

## Legislative Assembly of Alberta

**Title: Monday, November 29, 1999 8:00 p.m.**

Date: 99/11/29

[The Speaker in the chair]

THE SPEAKER: Please be seated.

THE CLERK ASSISTANT: Government Bills and Orders for second reading. Bill 40, Health Information Act: debate adjourned, Dr. Massey speaking.

THE SPEAKER: Hon. members, I will recognize the hon. Member for Edmonton-Gold Bar, but prior to doing that, might we revert briefly to Introduction of Guests?

HON. MEMBERS: Agreed.

head: **Introduction of Guests**

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

MR. MacDONALD: Thank you very much, Mr. Speaker. It is a pleasure to introduce to you and through you to all Members of the Legislative Assembly the 120th Ottewell Cubs. They are here visiting the Legislative Assembly this evening, and they are ably led by four group leaders: Mr. Neil Stratton, Mr. George Wharry, Ms Roberta Kennedy, and Mr. Jim Gizowski. They are also assisted this evening by three parent volunteers: Mrs. Manuela Kostiw, Mrs. Velta Smith, and Mr. Rick Wiest. There are 18 Cubs here this evening on the tour, and I would ask the entire group in the public gallery to please rise and receive the warm traditional welcome of this Assembly.

head: **Government Bills and Orders**  
head: **Second Reading**

**Bill 40**  
**Health Information Act**

[Debate adjourned November 29: Dr. Massey speaking]

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

MR. MacDONALD: Thank you, Mr. Speaker. I welcome this opportunity to join the debate this evening on Bill 40, the Health Information Act. This bill certainly is not receiving the scrutiny it deserves. Health care is the number one issue across the province once again. What direction are we going in with our public health care system? This is the number one question in the minds of Albertans.

Whenever I look at this bill, I see another stepping-stone on the slope or the privatization creep towards more private health care providers in this province. I'm very concerned about this. Bill 40 lists its purposes, certainly, but it is very similar to what the government has introduced in the past whenever we talk about the privatization of our health care system.

This bill, Mr. Speaker, I believe also lacks principles. It would be very advantageous to all Albertans if the principles with which this bill should comply were outlined. The bill will influence how individual health information is to be collected, stored, and disclosed. The personal privacy of all Albertans is now at the disposal of their government, and as horrifying as this is for me, it's also at the disposal of the Executive Council level of government. I think this is wrong. When Albertans finally become aware of the

implications of this bill, I think they will join me in trying to convince this government to go back to the legislative drawing board. The implications of this health information law are far too important to be rushed through this Assembly in such a short period of time. I would advise all hon. members of this Assembly to exercise caution in saying no, no to Bill 40.

This government is really talking about creating a data bank of sensitive, personal, and private health information of Albertans, the citizens of this province, and then we're going to connect personal health records by electronic means to a host of health care providers. There's no definition as to who these health care providers are, whether they're going to be within the regional health authority or whether it's going to be a corporation that has a contract with a regional health authority. This, Mr. Speaker, I believe is wrong, because these providers, as I said before, can be anyone.

This legislation, as I said before, is simply another step in the Premier's privatization of our public health care system. Bill 40 is going to pave the way for all private health care providers, whether they're a corporation in this province or whether they're a corporation in America that's eyeing this Alberta market. Let's not forget or ignore that fact.

I have a great deal of trouble with this bill. Just who should have access to our personal health files? How can we guarantee the privacy of these files when we all know electronic data systems are routinely violated for whatever purpose? This goes on every day. There is no definition for a secure system with an electronic data bank, and I think all hon. members know that. This bill covers all the health care systems funded by Alberta health insurance and, I believe it is interesting to note, the Workers' Compensation Board, which already has and wants to increase its utilization of private health care providers.

Another disturbing feature of this bill is the apparent disclosure of individual health data perhaps without the consent of many of the users. We all forget George Orwell's novel. He wrote several novels, but the Orwellian use of personal health information has no logical explanation. If any hon. members on the opposite side would like to join in this debate and perhaps convince me that my interpretation of this bill is not right, I would certainly encourage them to do so.

This bill will end the centuries-old practice of confidentiality, or code, between patient and general practitioner. This government is determined to undermine perhaps the most respected code of the medical profession; that is to say, the patient/doctor confidentiality or patient/doctor trust. I can only ask why they would want to do this. This bill also allows disclosure of individually identifiable health care information without consent for far too many reasons, including policy and management purposes.

I am convinced, Mr. Speaker, that Albertans are not yet aware of the Orwellian features that give far too much power, as I said earlier, to the minister, other members of Executive Council, and Alberta health care officials and this access to files and to records that are held by doctors. I'm sure cabinet has a lot to discuss whenever they meet. This is a large budget that they deal with, and I'm sure they deal with many complex issues, but one of the issues they should not be dealing with is the personal health information of any hon. members in this Assembly and any Albertans that are living anywhere across the province. It is horrifying that you would think of doing that.

I know this bill makes plans for individuals to access their own health care records and prohibits health records from being used for marketing purposes, but I believe the scope of permitted uses for individually identifiable health care information is far too wide. The public, Mr. Speaker, has not had an opportunity to have adequate input into this legislation.

One must ask if the government has a grasp of the distinction between privacy and confidentiality. Privacy deals with the right to withhold information and what information gets into the system up front. I heard earlier in the debate the hon. Member for Edmonton-Riverview talking about how she felt about this and how, as she put it, any Tom, Dick, or Harry across the province could have access to this. I'm in total agreement with her, Mr. Speaker. Confidentiality refers to maintaining the information safely and securely once it's in the system. I'm not convinced that Bill 40 does both. What is the difference between authorized use and unauthorized use? What happens whenever these records are stolen, lost, or inadequately destroyed? I would welcome, as I said before, any of the hon. members to join in this debate and, please, not only help me with my concerns but also the concerns of Albertans.

8:10

Albertans are rugged individualists, and I don't think they're going to put up with their government using their health information in such a cavalier way. Bill 40 lists its purposes, but it is very similar to the government which introduced it: lacking principles. It would be advantageous to all Albertans if this bill were more in compliance with what people think.

Now, there's so much wrong with this. I have very serious concerns about so many pieces of this, so many pages of this bill, but I think we should go through it, Mr. Speaker, in the short time I have at second reading to talk about just exactly what it means. I believe we're going to have to stress this. Bill 40 means that the minister of health could walk into a doctor's office and demand to see the individual records of any person and, as I said before, maybe of any hon. member in this Assembly. They can do that without the hon. member's consent. The minister of health is going to be given this power, and I disagree with that.

It also means that the minister can disclose the information to other ministers, like I said, at their cabinet meetings. There is absolutely nothing, Mr. Speaker, in this bill to prevent it from being shared with cabinet. I believe, as the hon. member for Edmonton-Riverview said earlier, that section 39(1) gives the minister the power. I have to question: why should individually identifying health data be needed to develop public policy?

I can see, for instance, having Statistics Canada information available. We can talk about the demographics of a constituency. For instance, we could pick the constituency of Calgary-Fort. We could look at that and see what the per household income is. We can see what the age groups are, how many of the hon. Member for Calgary-Fort's constituents are between the ages of 20 and 30, how many of them are over 65. This is the sort of information I believe is necessary to develop sound public policy. Personal health care information: I do not agree with that. I certainly do not.

This bill also means, Mr. Speaker, that anyone in the Department of Health and Wellness, even, I'm told, a secretary, could walk into a doctor's office and demand to see an individual's health care records without their consent. They could demand to see the records, and they could see in these records if there was abuse, assault. They could pass anything on to the minister. I think this is wrong. This is just totally against what Albertans want. It flies in the face of the rugged individualism that all hon. members are so proud of.

Now, this bill also means that anyone from human resources management in the Department of Health and Wellness could demand to see an individual's records. I have to question: why do they need to look at individual records to determine how many staff to hire? I do not see the merit in this. Anyone, I understand, from the department could access records in a general practitioner's office

and then hand them over to anyone in a regional health authority, a provincial health board, or the Alberta Cancer Board. Oh, you got it all wrong. I can imagine George Orwell and his family sitting in their country house in the south of England discussing this bill. I can only imagine what they would say.

This bill does not even limit which employees in the Department of Health and Wellness can access the information. Later on in this debate I think we will have time to compare this with the Saskatchewan act. That even limits which employees in a health care institution can have access to personal medical records to those who actually need them for their job or for their work.

As medical technology advances and the use of genetic studies and genetic engineering becomes more common, family histories are looked at. I can't see anything more private than the health records of not only our immediate family but past generations of that family. What happens if they were to fall into the hands of an insurance company, one that was unscrupulous? What happens if a family member wanted to take out an insurance policy? "Oops, we have information where there is heart trouble. Heart troubles are going to develop. It looks like there's quite a record of heart trouble developing in all males in this family. They hit the age of about 45, and then there's trouble. Well, I'm sorry; you're going to have to go elsewhere to purchase your insurance."

Insurance companies have survived and prospered without this information before. What's to say that down the road this will not occur. That is a question that I will put forward, and I'm anxious to hear any hon. member's explanation for this. This is what we're getting into here, the commercialization, if I can use that word, of our personal health information and that of our family. Once we open this door or this drawer, it's going to be very difficult to close it without someone getting a finger caught.

The intrusion that I spoke about earlier on a general practitioner/patient relationship is new. In the past only hospital records, as I understand it, were accessible to others. What effect will this bill have on an individual's willingness to speak frankly with their doctor? What will the impact be on those who have sensitive health problems? I heard other hon. members talk about HIV, sexually transmitted diseases, psychiatric problems. These are problems that might affect a person's chance of finding gainful employment at some time.

How can we be sure that the doctor is going to have faith in this? I see the ads that are coming out in the daily papers across the province, and I don't think the doctors have much faith in this bill. When the AMA takes out full-page ads, they have a lot of problems with this. The best thing we can do is say no to this bill, just say no to this bill right now. I understand from reading this that there certainly are some good, valid, positive legislative initiatives here, but there is no way that with this package I can accept this bill.

8:20

Now, the disclosure of information applies if the information relates to a health service that is "fully or partially paid for by the Department" or that is provided "using financial . . . or human resources provided [or] administered . . ." I'm getting all this from section 46 through section 47.

We have to look at the efficiencies here. We have to ask ourselves: what will it cost in time and in money if doctors have to fight to keep their patient records confidential and have to go before a commissioner and have everything reviewed? What are we doing here?

I said before that the Alberta Medical Association is strongly protesting this invasion of what they consider to be the top code of their profession, and that is patient/doctor confidentiality. When

they have held consultations on this, they have held focus groups on this and opinion polls, I am very disappointed to . . . [Mr. MacDonald's speaking time expired]

THE SPEAKER: Before calling on the hon. Member for Edmonton-Calder, might we revert briefly to Introduction of Guests?

HON. MEMBERS: Agreed.

head: **Introduction of Guests**  
(*reversion*)

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

MR. HANCOCK: Thank you, Mr. Speaker. Tonight it's my pleasure to introduce to you and through you to all members of this Assembly 25 energetic members of the 32nd Riverbend Guides from the constituency of Edmonton-Whitemud. They are accompanied by their group leader, Mrs. Christina Harrison, and by parent helpers Mrs. Elke Woite, Mrs. Nola Chopiuk, Mrs. Debbie Manyari, Dr. Gale Brown, and Ms Barbara Day. I'd like them to rise now and receive the traditional warm welcome of this Assembly.

THE SPEAKER: The hon. Member for Redwater.

MR. BRODA: Thank you, Mr. Speaker. On behalf of my colleague the MLA for Clover Bar-Fort Saskatchewan it gives me great pleasure to introduce to you and through you to the members of this Assembly a Scout group from Ardrossan, the 153rd, and their leaders. They are seated in the members' gallery. I would ask them to please rise and receive the traditional warm welcome of this Assembly.

head: **Government Bills and Orders**  
head: **Second Reading**

**Bill 40**  
**Health Information Act**  
(*continued*)

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

MR. WHITE: Thank you, Mr. Speaker. I rise to add my voice to this chorus of many in condemning this bill. This piece of legislation is tantamount to a declaration that George Orwell was right. He was just 16 years late. In the year 2000 the predictions of *Nineteen Eighty-Four*, that famous book, will at least, in part, come to fruition.

Surely we in this age would know that the people of this province should be consulted on a matter of such grave import to their personal information. To this day we have not had one single public consultation, not one. It's unbelievable that this government would be so arrogant as to believe that they're all-wise, all-knowing and that with the aid of a couple of focus groups they understand what the public wants in a protection of privacy of information act.

On March 17, 1998, a member for this side of the House, Mr. Dickson, wrote a note and received a reply from the then minister of health, now Health and Wellness. In that letter the minister explicitly declared that public hearings would take place prior to bringing a bill into this Legislature. That is not the way one adds to public confidence in dealing with personal and very private information.

You'll remember Bill 30 of 1997. It was called the Health Information Protection Act. Protection Act. This bill, Bill 40, has neglected to mention protection. The emphasis is clearly on

provision of information and not on that fundamental element of protection of private information.

Yes, agreed, information in this age is a balance. There's no question about that. It's a very difficult balancing act. The need of researchers to be able to identify and quantify potential risks: yes, it's agreed that to gather information to do just that is a worthy end unto itself, but it has to have the fundamental rider of protection.

Yes, there's a need for information to be shared and perhaps on-line basic information for emergency treatment of a member of the public that is in need of medical attention outside the care of their personal physician, and that information should be readily accessible. Yes, there's a need for that under very special conditions. There's a need for transportation of complete information and gathering of that information from one caregiver to another to fully brief that caregiver on the state of an individual. But all of that information is secondary to the need for privacy, and this act does not cover that to the extent that it should.

I point to a small publication put out in November of this year titled A Summary of Alberta's New Health Information Act. Remember, again, that it was shortened; it's not "protection." It's patently obvious why. To start with it asks the fundamental question: why do we need a health information act? It goes on to say that "good information is critical to Alberta's health system." Yes, we know that.

Physicians, nurses, people providing health care in homes and in the community, people who manage the health care system . . . all of these people rely on good information to provide the best health care . . . to Albertans.

It's true.

But this whole paragraph does not say anything, not even clear through to the next title, about why we need an act. Protection isn't listed once. It doesn't occur. Yes, it says on one line: "health information is also very personal. Privacy must be protected." It doesn't say that there are any provisions in for protection.

This means that data can be shared as it's needed in the clear rules to be set in place. The Health Information Act has the purpose to set the rules, "to make those rules clear to everyone in the health system and to Albertans." Well, we already discussed the need for Albertans' involvement, and they certainly haven't been up to this point. The original point was that the information is gathered under this set of rules, but it doesn't say "protection."

The last line in this paragraph that should be – remember, should be – describing why we need the Health Information Act reads: "Steps will be taken to make sure Albertans understand the rules and know what to expect when they provide their health information." A little late, a little after the fact when it's clear that the provisions are for prying this information out. The people that you would think would be interested in the provision of the information would be the docs themselves, but they raise objection to the extent that, out of their pocket, not the public purse, like this government is wont to do with advertising, they've had full-page ads, which are exceedingly expensive, in our dailies because they are so concerned and so worried about this.

8:30

Let's examine briefly why one would want information on one's health to be maintained as private. Family mental health problems in the past – and there are those who believe that mental health is at least in part hereditary. Not that this member does, but many people in the public do. There are people that believe it's a deficiency in a mineral, any number of reasons. It can prejudice employment, not just employment of the individual but of family members, can prejudice one's whole life. Adoption, abortion, chronic disease, a

history of prior pregnancy, whether carried to term or whether it was terminated: all of these pieces of information are very, very important to whom? To the individual, and it is important to maintain privacy in those matters. This bill certainly does not provide the protection that's required for those people, just absolutely nothing that is ironclad.

Further, this information is specifically designed to be collected and filed electronically. Now, I don't know how many of those present deal with the Net and purchases on the Net, but what is the fundamental rule? Everyone here can recite that: be sure that you're secure with your credit line and disclosure of – what? – your personal, private information. Now, here we have a government that is going out of its way to draw that information out, to put it in a data bank that is readily accessible by so many.

I mean, we all know of the stories of the hackers that have been into data banks, into some of the most secure data banks in the world. We all have heard the tale. If you ask the staff that provide Members of the Legislative Assembly with their electronic data-processing equipment and transference of that information about the security of it, they will admit that, no, they cannot provide secure transmissions in their own system. What makes one think that the most critical of all information, some would believe, about one's personal life can be collected and stored with that kind of security? This member has no confidence whatever in anyone's ability, particularly the government's ability, to be able to do that. It's not malice of intent; it simply is that it can't be done.

There isn't anyone certainly on this side or on that side that wants to at present destroy one with this information, but let's just go south of the 49th parallel and look at what happens come election time. Do you remember the dragging out of that information from way, way, way back on candidates for the Supreme Court of the United States of America? From way back in the '30s and the '40s data was brought forward. I mean, this system would be a system made to measure for that, and you don't need a hacker to do it. All you need is someone working within a system, and there'll be a lot of those people that have access to this data. If it's electronic, as it will be, it can be easily used to intimidate, with all manner of nasty ads at the most inopportune moments that can be and, in my guess, will be used for political purposes and political purposes alone.

Each and every one of us in this room has been in and out of the hospital for some reason or other, some of us more recently than others, and would not want their data distributed.

MR. DUNFORD: Oh, yeah. You can distribute it.

MR. WHITE: Well, one hon. member, that just had a hip replaced, informs me that we can distribute his information. Quite frankly, I'm not overly concerned about my information being shared either, but that's two. There are many, many others that remain silent on this topic, and I haven't heard those.

I'd point out some fundamental errors that the docs point out about the disclosure and how it is attached with the data as it is transferred for individuals. We'll note that the Privacy Commissioner – an apt name for commenting on this bill because he has to in fact adjudicate a lot of these matters, which is the saving grace of the bill certainly – says that there are a number of sections that have to be revised. Well, from proper consultation prior to – and the document I read earlier outlining the promotion of this act by the government said that it's been in the making for three years – how is it that in a matter of three short weeks this commissioner can find at minimum seven major areas of difficulty with the act? That would lead one to believe that the tack is wrong, that the emphasis is on disclosure of information and not protection at all.

When you're directly collecting information for the purpose of assembling family history, you would think the purposes would be restricted to that, but no, there is no provision made for that. There's a section that needs revision: the custodian conducts research to adhere to conditions recommended by the Ethics Commissioner. There is no provision for that currently. There are sections that clearly prohibit a person from collecting and using personal health numbers. Is it a contravention? Yes, that's quite true, but there doesn't seem to be any penalty for the use.

Disclosure law requirements under section 41 should be expanded to disclosures to custodians under all other sections, particularly in those ranging in the 30s and the 40s, but it is not. There are questions about private-sector access and the marketing of that data, and there don't seem to be adequate restrictions, although my reading may not be the test. Mr. Clark, the Privacy Commissioner, believes that this area needs some strengthening. There are regulations under the act that should pass through public scrutiny, which means that this bill should be put into committee and public hearings be held, such as we were promised two years ago by the minister. Now, that would ensure proper public debate. The docs would then be satisfied that they could be heard publicly throughout this province in community halls and agriculture centres.

There is interest in this bill. When you explain what the bill is meant to do, people certainly are interested, and they're willing to speak of it and understand what the intent is and understand the ramifications of some disclosure and understand how they would cast their ballot in this matter. They are quite capable of doing that. But are they offered an opportunity? Not likely.

8:40

In contrast, there's a recent document that was brought to our attention on November 23, 1999, an act in the Dutch parliament. It's entitled Protection of Personal Data Act. It's a relatively simple document. It's a translation, of course. In the first article that really gets to the nub of the matter, it reads:

1. Personal data are not to be kept in a form that enables the identification of the individual, for longer than is necessary for the processing purposes for which they are collected or later processed.

That's a pretty important statement. Now, the test of that is rather difficult, of course, but it certainly lays out exactly what the intent is. This is one of the older democracies in this world, and quite frankly they have always gone to the extent that was necessary to protect individual rights, certainly after the Second World War when they were in difficulty maintaining their national heritage, of course.

This member has a little difficulty with the haste with which we've moved forward in this act without any attempt to bring the public into the discussion, and so did the CMA. They're most concerned, and their fundamental statement is that the information should be collected for the benefit of the patient. That doesn't necessarily mean that individual patient for the gathering of that person's individual data. It could be many sets of data to hone in on a potential solution. [Mr. White's speaking time expired] Other parts of this bill I'd be most happy to speak to.

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

MR. SAPERS: Thank you, Mr. Speaker. I would like to support Bill 40, the Health Information Act. I would like to be able to do that. I've been very concerned about access to information and protection of privacy for many years before entering this Legislature as an elected member. I was surprised but I was privileged when the Premier called for an all-party committee to study what was once upon a time his flagship bill, the freedom of information bill, and even further flabbergasted when I found myself as a newly elected

opposition member of this Assembly on that all-party committee, which did, I think, some groundbreaking work. Unfortunately, some of it had been ignored by the government.

In any case, it was an all-party unanimous report that started this province down the path of creating access and privacy legislation. So with that experience in mind, I anticipated a complete and robust bill that would provide appropriate access to health information and appropriate protection of privacy, particularly because this government had decided that it would introduce a bill and allow it to be studied in public. I think it was back in June of '97 that the government introduced what was then known as Bill 30 and invited Albertans to provide comment and input and, of course, promised public hearings, that didn't take place. Still, I will say that they crafted a bill and put it out there in the public domain for a little while, and that's always a good thing. That's always a good thing. In fact, Mr. Speaker, I wish the government was consistent in doing that. I wish that whenever there was pending health legislation, particularly considering this government's track record in seeing their health legislation shot down in flames, this government would put out their bills for public debate. I would even suggest that it's a model they might use in this whole current raging debate, which is happening every place but inside the Legislature, on the privatization of health care. I'd invite the government to put that draft bill out for public consideration as well.

It's their own model they could follow, because that's what they did with health information. A couple of years after Bill 30 we find ourselves debating Bill 40, and Bill 40 is somewhat complete. It covers a lot of territory that I think has to be there. It makes reference to research. It makes reference to defining who can have what kind of access when, but it's curious in the areas in which it is deficient. It is curious in the areas in which it falls short. It either falls short in protecting privacy because the government made an honest attempt and will welcome creative and helpful amendments during the committee stage, or it falls short because there's another agenda at work.

I can't help but be suspicious about that other agenda. Maybe it's the nature of the beast, being an opposition member, Mr. Speaker, but maybe it also just comes from experience in dealing with a government that all too often says: "Just trust me. Just trust me. Really. We're here from the government, and we're here to help." Then we find, of course, that the best interests of Albertans weren't in their hearts and minds at all, but it was the best interests of some of their selected special-interest groups and selected lobbyists that they call friends. You cannot separate Bill 40 from that current debate that I made reference to just a moment ago about the privatization of health care. You cannot separate this government's move towards packaging health information in electronic platters from the business opportunities that will arise when health care is further privatized in this province, which is, of course, the objective of the current government.

Mr. Speaker, there are some general concerns that I have, and they have to do with the reluctance of this government to acknowledge the dangers that are present considering the state of technology today. Now, I know the Minister of Innovation and Science is aware of this because he and I have chatted about it. In fact I've been in the audience when he's made speeches about this topic, about the vast array of information technology that's out there and how information can be transferred, how it can be tracked, how it can be gathered.

Mr. Speaker, I think everybody is aware that what used to take an entire bookcase of encyclopedias can now be crammed in to fit onto one single compact disk, one disk that can easily slip into your shirt pocket instead of a whole bookcase or, if you will, a whole filing

cabinet. Now, think about the opportunities for transporting that information, think about the legal and illegal opportunities for creating duplicate sets of information, and then take a look at Bill 40 and ask yourself the simple question: are adequate safeguards in the bill? And the answer of course is no.

There is technology available now that is being called data keys, and what a data key is is kind of like a smart card, but it's a little different. It's literally a key device, a little item that would plug into a reader, and it would replace a personal health number and a personal health card. This data key can be easily updated, easily transferred. The information can be easily read and downloaded. All you need is the appropriate reading device. Mr. Speaker, the technology is not all that much different than the technology that uses that magnetic stripe on the back of your credit card.

Now, I think we've all been warned to be careful how we use that credit card when we're traveling, to be careful how many times we scan it. Mr. Speaker, it doesn't take a very creative criminal to buy one of those little scanners. In fact, I know three or four shops in town that legitimately sell those little magnetic stripe readers. You can get one that will fit in your pocket, and if I have your credit card for just a minute, I can get all the information I want. I can just scan it, I can download it, and I can find out all kinds of things about you. All kinds of things. It won't be very difficult to get these little key readers either. Does Bill 40 have adequate protection against that kind of technology and all of the uses and abuses that that kind of technology could engender? No, it does not.

8:50

Mr. Speaker, the Internet is creating marvelous opportunities, absolutely outstanding opportunities for trade, for commerce, for information sharing. Canada, in fact, is a leader in high speed transmission of data. We're going to have coast to coast one of the highest speed networks in the world. We have a very high participation rate amongst Canadians, particularly in this province, of Internet use. Internet commerce, e-commerce, worldwide is projected to total by the end of 1999 \$325 billion. Now, that's a big number: \$325 billion. That's even bigger than the budget error in the current Treasurer's budget.

Mr. Speaker, think about \$325 billion. If you want to put that into context, the entire automotive industry, worldwide, this year will involve an exchange of about \$350 billion. Think of the impact that the automotive industry has had on the world economy at \$350 billion, then put that into the context of \$325 billion exchanged over the Internet. Now, with information being exchanged at that volume and that rate, think about all the opportunities for abuse, for fraud, for just mistakes being made. Then ask yourself whether or not the government of Alberta in penning Bill 40 has adequately anticipated that high technology minefield of information exchange. Of course, the answer is that they have not. They have not.

Now, on the Internet you can buy and sell almost anything. In fact, the Internet is like the Wild West all over again. It's an unregulated frontier. Mr. Speaker, anybody can post anything they want on the Internet. Anybody can create any kind of site they want and post anything at all, and it's just there, and because it's published on an Internet site, some people might think it's legitimate. In fact, some people might use it for all of the wrong reasons.

Health care providers may use it for the wrong reasons, people who want to take advantage of weaknesses in data exchange systems may want to use it for the wrong reasons, and people that want to create a third-party market may use it for all the wrong reasons. One of the dangers of the Internet is in fact one of the beauties of the Internet. It is very hard to trace. You could be doing business with somebody next door to you, you could be doing business with

somebody 10,000 miles away, and you'll never know. You'll never know because of the way the Internet works. So we could have somebody who offers themselves out as being regulated by Canadian law or Alberta law and therefore holding themselves to be a self-receiver of information and, in fact, could be nothing further from the truth.

You don't even need the Internet to see these kinds of abuses, Mr. Speaker. I can tell you about a large manufacturer of medical supplies in this country, in fact in this province, which managed somehow to get a list of all of the patients who go to a certain clinic at one of the large hospitals in this city. What they were able to do with that information was send out a mailing to all of the people that went to this clinic advertising their particular products. It said right on the address label, right above your name, what your disease state was. So right at the top it would say, "Diabetic" and then "Bob Smith" and the address. They had it categorized, so if they were selling diabetic supplies, that's the mailing that they got.

They were asked where they got the information from. They said, "We got it from the hospital." "How did you get it from the hospital?" "Well, that's private." And that was the irony. Of course, they wouldn't disclose their source or how they got the information, but they didn't seem to have any compunction about the invasion of privacy that that particular little bit of marketing constituted.

Mr. Speaker, there have been all kinds of other examples. A family member of mine was in the hospital. About five or six days after discharge from the hospital the telephone rings. It's a marketer doing fund-raising for the hospital. "How did you like the health care you received? How would you like to help us to pay for even better care? You know that there have been government cutbacks. How would you like to help out?"

"How did you get the information? How did you get my name?" "Oh, we got it from the hospital administration." "Well, you know, they're not supposed to share that information." "Well, I don't know anything about that. I'm a volunteer." "I'd like to talk to your supervisor." "There's nobody here right now, but we'll take your name." "We've got your name," in fact, is what they said. "We've got your name and number. We'll have somebody get back to you." Interestingly, Mr. Speaker, they never did.

Not that long ago a constituent of mine came to me with a hard drive out of a computer that he bought at a flea market. Now, the computer, before it got to the flea market, was auctioned off by public works. He bought it at the flea market, and he put the hard drive in his own computer, because really all he wanted was the hard drive out of it. He turned it on, and there was data on the hard drive. He wanted to purge it first, because he didn't want a full hard drive. He wanted an empty hard drive. He was able to download and get off that hard drive pages and pages and pages of health care information: personnel records, names, numbers, billing numbers, codes, doctors. It was outrageous. It created an investigation, and they said that it could never happen again. It went to the Privacy Commissioner, and it changed procedures in the disposal of surplus computer equipment from the provincial government. We were told: okay; the problem has been fixed. Then we find records in the ceiling of the General hospital. Then we find doctors' offices just disposing of their records because they ran out of storage space. So, Mr. Speaker, it can happen, and it does happen, and it will happen again.

When I received my copy of Bill 40 hot off the press, I immediately read through it looking for the protections that would be built in because of this experience. You know what? They're not here. They're lacking. Again, I have to scratch my head and say: why? Why would the government not learn from its own mistakes, from its own experience? What is it that they're trying to accomplish? I

can only conclude that they are trying to accomplish the most unencumbered, unfettered exchange of information they can, privacy be damned. What the government is really trying to accomplish is a scheme where health information is just another commodity, and, Mr. Speaker, I think that is totally inappropriate.

I thought that maybe I had misread the bill, so I was very happy when the provincial Minister of Health and Wellness released this guide dated November '99. It says, "A Guide to Alberta's New Health Information Act". So I read through this looking for the same answers, and of course I didn't find them. But I did find something very interesting. I'm going to quote from page 22 of the guide where it says, "Rules Are Set for Disclosure to Other Ministers of Government." I'm going to quote and then I'm going to paraphrase.

In most cases, policy decisions of government can and are made using health information that does not identify specific individuals. Information that identifies an individual is "stripped" from the record before that information is disclosed. However, there are specific situations in which the Minister of Health and Wellness and department staff may need to disclose individually identifying information to other Ministers, particularly in cases where several departments are providing services.

It goes on to talk about funding decisions. It goes on to talk about cases where an individual from another province may be given treatment in Alberta, and it talks about how this minister can provide information not just within the province but, of course, across provincial boundaries. It does, however, have the provision that all disclosures must be noted.

Then I went to look in the act, because I was very curious to see how that was going to be controlled. What I find in the act is section 36, disclosure of registration information. What section 36 says, basically, is that

a custodian may disclose individually identifying registration information without the consent of the individual who is the subject of the information

for a whole host of reasons including, of course, in subsection (c), that one that really sticks in my craw,

to a person who is not a custodian if the disclosure is in accordance with the requirements set out in the regulations.

The regulations. There we go, Mr. Speaker. The subordinate lawmaking, this in-secret lawmaking that this government has grown so fond of.

9:00

Then I thought: well, I'd better go check and see what happens in the regulations. So you turn to 108 in the act, the regulations section. Let me just read for the benefit of the Assembly a couple of the areas in which regulations can be made:

(a) designating boards, councils, committees, commissions, panels, agencies or corporations or individuals as custodians

of the information. So it doesn't even have to be defined in legislation. By order in council, in secret, behind closed doors the Premier and his business partners in cabinet can decide which corporations are going to be designated as custodians of health information.

Another regulation:

(b) describing registration information for the purposes of section 1(1)(u).

Now, of course you can go back and reference that on your own, Mr. Speaker, but it basically says that we can describe registration information as anything we want to describe as registration information.

Or how about:

(f) respecting the disclosure of individually identifying registration information by custodians to persons who are not custodians.

So even though in law they define that you have to be a custodian and that's how you get the information, by regulation they open that up to anybody, whether they're custodians or not.

Then, finally, by regulation, by order in council they can make a regulation

- (i) respecting the stripping, encoding or other transformation of individually identifying health information to create non-identifying health information pursuant to section 65 or an agreement referred to in section 66,

which are, in essence, sections that talk about transactions.

So it's clear that by regulation, by order in council this government is allowing itself to set a whole regime in place that would see your health information, my health information, my child's health information, and every one of my constituents' health information available, perhaps to the highest bidder. We don't know because it's all going to be subject to regulation, and the one thing we know for sure is that it's not going to be debated in this House. It's only going to be discussed in cabinet.

Mr. Speaker, I started off by saying that I was looking forward to supporting a health information act that struck the appropriate balance between privacy and health information sharing and that I wanted to support Bill 40 and that I was looking forward to a bill that would be in the best interests of Albertans. Bill 40 is not that bill. Bill 40 may be saved with enough help. If the government has an open mind, we'll be able to provide some assistance in the form of amendments, but if this bill is not amended to ensure privacy and to help build a wall between Albertans and those who would exploit their private health information, then this bill will not receive my support.

Thank you.

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

MR. STEVENS: Thank you, Mr. Speaker. The long-awaited answers to some of the questions. It's my pleasure, of course, to rise this evening and speak to Bill 40, the Health Information Act. Several of the speakers have commented on the need for consultation, and the Minister of Health and Wellness has spoken in detail on that particular matter, in particular about the extensive consultations that have taken place since December of 1996. However, I do wish to make some additional comments.

[Mrs. Gordon in the chair]

Subsequent to the introduction of Bill 30 the minister established a steering committee in December of 1997 to address the issues raised in response to that Bill 30 and to oversee the development of the legislation. This was a multistakeholder committee with membership including a health authority board chair; a member from the Official Opposition, the hon. Member for Calgary-*Buffalo*; a public member at large, who is a lawyer who works with the College of Physicians and Surgeons; a physician cardiologist from the Capital Health Authority; a research physician from the University of Calgary; and a representative from the office of the Information and Privacy Commissioner.

The steering committee was supported by a working committee with representation from the AMA, the Alberta Pharmaceutical Association, the Auditor General's office, the University of Alberta Faculty of Law, the FOIP office, the Office of the Information and Privacy Commissioner, and a representative from health authorities. In addition to this, there were specific working groups on research, records, and quality assurance issues. I had the fortune to chair the steering committee during this particular stage. I'd also at this point

in time like to acknowledge the incredible contribution of one of the people who worked throughout, namely Ms Catarina Versaeva. She worked not only with the steering committee but also with the working committee, and I'm sure that anybody who had the pleasure to spend time and work with her would agree that her assistance was most helpful to all involved.

There was a comment made in the House with respect to this matter that the only reason we are not doing an amendment to the FOIP Act is that FOIP does not allow the movement of health information around. This is simply not so. The decision to proceed with stand-alone legislation was based on the steering committee's recommendation, supported by the stakeholders and the Select Special FOIP Act Review Committee. Stand-alone legislation was needed because the multiplicity of stakeholders in health care adds levels of complexity. FOIP would require major revisions to deal with the characteristics of health information.

Another point that needs to be made is that health information legislation and FOIP start from different places. Health information legislation is about setting acceptable conditions for sharing personally identifiable health information while protecting the individual's privacy. FOIP is about protecting the privacy of personal information gathered by government for a variety of purposes and about encouraging open, accessible, and accountable government. A controlled sharing of information among health providers, be they physicians, support staff, pharmacists, other health professionals, health authorities, or Alberta Health is vital. Albertans need to be assured that there's an appropriate balance between private rights and public good, and proper controls are in place to ensure that the use and disclosure of health information is appropriate to the circumstances.

We've also heard suggestions that this legislation should extend to the private sector. It's been suggested that the health information should be protected, regardless of whether it's in a doctor's office, in a hospital, a long-term care centre or an insurance company. In the long term that certainly is the objective, but this legislation represents a major first step. Before the rules are extended to the private sector, we want to make sure that they work and work well in the health system.

The legislation specifically calls for a review within three years, and that must include a review of whether and how the legislation should be extended to apply to other public- and private-sector organizations. The resulting rules in the act apply to a controlled area and are not intended to have a broad application outside of the health sector.

In response to other questions on the scope of the act I want to make it clear that affiliates under the act may only collect, use, and disclose information in accordance with their duties to the custodian; that is, their right to know. Custodians have a duty to protect information, which includes protection against unauthorized access by employees, agents, or others. If an RHA contracts for health services, the RHA will still be a custodian under the act. The contracted service provider is an affiliate under the act. An individual has a right of access to their health information by making a request to the RHA. Any contract for services would need to address the need to provide access in a timely way, as required under the act. The contracted service provider must not collect, use or disclose health information other than in accordance with the terms of the contract, or in other words, their duties to the RHA. Therefore, the contracted service provider is accountable to the RHA according to the terms of the contract. They are also directly subject to various offences and penalties under the act. A well-known contracted service provider in the Calgary area is the Gimbel eye clinic.

**9:10**

Opposition members continue to call for a broader scope of coverage to the private sector, to ambulance operators, to firefighters, and so on, and at the same time greater privacy protection. The whole premise of the legislation in its current form is that the collection, use, and disclosure rules are only appropriate in the controlled public health sector arena. The rules that would be appropriate for the broad private sector will be determined following the receipt of direction as a result of the three-year review of the act.

A question was raised last week concerning why ambulance operators are not listed within the act, and I would like at this time to address that matter, Madam Speaker. Ambulance operators and ambulance services are excluded from the act because the act is only intended to apply to the traditional health system; that is, the health system funded by the Minister of Health and Wellness plus all pharmacy services, regardless of the source of funding. The Minister of Health and Wellness does not fund ground ambulance operators and ground ambulance services, so ambulance operators and services were excluded from the act. Ground ambulance services are funded primarily by users, the patient as payer or third-party payer, and possibly by municipal governments. However, it must be mentioned that information collected, used, and disclosed by ambulance operators and attendants is regulated under the confidentiality regulation of the Ambulance Services Act.

Another question raised is why firefighters are not included in Bill 40. Bill 40 makes no reference to firefighters, and in fact no existing health statute references firefighters. It is true that firefighters are often the first individuals to arrive at the scene of an emergency and provide emergency first aid to individuals. Some firefighters may be trained as emergency medical responders, or EMRs, emergency medical technicians, or EMTs, or emergency medical technician paramedics, EMTPs, to do this.

Firefighters trained as EMRs, EMTs, or EMTPs may choose to be registered under the Health Disciplines Act or be a member of the Alberta Prehospital Professions Association. Bill 40 does not prevent firefighters from collecting, using, or disclosing individually identifying diagnostic treatment and care information when they provide emergency care to individuals. Once ambulances arrive upon the scene of an emergency, firefighters let ambulance attendants take over. Ambulance attendants are regulated by the Ambulance Services Act and FOIP when collecting, using, or disclosing individually identifying diagnostic treatment and care information. Bill 40 does not prevent ambulance attendants from collecting, using, or disclosing information when they provide emergency care to individuals.

One of the other questions raised during second reading was: why does the minister and the department require the ability to compel individually identifying health information from custodians, including physicians? I believe the hon. Member for Edmonton-Gold Bar raised this issue this evening. Perhaps this will provide him with some assistance in understanding it. Bill 40 ensures that the minister, department, regional health authorities, Alberta Cancer Board, and the Alberta Mental Health Board can compel individually identifying health information from custodians within the geographic areas for which they are responsible. What is important to remember is that the information can only be used for planning and resource allocation, management, public health surveillance, and health policy development for the portion of the health system they administer.

The minister, department health authorities, and health boards can only compel individually identifying health information from a custodian, one, if they are authorized by another statute or regulation to compel the information. In these examples, the minister, health authorities, and health boards need to be able to identify individuals

for tracking diseases and tracking services provided to individuals for the purpose of quality assurance, concerns resolution, and appeals. An example of this occurring would be that public health inspectors and medical officers of health employed by the regional health authorities may need to compel information from physicians and hospitals, as authorized under the Public Health Act. They need this information to track communicable diseases and evaluate the efficacy of treatments.

A second instance of the minister or minister's representative requiring the custodian to disclose individually identifiable health information is if the information relates to a health service that is fully or partially funded by them or uses their financial, physical, or human resources. For example, health system decisions can often be based on nonidentifying health information; however, this information must be rolled up from individually identifying information.

The anonymization of individually identifying information often cannot be done at the front-line level. It must be done by the health authority, health board, or department, because different databases must be linked before the identifiers are removed. An example of this occurring within the health system would be: regional authorities fund hospitals, community clinics, and long-term care centres. Physicians that have hospital privileges admit patients to health authority hospitals, refer patients to other professionals employed or contracted by the health authority, and significantly impact on health authority resources. Physicians that do not have hospital privileges do not admit patients to hospitals, but they access medical laboratories and other diagnostic facilities funded by health authorities and refer patients to other health authority programs; for example, home care. Regional health authorities need to obtain individually identifying health information from physicians to enable the authorities to plan programs, allocate resources across facilities and programs, develop policies to guide programs, evaluate the efficacy of programs, and so on.

When the minister, a health authority, or a health board compels information from a custodian because the custodian accesses their resources, the authority for the request is contained in Bill 40. These types of information requests will be new administrative practices, and privacy impact assessments, or PIAs, must be filed with the commissioner. All information requests by the minister, a health authority, or a health board, are subject to the overarching rules of the act. It is expected that the least amount of information will be collected, used, and disclosed at the highest level of anonymity possible. The minister and health authorities or boards will also be expected to protect the information. In addition, the minister, health authorities, and boards will have to defend their acts and decisions to the commissioner if a complaint is lodged and will be subject to the commissioner's orders. If a custodian believes that the minister is requesting or requiring individually identifying health information that he should not have, the custodian may indicate his concerns to the minister, counterpropose an amount or type of health information that they feel meets the minister's needs, as there is a duty on the custodian to disclose the least amount of information at the highest degree of anonymity, or alert the commissioner to the minister's questionable collection practices and ask that they be reviewed as soon as possible.

There are several rules in the act to ensure that the minister only compels custodians to provide information in appropriate circumstances. When the minister compels this information, he, like other custodians, is required to follow the overarching rules for collecting, using, and disclosing health information; namely, to collect, use, and disclose it with the highest degree of anonymity possible and the least amount possible. In addition, if the minister is compelling this information as part of the new administrative practices or new



information systems, the minister is required to file a privacy impact assessment with the commissioner. If a custodian is concerned about an information request from the minister, the custodian may notify the commissioner. The minister, like other custodians, is subject to following the commissioner's orders and is accountable to the commissioner.

The custodian, as gatekeeper, may choose to raise concerns or awareness of the minister's collection process. The custodian may also make a notation of the disclosure to the minister so that the individual may also be aware of the collection. The commissioner has the power to review the minister's collection of any and all health information, along with the minister's use and disclosure of the information.

9:20

Now, let's just analyze the situation. If a Minister of Health and Wellness was seeking identifying health information inappropriately – for example, asking for the health information of individuals receiving AISH or a list of names of all of the people in the province with AIDS – there are a number of checks and balances in the act which would lead to discovery and appropriate consequences. For example, for the minister to get inappropriate health information, someone must give it to him or her. If that person is another custodian, they are bound by disclosure rules and gatekeeper responsibilities.

Custodians could also alert the commissioner to inappropriate collection by another custodian, including the minister. If that person is an employee of the department or another affiliate of the department, they also must consider the minister's need to know and advise the minister accordingly. If they feel somehow compelled to provide the minister with the information requested, they also have the ability to alert the commissioner to the issue, and the act protects them from any action that would impact their employment or other relationship with the minister or department. It's also an offence under the act for anyone, including the minister, to gain or attempt to gain unauthorized access to the health information.

In conclusion, Madam Speaker . . .

DR. WEST: No, no. Keep going. Please keep going. Keep going. More. Please, more.

MR. STEVENS: By popular request.

Well, one of the interesting things that the opposition has raised in their debate so far is the fact that the scope of the act should extend to the private sector. We're fortunate that we have a commissioner and the commissioner has taken a look at that and in fact published a report, which we have filed in this Assembly, so I believe I'll be in a position to quote extensively from that particular report on this particular point.

AN HON. MEMBER: Tell us what that might be.

MR. STEVENS: Well, I'm pleased to say that the commissioner in his report spoke expressly to the extension of the act to the private sector and "decided not to oppose the bill on that issue for two reasons." This is where I get to quote extensively. He said:

First, Albertans should be aware, as I am at the time this Response was prepared, that the Government of Canada is proceeding with Bill C-6 (formerly C-54) "Personal Information Protection and Electronic Documents Act". This Bill will be applicable to the personal information held by private organizations such as private sector nursing homes, health clinics and laboratories, as well as insurance companies. I have gone on record as supporting Bill C-6 and opposing the attempts of certain health care providers to have

health information "carved out" of the Bill. If C-6 becomes law, it will mean that, within 3 years, the law will apply to health information, indeed all personal information, within the private sector. This in turn will mean that Alberta will have to decide whether to have health information governed by two laws; a provincial one for the "public sector" and a federal one for the "private sector" or to extend provincial law to comprehensively deal with health information wherever it is found or, better yet, all personal information wherever it is found. Either way, the private sector becomes subject to privacy rules.

The commissioner goes on to say:

Second, the personal health information that finds its way into the private sector, in many cases, finds its way there via consent of the individual in most cases. Insurance companies and those health care services providers who escape . . .

[Mr. Stevens' speaking time expired] I'm sorry; I'm unable to finish the quote from the commissioner, but he goes on to support a very good point.

Thank you.

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

MR. BONNER: Thank you, Madam Speaker. It gives me a great deal of pleasure this evening to rise and speak to Bill 40, the Health Information Act. Like so many of my colleagues, I share the same concern that this is just another stepping stone down the slippery path to private health care in this province and that this legislation certainly is inadequate. Earlier on, Madam Speaker, I heard the Member for Calgary-North Hill say that the sky is falling. Well, I've got to agree with him. This is such a poor piece of legislation right now, with so many holes, that the 12 interior columns of this Assembly are not good enough to support this bill. Therefore, I must say right off the top here that unlike the Member for Edmonton-Glenora, I cannot support this bill at this stage.

One of the things this bill does is beyond a doubt destroy the doctor/patient confidentiality, and that is the basis of our health care system. When we damage this relationship, we are attacking Albertans at their most vulnerable point: when they are sick, when they are ill, or when they wish to get a proper diagnosis. This bill is certainly going to damage that. What patient is going to want to go to their doctor and reveal everything? So they are faced with this fear. We know that patient privacy is a fundamental part of any democratic society, and what this bill points out is that we cannot count on this patient privacy. The rules of this bill do not have to be followed by some members in the private sector. For example, WCB is excluded from this particular bill.

Now, one of the things this bill does – and, again, it was brought about by a ruling of the Supreme Court in 1992 – is enable individuals to access their health information. The information itself is the property of their physician, but they can access this information. Yet what they don't know about this bill is what happens to any of the sensitive information that can be held in their health records. It doesn't matter if they've incurred a nervous breakdown in the past, perhaps had an abortion, been treated for a socially transmitted disease, or had a previous pregnancy in their life and have given up the child for adoption. They've gone on with their life and certainly don't want some child showing up on their doorstep. That is the right of the parent at that particular point. Perhaps they were in the drug abuse program or they had a drug problem or an alcohol problem. All of these they want kept confidential. In other words, they should have full rights as to whether this information is safe, yet there aren't enough safeguards in this piece of legislation to keep this information safe once it is in the system.

We see that with private hospitals there is no law that stops them or health agencies from broadly sharing medical files. In fact, it's done now to a certain degree. There are revelations about existing information: how that information is collected, how it is shared. Certainly in practice it's becoming much easier to share this information.

We also saw the introduction of Alberta Wellnet. What this allowed were some great benefits, benefits in the speedy identification of problems the patients have. This is vital in some situations. I can think of people that, for example, have very strong allergic reactions to peanuts. A medical team coming upon this person would certainly want access to that information. Or if they came across a person who for any reason is unconscious, certainly, again, they would want access to this information to make the proper diagnosis.

**9:30**

In making a proper diagnosis, Madam Speaker, we also save this whole system a tremendous amount of money. I tabled a package in this Legislature just a few days ago of a worker in Calgary. The Workers' Compensation Board has spent \$117,000, and this man still does not have a proper diagnosis, still does not. [interjection] This is amazing; you're absolutely right, Member for Calgary-Buffalo.

So we do want a very tight system. We want a system that's efficient. We want a system that is going to work for Albertans.

When we look at the province, they've gone ahead and committed to a \$300 million expenditure with IBM and Ernst & Young to set up this information system. I like the analogies that the Member for Edmonton-Glenora made earlier. I can remember the first health card I received a number of years ago and how proud they were that that health card in the form of a credit card with that magnetic strip on the back could hold 30,000 pieces of information.

We have gone from there through many sorts of information. We've had the floppy. That holds a tremendous amount of information. We have today the potential, Madam Speaker, with the use of electronic microscopes to take the entire information in this building, every bit of it, and put that information, with the use of an electronic microscope, in a space roughly the size of a pinhead, and there's still enough room there for the angels to dance. So is it any wonder that people in this province are extremely leery of what's going to happen to their health information?

There is, as I mentioned, already widespread information exchange. This happens, for example, in a facility. When you enter a facility, you have a receptionist that looks at your chart, you have the attending nurse that looks at that chart, you have a doctor that looks at that chart, and if specialists have to be brought in, of course it's passed on to them and whatever. So we already do have widespread information exchange. But it also goes outside a facility. You know, it can travel to private agencies if the physician who has collected that information deems it. We also have a situation where information is shared with federal agencies, and we also know that files are released to scientists for medical research. So, yes, Albertans do have a big concern.

When we have information that can be shot around the globe through satellite transmission at the speed of light, I wonder what is going to be next on the horizon. Are we going to have an air miles card so that every time we go to a doctor, we get air miles for every new disclosure we make to our doctor? For certain things, whether it's a hip replacement or whatever, you might get bonus miles. There is all sorts of potential here.

I guess one of the scary things, as well, for me was when Dr. Tom Noseworthy was speaking to us, and he indicated how a very

prominent doctor here in the province had taken ill suddenly and was in the emergency department of a hospital here in Edmonton. Within the first hour there were 11 requests for his file and not one of them was from the attending physician. So even the doctors are quite concerned about this particular piece of legislation, and that is why they are not supporting it as well. The Alberta Medical Association cannot, Madam Speaker, support this bill.

I also noticed here – we had other members speak to it as well – that ambulance services are not included as custodians. An ambulance operator is expressly excluded from the designation of an affiliate in section 1(a)(iv). What an important role these people play. So if, for example, an ambulance is transporting a senior from a hospital to a nursing home, it appears that the paramedics may be restricted in the ability to access, to share information about their patient when the paramedics talk with the hospital staff at one end and the nursing home staff at the other.

There are many other concerns here as well. Firefighters are not covered by this bill. In 63 percent of cases the first response is by firefighters. So in any emergency that they attend, can they collect and distribute this information? Is it not vital for this information to go to the hospitals so they know what they're going to be facing when these patients are put in?

I also look, Madam Speaker, at a number of holes that this particular bill has in it. One of those is that this bill allows disclosure of individually identifiable health care information without consent for far too many reasons, including policy and management purposes. Another particular hole in this bill: the bill gives far too much power to the minister and Alberta Health to access records held by doctors. Of course, we've seen this same situation arise with the WCB, where they were again trying to access records of injured workers.

Another hole, Madam Speaker: even where consent is required, the range of permitted uses for individually identifiable health care information is far too wide. The public has not had an opportunity for a great amount of input into this bill. This bill must be delayed until they have been heard from.

Now then, I had the opportunity to talk at some length with a young doctor who graduated recently here in Alberta and had headed down to California. She was certainly one of those people that we commonly refer to as the brain drain out of this province. I was talking with her, and she said that the one thing that made up her mind in order that she would not stay in the States and practise medicine was the fact that when she went for her interview, it was with an insurance company. That insurance company told her that they would choose what patients she could treat in this private facility. In other words, they'd cherry-pick. They'd take all the good cases that were the most profitable, and of course the long-term, the serious, the non-profitable cases were left over for the public system. We all know that when we look at the United States, the system for the poor is also a very poor system.

I give her a tremendous amount of credit. Her esteem certainly rose greatly when she made the decision to return to Alberta to practise. She did that because here she can be a doctor. She can choose what she is going to be doing in the way of medicine. I commend a person like that, and I would like this bill to be stronger so that all our doctors fall into that particular category.

**9:40**

Now then, as I said earlier, this bill does not apply to a number of people. When we look at the WCB, for example, we have in the neighbourhood of 120,000 injured Albertans per year that they deal with. Presently somewhere in the neighbourhood of over a million workers in this province, then, are eligible for WCB benefits, so they

would not be covered by this particular bill. Here in Edmonton – and we thank Calgary very much for allowing those people from Currie barracks to transfer up here – we have a megabase at the Edmonton garrison situated at Namao. We also have the RCMP, who play a major role in police work here in this province. Neither of them are covered by this particular bill. As well, the Alberta Alcohol and Drug Abuse Commission is not covered by this bill, and those people who deal with persons with developmental disabilities will not be covered by this bill.

In my estimation, Madam Speaker, Bill 40 puts too much emphasis on sharing information and too little on the protection of privacy. It does in its own way impose some restrictions on a patient's access to information. Disclosure of information can be refused if it could be expected to result in immediate harm to the applicant's mental or physical health or safety, if it threatens the mental or physical health or safety of another individual or poses a threat to public safety or leads to the identification of another person who provided information in confidence or for a wide range of other reasons.

We have a great inconsistency here, as well, Madam Speaker. When we look at a number of long-term cases with WCB, one of the things they must do is undergo a psychological test. Now, those pieces of information are returned to a worker who is in a fragile state. In one case we will do that, yet Bill 40 for our public system prohibits that information being given. So, again, we do have to have some consistency in the rules that apply to the public sector and to the private or the WCB.

Another thing we have to look at is: how often will individuals want to access their own records in the future to see if they've been disclosed without their consent?

MR. DICKSON: The Rellands.

MR. BONNER: Right on. The Relland family, as the hon. Member for Calgary-Buffalo has just pointed out, is one of those families in Alberta that is a prime example, and certainly we would hope no other family in Alberta would have to go through what they have gone through.

Madam Speaker, there are so many reasons in Bill 40 for the disclosure of information that such requests may happen quite often, and when individuals try to check out who has seen their records, again, without proper legislation this in itself can become quite costly. I look at people with the WCB, again, who have absolutely no trouble telling you that their records include 2,500 documents, and when they come to the office, they show up with boxes.

So in closing, Madam Speaker, I thank you very much for the opportunity to speak to Bill 40, and until such time as many of these inadequacies are shored up, I cannot support this bill.

Thank you.

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

DR. NICOL: Thank you, Madam Speaker, for the opportunity to get up this evening and speak to what is basically the Health Information Act and see what . . . [interjection] Yeah, it was. The Treasurer over here is giving me a little bit of a compliment on my tie.

So this is a process, Madam Speaker, where we have to look at the options that are available when we try to think about how we want to handle the issue of health information. That's what this bill is all about. It's our health information. We start by looking at why records are kept, and basically they're kept by a provider so that they can make reference to them from time to time as needed to provide service to one of their patients or the persons they're providing care

to. If we were in a totally individualized system where each of us dealt with our own providers and paid when the time came, that would be basically the extent of our health care records except for any use that individuals could enter into to provide support or collection and information-gathering processes.

But that's not the kind of system we operate under, Madam Speaker. We have to deal now with looking at information totally differently. It still serves that basic need of providing an individual's ongoing record of the kind of treatments, the kind of diagnosis, the kind of concerns that are expressed between a patient and their provider, and that becomes, effectively, the base of our health care system, whether it's at a doctor's office, a hospital, a diagnostic clinic, or a diagnostic procedure centre. This information that is collected at this level is really the basis of our own individual health record.

The act that we're dealing with now has to start off looking at how those records can be protected to maintain our individual privacy, our individual feeling of confidence in the system that the discussion we've had with our health care providers isn't going to become part of the public record. So when we look at this bill and say, "What's in it that's going to protect that?" it becomes one of looking at the sections where we start to deal with all the exclusions, where all the options for disclosure without consent exist, and some of those begin to make a person kind of wonder what's going on.

The final impact there, Madam Speaker, is that I feel very uncomfortable with some of the disclosure provisions, that have little or nothing to do with good health care. When we look at why these kinds of disclosures might be reasonable, I guess it would fall under two areas that you would want to look at. First of all would be the use of these data to assist in the effective and efficient operation of our public health care system. In other words, as we allow an individual to get a second opinion or visit another follow-up specialist, how much of the information from the primary or the first care giver gets transmitted along the system so that we don't have to repeat and increase the cost of diagnosis by having the same kind of tests done at each level of specialized treatment of the individual? So that's one of the reasons why we would want to have it carried along. The other would probably be as a tracking mechanism to make sure that abuse of the system wasn't occurring.

Now, the first of these types of transmission of information that I talked about necessarily requires that the individual be identified so that when you move from your general practitioner or your first point of contact on to a diagnostic facility or on to a treatment facility, the information gets transferred and they know it's being transferred with the right person as it moves. So the proper identification there has to be maintained. But when we start looking at the transfer of information to track abuse, what we can do here for a lot of the cases is remove a lot of the identifiers that are associated with the individual. A lot of the supplementary supporting data doesn't have to be transmitted at the same time, so there's a degree of privacy maintained there.

9:50

This is the kind of thing that I don't see showing, at least in my reading of the act, in the way that I put together some of those sections that deal with how information gets transmitted between users. So you kind of wonder if they're going to be transmitting a lot of information in that process or if there's the potential there to transmit a lot of that information that wouldn't necessarily support the monitoring of abuses in the system.

The next thing that you begin to look at as you evaluate the bill is if transmission is going to be undertaken and if sharing of this information is going to be undertaken, how is it going to be done?

You know, historically everything was written on a little piece of paper, even before xerox machines. It was kind of in the drawer, in the file, and unless you had a good sharp pen or a pencil, you just didn't transmit it. But now technology is getting to the point where it makes it easier, and we've heard a number of references tonight to where we've had electronic mistransmission of this kind of information or just sheer what you might want to call carelessness in terms of the improper disposal of equipment that results in some kind of unplanned or unwarranted distribution of that kind of information.

Madam Speaker, I don't think we can look to bills or look to legislation to deal with that kind of disclosure, because that's the kind of thing that occurs through error or oversight, mismanagement in the handling as opposed to the improper setting up of a process. In the quick skim through that we get to do on these bills, the process here seems to be somewhat functional, but there are some areas where it looks to me like we're allowing information to be transmitted that probably wouldn't be necessary for a lot of the functions and a lot of the purposes we want to transmit information for.

Madam Speaker, as a scientist I've collected a lot of information. That was part of what I did for a number of years in my prior life. One of the things that we worked with a lot was maintaining the privacy of the businesses we were dealing with, of the individuals that we were trying to collect information about, and I don't see a lot of the things we commonly practised in terms of protection of the individual being included here.

One of the examples is that if you're going to use these data that are collected under the umbrella of Alberta Health for research and policy and health care planning, under very, very, very few circumstances would you need to have the actual personal identifiers associated with them. Now, a lot of times what we've done when dealing with data handling between individuals and the analytic process is to stick in an intermediary, where that particular individual is the one who creates the anonymity of the data. In other words, they put an identifier with the record, but that identifier cannot be tracked back except through the managing individual to the identified client or the identified person who is the subject of that particular data record. This way what you do is create a gatekeeping situation where you have a particular point of contact that you can always go to if you have a concern about the breach of privacy, because that is the only place it can occur. Once it moves beyond that point into the research and the scientific policy planning process, there is no individual identifier that is there.

Madam Speaker, if they were to get my records, they would be able to say: Ken Nicol had ulcers since he was a little kid until he was an old man. If you track this kind of information, that record would show as being that of an individual. They could talk about the age that I first had my ulcers and the number of times it was X-rayed, the number of times it was treated, but nobody would ever be able to point a finger and say: yeah, we know this was Ken Nicol's record. That's what this gatekeeper process is all about. A scientist doesn't need to know the name that is there. All they need to know is the associated demographics so that they can tell where I lived – that's coded by geographic area – and the age. There are a lot of people in the province the same age as I am. That kind of thing can work out, and it can be processed and maintain that privacy.

You know, as a scientist I don't see the need for this real fear of releasing this information, with all of the identifiers that are associated with it, that would reveal a person's private health care information. I think the bill can be modified very easily to make sure that a lot of exclusions we're talking about in sections 35 through 39 or 40 can be handled by this kind of gatekeeper function. We don't have to worry then about the idea that individuals will

have their name associated with one of these records.

The other thing we have to look at is in terms of: how do we transmit that information? If it's going to be done electronically, we have to make sure there is a degree of supervision of those transmissions to make sure it's appropriately protected, who is approved to handle it, and what the responsibilities are and what penalty exists if those conditions are violated. Madam Speaker, it doesn't appear quite like this bill handles or addresses that kind of concern appropriately, as far as I'm concerned, because it just allows a lot of this information to get out and get free flow into the public system.

The other question that I have in the context of this bill and the way it would handle, especially, planning and policy and scientific research is about the obvious holes that would be created in the data by the differentiation of the public facility versus private provider conditions. This, then, also relates to how we deal with the encroachment of private operators into so many of the different areas of our health care system as they are handled differently and are under different conditions in the context of the disclosure and the way they have to handle our individual health care records. As a scientist you look at them and say: what you've got there are big holes where you're not going to have a complete record of a person's health care contact.

So for planning and for demographic and time frame analysis, you've got the possibility of improper information being generated and improper recommendations being the result of that kind of analysis. What I'd like to see is the bill looked at in that context to see if we can look at the data that's being used for policy planning and the data that's being used for the research part of this health care information system from the perspective of its functionalness, its completeness, yet its protection of privacy for the individuals who are involved in those records that have that health care attached to them.

One of the other concerns I've got – and it also comes down to this issue of the area of disclosure – deals with some of the parameters that are related to it in the context of section 36. Here it's not specifically the section that I'm worrying about; it's the implication of the scope of the bill and the approach that can be taken as we move into looking at how this information is going to be used.

**10:00**

One of the sections there allows the government to use this information and to disclose information without consent, Madam Speaker, which is really kind of an interesting proposition, for purposes that are totally not associated with health care. Section 36(b) talks about releasing identifying registration information for tracking persons who are delinquent in owing the government money. So if I don't pay a traffic fine, they can go and get my health care records to find out where I've accessed the health care system if they need to track me down. Wouldn't it be more appropriate in that kind of situation to look at my driver's licence or my car registration? That relates to that kind of function. To put a broad-base exclusion like that here for the kind of information that is the ultimate in an individual's privacy, you have to look at it and say, you know, what is the government thinking about when they put in that without consent the minister can disclose information for those kinds of purposes?

You can almost imagine how a health care record can be used for tracking individuals that have financial interactions with the government. This then becomes a debt collection process and a debt collection information database, rather than a health care database. I guess it's not what I would consider appropriate use of health care records. I'm sure if most Albertans were to recognize that their health care records were going to be used or could potentially be

used to enforce or track them down for financial obligations to the province, they would not be very pleased, I don't think. So those are the kind of concerns that come up.

A couple of the other issues that I'd like to address as well is the power that Alberta health has and the minister has to deal with the information and to provide associated organizations with access to that information. We have to look at it from the area of identification of the custodians. That is an interesting name for data managers: custodians of our health care information. They also have an option here to collect, or to deal with recovery of information, how they deal with the charge to anybody who wants to have access to their records. They're going to get a cost recovery on it. Well, you know, if these are my records, if they're being held there in the health care facility, it's really kind of an interesting thing to effectively curtail access by putting exorbitant costs or charges against access to them.

They also through this bill exclude that same kind of provision for access and clarification and looking at your own information in the private sector. How do we get that kind of access to our health care record when we want to look at it from the perspective of making sure that what is there accurately reflects the kind of issues we've discussed with our provider? Madam Speaker, I know it's a common concern from individuals that I talk to associated with the health care system to find out what's exactly in their health care records and how they were treated, how they were handled, how the diagnosis was made, what interpretations were put on the various procedures and the different weights or whatever that were given to different individuals, especially when consultations are called. This is the kind of thing that needs to be looked at from the perspective of how an individual's record can be designed to accommodate all of these different conditions and the different approaches as we get into that health care sharing.

So at this point, Madam Speaker, I don't think I can be supporting this bill.

**THE ACTING SPEAKER:** The hon. Member for Calgary-Lougheed to close debate.

**MS GRAHAM:** Thank you, Madam Speaker. As the sponsor of Bill 40, I do rise this evening to make a few comments and to close debate on this bill. I wish to acknowledge the many speeches which have been made by members in this Assembly and certainly can acknowledge that valid, reasonable points were made. A few. Unfortunately, many of the speeches did reflect a high degree of rhetoric and a failure to comprehend the intent and the scheme of Bill 40 as regards the protection of privacy and the control of sharing of health information under this act. Regrettably, sometimes a little bit of information is a dangerous thing. I do feel, however, that in the introductory speech, as sponsor, and in the speeches that have been made by my colleagues the members for Bonnyville-Cold Lake and Calgary-Glenmore, responses were given to the legitimate concerns raised by members of the opposition.

Just to remind members, Madam Speaker, the purpose of this legislation I say has been achieved, and that is that the right balance has been achieved between the protection of privacy of one's personal health information as well as clear rules for the collection, use, and disclosure of that health information for two very important purposes, which are patient care and the management of the health system. This legislation has been designed to reflect the operation of the health system as it operates today as well as to look forward to the future operation of the health system. There has been a growing recognition of the use of information technology not just in the health sector but in all sectors of society, and these rules are in

place to guide us now for the types of information systems we have, the paper system and certainly the information technology that is in existence. It also looks to the future, when an electronic network in the nature of Alberta Wellnet may be in place.

Many have spoken about why we need this legislation now. That would seem, Madam Speaker, to presuppose that we have clear, good rules in place to guide the collection and use of health information now. Well, I'd just like to make it very clear that the rules we have are scattered. They are scattered amongst different pieces of legislation, codes of practice and just informal practices. They are often inconsistent, and there are gaps in the rules. So Albertans need this legislation to ensure that their privacy is protected as well as to ensure that we have good information for making good decisions about the operation of the health system.

**10:10**

Before closing, Madam Speaker, I'd just like to remind members of the seven basic principles of this legislation, which I think may have been overlooked in all of the rhetoric in the various speeches we have heard. The first one is a very important principle, and that is that this legislation gives every Albertan the right of access to their own health information. This is a first, because we don't have that entrenched properly right now, and there are many obstacles to one getting access to one's own health information. This bill will cure that. This bill will also give individuals, once they've seen their health file, the right to request that it be corrected or amended. This as well is a first, and this can be enforced. There are no rules governing this right now. The right doesn't exist. The third basic principle is that the legislation will prescribe in a clear fashion the rules for collection, use, and disclosure of health information in all cases, making sure that only the most limited information is collected, used, and disclosed and that there be the highest degree of anonymity.

The fourth major principle of this legislation is that it will provide rules to enable health information to be shared where it is appropriate to provide health services and manage the health system as I have spoken about. Fifthly, this legislation will establish strong and effective mechanisms to protect the privacy of an individual's health information. There are checks and balances, and there are procedures to provide protection that had not existed before. Sixthly, it will establish strong and effective remedies if the rules are broken. A maximum penalty of \$50,000 for an offence will be in place. Lastly, it will provide for independent reviews of decisions made about health information and provide a process for resolving complaints which will involve the Privacy Commissioner, who will be referee and arbitrator in these circumstances.

Madam Speaker, it is my intention to speak in Committee of the Whole in greater detail to address the valid and legitimate concerns raised by opposition members. For the purposes of this evening, however, I will end my remarks and ask for the question.

**THE ACTING SPEAKER:** The hon. Member for Calgary-Lougheed has moved second reading of Bill 40, Health Information Act. Does the Assembly agree to the motion for second reading?

**SOME HON. MEMBERS:** Agreed.

**THE ACTING SPEAKER:** Opposed?

**SOME HON. MEMBERS:** No.

[Several members rose calling for a division. The division bell was rung at 10:14 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mrs. Gordon in the chair]

For the motion:

Amery	Forsyth	Nelson
Broda	Fritz	Renner
Burgener	Graham	Shariff
Cao	Hancock	Smith
Clegg	Klapstein	Stevens
Day	Kryczka	Taylor
Ducharme	Laing	Thurber
Dunford	Magnus	Trynchy
Evans	McFarland	West
Fischer	Melchin	Zwozdesky

Against the motion:

Blakeman	MacDonald	Sapers
Bonner	Nicol	Sloan
Dickson	Olsen	White

Totals:	For – 30	Against – 9
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[Motion carried; Bill 40 read a second time]

### **Bill 43 Fiscal Responsibility Amendment Act, 1999**

[Adjourned debate November 23: Mr. Havelock]

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

MR. WHITE: Thank you, Madam Speaker. A bad joke after six months is still a bad joke. The fiscal responsibility or fiscal irresponsibility act is before us today, and it's a shame that we have to do it so late at night or others could enjoy the festivities. It's awfully difficult to believe a government can say this with a straight face. Nowhere in the Westminster system would you find a government that says, "I promise I will spend this way" and then six months later change it another way. I mean, what do you do? Flip a coin every Thursday and decide whether you're going to spend or not? Why bother budgeting if it matters so little? Here you're talking about a budget, a fundamental document for one of the 10 provinces in Canada. I mean, this is supposed to be civilized. My children in grade 3 don't budget so badly. I can't believe how you could do it.

When was a deal a deal? You said: this is what we're going to spend for the year. Then you throw in this silly rider that says: "We promise; anything we save we'll put in the piggy bank, and we'll pay off the bad stuff. We did before." Ridiculous. I can't believe it.

There's a specific law in place that that government put in place many years ago and reaffirmed most recently two years ago that says that a municipal government cannot impinge upon future governments. It can't make decisions for them in advance. Well, this piece of legislation modifying the original, a totally silly piece of legislation – it was just all about marketing and all about feeling good about something or other that said nothing about how you should really expect to spend some funds when you can't possibly predict an income level.

MR. DICKSON: It was a marshmallow law.

MR. WHITE: I'm commented on from before me, "It was a marshmallow law." You can burn it and you can singe it and you

can mush it, and it still comes down to a lousy piece of sweet sugar. That's it. I mean, it's unbelievable that one should have to spend time at this hour in the evening going over and trying to repair a stupid, stupid mistake in the first place.

I know there were at least four members on the other side at the time that the original bill that this error was trying to fix – I can't believe you'd have to do this. The poor people that have to be on tonight, to have to go through a classic error, a no sell.

MR. DICKSON: What does it say for legislative comment?

MR. WHITE: "What does it say for legislative comment," I'm asked. This says all the worst possible things.

You know, we started tonight at 8 o'clock with some kids about six, seven, and eight, maybe even as old as 10. They would not even consider putting a fiscal irresponsibility act in place that this piece of trash has to rectify. Why? Because they know that Alberta's economy in part – the income fluctuation is so great you couldn't possibly account for all the possibilities of over- or underearnings. So in order to rectify this situation, we have this.

**10:30**

Now, I said earlier: when is a deal a deal? I mean, when is it that you say this is what we intend to do and then stick to it? This government? Never. Oh, sorry. Sorry. I'm getting a strange, tired eye from the minister of resource devolution, who used to be minister of energy. He actually has said some things, and he actually did them in the manner in which he did them, not that anybody really wanted him to do it that way, because he probably misspoke himself in the first instance. In any event, he actually stuck to it: a deal was a deal.

MR. DICKSON: Then there was the time he was Solicitor General.

MR. WHITE: I'm afraid I don't recall those days with clarity; it was a little foggy that night.

A deal cannot be a deal when, in the first instance, the deal is a rotten deal. I mean, it's the government trying to promise itself that this is how we're going to expend these excess funds, and that can't be. To base this whole thing on a curious term called an economic cushion – well, my granny used to put pins in cushions, and you can use cushion as a noun, I suppose, to cushion the fall. But how do you have it to cushion getting too much money?

Now, is that a cushion going up, filled with this hot air, so when it hits the top it goes whoopee; it makes one of those foul sounds? Is that it? I mean, this joke is so bad that I think when I get home I'll wake up my wife and tell her how bad this joke is. She would understand that a government is so ridiculous that it comes to the point of having to back off a silly mistake they made in the first place and waste all of these people's time. I mean, it's really difficult to believe.

Now, defining cushion. This is the way it's supposedly defined: the amount by which the estimated revenues exceed the estimated expenditures. Well, I guess I'll have to go back to economics 101, because I don't ever remember hearing a definition of a cushion to that extent. Never, never, never, never. I mean, it's in some other language, I think, sort of like the Americans refer to it as a sofa sometimes; we refer to it as a chesterfield. This is a cushion off one of those that sort of got lost somewhere in the shuffle, because this bears no resemblance to anything economic.

I mean, we have on this side a couple of members that actually know something about economics, and when asked about a cushion . . .

AN HON. MEMBER: Which one?

MR. WHITE: I was asked which one. Well, it happens to be the one that has a bachelor's, then has a master's, then has a doctorate in economics.

There is some solace in some quotes from the Provincial Treasurer at the time, as early as February 23 of this year.

Twenty-five percent of that will be available to us for items like infrastructure, pressures, and onetime capital spending that is in place already. There will be a plan.

I repeat: there will be a plan. There is no plan. The plan is to get rid of the bill he was speaking of; that's the plan. Well, the fiscal irresponsibility act before us is not the plan.

I continue with the quote so as not to mess up *Hansard* too much: "There will be a plan where we can see in an orderly way what we can do to accelerate some of our infrastructure costs." I think he must have misspoke himself. You're not in a hurry to accelerate infrastructure costs. Accelerate infrastructure expenditures, perhaps, but not infrastructure costs. But if that's the plan, to accelerate infrastructure costs, then this plan becomes more and more nonsensical.

MR. HANCOCK: He misquotes us.

MR. WHITE: The hon. Government House Leader had something to say. I'm afraid I missed that.

MR. HANCOCK: No. You're talking. We're listening.

MR. WHITE: That is true. The minister is quite right. I am talking; he is listening. I'm sorry, Madam Speaker. I missed that. I made a mistake at the hour of listening in this Chamber. Silly me. Should never have done that.

"The plan is simple yet detailed." We're still talking about this plan. It's detailed, yes. Six months later it comes back in the form of a no-nonsense, fiscal irresponsibility amendment act. This is just too much of a silly delight to believe. "So the plan is simple yet detailed, but it builds in the fiscal discipline in terms of our own planning process." Stockwell, this is too funny.

Fortunately, the minister won't stand up and read back my lines to me. He's too much of a gentleman for that. He wouldn't be that mean. But I'm not a minister of the Crown, and I didn't propose an original piece of legislation that would hamper government expenditures to the extent that that piece of legislation did and then have to come back and tear it up. Why wouldn't we just say: "Look; it was a bad idea then. It's still a bad idea now. So why don't we just do away with the bill." Instead of amending it, amend it by way of deletion off the record. Just expunge it. It was a bad nightmare to begin with, and it's getting worse by the moment.

I won't pain the minister any more. I'll leave further quotes for someone else on this side of the House.

I do have some positive reinforcement here. There is one thing that I do know about municipal government. There is a plethora of them in this province that are just dying to have some more money for capital expenditure, for the favourite expenditure in their region. They would be able to stack up a list of priorities. If you wanted to cushion the blow, as it were, of having this massive influx of cash, if you wanted to really, really manage that well, instead of having the elasticity and the expenditures of one government, you would share that around. You'd move that about. A good minister would say every six months – and he's been able to tell three months after the books are closed what actually happened in each quarter. At the end of that quarter he'd say: all right, we are going to share some of

this revenue, and this is how we're going to do it, on a straight per capita basis. It's that level of government that should be respected, in fact, and says to them: now, spend those moneys as best you can to meet the needs of your respective jurisdictions in those areas where you really think it is necessary to be spent.

The amount of money would not be a great deal in each individual municipality, but it would make a great deal of difference, and it would be expended well. They have the wherewithal to manage these expenditures, and in fact they could do a very, very good job. The economic theory of that I'll leave to others. The practical part of it is that this expenditure level would be anticipated.

10:40

Those of us that live here know what the price of oil per day is. We know that's west Texas crude. We know what the Chicago price is for natural gas. We know what that is, and we know that we can very, very shortly meet that and have that price. So we know what to expect. We can translate that quite easily into what each and every municipality would – it would be planned for. They could curtail their expenditures in those areas instantly. They can manage their funds very well. It's right close to where the people live. It is not a difficult situation.

Time is running out, and I don't want to quote the minister any longer, but I tell you one of the things I do want to cover off is the average deviation just on the revenue side for each and every province and territory. Now, as expected, Alberta should lead this one, should lead this category by a great amount. So why doesn't one plan on having the standard deviation at least double, maybe triple what the other provinces do? How about managing that instead of just guessing? Having to make these corrections, stop and go corrections, is just counterproductive.

If you put a fiscal stability fund in so that the fund goes up and down as required, you'd be able to manage it over a course of time. It takes the humps and hollows out. One should be able to do a very, very good job of managing that. There are short-term borrowings, short-term funds that are needed throughout this land. Borrowings could be managed easily. As a matter of fact, I'm told and I've heard it said in this very Chamber from Treasury, the people that actually manage those funds for the Treasury – and they do an exceptionally good job of managing those funds as they come about. The magnitude would be considerably greater than what they're currently dealing with because of the vagaries of income, but they could do it and do it very well.

I don't understand why we have to play with these silly pieces of legislation when there's some serious planning that could and should take place, not for some kind of consumption of the public that don't understand this and say that governments can actually promise a year in advance or years and years in advance how responsible they're going to be. It's a day-to-day matter. You cannot say: we will hold ourselves back from decisions that need to be made six months from now.

This piece of legislation is worse than a bad joke. It's a waste of valuable time and valuable energy of this Chamber and of the attention span of Albertans.

Thank you, Madam Speaker.

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

MRS. SLOAN: Thank you, Madam Speaker. I'm pleased this evening to rise and debate Bill 43, the Fiscal Responsibility Amendment Act, 1999, perhaps more appropriately named the hypocrisy act. In the not too distant past certainly we and the public

have had more than ample references made by this government and by this Provincial Treasurer as they trumpeted and marketed the original bill, the Fiscal Responsibility Act.

[Mr. Shariff in the chair]

For the purposes of the record this evening, I'd like to read one of those quotes which came from the publication *A Plan for a Debt-free Alberta*.

Controls on in-year spending increases are legislated. No more than 25% of the economic cushion and any forecast revenue increases over budget can be committed to in-year spending increases or revenue reduction initiatives in a quarterly budget update. This new limit on unbudgeted spending during the year increases the importance of good three-year business planning to ensure all essential funding is adequately provided for in the budget.

This bill this evening, the amendment proposed, directly contradicts that commitment that the government made in March of this year.

The public, I believe, is certainly aware of the process of budgeting, whether it be for a family, for a business, for a large corporation perhaps, and those principles of budgeting can certainly be applied to the budgeting for a province. What Albertans are very quickly figuring out, Mr. Speaker, is that this government has become a master at underestimating revenue and underestimating expenditures to construct on an annual basis a predictable surplus or what they would choose to call a cushion. We've seen now, at least in the last three to four years, an increasing tendency by this government to do that.

Now, all the while they suggest to Albertans that they are adequately and accurately managing the province's finances, but some other things are happening, Mr. Speaker, that perhaps the public is not so cognizant of, and this government doesn't choose to bring those to the public arena for debate. One such trend is the increasing reliance in this province on funding through gaming and casino revenues. We've heard everything from schools to social agencies to health care organizations now doing casinos in this province to offset the underfunding of this government. We've also seen over a thousand new user fees introduced during this government's tenure, again another way of subliminally taxing the people but making that tax apply only to the users of the service. The other trend, that is perhaps becoming more evident to the public, is the downloading of deficits by this government onto regional health authorities, children's service authorities, municipalities, school boards, and the list goes on.

Now, in 1997 the province took it upon themselves to hold a growth summit, and over two years ago it was clearly stated by the conference delegates that these trends existed. I would quote from one delegate:

As the government tried to bring its fiscal house in order, we have created some . . . 'hidden deficits,' especially in the infrastructure system. And in the long term, eliminating or avoiding this 'hidden deficit' has greater importance than the short-term fiscal situation of this province. Because if this deficit is not eliminated, Alberta's capacity to attract and support growth will continue to deteriorate.

That message was sent and published two years ago. What did the government do in response? They continued to underestimate revenue, they continued to underestimate expenditures, and they continued to produce on an annual basis a huge surplus while schools were not receiving funding for capital expenditures for their upgrades.

Municipalities most certainly were not receiving the contributions they required, and many children's service authorities and regional health authorities started their existence carrying the deficits off-loaded by this government, and that trend continues to exist today.

So for the Provincial Treasurer, after his holier-than-thou stance on budgeting in the last five to six years, since the introduction of the Deficit Elimination Act, for the Provincial Treasurer after taking such a stance to suggest that Albertans should tolerate government going back on its word, proposing an amendment for expenditures that should have been part of the budget process all along – who else would get away with this kind of budgeting? It's a complete facade, and it actually makes a complete mockery out of this government's whole platform on fiscal accountability, on transparency, on honesty, and on accountability. It's a complete facade. This little, brief one piece of paper completely shot a hole through the heart of this government's platform.

10:50

Now, I just can't wait, Mr. Speaker, for the next provincial election, and I can't wait to hear the Premier's and Provincial Treasurer's platform. Let me see. Maybe it would go something like this: well, we ran the last election on eliminating the deficit and debt, and we've come to learn that there are additional needs in the province like municipalities, like regional health authorities, like children's services, like school boards, and while we're still committed to debt reduction, we've learned that we must sufficiently fund these appointed structures. What do you want to bet it goes something like that? A big retreat once we're in election mode and a complete disassociation from the last five years when all of those structures have been intentionally underfunded by this government. It's quite an amazing phenomenon, Mr. Speaker, how things change.

The reality is that the government's only key focus and their only key commitment continues to be a fiscal one. Even though they're mismanaging that, they really have yet to identify or draft their next agenda. We're really existing in this province at the moment with a government without an agenda. It was proposed by the Premier that the growth summit was going to set out that new agenda, but the reality is that this government has failed to pick up the ball. They've hung onto debt reduction. They've hung onto fiscal responsibility.

Albertans have moved way past that. Albertans have for many, many years and years way beyond the term of this government believed that the quality of their lives and the richness of this province was determined by much more than our economic and fiscal stability. Some of those sentiments were also embodied in the growth summit report. One participant in the social economy sector said this:

Growth for Alberta would mean less. Less racial prejudice, less homophobia, less child poverty, less inequality amongst social classes, less wealth for the very few and less poverty for many. It would mean less selling our resources off cheaply and quickly to the world and less exploitation of agricultural lands for housing and other short-term development. It could mean a less indulgent standard of living for all, leading to a less empty legacy for our children.

Growth would mean adapting sustainable resource management, diversifying clean industry, reducing reliance on petrochemical industries, enhancing the place of artists in our economy and in their positioning in society . . .

Et cetera, et cetera.

Those sentiments, at least in this session, have not been embodied in the bills brought before us in this Chamber by this government.

[Mrs. Gordon in the chair]

We have the Constitutional Referendum Act, which absolutely strikes at the heart of the rights of minorities in this province. We have Bill 40, which is the most invasive piece of legislation perhaps ever seen on this continent. We have the Fiscal Responsibility



Amendment Act, which proposes an allocation of money against the government's own proposed agenda and mandate. It most certainly is the icing on the cake, Madam Speaker. In these respects it almost seems that we've moved to a position of desperation as a government.

I was told today that the hon. Treasurer in his media availability had resorted to using cutout dolls to illustrate the status of the province's finances. Cutout dolls. Now, that may lend some weight to our hypothesis that the emperor has no clothes, Madam Speaker, but I can't speak tonight about the attire of the dolls or of what gender those dolls were. I may be able to refer back to this in our debate later this evening on the Insurance Act, because perhaps the Treasurer was intending a subtle message by the use of the dolls this afternoon.

I thought: isn't this interesting? When the whole fiscal responsibility agenda was introduced, it was the renovation of the house, Madam Speaker, that we used as the analogy, and most Albertans could relate to that. Most of us have gone through some type of renovation either in our homes or in the environment in which we work, but I really wondered what kind of message the hon. Treasurer was trying to get at this afternoon in proposing that most Albertans could relate to a cutout doll. I personally haven't had cause to play with one for some years. In any event, I'll leave that perhaps to the hon. Treasurer or one of his colleagues to clarify at some point later in the debate this evening.

During the 1981-82 to 1996-97 period Alberta in fact had the distinction of having the highest deviation of its revenue forecast from actual revenue with the standard deviation of over 7 percent. Most Albertans know that our revenue sources continue to be significantly based on volatile resources: crude oil, corporate income taxes, bonuses from the sale of Crown leases, natural gas royalties, et cetera, but what I can't figure out, Madam Speaker, is that while the Provincial Treasurer says it may be very difficult to predict or forecast revenues, surely he has some historical record to predict expenditures. But in the example in this last fiscal year and in the example of the bill this evening we have a Treasurer in this province that can't even predict expenditures. I think the intent is very, very obvious, and while it may have been a few years ago less apparent, the real intent is much more obvious to Albertans today.

We had students last week rallying at the Legislature around tuition fees, the exorbitant increases in tuition that Alberta has introduced in the last five years. We had disabled groups rallying on the steps, speaking out about the chronic underfunding in their sectors. We have reports on an annual basis published by regional health authorities, the Capital health authority being one of the most recent examples, and children's health authorities most prominently in Edmonton and Calgary underfunded to the tune of millions of dollars.

**11:00**

Despite all those realities, Madam Speaker, we have a government that comes into the session, in fact pre-empts the session by spending \$11,000 out of the taxpayers' purse to profile an obscure policy about privatizing health care. If they think that they're having difficulty predicting expenditures now, it will be nothing to the degree that the difficulty will increase when we have increased privatization of public services and health care and social services. I think that reality, Madam Speaker, if I recall, was characterized

quite astutely by the Auditor General in his last annual report. It would seem that the government increasingly wants to disassociate itself from the Auditor General's assessments and recommendations.

It's, I think, also important to embody in my comments tonight other comments that have been made by Albertans and to bring those to the government's attention once again in consideration that perhaps they may not have read them the first time around:

We are creating a hidden deficit in the condition of our infrastructure and equipment; in the reduction of service capacity; in the lack of sufficient long-term preventative programs; in the inability of some Albertans to participate in the benefits of prosperity and in our inability to attract and retain the best qualified staff in the public sector.

We have no capacity to accommodate and support the growth in population and economic activity that is projected for the next decade . . . we are concerned about the extent to which an increasing proportion of costs has been transferred to individual Albertans and employers.

Again, all comments were made during the discussions at the growth summit in 1997.

The infrastructure deficit is not something that occurred overnight in this province. It is the result of poor government planning. The government has been warned about the growing infrastructure deficit as far back as the growth summit. Further, in 1999 the Alberta Urban Municipalities Association infrastructure task force estimated that the underfunding infrastructure deficit had reached \$1.7 billion, including \$889 million in nontransportation infrastructure, including storm drainage, waste and water systems, water supply and treatment systems, parks and recreation facilities, protective emergency services, solid waste management, and mobile equipment.

Those realities are clear. I think they're quite clear to every member of the Legislature. So why, Madam Speaker, do we have a Treasurer that doesn't have the guts to bring forward a provincial budget that accurately reflects those expenditures and, instead, looks for a behind-the-door, backdoor way of bringing in some cash at the last minute?

With those comments, Madam Speaker, I'm pleased to conclude my debate this evening.

**THE ACTING SPEAKER:** The hon. Member for Calgary-Fish Creek.

**MRS. FORSYTH:** Thank you, Madam Speaker. I'd like to move that we adjourn debate on Bill 43.

**THE ACTING SPEAKER:** Having heard the motion by the hon. Member for Calgary-Fish Creek, does the Assembly agree with the motion?

**SOME HON. MEMBERS:** Agreed.

**THE ACTING SPEAKER:** Opposed?

**SOME HON. MEMBERS:** No.

**THE ACTING SPEAKER:** It's carried.

[At 11:06 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

