police officer and as a citizen of this province and as a legislator. I'm going to speak with all those hats on because I want it to be known that police officers, although they enforce the law, know the law must be fair and must be equitable and must represent the fundamental principles. One of those fundamental principles is the presumption of innocence, and another one is the right to a fair trial. This particular section I find offends that presumption, and I'm not prepared to support this bill as a result of this section.

Now, this in no way is a statement on what I believe to be a serious offence. I have been a breathalyzer technician for the city of Edmonton Police Service. I have had many drunk drivers sit down beside me, and I performed a breathalyzer test on a breathalyzer instrument. Every single one of those drivers in most cases didn't pass the test. However, my job as a breathalyzer technician was to conduct the test. My job as a police officer was to detain somebody when I believed their ability to operate a motor vehicle was impaired, and that was based on reasonable and probable grounds. My job was never to adjudicate and be the judge of that individual. That was for the courts three weeks down the road or the next day or whenever that was. That's their job; it wasn't my job. My job was to provide the very best evidence I could to the courts, and that was a role I took very seriously.

I do not like this notion of starting down this slippery slope, and in my view what we're doing is not honouring the rule of law and the principles that come with it. We're saying that we're just going to say to every impaired driver: well, you're going to have a suspension, and the police officer is going to give it to you. That's not the police officer's role. It was never intended to be the police officer's role, nor would I on this particular day want to see this particular piece of legislation passed because of this section.

We in this Assembly have heard comments over the last couple of years from our own Minister of Justice and from the Treasurer. Those statements lead me to believe that they don't quite understand the role of a police officer, the role of the courts, and on and on, because the statements they've made have challenged that very notion. In fact, the recent incident of the Treasurer in my view is a good example of somebody who doesn't understand the presumption of innocence, who doesn't understand the duty of lawyers and the role of a judge. I think we have to always have those basic tenets.

The notion I had, however, was that we could have the suspension. There's no question that we could have the suspension, and that suspension could be adjudicated by a judge.

I was looking at something where a police officer issued a notice, as they do issue many notices, upon the arrest or upon detaining an individual for a breathalyzer test. They could issue a notice after that person passed or failed that test or if that person refused a breathalyzer demand. That notice would be to, say, within 72 or 96 hours appear before a judge in the closest judicial district. Then that person would have to show the judge, almost a reverse onus, if you will, why he shouldn't have his licence suspended prior to his court date.

I would look at some of the information a judge would use to

determine whether or not that individual would get his licence back. I draw the attention of the House to section 39(3). It's the very criteria used in an appeal, that

- (a) any relevant sworn or solemnly affirmed statements and any other relevant information [be considered by a judge];
- (b) the report of the peace officer [be considered by the judge];
- (c) a copy of any certificate of analysis under section 258 of the Criminal Code (Canada) without proof of the identify and official character of the person appearing to have signed the certificate or that the copy is a true copy;
- (d) where an oral hearing is held, in addition to the matters referred to . . .

These are all elements that a judge can consider. I think that's the road we should be going down.

You're asking a police officer to engage in a conflicting role. This should be a judicial suspension, not a suspension by a police officer. Anything beyond a 24-hour suspension to prevent the continuation of an offence is, in my view, not the role of the police officer. The reason a police officer can give a 24-hour suspension now is to prevent the continuation of an offence. So we're assuming that within 24 hours that person is going to sober up.

In many instances, at this stage of the game a lot of those individuals who are charged with impaired – and that's not convicted – are lodged in cells until they do sober up so they can receive their documentation in a sober manner. There are all those things that are already done. I can tell you that it would be the likes of Bruce Gunn or somebody as good as Bruce Gunn, who is a very astute defence lawyer and takes on any impaired challenge – this particular section will be driven to the Supreme Court of Canada by somebody of his calibre in dealing with impaired driving charges. So I think that's something we have to consider.

This type of law has never been tested to the Supreme Court of Canada. I quite frankly wonder if it will withstand a Charter challenge at that level. I think we have to be seen to be bringing forward law that does not offend the Charter. If we can't do that, we shouldn't bring forward the law.

I believe that if we're going to have the presumption of innocence, we recognize then that this is a charge, that this is not a conviction, that the police officer's role is to investigate and protect the public, that the role of a lawyer and the role of a judge are quite different from that function. The police officer will bring the best evidence forward. Then it's up to those other officers of the court to deal with the issue. I'm not convinced that this is the right answer.

Do we need to get impaired drivers off the road? You bet we do. Do the police officers go out every night and attempt to do that? You bet they do. But let's talk about some of those other relevant issues then. We know that the Calgary police, because of budget constraints, have cut back on the number of roadside checks they do. We know that other police agencies, such as the RCMP, will pay overtime or it'll be a special-duty assignment for police officers to go out on a long weekend and put up a roadblock to do checks.

We know that Edmonton and Calgary are responding to all sorts of other types of calls, not just impaired calls. In fact, over the Christmas period I had the opportunity to call in an impaired driver that I happened to be following. Fortunately for cell phones. However, there wasn't a police car to respond to that particular individual. Quite frankly, from my experience as a police officer and his driving pattern, that fellow was going to cause an accident, and that fellow was well over the legal limit for driving. But there wasn't a police officer to come and deal with that call, so of course that goes unanswered. You know, in many instances on any given night it's not until there's an accident and the police arrive at the scene of that accident that we know that somebody is impaired.

11:00

Let's look at how we already enforce the particular laws that are there under the Criminal Code, and then let's look at the sanctions. You have the ability to second-offence an impaired driver. What that means is if they're convicted within five years, then the Crown will seek to have the charges proceed by indictment, which is more serious than a summary conviction offence. Well, that doesn't happen very often, and most times they proceed by summary conviction.

In my experience I would suggest to you that the fines for impaired driving have not increased dramatically from the time I joined the police department or in fact from the time I was a summer student and supernumerary constable with the RCMP in Dawson Creek in 1980 and a summer student with the Oak Bay municipal police in 1979. I would suspect that over that time period, although education has helped to reduce the numbers of people who are drinking and driving, we also see that the penalties are not that much stricter than they were. I'm wondering if that's a direction we should be going. So we have the penalties maybe that we can deal with, the issue of second-offencing people that we can deal with.

Back in the mid-80s, when I worked in the crime prevention unit, I was one of the police officers that had to go out when the government held their impaired-driving schools. I can tell you that most of those people in that particular class had not just been there for the first time. Many in fact were there for the second time and the third time. The other aspect of it is that if somebody is driving without a licence, which happens quite often, there's a charge to suspend their licence, and in fact many impaired drivers continue to do that. I'm not sure that in fact the suspension is the real deterrent.

The other thing that hasn't been factored in here either is the fact that we're going to expedite trials. I didn't see anywhere in the report from the Minister of Justice where he's going to clear up the backlog in the criminal courts as it is. If you go into docket court on any given day, you'll be waiting for hours and hours. Now, let's talk about getting to trial. Well, the time to trial benchmark that the minister has set is about 13 weeks. Right now you're looking at anywhere from 16 to 20 weeks, and in fact some impaireds can go on for two or three years. I recently just received a court notice from an impaired charge that occurred two and a half years ago, the summer before I was elected, so these can go on and on and on. The notion of expediting these trials is something that has to be addressed.

The other aspect of that is that if you want to get somebody into court within seven days, then you're going to have to look at how the police operate. The police give an appearance notice. That appearance notice is for the first court date, three weeks down the road or four weeks down the road. The other aspect of it is that they have to appear in one week for fingerprints and photographs in the city of Edmonton, and possibly it's the same setup in the city of Calgary. So you've got other people's time lines that you're impacting. You're increasing the workloads there. Go ahead; increase the workloads. But you make darn sure that the police services have the money and the resources they need to hire the manpower to perform these extra duties and responsibilities. So we have that. I'm not sure what Minister of Justice's commitment is to expediting these.

The other thing that concerns me is that we want to get people into court within seven days. If their trial is not within three months, we're going to give them back their driver's licence. Well, what's the point of taking it, then, to begin with? If we cannot guarantee that somebody will be in court within 12 weeks, why are we suspending their licence? I can guarantee you that unless somebody is pleading guilty, they're not going to be in court within 12 weeks. That's not the way the system works. We have got a backlog that we need to clean up before we see time to trial reduced to 12 weeks

or 13 weeks, the optimum that the Minister of Justice would like to see.

There are all sorts of different issues and implications here. This piece of legislation impacts many other people, and I don't think that many times we as legislators think about that. Fortunately I've had that experience and can speak to that tonight. The other aspect of it, which is more paramount to me, is the slippery slope that we seem to be going down. The minute we decide that people's rights are not important is the minute that we change the focus of democracy in this province. I think that's an extremely important issue, and I would urge all members of this Assembly to give that some thought.

So, Mr. Chairman, I think I've covered off the issues regarding the suspension, heading down a slippery slope, which is the most important aspect of this, and looking at the responsibilities of the police. I think this is the section that offends me the most. This is the section that should offend Albertans the most. That's not to say that we shouldn't be doing more for impaired driving, but that's to say that this isn't necessarily the right way.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: Thank you, hon. Member for Edmonton-Norwood, for those enlightening comments.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks very much, Mr. Chairman. It's that point where we've heard a lot of novel and interesting arguments, and our friend from Edmonton-Norwood has provided us with a scintillating analysis of some of the problems with the bill. Now I think it's time to bring in an old friend, and hopefully the amendment has been distributed that I'm proposing to move on behalf of Spruce Grove-Sturgeon-St. Albert. I believe it's being distributed now to members. This would be the amendment, Mr. Chairman, that I'd propose be – is it A4?

THE ACTING CHAIRMAN: That is correct, hon. member.

I just want to verify, before you continue, that all members have now received a copy of the amendment, which we are going to title A4 to Bill 24, the Traffic Safety Act. It appears that everyone has, hon. member, so I would invite you to continue.

MR. DICKSON: You know, it occurs to me that we could save a lot of trees if everybody just had on their desk sort of the core amendment, and then we could just put a little label over the top each time that had the bill number on it so that . . .

THE ACTING CHAIRMAN: Excuse me, hon. member. Could we just clarify that you're presenting this and introducing it on behalf of the hon. Member for Spruce Grove-Sturgeon-St. Albert?

11:10

MR. DICKSON: If I didn't make that clear, yes, I'm moving this amendment, Mr. Chairman, on behalf of and as agent for the Member for Spruce Grove-Sturgeon-St. Albert.

THE ACTING CHAIRMAN: Thank you.

MR. DICKSON: The amendment, as I say, is the old friend that we've seen so many times. At one time I was keeping a tally how many times the Liberal opposition have brought in this motion to refer all regulations to the Standing Committee on Law and Regulations and it's never been accepted. It might be useful, because we haven't dealt with this maybe for a couple of evenings, just to recap why this is important.

This is perhaps one of the only jurisdictions in North America

where subordinate lawmaking – and by that I mean regulations – are created by the executive branch of government and are proclaimed and become enforceable, become law without ever being vetted by any kind of all-party committee, any sort of process that submits these regulations to any kind of vigorous scrutiny.

To add insult to injury, in this province – and this is going back years and decades ago – we had some of the most prominent people in the province, including Jean Cote, who's now a justice in the Alberta Court of Appeal, some very prominent legal experts and parliamentary experts, and they participated in I think it was the Clement report. They came out with a report on how we should manage regulations, Mr. Chairman. What they recommended was that we should have a Standing Committee on Law and Regulations and that all regulations like this one – well, this is the very essence of the amendment A4 in front of us, Mr. Chairman – be referred to this committee. This is where it gets real interesting, members, because after every election, what we do in this Assembly is: we come in and we decide who is going to be on the Committee on Law and Regulations, and we appoint a chairman. In this case it's the Member for Banff-Cochrane. But something happens then that just mystifies me, just leaves me incredulous. This Assembly has never, and we have not in the last 12 years, referred a single regulation to the Standing Committee on Law and Regulations.

You know, we're going to be dealing later with Bill 15, an act which is all about regulation. That's another example of where we take lawmaking out of this place, where at least the public have a chance to come and see. There's a *Hansard*, a verbatim record of every word uttered, every vote taken. We're taking that lawmaking out of this place altogether, and it disappears out there into the ether. It's dealt with by a deputy minister, who consults with a few designated stakeholders, and they decide what's going to be a regulation. Sometimes, when Albertans check the Legislative Assembly web site or they get the news release from government announcing what the regulation is, people say: well, where would that come from or how could that be defended, how could that be justified? But, alas, in Alberta what happens, Mr. Chairman, is that that happens all the time.

What happens is that in this province every year we pass about 700 regulations under a variety of different acts, and there's no aggressive oversight, there's no aggressive scrutiny. The problem with that, and the reason this amendment is important, is that who is going to seriously challenge if the deputy minister comes up with a bunch of amendments? Whether it's under Bill 15 or whether it's under Bill 24, any other act you can name, who challenges the deputy minister? When the deputy minister comes in and says, "These are the amendments we need, and these are the laws we're going to make," who is there sort of challenging the minister, saying, "Well, you're going outside the scope of the statute" or "This is an amendment that's unworkable" or if you were talking about Bill 15, "This is an amendment which emasculates, which guts the whole notion of protected special places." The reality is that there's really nobody who does that.

If you had all-party oversight, if the Standing Committee on Law and Regulations, which in fact would be given a job by this amendment, were able to deal with these amendments, what we would have, Mr. Chairman, I can promise you, is an aggressive questioning of the minister and the deputy minister, a genuine challenge as to whether the regulations were appropriate, and what's most important, at the end of the day a measure of comfort that when subordinate lawmaking goes on, the public interest is not an afterthought. It's not something that receives a scant attention, lip service. It becomes the operative test. The public interest becomes the filter through which all regulations would be viewed.

So the reason I'm encouraging members to support this amendment is that it specifically requires that any regulations under this act be referred to that Standing Committee on Law and Regulations. It would require the standing committee to do three things. Firstly, to ensure that the proposed regulation "is consistent with the delegated authority provided in this statute." That's important. Secondly, it would ensure that the regulation "is necessarily incidental to the purpose of this statute" to avoid what we'll call executive creep, where regulations start expanding the scope or even changing by nuance what the bill was to provide; thirdly, to ensure that any given regulation is "reasonable in terms of efficiently achieving the objective of this statute."

So, Mr. Chairman, I don't know whether I have to go on further. We've moved this amendment well over 150 times in this Assembly. It's never been accepted by the government, and one has to ask: at some point do they not get tired of defending secret lawmaking? [interjection] Ah, we've got some perspective opposite. There's a suggestion that this amendment may be time wasting. Well, I say to that member: how much input do you have in the 700 regulations that are passed every year? How much input are you going to have into the regulations that are going to be passed under Bill 15? Are Albertans going to be able to see how you vote on those things? Are Albertans going to be able to see where the impetus comes from for those Bill 15 regulations? I think not.

Mr. Chairman, I'd intended to sit down. There may be others that want to join the debate around this amendment. This is an amendment which I can promise the Member for Calgary-Glenmore, who I notice has got his taped to his desk, will come back, and this will come back on every bill that deals with regulations. At some point government will find a face-saving way to decide that they're going to stop making laws in secret, that regulations are in some respects more important than the mother statute that enables them. At some point and at some time government will find a face-saving way to do what the Clement commission recommended more than 20 years ago in terms of lawmaking.

So with that, Mr. Chairman, I'll allow others to join the debate. Thank you.

THE ACTING CHAIRMAN: Thank you, hon. member.

The hon. Member for Edmonton-Norwood is rising to speak.

MS OLSEN: Thank you. I, too, would like to just speak. At some point, Mr. Chairman, we are going to make a breakthrough. This gang over on the other side is going to say: government by regulation is not the way to go; if we're going to continue walking down that path and we're going to have government by regulation, then we're going to convene the Law and Regulations Committee and we're going to have an all-party review of all the regulations that come out for every single bill. And you know what? I bet you that that would be a very, very good group, because they have a very able chair. It's unfortunate that she never gets the opportunity to chair.

Here we are; I think it's got to be 12 years now that this committee has existed, yet it hasn't met in that time. I have some real concerns about every single piece of legislation moving broader and broader delegation in terms of the regulations. The regulations aren't just small little incidental issues. They're very big issues, and many of those issues should in fact not be part of a regulation. They should in fact be debated on the floor of this Legislature. So long as this particular gang is here, they've got to get it at some point. They've got to understand that if you're going to have law by regulation, then you have the all-party committee and have an all-party oversight group having a look.

You know what, Mr. Chairman? The House of Commons does

that. If you can believe it, the Liberals and the Reform and NDs and the Conservatives and whoever else might be down there now, the Parti Quebecois, they're all in the same room, and they're all reviewing legislation. You can rest assured that when they come out of it – and we just have to look at the recent changes to the Young Offenders Act, which is now the Youth Criminal Justice Act. There were members from other parties on side because they walked through that particular act.

It's the same with the Victims of Crime Act that is just coming forward and being debated in Parliament. They went in and they sat down and they said: what are the elements that we want to see as Canadians; what can we come out with that we can all live with? Sure the ideology is going to be different, but the basic principles were there, and it's something that they can all look at and all say: okay; I supported this principle so I'm going to speak in favour of it. They don't all have to sign on the dotted line, but they all have the opportunity to be there, and they all have the opportunity to speak to it. I think that's a progressive system.

11:20

You see, when you have a government that's been in power as long as this one, they forget. The hon. Minister of Economic Development, I know, would agree with me. You forget about what's important. Sometimes you sit back, and you make all these regulations, and you have all these laws, and you have these huge pieces of legislation come out. This is all fine and dandy, but you know what? Then you find out that a whole pile of regulations are going to be attached to it. We're never going to see them on this side of the House. We're never going to have the opportunity to debate them, and we're never going to be able to offer any insight into those regulations.

Believe it or not, this side of the House has made some tremendous amendments to bills that this government has offered up and have made some tremendous changes and strengthened bills through amendments and through some pretty interesting negotiations and just by merely talking about the main issues and what the objective of the bill is. I think that regulations should go that way. I would like the opportunity to see the hon. Member for Banff-Cochrane chair this committee, and I would like to see all 83 of us in this Legislature work towards creating good legislation and work toward agreeing on the regulations that come forward.

With that, Mr. Chairman, I'll take my seat. Thank you.

THE ACTING CHAIRMAN: Thank you, hon. member.

[Motion on amendment A4 lost]

THE ACTING CHAIRMAN: Are there any further comments, questions, or amendments to be offered with respect to Bill 24?

[The clauses of Bill 24 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

Bill 16

Maintenance Enforcement Amendment Act, 1999

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

MS OLSEN: Yes. I have an amendment to offer up to Bill 16.

THE ACTING CHAIRMAN: We are still considering an amendment to Bill 16 known as A1.

MS OLSEN: Okay. Call the question on that one.

[Motion on amendment A1 carried]

THE ACTING CHAIRMAN: Are there any further comments, questions, or amendments to be offered? The hon. Member for Edmonton-Norwood.

MS OLSEN: Yes, Mr. Chairman, there are. You have an amendment before you for this particular bill. I'll read this amendment into the record while it's being distributed.

I'm moving this amendment on behalf of the hon. Member for Edmonton-Centre. You'll all be familiar with this amendment. The amendment reads as follows. The following section is added after section 36:

- 36.1(1) In this section, "Standing Committee" means the Standing Committee of the Legislative Assembly on Law and Regulations.
- (2) Where the Lieutenant Governor in Council proposes to make a regulation pursuant to section 36, a copy of the proposed regulation shall be forwarded to the Standing Committee.
- (3) On receipt by the Standing Committee of a copy of the proposed regulation pursuant to subsection (2), the Standing Committee shall examine the proposed regulation to ensure that
 - (a) it is consistent with the delegated authority provided in this Act,
 - (b) it is necessarily incidental to the purpose of this Act,
 - (c) and it is reasonable in terms of efficiently achieving the objective of this Act.
- (4) When the proposed regulation has been examined as required under subsection (3), the Standing Committee shall advise the Lieutenant Governor in Council that the proposed regulation has been so examined and shall indicate any matter referred to in subsection (3)(a), (b) or (c) to which, in the opinion of the Standing Committee, the attention of the Lieutenant Governor in Council should be drawn.

That, Mr. Chairman, is this particular amendment marked A2.

THE ACTING CHAIRMAN: Yes, hon. member. This amendment, which has now been distributed to everyone, will be known as amendment A2.

MS OLSEN: Thank you. Mr. Chairman, if I may, I've just made my comments on the previous bill to the necessity of having the regulations to legislation brought before the all-party Committee on Law and Regulations. I think that that particular amendment should stand. I think, as I said before, that at some point the government will get it. At some point they will understand that they cannot rule

alone and that all-party committees that are established should be used. There's the reason for them.

With that, Mr. Chairman, I'll take my seat, and we can have a vote on it.

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

MS CARLSON: Thank you, Mr. Chairman. I rise to support my colleague in this amendment. I think she said it very well when she said that this government just doesn't get it. Other provinces have seen the value in having all-party committees that do review legislation and do so in a co-operative fashion. In fact we have seen upon occasion in this Legislature that when the government invites opposition parties to work co-operatively, we get stronger legislation; we get better legislation. We see fewer amendments, and we see fewer long-drawn-out debates like we have here this evening. We see less confrontation between parties throughout the province, and that all makes for a better province and a better government.

[Mr. Tannas in the chair]

Mr. Chairman, I am happy to add those comments to my colleagues' and hope that sooner rather than later this government does start to get it and does start to look at the value of all-party committees.

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

MR. DICKSON: Mr. Chairman, I was just going to say that it's so darn exciting to hear member after member get up and speak in favour of the Standing Committee on Law and Regulations, and let's start addressing subordinate lawmaking. I just wanted to add a couple of comments.

Now, the only problem is that all the debate we're hearing – our charades champion from Bonnyville is back giving me messages again, and I've barely got started. With encouragement like this, we should go back to when you could speak for 30 minutes. Oh, no. Okay. I'm misreading the signal. Well, there are some members in this Assembly who don't remember that there used to be an opportunity when you could speak for 30 minutes, not 20 minutes. [interjection] It was 30 minutes when I got elected in 1992, and the Minister of Economic Development has been here much longer than I have.

In any event, I just wanted to say: why is it that the 17 members of the opposition caucus have no difficulty understanding the merit of this amendment and we seem to have so much difficulty communicating it to the government caucus?

11:30

MR. SMITH: Try silence. Sit down so you won't speak until the amendment is passed.

MR. DICKSON: The Minister of Labour is being his usual creative self. What he doesn't remember is that I've made that offer before. I've made that offer before, but I think probably it was as uncomfortable for him as it was for me, and then we moved on to speak to it. Anyway, I think if members were to tally up the amount of time we have spent in this Assembly dealing with this type of amendment, we probably could have passed a number of bills in that same time.

I make no apology because the Liberal Opposition has been filing this amendment, because there is a principle here that's critically important. It will be important on Bill 15. It's important on every single bill where there are regulations provided. We've got to make

this modest effort to try and restore a democratic spirit to Alberta. We may have a democratic forum, but in terms of the dynamic it's anything but democratic.

It may be wishful thinking to think that this big powerful government with its 64 members arrayed on one side of the Assembly and spilling over to the other side – when I look from my little outpost in downtown Calgary and look around at the other 20 constituencies, you feel encircled and you feel embattled all the time. But I have a belief that sooner or later the compelling good sense of this amendment is going to resonate with not just the 17 members of the opposition but members on the government side too.

Mr. Chairman, I just wanted to make a couple of comments, and I know the Minister of Economic Development wants to keep me on my feet longer. She's trying to wear me out, but I want to tell the Minister of Economic Development that I have lots of other shortcomings, but lack of stamina isn't one of them. So we'll be here continuing to move this amendment.

Mr. Chairman, thank you very much. I look forward to the continued debate, and I look forward to the spark of reason that I hope has been ignited with the spirited comments by the members for Edmonton-Ellerslie and Edmonton-Norwood. I hope that that's going to spread like a prairie forest fire. [interjections]

Mr. Chairman, I think I've hit the point of diminishing returns, so I'm going to take my seat. Thank you.

[Motion on amendment A2 lost]

[The clauses of Bill 16 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

Bill 26

Family Law Statutes Amendment Act, 1999

THE CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to this bill?

The hon. Member for Edmonton-Norwood.

MS OLSEN: Somewhere there is an amendment. However, while we're looking for this amendment that we don't have, I have not had the opportunity as of yet to speak to this bill, so I would like to offer some comments.

THE CHAIRMAN: Hon. member, we already have an amendment here that you yourself moved. It's called A1. If you care to just refresh the committee's memory by reading what you moved the last day that this bill was considered in committee.

MS OLSEN: Go ahead.

THE CHAIRMAN: Do you want me to read it, hon. member?

MS OLSEN: Yep.

THE CHAIRMAN: Okay. This was moved by the hon. Member for Edmonton-Norwood, known as amendment A1 to Bill 26. It was moved that Bill 26 be amended in section 1(3) in the proposed

section 61.1(1) by striking out subclause (h)(i) and substituting:

- (i) an employee of the Department of Family and Social Services as designated by the Minister of Family and Social Services.

MS OLSEN: Thank you, Mr. Chairman, for reviewing that with the Assembly. We had some discussion on this amendment, and I in fact thought we had ended our debate on it.

However, I think the critical issue on this was that we're giving all the responsibility to the police. We are not giving any responsibility to the department of social services. We're asking the police to take on this role and responsibility, and I think that's a wrong road to go down when we're looking at family law. The last thing that I think we want is a policeman at the door with the power of this bill entering the home and creating more of a problem by virtue of him being there than already exists. I think when you get to the point where the police are called, it's past the point, and maybe other discussions should be undertaken to determine whether or not the access arrangements are in fact adequate.

So with that, Mr. Chairman, I'll take my seat. Thank you.

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

MS CARLSON: Thank you, Mr. Chairman. I, too, am opposed to this bill, and I would support my colleague's comments on the amendment. Once again we see a government who just doesn't get it. In spite of the consultations that they've done, that they've gone out to the community on, they haven't been able to understand the basic premises of the problems here, so we don't know what it's going to take. Perhaps the amendment will help to strengthen what is a very, very flawed bill.

With that, Mr. Chairman, I will save the rest of my comments for the content of the bill after the amendment is voted on.

[Motion on amendment A1 lost]

11:40

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

MS OLSEN: Thanks, Mr. Chairman. Given that I've made a few comments on this bill to date, I think this bill comes out of the review done by the hon. Member for Calgary-Lougheed. In fact, I felt there were a tremendous number of good recommendations the hon. member had made. One of the things she talked about was overall family law reform but family law reform coming by way of a unified family court. We have a number of different provincial pieces of legislation and federal pieces of legislation that should all fall under the same umbrella when we're talking about family law, but what we've managed to do in this Assembly since I've been here is bring it in piecemeal.

The hon. Member for Calgary-Fish Creek took a section of our original family law reform bill on access for grandparents and brought that little piece in; that was passed last session. Other little pieces have been brought forward. The hon. Member for Edmonton-Beverly-Clareview attempted to bring a piece of legislation in under a private member's bill. That was the Parenting After Separation Act, which was defeated in this Legislature. Regardless of the fact that that particular act was defeated in this Legislature, we see that parenting after separation course continuing in an expanded practice note, practice note A, which was expanded by the Court of Queen's Bench. Although the actual bill, the private member's bill, was defeated and we haven't seen anything come forward as a government bill, we see a two-year commitment for funding for that

regardless of the fact that the Legislature struck that piece of legislation down. I know that the hon. Member for Edmonton-Beverly-Clareview is going to enlighten us on his future intent with that piece of legislation.

At this stage of the game we have to look at family law only from one aspect, and that aspect is what's in the best interest of the child. We see all of these pieces of legislation and the system that we have as being very adversarial. Although I've made comments about the Parenting After Separation Act not being passed in this Legislature but continuing to be supported by the government, the course in itself has received a tremendous amount of support from the working professionals, and it has also received accolades from the attendees. So under a broader context it might be time to look at that piece of legislation again under an overall family law reform but certainly not under the context that it was brought in before.

Many of the amendments made to the family law statute were in fact amendments that we had highlighted in our previous Bill 209 and in the Family Law Reform Act that the hon. Member for Calgary-Buffalo had put forward back in I believe 1996.

We all agree that there needs to be some very serious reform in family law. Our ideologies may differ, and in fact there are many different views and perspectives in this House, and no one person has the right answer, if in fact there is an answer.

I'd like to take the opportunity to look at the report by the hon. Member for Calgary-Lougheed. We have some interesting suggestions put forward, and certainly some of those suggestions we can support. My biggest problem with this legislation, again, is we keep bringing forward acts that are going to impact police services.

We know that the police departments respond to calls, and we know that they respond to domestic violence calls. We also know that the major centres have family units now, domestic units, where we would see children-at-risk response teams fall under that particular unit. We have the domestic or family abuse unit fall under that particular umbrella, maybe child abuse, those kinds of things.

When police departments are now looking at how they structure their organizations and how they respond, it's time for us to take note of how they respond. I like the teams of social workers and police officers that exist now in the Edmonton Police Service, and they've existed since the early '90s. What I don't care for is the way that this particular act says that it's a police responsibility. I know there's a section in this act that says that the minister can direct who should be designated as an enforcement officer, and I would like to see that in the legislation. I would've liked to have seen the enforcement designation be given to a social services employee as well, not just a police officer. I can see many instances where having a police officer involved in a custody or access dispute is only going to inflame an already festering situation, if you will. In my mind it serves a negative purpose as opposed to the other side.

It's important to look at the alternative dispute mechanisms that are available, and we know that the Department of Justice is using volunteers to operate the ADR program when it comes to contracts and businesses and those kinds of issues. I'm not for one minute suggesting that volunteer mediators be part of this program. I think if we're going to depend on alternative dispute resolution, then we pay the people who do the job. We're going to tap out the volunteers at some point, and I can tell you that in some communities they're already tapped out. So if we're looking to change something, that's one component of all of this.

But looking at the Graham report and comparing it to the Alberta Law Reform Institute, I think there were some interesting notions, the notion of the shared parenting model that has been adopted in England. In some states it's in vogue, but the Alberta Law Reform Institute has not recommended it at this time: shared parenting is not

appropriate where the parents cannot agree on parenting. Although in the federal and provincial governments' discussions and consultations we see that the shared parenting notion is believed to be a statutory right by people and that it should be a statutory right for children to see both parents and have substantial involvement by both parents.

You know, I don't think anybody would deny that a child should have both parents, whether the custody is with one parent or not. Both parents should be involved in the child-rearing and in the day-to-day activities or certainly the week-to-week activities, depending on what the custody arrangements are, in a child's education, in a child's health care, and those kinds of things.

11:50

But there are times when shared parenting isn't going to work, so the notion of a parenting plan – I agree it is an essential ingredient – should be the primary focus when looking at shared parenting. That can be mediated. That can be done through an alternative dispute resolution, so it's important to look at that, and I think that the Graham report does recommend that. I think that particular notion is going to cause some consternation for some people, but we have to somewhere along the line decide what the criteria are for parenting and that both parents put it on the table in a very effective manner.

I see that I'm getting the T for time out, Mr. Chairman, so I shall take my seat, and hopefully I will be able to continue this debate at some other time.

[The clauses of Bill 26 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

The hon. Government House Leader.

MR. HANCOCK: Yes, Mr. Chairman, under the Standing Orders it's required that committee rise and report before midnight. I would move that we now rise and report progress.

[Motion carried]

[The Deputy Speaker in the chair]

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

MR. ZWOZDESKY: Thank you. Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: Bill 36, Bill 24, and Bill 26. The committee reports the following with some amendments: Bill 16. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

SOME HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: So ordered.

The chair is going to declare a five-minute recess, and we'll ring the bell - I think a four-minute recess and then we can make sure that we are past the witching hour. So a recess is declared.

[The Assembly adjourned from 11:57 p.m. to 12:02 a.m.]

head: Government Bills and Orders

head: Committee of the Whole
(continued)

[Mr. Tannas in the chair]

THE CHAIRMAN: Before the committee resumes our next item of business, just so the gallery doesn't think that we're totally daft. Our Standing Orders say that we must rise and report from committee before midnight, and then you can't go back into committee right away. You have to wait till after midnight. So that's the reason for the change, and you have to make the report in the Assembly.

Bill 15
Natural Heritage Act

MR. SMITH: Question.

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

MR. SAPERS: The Minister of Labour just told a funny joke, Mr. Chairman. Thank you.

AN HON. MEMBER: He did?

MR. SAPERS: Yeah, he called "question" on Bill 15.

Mr. Chairman, I feel quite privileged actually to be given the opportunity to speak to Bill 15 on this rare occasion that it's actually been called by the government for debate. I would like to take just a moment to fully explain to folks that are in the gallery, Mr. Chairman, . . .

AN HON. MEMBER: Through the chair.

MR. SAPERS: As I was saying, Mr. Chairman, I want to take a moment to fully explain to the folks that are in the gallery, through you, what's gone on here tonight. The government, of course, controls the order in which bills are called. The opposition is willing to debate Bill 15 anytime of the day or night that the government sees fit to actually put it before the Assembly for such debate at whatever stage it's at. We have been waiting quite patiently for this opportunity, and I'm told that we have a chance for only one speaker before we go home this morning and prepare for another day. So I will try to quickly move through my remarks and make the relevant comments I have at committee stage on the Natural Heritage Act.

This is an act that has caused me some concern. I've had a tremendous number of inquiries in my constituency office about Bill 15. I have had representations from individuals, groups, corporations. What's striking about all the contact that I've had in my constituency, Mr. Chairman, is that none of it has been supportive. Now, normally that would be music to the ears of an opposition member, to know that I'm being armed with all of this ammunition from my constituents, giving me, I guess, the wind beneath my wings to do battle with the government on a piece of legislation that doesn't have public support.

I was quite looking forward to a comprehensive review of the environmental legislation in this province. I was quite prepared to take the government at their word when they said that the Natural Heritage Act, when it came in, was going to move us to a new level in terms of comprehensiveness and co-operation and clarity when it came to environmental protection in the province of Alberta. So once I started getting all of these negative reports, it made me wonder what it was that the government could have done so wrong.

I didn't have to go very far looking through the bill to get an idea of what it was that had caught the attention of my constituents and of so many others. It is, of course, Mr. Chairman, the degree to which this bill does not create that higher level, that new plateau in environmental protection. It's the degree to which this bill does just the opposite. It creates a climate of a lack of trust, of uncertainty, a climate that will pit interest groups against one another instead of seeking consensus-building models to resolve issues.

It's a bill, Mr. Chairman, that so many expert and informed groups and individuals have spoken out against that I can't help but wonder why the government is clinging desperately to the hope that this bill will (a) become law, and (b), that if it does, it'll be a good thing.

I have to ask, perhaps somewhat rhetorically - when the Canadian Parks and Wilderness Society issues a series of statements and releases condemning this bill and requesting that this legislation not pass, I have to wonder why the Minister of Environmental Protection thinks he knows better than the Canadian Parks and Wilderness Society. When Endangered Spaces writes to Albertans and informs them of their concerns with the Natural Heritage Act and demands that either changes be made or that the bill be withdrawn, I have to wonder why it is that the Minister of Environmental Protection thinks that he knows better than Endangered Spaces.

When the World Wildlife Fund gives this province a failing grade and then the province has the audacity to try to pretend that by giving themselves a self-graded home exam, it is somehow a counterbalance to the failing grade that the World Wildlife Fund gives this government, the Minister of Environmental Protection thinks he can get away with that and then, again, would try to have Albertans believe that he knows better than the World Wildlife Fund.

Mr. Chairman, the list goes on. When the Environmental Law Centre raises concerns regarding Bill 15, why is it the Minister of Environmental Protection just ignores those concerns? When the Alberta Wilderness Association raises concerns about Bill 15, why is it that the Minister of Environmental Protection just pretends those concerns aren't there? Why is it that this government has adopted the position of the three monkeys, who hear no evil and see no evil and say no evil, when it comes to all of the concerns that have been raised about the Natural Heritage Act? It doesn't make any sense to me, and I'm wondering why this government is sticking to this bill in the manner that they are. The bill will not add to the arsenal of protection that our environment deserves.

Mr. Chairman, it wasn't that long ago that I had an opportunity to take a drive down the David Thompson highway, you know, past Rocky Mountain House and towards the parks.

AN HON. MEMBER: Beiseker.

MR. SAPERS: I have visited Beiseker on several occasions. In fact, I'm an honorary citizen, as you may know, Minister of Labour. It wasn't that long ago when I had an opportunity to spend some time in that part of our province: you know, the dam at Lake Abraham that's dammed up the river and the FMA that I think Sunpine has and the little parks that have been created around there. It's a beautiful part of our province. I'd gone on some rather leisurely hikes with my family, understanding of course that my youngest at the time was only four years old. I was quite impressed with the

beauty and with the pristine nature of a fair bit of that landscape.

Then I had an opportunity to take a helicopter ride. It was really quite an amazing thing. As we came back to the motel where we were staying, a helicopter landed on a little grassy median between the motel and the highway, and I went over to find out what the helicopter was doing there. He was bringing back a crew of one sort or another. After chatting for a couple of minutes, I convinced him that it would be a lot of fun for me and my kids if he took us up on a little helicopter ride, a little tour. So he took us around the dam site and back behind where the little parks had been set aside, and what really struck me, Mr. Chairman, was the degree to which logging had taken away from the natural beauty there.

I was quite taken with the visual, looking down and seeing the highway and seeing the reservoir and seeing the little bit of forest that had been left as a buffer so that when most of us are just driving by or taking the little leisurely walks that we do, we get the feeling that we're still in the forest and in the wilderness to some extent, but then once you get past that buffer, the degree to which the landscape has been scarred. It was really quite something, and to talk to my children about that afterwards and to gauge their reaction to what that would mean and their own understanding of how long it takes a tree to grow and what that means for them and their ability to enjoy wilderness in their lifetimes and perhaps in the lifetimes of my grandchildren, which I hope to have. You can appreciate that, Mr. Chairman, being a grandparent yourself, I understand.

12:10

Mr. Chairman, the bill would fail the test, I think, that my children had put to me in terms of asking what we could do to help protect the landscape and to help ensure that there will be green spaces and protected spaces for them and for the future. It was really on that basis that I decided that I would do everything I could to either make Bill 15 the bill that it should have been or do everything in my power to defeat it.

Now, my colleague from Edmonton-Ellerslie has put forward a number of amendments. I will give the Minister of Environmental Protection at least this much credit. I understand that he and his staff reviewed all of the amendments, and if I'm not mistaken, some of those amendments were even accepted by the Minister of Environmental Protection. The minister, of course, brought forward some of his own amendments. He himself recognized some of the errors in the drafting of the bill, and we've seen some of those amendments as well. Unfortunately, none of the key problems with the bill were touched. The most substantive amendments that would be brought forward by the opposition were dismissed. So the fundamental problems with the bill persist.

I guess we could say that it's a good thing that the government hasn't called this bill forward before tonight. In fact, I was just speculating that maybe if this bill never gets called forward again and if we don't have one more moment, not one more second of debate on this bill, maybe that won't be a bad thing either, because what that would mean is that this bill could be recycled, that it would go – I'm not going to say into the trash heap, Mr. Chairman, because that would be insensitive to environmental concerns, but that it would be recycled into something perhaps more useful, like insulation or something else that might actually serve the environment, because in its present form, of course, Bill 15 does not.

When I look at a particular example of a problem I have – I can flip through this bill and almost at random pick out sections. I want to focus for a minute on section 28(1) of the bill, which deals with improvements to land. The section reads:

A person other than the Crown shall not construct, reconstruct or add to an improvement on land, or do anything that alters or disturbs the surface of land,

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

- (b) subject to section 24(4), in a wildland park, provincial park, heritage rangeland or recreation area
 - (i) without the written authorization of the Director,
 - (ii) unless authorized to do so by a disposition or a permit, or
 - (iii) except pursuant to an agreement with the Minister.

Now, when I got to that last clause "except pursuant to an agreement with the Minister," I had to read it again and again and again just to make sure that I fully understood what was happening here. What this says is that the Crown won't allow an improvement or construction or reconstruction on an ecological reserve or a special preservation zone unless it's been duly authorized and permitted through a process, a process that I can only assume would be open, would be subject to informed expert opinion, et cetera.

Then I get to that last subclause, 28(1)(b)(iii), where it says "except pursuant to an agreement with the Minister." I'm scratching my head as to what exactly that could mean. I mean, it's bad enough that regulations are going to be made pursuant to this bill behind closed doors by order in council. I can guarantee they won't be referred to the Standing Committee on Law and Regulations. I can guarantee they're not going to be circulated to the opposition first for input or to other interest groups for input and suggestions. It's bad enough that those secret regulations are going to be constituted, but then "except pursuant to an agreement with the Minister."

It doesn't even have to be the whole cabinet. It could just be that when the Minister of Environmental Protection decides to meet somebody in a coffee shop or in his locked office or heaven knows where, he can make an agreement, and they can make an agreement to do pretty much whatever they want on an ecological reserve or special preservation zone. Why is that? Talk about ministry of truth Orwellian construction, this is in the Natural Heritage Act, an act that we're told is supposed to protect the environment, yet what we have is a situation where the minister can just cut a side deal with anybody he wants to at any time, and it never has to come back before us or any of his colleagues or anybody else, for that matter.

So whatever the effect of that agreement is will happen before the public is even informed. The damage will be done, and we know that when it comes to environmental protection, when the first harm happens, it's often too late. If the minister is going to sit back in his paneled office and smugly say, "Well, trust me," I would say, Mr. Chairman, that he has a credibility problem. His record would certainly not support that trust.

Now, when it comes right down to it, that also helps me understand, Mr. Chairman, why it is that even industry doesn't like this bill, because industry can't deal in this kind of uncertain environment. So if you want to dismiss the environmentalists, if you want to just say they're a bunch of crazy tree huggers and they simply don't understand the way of the world and they simply don't understand the complexities, if you want to try to dismiss them, which I would never do but have heard some members of the government try to do, that's fine. Let's take a business case approach to this, and let's look at what it is that business would want. They want a playing field that they understand. They want the rules of the game set. They want to know what the downside is. They want to know what regulation they're going to be subject to. They want to understand the risks.

The way they can do that is with certainty. The way they can do that is by making sure it's not going to be rule making by whim or by friend but in fact it's going to be rule making that we all understand and that applies to each and every one of us. So it even helps me understand why it is that industry says this bill does not serve a good public purpose, and that's because it is just simply too expensive. There are too many variables for business to be involved with in terms of dealing with environmental concerns when it is subject to the proclivities of a minister.

Now, the lack of transparency, the lack of accountability should

be offensive to each and every member of this Assembly. The issues that have been raised by environmentalists cannot be dismissed as just idle musings by special interest groups. This cuts at the very heart of what it is that we are trying to establish in this province, and that is making Alberta a place we can be proud of, making Alberta a good place to live, a good place to do business, a good place to raise families. Mr. Chairman, when we start getting failing grades now from world-recognized authorities on such issues, can you imagine how bad the grade – I don't know how much worse it can be than F – would be once we had legislation in place such as this Bill 15, which is not the Natural Heritage Act. It's sort of the natural heritage giveaway act. I would suggest that we would at our peril allow this bill to go much further than it already has.

12:20

Now, I have been asked by Mr. Brian Crenna to bring a couple of points forward. In fact, he's asked me to provide this letter in a tabling. It's a letter dated May 5, 1999, and what he says in part is that the bill does not appear to be forward thinking in its approach. He references a couple of sections in particular. He says: in part 3, sections 25 and 26, all existing dispositions would be honoured in each of the five new designated zones.

It goes on to say:

There is no evidence of any intent to fairly trade or purchase these dispositions in order to ensure that the new designations [shall] have actual meaning.

A very interesting observation, Mr. Chairman, and one that I would have to agree with.

Then it goes on to say:

As a more specific example, [look at] Section 26(1)(a)(i) [this] appears to allow a pipeline corridor development in all zones while [another section, the very next subsection] seems to permit construction of access corridors passing through all zones where adjacent non-zoned areas have existing dispositions.

So really what this says is that it's going to be a free-for-all. Mr. Chairman, I fail to understand why it is that the government would bring forward legislation that, on the one hand, would try to give the appearance of setting up these newly designated zones and would give the appearance that these are going to be preserved yet at the very same time, in the next breath, create in law the ability to put in pipeline corridors or access corridors passing through these very same zones.

Now, maybe I and Mr. Crenna and all those other informed groups and individuals are missing something. If that's the case, Mr.

Chairman, I would suggest that the government drop Bill 15, go back to the public, do a round of consultations, address these issues, and then bring in a bill that actually would protect the environment.

THE CHAIRMAN: The hon. Member for Edmonton-Beverly-Clareview.

MR. YANKOWSKY: Thank you, Mr. Chairman. I move that we adjourn debate on Bill 15, the Natural Heritage Act.

Thank you.

THE CHAIRMAN: The hon. Member for Edmonton-Beverly-Clareview has moved that we adjourn debate on Bill 15. All those in support of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

MR. HANCOCK: Mr. Chairman, I would move that the committee rise and report progress.

[Motion carried]

[The Deputy Speaker in the chair]

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

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

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

[At 12:25 a.m. on Thursday the Assembly adjourned to 1:30 p.m.]

