

Legislative Assembly of Alberta

Title: **Wednesday, December 8, 1999** 8:00 p.m.

Date: 99/12/08

[The Speaker in the chair]

THE SPEAKER: Please be seated.

head: Government Bills and Orders
head: Third Reading

Bill 46 Miscellaneous Statutes Amendment Act, 1999 (No. 2)

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

MR. HANCOCK: Thank you, Mr. Speaker. I move third reading of Bill 46, Miscellaneous Statutes Amendment Act, 1999 (No. 2).

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

DR. PANNU: Thank you, Mr. Speaker. I want to make a very brief observation or two on the bill. The bill is before us after due consultation across the House, so I'm a party to what's in it, and I've given my consent, but I did have a reservation or two which I would want to put on the record.

My reservations deal with the section of the bill which deals with the Special Areas Act. In this part of the act "remuneration" includes salaries, indemnities, honorariums and allowances.

(2) One third of the remuneration paid in 1999 and later years from The Special Areas Trust Account to a member of an advisory committee is deemed to be an allowance for expenses that are incidental to the discharge of the member's duties.

This brings the remuneration for the special areas committees in line with what we receive in the Legislature, so I have no objection to this on that account. In fact, I supported it. I had representatives of these area groups come to see me a week or 10 days ago, and I said: since I receive this and my colleagues in the Legislature receive similar one-third remuneration as expenses, I cannot object to what you're asking for, and I'm supportive of it.

However, Mr. Speaker, I think that to be transparent about this, I would like to urge my colleagues in the Legislature to reconsider this one-third of the remuneration received by us free of tax. I think taxpayers of this province call for more transparency on our part. I have gone to schools this year to speak to students and they ask me, particularly grades 7 and 8: what is your salary, Mr. MLA? So I tell them exactly what I receive as salary, but then I tell them: of course, if you were to compare it with your dad's or mom's salary or your teacher's salary, my salary will be this much higher than the numbers indicate. They're puzzled by it. They say: why is it the case, then, that you as an elected representative should receive this particular structure of remuneration while my teachers and my parents don't?

My reservation that I want to record here is that the way we receive our remuneration is less transparent than the manner in which most other working Albertans receive their remuneration. So I would hope this Legislature would start with itself and say that our salary is not \$58,000 or \$59,000, but it is indeed the equivalent of \$73,000 or \$74,000 or whatever thousand dollars it is, and therefore it should be received as such so that the people of Alberta can know exactly what we are getting and why we are getting what we are getting.

So with that statement, Mr. Speaker, I'm ready to sit down and let someone else speak to the bill.

THE SPEAKER: The hon. Minister of Municipal Affairs.

MR. PASZKOWSKI: Mr. Speaker, I'd just like to point out that every MLA in this building receives \$19,000 that is tax exempt. This is very similar to what you receive and to what everyone else receives, so this is just putting everyone into the same category and the same class.

[Motion carried; Bill 46 read a third time]

Bill 43 Fiscal Responsibility Amendment Act, 1999

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

MR. HANCOCK: Thank you, Mr. Speaker. It's my pleasure on behalf of the Provincial Treasurer to move Bill 43, the Fiscal Responsibility Amendment Act, 1999, for third reading.

The Fiscal Responsibility Amendment Act is, of course, a very good piece of legislation because what it does is recognize that appropriate and prudent fiscal planning and a sustainable budgeting process work in Alberta and work very well for Albertans. If you put it into the family context, when you are in a bonus, you can then revisit to see what other family needs there are. You spend a little bit more, in fact double in this case, paying down the debt, and you use a little bit more to fix up some of the things that need to be fixed up, repairs on the house and fixing the foundation, and a little bit more on the things that make the quality of life issue so much better for Albertans.

So I would commend Bill 43 to the House and ask that it be now read a third time and pass.

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

MS BLAKEMAN: Thanks very much, Mr. Speaker. I just wanted to say a few words in third reading of Bill 43, the Fiscal Responsibility Amendment Act, 1999. Well, it's interesting. When is a bill not a bill? I guess my answer to that is: when it's passed in the spring, contravened by summer, and amended in the fall sitting. My idea of government is one which manages resources, provides services and programs, keeps records, and creates policy for peace, order, and good management which would lead to a prosperous and healthy citizenship.

This is the most interesting manner of financial recording and budgeting that I have ever witnessed. I think the effect that I'm seeing come out of the passage of this bill is the entrenchment of poor planning. I don't know any other sector – and I come from the nonprofit sector – where someone could deliberately budget high on the expenses, low on the revenues to consistently show themselves in a surplus position when, in fact, with more prudent management the money could have gone where it was really needed throughout the progress of the year. In this case, it's sort of saved to the end, and then it can be doled out to groups that are now in a deficit position themselves.

I think it creates a lack of trust, frankly, from the citizens of Alberta. Following that scenario I mentioned at the beginning, a bill is passed in the spring to hold a government to act in a certain way, and they contravene that act by the summer and then have to bring in an amendment act in the fall to be able to recover and still be legal with the progress of six or seven months' worth. Nowhere else would this be acceptable. I think that in doing this, deficits have been created all over the province: hospital boards, schools, facilities, infrastructure. I think what's been created here is an

infrastructure deficit, and there's been a human deficit created out of this as well: students that have gone for whatever period of time without proper facilities, without textbooks, perhaps without their teachers being able to receive in-service, which would have led to better education for them. So more than one deficit has been created here.

8:10

I also see this as the entrenching of pressure point finances or binge budgeting. [interjections] Crisis control. [interjections] Thank you to my colleagues; perhaps I could have my time.

I've often heard this government say, you know, that they will react when there are pressure points in the system. Well, there are a lot of pressure points in this system, and as the Auditor General pointed out in his most recent report, the 1998-99 annual report, in fact there has been an infrastructure deficit created. There is a need to put a reasonable amount of money into maintenance of things like roadways, bridges, certain buildings all the way along. You cannot withdraw the money from that and expect that six or seven years later everything is going to be just the same as it was. It isn't. These things have deteriorated, and it's going to cost us a lot more money to get these back up to par than if there had been a reasonable amount of money put in all the way along.

I'm also reminded of the analogy of the renovated house that was spoken of so much in this province, and I notice it's not being spoken about anymore because . . .

MRS. SOETAERT: The foundation is crumbling.

MS BLAKEMAN: Well, no. I think it's more than that. I think that if we want to take that little model, that little mockup of a renovated house, if we took a good look at it, we would see that, indeed, there are things that have been added to the house. There's been a dormer put on one side of the roof, but gosh, when you actually look at it, the dormer was put on but was never cut right into the house. So it's just a dormer stuck on the outside of a house. It's nice, it cost money, but it's not really effective. And, oh, look; there's a wheelchair ramp in front of the house. An excellent idea: accessibility. But the wheelchair ramp runs up to the front window, so it's not really usable by people who have accessibility or mobility problems. So, yes, there's a ramp, but, no, it's not usable.

I keep getting this little flash in my mind of this renovated house with everything sort of askew and not completed, not needed, and other things badly needed that, in fact, have not been repaired, that are the central components of a house, like the foundation. And like the people that live in it, because the last little part of my analogy vision here is that when we look inside, what's happened is that I think the wealthy people that originally lived in that house, when they realized they couldn't get out of it, just built a new house next door with their own money and out of their own pocket and moved next door, and the poorer people, who can't afford anything different, are now living in this house that's not entirely useful.

So I am astounded by the kind of budgeting process this government is involved with. I am wondering if, as a result of the passage of Bill 43, the effect might be that recommendation 1 from the Auditor General might be actually accomplished and put into place. That is, "It is recommended that Ministries collaborate with Treasury to articulate best practices in business planning." Well, it's a thought.

Or recommendation 2: "It is recommended that Ministries work with Treasury to develop a strategy to improve the definitions of the components of business plans." Excellent idea. I'm hoping this bill might lead to that.

Recommendation 3:

It is recommended that Ministries, together with Treasury, develop

a strategy to combine Ministry core businesses and programs so that Ministry income statements clearly present the cost of implementing core businesses.

Exactly. That is supposed to be what we're here to do, manage these finances so that core businesses are funded appropriately, but we don't seem to be too successful at doing that thus far.

Or recommendation 4: "It is recommended that Ministries, in conjunction with Treasury, develop a strategy to improve the quality of performance measures in business plans." Well, once again we're hearing a lot about this wonderful business planning process, but how can those business plans be adhered to when we have a financial act that's introduced and six months later is amended to allow itself to recover from the overrun and the mistakes that were made in the middle? What kind of performance measurement could possibly be used to measure that sort of financial planning?

I note that the Auditor General also speaks of goals and that goals need to be set for each core business, need to be measured by at least one performance measure. In Budget '99 over half the ministries had at least one goal that did not have a performance measurement associated with it. I think this is part of it. We're hearing a lot of talk about this wonderful planning process, but when we really look at the outcome of the planning process, it is catch as catch can and it is not being followed.

I would highly recommend and sincerely hope that if this bill is passed, in fact some of these excellent suggestions from the Auditor General are in fact brought into play and put into effect, because I have a hard time explaining to anyone that's asking me how this government can possibly budget in this manner. Nowhere else in the world do I see it. It's quite astounding and not on the positive side.

So I thank you, Mr. Speaker, for this opportunity to say a few words in third reading of Bill 43, and I will now take my seat.

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

MR. WHITE: Thank you, Mr. Speaker. It is my turn to finish up this evening on Bill 43. This particular exercise should embarrass this government to no end, and I'm sure that to those that admit it and in private, it does just that.

This is the worst budgeting in my short history in this Legislature, promising to do something – something silly to begin with: tie one's hands when all kinds of inputs and outputs in government always must remain fairly fluid to be able to react to the times – promising with all piety, "Oh, this is what we are going to do; if we save money, this is what we'll spend it on," and then in less than five months deciding, "No, no, no, that's not what we want to do," and then bringing in another piece of legislation and wasting the time of this Legislature to do it. We didn't waste the time; you did.

This is the silliest piece of legislation that I think I've seen introduced, even of all the ones private members sometimes come up with. There are so many other things that time and energy could and should have been spent on as opposed to this piece of fluff. It's amazing what a government in their cockiness can do, and it's unfortunate that this piece of legislation will be lost on most Albertans because of not knowing the nuances of how good legislation is formed and how it is brought through an administration that understands the long-term effects of it.

This piece of legislation certainly did not come from the depths of the Treasury Department. This one was the brainchild of some spin doctor or some kind of public relations type that thought: wow, this will really, really sound good in a 15-second sound bite. And that it did; it sounded exceptionally good. Unfortunately in the long term, as we can see – less than one year is not long term; this piece of legislation didn't even make the long term – it fell apart. The

wheels fell off. Why? Because the original bill was a piece of frivolous trash to begin with.

8:20

Now, instead of doing the right thing and just doing away with this, admitting an error and saying, "Hey, this was a bad idea at the time and we shouldn't have done it," instead of just repealing that act and getting on with it, which would have been the right thing to do, no, this government has to say: "We can't admit a mistake. That would be unlike us, the perfect party. We could never make a mistake, and we can't admit to making a mistake. So we'll just gloss over this one by amending it." Then you'll have to amend it again and again and again. There's probably a reason why there is no other government this member knows of that has ever done anything as silly as that. Why? Because they knew better. That's why. They had people advising them saying, "This is not the way you want to tie your hands; this is not the way you want to limit yourself if something should happen," in this case a windfall, a lovely windfall, a great thing to happen in Alberta but certainly not the kind of situation that could not have been thought quite possible in this province.

In P.E.I. it's not likely the price of potatoes is going to fly off the handle and go from whatever it is a bushel or a bundle to the exorbitant price that is being paid for oil right now. That market is certainly not that volatile. There are very few markets that are that volatile, but in the province of Alberta we should know that. I mean, we all lived through '72-73. We all lived through '83, and most recently in the downturn we knew about that one too. I mean, it wasn't outside the realm of possibility that there would be a massive windfall. Oh, no. We just forge ahead and do the stupid thing because it looks good. Government by optics just ain't working in this case. I have to admit that in most other cases it has, which is a bit disconcerting for this member, but so be it.

Mr. Speaker, I'm very happy to pass this piece of legislation just to get it out of the way, to get on with some more fruitful endeavours of this Legislature in its time.

With that, I shall take my seat. Thank you, sir.

[Motion carried; Bill 43 read a third time]

Bill 44

Insurance Statutes Amendment Act, 1999

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

MS GRAHAM: Thank you, Mr. Speaker. As the sponsor of Bill 44, I wish to move third reading of this bill at this time.

I would just say in my concluding remarks, Mr. Speaker, that in the main, the amendments contained in this bill speak to the decision of Madam Justice Veit in the Keith Arthur Gruending case, which held that section 265(2) of the Alberta Insurance Act is unconstitutional as it does not give common-law spouses equal benefit of the law under this section. The amending act therefore provides the definition of "spouse" and "common-law relationship" to address this weakness in the legislation. The other amendments are largely of a housekeeping nature.

Mr. Speaker, those are my comments at third reading.

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

MR. DICKSON: Mr. Speaker, thank you very much. My comments will be brief on Bill 44. This is one of those bills which it would be foolish to oppose because in fact it responds to a direction from the court. The Alberta Liberal caucus values, recognizes, and respects

the role of the courts and the judiciary in applying the Charter of Rights and Freedoms.

Having said that, I cannot pass up the opportunity to remind the legislators and those few Albertans that may follow *Hansard* from time to time that this is a bill that could have not only addressed a past court direction, but it could have with a modicum of boldness and a whole lot less timidity made our legislation Charter-proof. Now, would that not be an exciting proposition, to see a piece of legislation designed in this place that is Charter-proof?

The Alberta Liberal opposition has once again brought forward the model we first propounded with respect to Bill 12 in the spring of 1999, the Domestic Relations Amendment Act. Just for those who may have forgotten the Liberal model, it is simply this: you do not redefine the word "marriage"; you do not redefine the word "spouse"; you recognize that two adult Albertans ought to be able to enter into a mutually supportive long-term relationship, enter into a simple contract to be able to do that. It's as simple as that. What could be more basic in this province than the ability of two adults of the requisite mental competence to be able to enter into an agreement and say: you know, this is going to be a long-term relationship, and if for some reason that relationship does not survive, we agree right now that remedies similar to the remedies that a married couple would have and partners in a formal heterosexual marriage have – they would be able to access and go to the court and be able to . . . [interjection] Gosh, I hope that's not my time already, Mr. Speaker. Boy, you know, when you offer to speak briefly, I hadn't realized the table was setting my clock at 10 instead of 20 minutes.

Mr. Speaker, the point is simply this. We had put forward a model that provided that two adults could enter into that kind of very simple contract. What effectively that does is ensure that people in a long-term relationship, whether same sex or opposite sex doesn't matter, if they agree to have certain legal consequences to accrue, we respect that, and the Legislature allows people to carve out that little bit of autonomy in their own lives. This ought to appeal to every libertarian, every rock-ribbed conservative in the province. They ought to embrace this because they understand the value of a contract. You know, whether you're in Edmonton or wherever you are, this has got to be a model that makes sense to you.

We put that proposal forward, and we think it's a constructive one. The best legal advice we've been able to get – and I'm quick to say this is outside legal advice – is that this effectively would ensure that a court would not likely, then, require that we strike down the Marriage Act or the Insurance Act or one of those other statutes. That's the risk we run with this head-in-the-sand approach, that has been a patented approach by the government of the province of Alberta in 1999.

Mr. Speaker, a simple, constructive proposal. It doesn't require these partners to go down and out themselves by registering at a vital statistics office. It simply allows them to be able to enter into that kind of simple agreement. You know, what business is it of yours or mine or others if two people choose to make that decision? The sooner this Legislature comes to terms with that not-so-radical proposition, we can make our legislation Charter-proof. We can save the Minister of Justice hundreds and hundreds of thousands of dollars that are currently spent in misguided Charter challenge defences. This is a win/win proposition.

My colleagues and I were not sufficiently persuasive on Bill 44, but hope springs eternal. You know, whether it's Taber, Alberta, or Peace River, Alberta, people are going to want to see this kind of constructive approach that's come from the opposition. I repeat my prediction from the spring of 1999, that within a year we're going to see the government of this province take this model, and people are going to be suggesting: oh, this is something they just thought of or

have been researching for two years. I'm happy and my caucus is happy to have the government take it. We're not claiming authorship. We waive all copyright in the model. We just say: take it, make our legislation Charter proof, and let's get on with things. Otherwise, we support the bill as it is but with that very serious reservation.

Thank you very much, Mr. Speaker.

8:30

THE SPEAKER: The hon. leader of the third party.

MS BARRETT: Mr. Speaker, thank you. I have had circulated a notice of amendment to Bill 44, which I believe is on the desks of all members now. I asked that that be done so I could expedite the process. My amendment asks that all the words after the word "that" are deleted, and the following would be substituted: "Bill 44, Insurance Statutes Amendment Act, 1999, be not now read a third time but that it be read a third time this day six months hence." It's essentially a hoist motion.

I need to explain the reason for this. First of all, I believe that any jurisdiction that gives notice of intent to change its legislation to conform to rulings is not bound by specific deadlines provided that the intent is made clear. The purpose of the hoist is to give the members of the Assembly time to contemplate how we can change all of our legislation to allow for equal rights for same-sex couples.

As the Member for Calgary-Buffalo mentioned, we also proposed amendments to this effect with specific respect to same-sex couples on the Domestic Relations Amendment Act in the spring. Now, I understand that the government had a severe reaction to the Vriend decision when that came down a year and a half ago. The government said: well, we're going to build legislative fences around homosexual rights. I believe it's time the government did what the Ontario government did with the co-operation of the opposition, and that is: give a reading per day to an omnibus bill which changed all references in statute to defining couples as those explicitly and exclusively of the opposite sex.

In fact, you know, this government is in a position where they could simply just not define and the issue would be solved. I for one do not understand why this government would essentially poke its fingers into the eyes of the Supreme Court justices, who twice now have delivered such clear decisions when it comes to not only same-sex rights but also same-sex couples' obligations. I'm talking there about the obligations that were required with respect to dealing with children properly upon the breakup of a same-sex marriage or same-sex partnership, as in the case of *M versus J*.

I see no reason for this hoist not to go through unless the government, of course, wishes to revert to committee to offer a speedy amendment, which I'm sure would not only enjoy the support of the New Democrat opposition but also the Official Opposition. Ultimately, Mr. Speaker, this is going to save the Alberta government and the taxpayers a lot of money because if they don't change all of their statutes to exclude an explicit reference to couples as being members of the opposite sex, they're going to have to go to court. You know what? They're going to lose, and so will the taxpayers. At the end of the day fairness for same-sex partners will be accomplished government willing or not, so I urge them to do the right thing.

THE SPEAKER: On the amendment put forward by the hon. leader of the third party, the hon. Member for Edmonton-Centre.

MS BLAKEMAN: Thank you very much, Mr. Speaker. Speaking to the amendment to hoist this bill: on the one hand, I wish I could

support this hoist, but on the other hand, I'm aware that there is a clock ticking, with a court requirement that this bill be passed to capture common-law couples under this legislation. I wouldn't want to do anything to jeopardize that at all. At the same time I'm very aware that in the passage of this bill as it stands, there is a very deliberate choice that has been made to exclude a particular group of people, a particular sector from the ability to look after themselves, to care for their loved ones through various means available to them under the Insurance Act.

I agree with the previous two speakers on deliberately excluding same-sex partners from this legislation when it would have been so easy to include it given the Liberal amendment that's been put forward both on Bill 12, the Domestic Relations Amendment Act, and on Bill 44, the Insurance Statutes Amendment Act. As my colleague from Calgary-Buffalo said, we don't hold a copyright on this. We're more than willing to encourage others to make use of the idea of a partnership established using the idea of contracts. To not do so takes away the ability of a group of people to try and look after themselves.

On the amendment and the hoist, I regret that I can't support the hoist. I sure wish I could. I think in the long run passing the legislation as it is is going to get us into a whole bunch of trouble, a lot of money, a lot of court costs: a lot of taxpayer money to have this dragged all the way through the courts again. We're going to end up being made to do it. So I wish we could have done this right the first time, but obviously that's not to be. I will look forward to when we will be able to rectify what has been done here during this fall sitting.

Thank you very much, Mr. Speaker.

THE SPEAKER: On the amendment, the hon. Member for Calgary-Lougheed.

MS GRAHAM: Thank you, Mr. Speaker. I'd just like to say that the way I see it, the problem with the proposed hoist amendment is that it will have the effect of causing section 265(2) of the Alberta Insurance Act to be struck down on February 19, 2000, next spring, probably before there's another opportunity to bring forward any other legislation with regard to this act. The effect of that will be that married spouses will lose the benefit of that section, which does provide bankruptcy protection to certain beneficiaries for certain types of insurance or investments, some of which are insurance-type contracts of bankruptcies. That would not be in the public interest, and therefore this hoist amendment is not a good idea. I suggest to members that they don't support it.

[Motion on amendment lost]

[Motion carried; Bill 44 read a third time]

Bill 45
Appropriation (Supplementary
Supply) Act, 1999 (No. 2)

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

MR. HANCOCK: Thank you, Mr. Speaker. It is an honour to move on behalf of the Provincial Treasurer Bill 45, the Appropriation (Supplementary Supply) Act, 1999 (No. 2).

In so moving, I would commend to this House the supplementary estimates that are contained in this act. We've had committee of supply and reviewed the estimates, but again I would just simply comment, as I did in speaking to the Fiscal Responsibility Act, that

supplementary supply is an appropriate and useful way to deal with additional revenues that are brought in. Once we are able to maintain appropriate and prudent fiscal budgeting on a sustainable basis so that we know that over time the government will not be in a deficit position, the people of Alberta will not be financing a deficit position, and the debt of Albertans can be paid off.

8:40

If we budget on a prudent and sustainable basis to achieve that, then when there are extra revenues because of the benefits of the economic revival and the economic activity in the province due in large part to the Alberta advantage, which is built on and sustained by this prudent fiscal management and fiscal policy, we can take those extra revenues and look at what can and need be done, first and foremost, with a look at continuing to pay down the debt on an escalating basis so that interest revenues that are saved from paying down the debt can be used for program spending for the benefit of Albertans, but secondly, to look, then, at the capital structures and the infrastructure investment that's needed in the province to build and sustain the growing population and the economic building that's happening in the province. That's what you see in Bill 45: prudent expenditures based on additional revenues. Once we've had an opportunity to see that the normal budget of the province brought in in the spring of each year, in this case in the spring of 1999, deals in a prudent and sustainable manner, when there are extra revenues, those are dealt with in a prudent and sustainable manner as well.

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

MR. DICKSON: Mr. Speaker, thank you. You know, listening to the Minister of Justice explain this bill in that fashion, I found myself almost being moved to break into applause or at least to start pounding my tabletop. It sounds absolutely wonderful. It sounds like we have a government that really has sort of cracked the nut on how to manage the finances of this province. If we were to accept the presentation we just heard a moment ago – and I'm confident that the hon. member genuinely believes what he represented – we would be living in a kind of never-never land that's absolutely at variance with the Alberta that we see in 1999.

You know, we don't have to go any further. I mean, we're talking about a sum of \$1.535 billion that was not addressed in the budget. Let's be real clear. If we were doing such a darn good job in terms of planning, if we were doing such a darn good job in forecasting, the government wouldn't be here asking for another one and a half billion dollars. In fact, when we examine a little further the arguments that have been advanced by the government spokesperson this evening, what we find is that as has now been recognized by the Auditor General, the so-called business plans, the so-called annual performance reports are slick products designed to bamboozle those Albertans that don't have the opportunity or take the time to look at the numbers and look at this government's record, to look at this government's history. In fact, what we find is performance targets that often bear next to no relationship to the business plan of a department, objectives that are wholly arbitrary and that don't in fact reflect important, significant, measurable outcomes. We can go through the whole list of departments identifying those kinds of weaknesses.

I know the government will say: well, we've had all kinds of praise for our budgeting processing process. Well, that may be people who view it from afar, but for those of us in this Chamber who get to see that schemozzle every . . .

AN HON. MEMBER: That's a very narrow view.

MR. DICKSON: There's a suggestion that I'm speaking to a very narrow view. With respect, those of us who are in this Chamber see the way the budget process really unfolds. We see the king of supplementary supply come in unchastened year after year asking for more supplementary supply. We see the evidence in terms of why our forecasting and our budget process is simply not working. It's not working for Albertans. It's not working for the kinds of programs that Albertans require and need.

It seems to me that we have further evidence, and we saw it again this afternoon in question period, that we have a large, bloated government – and I mean this in the collective sense; I'm not singling out any member opposite – that has this great sense of itself, this inflated sense of itself, this notion that, you know, it doesn't really matter if we don't follow the budget. It doesn't matter if we don't follow the plans. We can always bring in another supplementary supply bill. I mean, that's the process in this province. What's the incentive?

You know, the Fiscal Responsibility Act is an example. Five months after the bill is given assent and becomes law, we're back in retooling the thing because it turned out that it really didn't meet the needs of Albertans. It turns out that that \$17 billion budget we passed in March of 1999 didn't quite meet the needs, Mr. Speaker. I'm prepared to concede this. I will give the government the benefit of saying that there clearly are some things in here that could not reasonably have been foreseen. There is an element in this bill that genuinely reflects an unforeseen contingency that government is required to attend to, as any responsible government would be, but many of these things do not fall in that category.

I think if more Albertans had the opportunity to see, as my colleagues do here, the flawed process when it comes to fiscal management, they would be just as nervous as we are in terms of the ability of this government to project. Maybe, you know, it's consistent. Maybe we shouldn't be surprised that Calgary hospitals are running at a 98 percent occupancy. There's a 430 percent increase in the number of people at the Foothills hospital waiting for a hospital bed at 6 a.m. over just a year ago.

That's evidence of the same kind of inadequate planning that brings us to deal with this \$1.5 billion of extra money, the top-up. As many of my colleagues have said, it's sort of like: what are you teaching your youngsters when the youngsters burn through the allowance and it's the second week in the month and they're back looking for a top-up? For most of us our first instinct would not be to reach for the wallet. We might want to have a little chat with our child about responsibility and about management and so on.

Well, who's going to tell our king of supplementary supply that we're not reaching into the wallet anymore? You see, the Provincial Treasurer happens to be virtually in the role of the parent as well as the supplicant, so he controls the Treasury, the bank account, and then also is the guy – in a corporate sense; I don't mean to personalize this, Mr. Speaker – the representative then showing up looking for dough. [interjections] Some of my colleagues are encouraging me to be more provocative. That's certainly not a challenge that I would willingly embrace on this bill.

We've had some darned good discussion on Bill 45. Our colleague from Edmonton-Glenora has done his usual exemplary job of analysis in terms of this bill, and I've learned more from listening to the Treasury critic for the opposition than I have through listening to two dozen speeches from the king of supplementary supply. Oh, if only Albertans would have the chance to see the Treasury critic from the Official Opposition sitting over there where the king of supplementary supply is, we'd be a lot further off. [interjections] Well, you know we might not want to stop there. We might find that the Treasury critic does such a darned good job as Provincial

Treasurer, we then may want to start making other changes. We may find that the health minister has probably been feeling a little battered after the session, and maybe he'd like to stand aside for a moment and let the Member for Edmonton-Meadowlark have a turn at running a system like that.

Mr. Speaker, before someone cites me *Beauchesne* in terms of roaming too far at third reading stage, I'm going to rein myself in and just content myself with those observations. There may be a couple of other comments and some other advice and perhaps much better advice to the Provincial Treasurer so that the king of supplementary supply can maybe retire his crown. Is that a hope for 2001?

Thank you very much.

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

MRS. SOETAERT: Thank you, Mr. Speaker. It's a pleasure to take this last opportunity to speak to Bill 45. As I recall, earlier when speaking to this bill, I kind of had to dub it the I-told-you-so bill, because when they came in here with the budget in the spring, there were a few things that we said this isn't going to address. Sure enough, here we are back in the fall, saying it didn't address those issues.

8:50

I'll give you an example: the WestView regional health authority. Terribly underfunded. Millions of dollars in debt. So what do we do? We pay off the health authority's debt, but they still don't know what they have for next year to plan with. They still don't know if that's going to change. WestView is having a lot of trouble right now. In fact, if you were to look at Jasper, it's hard to recruit nurses there, and not because it isn't one of the most beautiful towns in Alberta. It's because it's very expensive to live there, and it's also that it is a distance away from major centres. It's also a fact that we're short of nurses because of poor planning on this government's part. So here we go. What are we going to do in WestView?

In fact I even heard a story. Actually it's the truth, not a story; this actually happened. A woman came to the hospital to have her baby delivered, was turned away, and had to go to Hinton to have her baby. That's not acceptable in Alberta. It certainly shouldn't be. Now, if we had funded properly, if we had planned properly, these things wouldn't happen.

So, you know, Mr. Speaker, of course I will support this bill because we need the money in those spots. The point is that the planning is poor. It's almost like it's vote buying. It's almost like: "Oh, oh; a little pressure point in that riding. We want to keep those people happy. Let's fix that road." [interjections] Ah, I knew I'd get a notice – I hit a pressure point over there – from the Member for Stony Plain, the Minister of Community Development. He knows darn well what I'm talking about when it comes to overpasses not quite finished in some areas and finished in others. [interjections] Absolutely woke him up. First time in 24 hours.

Anyway, Mr. Speaker, let's talk about Queen Street school in Spruce Grove. Did it get addressed by this funding issue? No, not yet, but hopefully it will somewhere along the line next year.

I'm wondering: there was money that went to the Swan Hills waste treatment plant; was that the plan then, that we would take all the global garbage?

MR. MacDONALD: Global PCBs.

MRS. SOETAERT: Global PCBs we're going to be taking there? Was that the plan for that funding? That doesn't really make me

happy. I have some real concerns about that. If that budget part was tied to accepting the waste from all over the world, I don't think I would have supported that one. Maybe we didn't totally understand that that money was going to provide for those different things.

In the Capital region last night, if you needed a hospital bed, you couldn't find one. People were backed up in the emergency rooms in the whole entire Capital region. That's not good planning.

MR. ZWOZDESKY: That's not true.

MRS. SOETAERT: That is so true. Do your homework, junior minister.

MR. ZWOZDESKY: I did. I phoned the office.

MRS. SOETAERT: Well, I happen to know some of the people in the front lines, and I know from whence I come. [interjection] Yeah, lots of room. Anyway, Mr. Speaker, I've hit a nerve here tonight.

Yes, we're going to pass this appropriations bill, but the reality is that it's very poor planning. It seems to be binge budgeting. It seems that when there's a little pressure point, they throw money at it instead of giving the people left to deliver those services the ability to plan and plan more than: let's beg for a couple of months for money from the minister; maybe we'll get it and we'll be able to provide that service. What a waste of time and energy, trying to get the proper funds to implement a program, a waste of resources and a waste of people trying to deliver a service.

I hope next year's budget is a better plan. I hope we don't need quite so many supplementary dollars put into the budget at the end of the year. I do hope they plan a little better. I'm disappointed. This bill seems to get thicker and thicker every year because of the binge budgeting that this government is now hooked on.

Thank you.

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

MR. MacDONALD: Thank you, Mr. Speaker. I have a few brief comments on this Bill 45, supplementary supply. Earlier this week our Treasury critic took me aside and pointed out to me that in the 31 months that the Provincial Treasurer has been in charge of our provincewide finances, there's been close to \$3 billion in supplementary supply. Three billion dollars. This is outside the budgeting process.

Every hon. member of this Assembly works very hard when we're debating estimates, and as a newer member of the Assembly I'm astonished at how much more money is needed that cannot be foreseen in the budget. The hon. Member for Edmonton-Glenora told me that the closer they get to the next election the more you're going to see of supplementary supply. I didn't know what to say. I was disappointed.

AN HON. MEMBER: Don't believe him.

MR. MacDONALD: Of course I believe him.

It's vote buying. We're talking about pressure points. We're talking about health care. All these dollars that have been spent are needed.

Albertans certainly do see through this. They see this binge budgeting. They see it increase as the months go by and we get closer to the next provincial election, and they are concerned. They are concerned not only that this is an indication of a government that is out of control but also out of touch. That is more important. We look at long-term care – and I can think of the constituency of

Edmonton-Gold Bar with its high percentage of seniors – and how this issue is being addressed. The city of Edmonton is looking at financing the construction of a 120-unit seniors' lodge. Is the provincial government anxious to help out? Not that I'm aware. We need their help. The citizens of this province need the provincial government's help. They don't need to wake up and read every second week in the newspapers where their jolly government is going to throw money at this problem and the problem is going to be solved.

We know with health care, the 90-day fix of health care. Health care budgets have increased, I'm told, by 33 percent since 1994, yet the crisis in health care seems to be getting worse and worse. We have ambulances running around trying to find a spot for a patient that is ill. They're going from hospital to hospital, red alert to red alert. The emergency wards are crowded. Surgeries of all sorts are backed up. The medical profession is exhausted. Other health professionals are exhausted. They've been holding the system together. This present system, "Here's a bit of money; now hopefully the problem will go away," is not working. It is evident that there is no long-term planning by this government, and it is also evident to me that this government is not capable of long-term planning.

With those brief remarks, Mr. Speaker, I shall cede the floor to another one of my hon. colleagues. Thank you.

THE SPEAKER: Well, it's a minor point, hon. Member for Edmonton-Gold Bar, but he sort of needs my permission first. Okay? A minor point, though.

The hon. Member for Edmonton-Calder.

MR. WHITE: Thank you, Mr. Speaker, for your wise decision in choosing me.

Mr. Speaker, I'm not an accountant; I'm an engineer from north Edmonton. Budgets are not all that difficult to deal with. I came from the private sector and had to make a bottom line look good for the banker. I had to make it look good enough that I could take some home to feed the family. It wasn't all that difficult. The object of the exercise is simply a reasonable balance. You just design the service levels that you wish, price those service levels, see if the income can match. If it doesn't match, then adjustments have to be made up and down, but you don't design a delivery system by just setting amounts of money aside and saying: that's what we're going to do. That's simply government by optics. That's not working at it. That's just throwing money at a problem and hoping somebody down the line spends it wisely. Well, it doesn't always happen that way.

9:00

Having had a little experience at another level of government, it's exceedingly difficult to do budgeting. You have to do it line by line and make sure that it can work, and if it doesn't work the first time, you have to start over and reprioritize over and over again. This government doesn't do that.

It was popular in '92 to cut and slash, so instead of saying, okay, let's lay out a program where we have to ratchet down some of these expenses, it was just close the eyes and slash. The classic one is health care. Classic. Here we are today spending more money than we were in '92. Does anybody in this room believe that our health care system is better? Not likely. Walk out that door, walk out and look at the lights and ask someone there. Ask some of the folks that are here with us today visiting. Ask them. They'll tell you. They'll tell you that in 1992 they thought the health care system wasn't that bad. They know it's worse today. You don't have to go very far to

figure that out. You don't need an accountant, and you don't even need an engineer to figure that one out.

I happen to be a critic in two areas. I see the Associate Minister of Forestry is here tonight, the good person that he is, and he's just taken over this portfolio. But here's a classic one. Here we had a couple of years ago, everyone knew – and I live in a city and even I knew – the driest of dry winters. We're going into a forest fire season that is going to be just disastrous. What does the government do? Nothing. Not a thing different. They said, "Hey, the last four years we have spent \$38 million on fire suppression every year, and we have had money left over. That's the way it has to be done. That's the way it's going to be done this year." So we have half a crew sitting up waiting to get water bombers. We've only got half a crew there, and they can only fly seven hours a day; right? If fires don't occur in those seven hours, they don't get put out. You know what happened because we were sticking to 30 – that year we spent \$200 million dollars. Talk about being foolish. I mean, if you had spent \$10 million earlier and budgeted a reasonable amount, you would have saved a whole whack of forest.

Then that just didn't happen one year. That happened two years in a row. If Mr. Speaker had allowed just one more minute or two for question period, I would have been able to ask the question – it's not his prerogative, of course I know that. I would have asked a question of the minister: what are you going to do? Are you going to do the same thing again today? Nah. Next year is going to be the same. It's \$38 million, exactly the same. You know what? We're going to have forest fires just burning all over the place because we don't put the money up front early. It's unbelievable.

Then we get partway through the year and, oh, a big, big, big bonus. Now we're going to go out and spend like drunken sailors here. We're going to throw it here and throw it there. This government was telling the world that: oh, no, we don't throw money at a problem. What is \$3 billion if it's not throwing money at problems? I mean budget for it; think about it; lay out what has to happen. It's not rocket science, folks. Even a simple engineer can figure that out.

The money must be spent. It should have been budgeted before as opposed to this style of binge budgeting. It's absolutely horrid.

Thank you for your time, Mr. Speaker.

[Motion carried; Bill 45 read a third time]

Bill 40 Health Information Act

[Adjourned debate December 7: Mrs. Nelson]

MR. DICKSON: Mr. Speaker, just to clarify: I had spoken once at third reading and then the motion that the question be now put had been raised, so that's why I'm up again, just in case you were wondering.

Mr. Speaker, this is going to be the last crack that this member gets to speak to Bill 40, the Health Information Act, and there is so much to be said, but a number of specific points I wanted to make in the short time I have remaining.

I saw today one of the most interesting news releases I have ever seen come from the government of the province of Alberta. It's dated December 8, 1999. A grand sounding title: Bill 40 Protects Personal Health Information. Now, at first I thought I was mistaken, because this is really a whole lot more about what the opposition has to say about Bill 40 than what the government thinks is in it, but you know, they've suggested that this is sort of a piece of information to set the record straight. To the uninitiated looking at it, you'd think that the opposition was making up stuff and the government had come up with the penultimate model of health information. Well,

Mr. Speaker, bear with me while I suggest that this is replete with myths, and in the short time I've got, I'd like to go through, and we'll do our own sort of myth and reality check with this thing.

The first myth:

Bill 40 protects personal health information and puts in place strong safeguards against the unauthorized and inappropriate use or disclosure of such information. It is not a threat to the physician-patient relationship.

Now parenthetically I say that the minister apparently ignored my advice on November 18 when at page 1896 of *Hansard* I suggested that unauthorized use is a problem, but in the words of Amitai Etzioni, "their ill consequences pale in relation to the fallout from what might be called 'authorized abuse'." This is about authorized abuse of personal health information. The truth with Bill 40: the word "protection" has been deleted from the bill.

In Bill 30 in the spring of 1997 it was the Health Information Protection Act. You know, there's a sole reason why the word "protection" has been deleted from the bill: because on analysis the health information steering committee created by the minister of health found that this bill is primarily about sharing information. It's not about enhanced protection; it's about enhanced sharing. So let's start with exploding that myth right there.

You know, the purpose of this bill is to facilitate the sharing of personal health information with 17 regional health authorities, 631 employees in Alberta Health, the Provincial Mental Health Board, the Alberta Cancer Board, and a host of advisory boards – what do we call it? – health councils that exist in the 17 regions, and on and on, health-related professions and a host of affiliates. The list of affiliates would be in the many hundreds.

So let's test this. Let's test this proposition and see just how much enhanced the protection is for your personal health information, my personal health information, anybody else's information. Let's look. We'll see who's being truthful. Sections 35, 36, 37, 38, 39, and 40 all provide for the sharing, for the disclosure of individually identifiable information "without the consent" of the patient. "Without the consent." In all of those sections what they're talking about is sharing without my consent or your consent.

9:10

Why does the bill provide for such sharing without consent? Well, section 35 allows a custodian to disclose individually identifying diagnostic, treatment and care information without the consent of the individual [patient] . . . to another custodian for any or all of the purposes listed in section 27(1) or (2).

So what are those purposes? "Providing health services;" great start. We'd all agree you give information to get treatment. But it gets better: "determining or verifying the eligibility of an individual to receive a health service." Well, that maybe is a reasonable sort of proposition.

"Conducting research." Now, this is where we start getting into the dangerous area. Remember that research, as long as it's condoned by an ethics committee, you have wide open access to a whole range of personal health information, subject to some restrictions – as I know the Member for Calgary-Lougheed will probably be reminding me that there are some tests in terms of how it can be used. But recognize this, that an ethics committee is anything the minister of health says is an ethics committee. Is that comfortable enough for members in this Assembly? Or maybe they have a higher degree of trust in the health minister.

You know, this is a concern. When I had a chance to meet with people in St. Albert, they had a concern about this, too, Mr. Speaker, and I'm sorry that that MLA hasn't been raising those concerns. The Member for St. Albert: her personal health information can be used

for "internal management purposes" without her consent, for "providing for health services provider education" without her consent, for "carrying out any purpose authorized by an enactment of Alberta or Canada," and by reason of the Alberta Interpretation Act that means a regulation, and we know that regulations are passed in secret in Alberta and that the ministry can do whatever it darn well pleases in terms of regulation, all without the approval of the patient.

But it gets better, Mr. Speaker. Without your authorization your personal health information can be used for other purposes, too. It can be used for "planning and resource allocation," and for "health system management." Now, what on earth does "health system management" mean? And it can be used for "public health surveillance."

Now, this is my favourite, Mr. Speaker: "health policy development." Now, perhaps somebody can tell me why, without my consent, my most personal health information can be sacrificed on the altar of health policy development. That surely is a loophole big enough to take the 800,000 people in the Calgary health region through.

Mr. Speaker, remember we're testing this proposition that we've got great, strong privacy protection in the government news release. Section 35 identifies 16 different types of cases where individually identifying information can be disclosed without consent.

My personal favourite, though, is section 39(1), which allows the minister to disclose individually identifiable information, mine or yours, without the patient's consent "to another Minister . . . for the purpose of developing public policy." Can you not just see it? The Minister of Gaming comes to the minister of health and says: you know, we're going to do a bit of a survey of people in downtown Calgary, and we'd like to be able to get access to a series of health records while we're designing our gambling policy; we want to know how many people have an acute gambling addiction and maybe a joint addiction and maybe a drinking problem too.

Now, just picture this for a minute. We imagine the minister of health is going to say: "Oh, colleague Minister of Gaming, no, I'm not sure I trust you. We have lunch together, we sit around the cabinet table together. We try and withstand this vigorous assault by the opposition for three weeks in November and December." Sure this minister is going to say to his cabinet colleague, "No, you can't have it," and he's going to give him the proverbial straight arm. Mr. Speaker, is there anybody in this Chamber that thinks that the minister of health is going to give the Minister of Gaming the straight arm when that minister comes looking for my personally identifiable health information? I don't think that's the case.

Let's look at section 40. Once again, we're just seeing how strong this protection is that the minister is touting in his news release. Section 40 allows any custodian to disclose information to the minister without the consent – now, this is another favourite of mine close to section 39 – "if the disclosure is necessary or desirable in the opinion of the custodian to enable the Minister to carry out the duties of the Minister."

Now, how independent is the custodian of the minister? We look at what's a custodian. We go to section 1(1)(f). This is a custodian. These are the people who are going to be our protectors and protect our personal health information when the big, bad minister of health comes and demands that our personal information be turned over. "The board of an approved hospital." Hold it. Boards of approved hospitals are there because the minister of health lets them be there.

"The operator of a nursing home" and "a provincial health board." Now, this is really precious: the provincial health board, which operates under the direct responsibility of the minister of health.

"A regional health authority." How independent are regional health authorities? When the Premier stood this afternoon in

question period and when he was trying to boast of people who supported this badly flawed bill, you know who the first group was he mentioned? The Council of Chairs of the 17 regional health authorities.

Mr. Speaker, this is a tautology. This is just one great, big circle which makes absolutely no logical sense. Of course, if they're appointed by the Premier and they're appointed by the minister of health, who seriously thinks that that is our protection, that that's going to protect your health information or mine? Well, some people have a higher level of comfort in that than I do.

"The Alberta Cancer Board." The last time I looked, they operated under the direction of the minister of health. The same thing with "a community health council" and "a health services provider." We can go on: "the Department," and "the Minister."

You know, Mr. Speaker, what's not said in this news release is more instructive than what's in it. I think that the minister of health should be embarrassed to have put this thing out, because it does a disservice to his well-recognized integrity and the reputation of the government.

Mr. Speaker, a myth. The statement in here is that "the Information and Privacy Commissioner is comfortable with the legislation." What comfort are we to take from that? I had the chance of going to the news release on November 21, I think it was, when the Information and Privacy Commissioner was talking to reporters about a submission he'd prepared the day before, a response to Bill 40. What I heard – and maybe the minister of health, who was not there, did not hear it. This is from Mr. Clark.

The negative features I see in Bill 40 are:

- It does not require the consent of the individual for the collection, use and disclosure of personal health information in a number of situations.

It doesn't acknowledge that in here. Mr. Clark, to his credit, acknowledges it.

Mr. Clark goes on.

- It does not apply to entities in the private sector.

We've debated that.

- There is no prohibition or legal sanction on the collection or use of the personal health number for purposes other than health care.

Well, hold on. That personal health number is the ticket. That's the front door. That's the gate to our personal health information.

Then the further concern, a "negative feature," to use the word of Mr. Clark:

- The Minister may require production of health information from other custodians which he may, in turn, disclose to public health boards, the Cancer Board and regional health authorities. Custodians cannot refuse to produce this information to the Minister.

Not my words, Mr. Speaker. These are the words of the person in this – it must be facetious – news release of December 8 who is claimed to be "comfortable with the legislation."

It gets richer. He goes on to say: "The participants in our multi-stakeholder committee which helped develop the legislation are comfortable with it." Well, I had a small transitory part in that. I'm not very comfortable with it. The AMA is completely uncomfortable with it.

But this is my favourite. "The vast majority of individuals who have actually read Bill 40 including physicians, are comfortable with the legislation." Mr. Speaker, that's so preposterous that I'm not going to comment further on it.

Now, I want to make another interesting observation. We have a comment here, a claim in the news release "that the inaccurate and misleading statements being made about the Bill could cause undue public concern." Did anybody think that the thing that's causing

"undue public concern" is the fact that this bill has never been taken out to Albertans? A government that's prepared to consult, a government that thinks it's important enough to consult with Albertans on school councils, prisoner voting, grazing leases, and on and on and on, is not prepared to send out a group of Tory MLAs to travel the province, take out some ads in the paper and say: you know, there's something going on.

The minister may want to talk about Striking the Right Balance. The minister will remember that in December 1996 he produced a paper called Striking the Right Balance. They received 63 submissions to that. All but 16 of them were from health provider agencies. We didn't learn that from 1996 on every time this government wants to consult about changing the rules, it's this little closed group of friends that we invite in and we sit around the table and we chat. The people sitting around the table are the people who gather the information, use the information, store the information, and dispose of the information. There weren't consumer advocates there. You know, there were five focus groups done around the province. Mr. Speaker, that is not a public consultation, and it's preposterous to see that sort of claim.

9:20

We've got a further myth, that "individuals must give consent before identifiable health information can be used for purposes other than for which it was collected." This is my favourite part: "The exceptions to this rule are extremely restricted and few in number." So we look at section 35. Just how few are they? Well, I'll tell you, Mr. Speaker. We have a whole range of purposes. It can be "to another custodian for any or all of the purposes listed in section 27." That's the list I went through before, but it goes on. It includes "an official of a penal or other custodial institution," "a person authorized to conduct an audit of the information," somebody doing "quality assurance activities," "for the purpose of complying with a subpoena, warrant," – that makes sense – "a municipal or provincial police service for the purpose of investigating an offence."

My favourite, though, is (p): "if the disclosure is authorized or required by an enactment of Alberta or Canada." So, once again, we get the great, big loophole. It's whatever the health minister decides to put in a regulation.

Now, Mr. Minister, I have asked you, through the chair, repeatedly: commit to refer the regulations to the Standing Committee on Law and Regulations. But do you know what we've got instead? We have a letter from the minister of health to the Information and Privacy Commissioner, and he says that some regulations are going to be subject to a review. That sounds pretty good, except that he decides who's going to participate in the review. So we're back behind closed doors again.

That's not all of the regulations. If you look in section 108 of the bill, there are I think 13 different areas where regulations are going to be made, but only about eight of them are going to be reviewed by this little cozy consultation. Eight of them. Not all the regulations; about half of them. So, Mr. Speaker, for the Minister of Health and Wellness to have the chutzpah, the audacity to produce a news release such as we see today, which accuses others of distorting the reality – I guess you have to marvel at the minister's gall. You have to admire somebody who in the face of all of the evidence is going to assert a set of circumstances that absolutely is inconsistent with the legislation he puts in front of us.

There's another wonderful myth in the news release. I won't say that this is one of my favourites, but it's one that gives me concern. He talks about the role of the opposition. I don't understand why he spends so much time talking about our job instead of making sure he does his. What we find in this provision is that "every effort has

been made to address the issues raised by the Opposition parties and by the [AMA]." Mr. Speaker, last night we saw just how prepared this government is to address the issues raised by the opposition. We worked hard from the minute we saw this bill on November 17, 1999. We don't have 631 employees working in our caucus office. We put together a set of amendments.

If we were interested in simply filibustering, we would have sat on the amendments and brought them in at the last moment. We didn't do that. First thing Monday morning I had a package of amendments delivered to the bill's sponsor. I had a package of amendments delivered to the minister. My invitation to both was: "I'm prepared to talk about the amendments. Let's bring them into the Assembly if we can't agree. Let's go through the amendments." But no. This government decided that they were going to invoke closure, that they were going to allow us something in the nature of 55 minutes. Then, of course, we had the Minister of Learning stand up and burn off 10 minutes going on talking about amendments he'd never read and, in fact, doing it in a fashion that would have been, I think, an embarrassment to his profession because he was putting forward things that simply weren't accurate.

Mr. Speaker, I'm voting against this bill, and I hope every member in this Assembly will as well. Thank you.

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

DR. PANNU: Thank you, Mr. Speaker. We are discussing Bill 40 in its third reading tonight in, I think, much too hurried a fashion. This government is obviously afraid of public debate on the bill. It has very carefully limited consultation with some stakeholders, and even when it consulted them, it decided not to listen. It may have gone through the motions of inviting some groups to come and meet with it, but it did not listen. It didn't incorporate important concerns and advice that it received during these very limited consultations with some of the stakeholder groups.

So tonight the government, having called closure on the bill, is now ready to force it through the Legislature in spite of the fact that every major stakeholder in health care is opposed to it. The Premier was able to find one doctor in support of the bill, and he was able to find one chamber of commerce from someplace to give him support for this bill. All other major organizations and thousands and thousands of concerned Albertans have given the advice to this government to stop the bill right where it is now and not proceed with it. There is no reason to rush the bill through, but there is, I guess, from the government's point of view, a compelling reason to do this.

The government's health care privatization agenda has been the dominant theme of this fall sitting. There is no doubt about it. I guess this bill must constitute a first essential step in this process of dismantling the public health care system, which is what this government seems to have decided to do. This bill is before us tonight for third reading, and it'll probably go through this House in the next hour or so. In addition to the comments and reservations and serious flaws that I registered, that I drew attention to in my earlier comments on the bill, I just want to read a few things into the record so that the government can't claim that it wasn't advised, that it wasn't warned in time.

Mr. Speaker, the leader of the New Democrat caucus today received a letter from the Canadian Mental Health Association's executive director, and in that letter she has been informed that the Canadian Mental Health Association proposes, on the advice of Alex Trawick, a very reputable lawyer from a law firm in Calgary, that Bill 40 is Charter compromised. Mr. Trawick believes that the act could not meet the Charter criteria as detailed in the November 26,

1999, Mills decision and is therefore susceptible to a Charter challenge.

9:30

Now, several stakeholder organizations, we are told, have met, and they met with the minister of health yesterday. While they were originally hoping that the legislation could be corrected through the process of amendments, the closure motion, of course, has removed that opportunity from this House. So Bill 40 is headed to the courts, it would seem.

The Mills judgment didn't come until late November, and I think there's still time for the government to reconsider its position. It would be unwise, it would be foolish in fact, not to consider this possibility seriously, using its own legal advice, before proceeding further with this bill. If the government fails to take this opportunity to stop and think and seek legal advice in the face of this probable Charter challenge, Albertans will be the losers again. We may spend hundreds of thousands of dollars in litigation, years of waiting until the Supreme Court gives its final judgment on the matter, and we'll be back to square one again.

I submit respectfully, Mr. Speaker, that the Minister of Health and Wellness take this particular probability of the bill being taken to the courts under a Charter challenge and reconsider his position, and he should take the opportunity tonight to simply pull the bill at this point and not proceed with it. I'd like to hear what the minister has to say about this. It's a serious matter. I haven't spoken up to this point about the flaws in the bill with respect to its substance, but I've certainly drawn attention to the legal challenge that the bill faces and that it most likely will be taken to the courts. The government has, I think, the obligation to Albertans to think seriously about how to respond to this legal challenge.

Mr. Speaker, in terms of stakeholder opposition to the bill, 24,000 registered nurses represented by their organization, the Alberta Association of Registered Nurses, are opposed to this bill. The Alberta Medical Association is opposed to this bill. The College of Family Physicians of Alberta is opposed to this bill. There are tens of thousands of Albertans who are opposed to this bill, yet we find this bill being rushed through at this very moment in this Assembly.

Albertans are asking questions about why. Why is it, in spite of all of this concern expressed by all of the responsible stakeholder bodies and a very large number of Albertans and many members of this Assembly, that the government is determined to proceed with the bill? It's a question that can only be answered by the government.

Even the Privacy Commissioner gives only a guarded and reserved okay to this bill after its extensive revisions. He expresses concerns about several points, which I have on record already. I won't go over them. He does say that some of the changes that have been made in the bill before it was brought to the Assembly in this fall session—there's some mitigation of his concerns that has taken place but only some. Obviously, when he was writing this, he was mulling over the words to use. He didn't say adequate mitigation. He didn't say sufficient mitigation. He simply said some mitigation. Clearly, all I can read into what he is saying here is that he has concerns, outstanding concerns, that have not been addressed. So here we find the Privacy Commissioner also distancing himself from this bill in terms of the ability of this bill to respect and protect the privacy of all of us with respect to medical information that we provide in confidence to our physicians in order for them to provide the therapies and therapeutic treatments that we need.

The bill, Mr. Speaker, doesn't clearly distinguish between the therapeutic needs for disclosure of information and the nontherapeutic or the research or planning purposes. It also doesn't put sufficient constraint on the minister's ability to disclose the

information. The minister is no different than anyone else. I think the constraint on the minister to be able to release has to be firm, has to be specific, has to be explicit, and that isn't there.

I think the bill is not ready for us to vote on. I would urge the minister again to rethink and withdraw the bill at this point. Thank you, Mr. Speaker.

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

MRS. MacBETH: Thanks, Mr. Speaker. I'm pleased to rise and speak to third reading of Bill 40. I'm not pleased that the government chose to intervene in the legislative process in this province by shutting off debate and invoking closure to close off the very legitimate concerns of Albertans.

I think one of the most interesting parts about the way this government is proceeding on Bill 40 is the complete and total contradiction between their so-called consultations and the action of closure. The two do not connect. The two are totally contrary to each other. So here we have a government that is saying, in fact, that they've consulted with Albertans. Well, if they had consulted well with Albertans, we wouldn't be in this mess today with closure. If they didn't consult with Albertans or perhaps got into the Legislature and realized there was a problem with the legislation, then if they were truly committed to consultation, Mr. Speaker, they would delay passage of this bill until those corrections were made. So for them to use the word "consultation" and out of the other side of their mouth talk closure is to show the hypocrisy for what it is on this bill.

Mr. Speaker, this government has given a whole new definition to "consultation." The consultation as according to this government really means tell them what they want to hear. Don't argue. Don't criticize. Don't take a different point of view. Just tell them what they want to hear, and the government will classify it as consultation.

Albertans found out exactly 21 days ago that their health information, the information that is probably the most private information that an individual can have, that they share with their own physician, would be available to people other than the people that that individual chooses to let that information out to. That is a huge, huge issue when it comes to some of the fundamental values that Albertans hold dear, and that is the protection of and their right to privacy, particularly privacy of a health or a medical nature.

You know, we on this side of the House have been accused of many things, and I always know when this government is in a weak arguing position. They start taking personal shots at the members of the opposition for daring to raise the questions that are on Albertans' minds about the legislation. We know that when they start yelling like this across the floor of the Assembly, they are feeling the heat, and they are feeling the heat because they have misread the public on this law and they're pushing it through with closure. They're doing every heavy-handed ramming technique ever known in a Legislature.

9:40

Let's look at this issue of consultation and what it means and what it doesn't mean. The thing is, Mr. Speaker, I can speak with some authority on the issue of consultation and legislation. I've done it as a minister of education and as a minister of health, and these guys do not know the meaning of the word.

Mr. Speaker, one of the principles that we think is important and that when we form government in this province will exercise is the principle of respecting those consulted. That's a really important principle, and it's one that this government doesn't get: respecting those consulted.

In this case let's look at this whole process of who was consulted. There was a committee set up by the minister of health. There was

an earlier bill, legislation. That's true. A committee was set up with many groups represented on that committee, including our own Member for Calgary-Buffalo, who was on that committee for a particular time, until such time as it became clear that consultation was not going to respect the people who were being consulted.

The best proof of that today is the Alberta Medical Association, who was certainly part of that consultation process, who has launched a major campaign across this province trying to show Albertans that this 21-day debate, which Albertans are hardly even aware of because it's the holiday season and they're doing lots of other things – this government continues to ram this whole thing through. The respect for those people who were consulted is not here. It's completely absent.

There's another important principle with respect to consultation, and that is that you can go out and create a process of consultation, but it's very, very important that the decisions reached by that group of people that are being consulted are in fact endorsed by the senior government, in this case the provincial government. If they aren't, if for some reason the provincial government says, "We've consulted with these people, and they've told us we should do this, but we've decided we're not going to do what this consulting group wants us to do," then it's incumbent upon the provincial government to say: here is why we do not support the recommendations in this consultation process, and we will not proceed along those recommendations for these reasons. Well, Mr. Speaker, none of that has happened. Absolutely none of that has happened.

So if they are not going to listen to the consultation, then the consultation process is an absolute sham. If they are committed to the consultation, then why not pause at this point, realizing the broad range of groups across this province that do not support this legislation, pause and embody the corrections which we have placed in our own amendments? Embody those corrections in the legislation to improve it. Then instead of dividing Albertans over something that's as fundamentally important to them as their personal health information, they could in fact be a unifying force. But that is not the way this government works. Divide and conquer is the way it works. We've seen it, and many Albertans have had enough of it. So the issue of consultation is one that is a completely false allegation on the part of the province, because if there were true consultation, then they wouldn't have to invoke closure. Plain and simple. That's the bottom line, and that's what it comes down to.

The second point I want to speak about is the contention in the minister's news release of today, which the hon. Member for Calgary-Buffalo was quoting from, that there was no connection between Bill 40, the health information bill, and the push to provide a taxpayer subsidy to private hospitals and create a two-tiered American style health care system in this province. Well, you know, I used to know a joke when I was young, growing up. The thing was that the guy would hold out his arm, and he would raise his sleeve up, and he'd have 15 watches hanging on his arm. When someone made a statement like that that was completely false, he'd say: does anyone want to buy a watch? Guess what? The two are absolutely hand in glove. The two are absolutely paving the way towards privatization of health care in this province, and for the minister to deny it or to play dumb about it is absolutely mind boggling to Albertans.

Mr. Speaker, the interesting thing on this privatization pathway that's being created are a couple of things that, again, are contradictory. Again, the spin is catching up to itself. Again, the scorpion's tail on the spin is turning around and biting the scorpion on the head. These circular arguments are starting to be seen through by the people in this province and by the members of the media, to their credit, who've been following this bill very carefully.

First of all, on the issue of standards, we have documented, we have shown clearly that there will be a lower standard applied to the sharing of information in private facilities versus the standard that must be followed in public facilities. Now, this starts to divide the path even further than the one that has already been divided by this government's policy on taxpayer-subsidized private hospitals. So here we have the lower standard: one for private, one for public. A definition of two stages, of two tiers, of two pathways, parallel: call it what you will; that's what it is.

The second one that I think is important is that there's a rather interesting interpretation of this legislation which will allow an individual to guarantee the privacy of their health care information by buying a service in the private sector. This is a very, very interesting take on this legislation, that there will in fact be an ability for someone to go and purchase private health care. But that private health care will not have to share the information to the degree that the public health care system will have to; ergo, parallel, two-tiered, another level, two-staged health care. The two fit hand in glove.

So, Mr. Speaker, Albertans today are receiving the one-two punch from this government. First of all, the government, for the number one punch – and I didn't used to know what that meant. You know, I didn't used to know what that expression meant, that one-two punch, but it basically means that there's a very concerted plan, and this one is it. First of all, 21 days ago, on the eve of this session, the Premier dropped this little bombshell on the people of Alberta that he intended to set up a two-tier American style health care system even though he denied that that was in fact what it was. We have of course shown the fallacy in that argument, but again no answers, no discussions, nothing.

The second punch is that they have now choked off debate on something as fundamental as the personal confidential health information of Albertans. That choking off of this legislation in fact has the effect of touching every single citizen of this province, every single one. Aren't the citizens of this province worth more than 21 days of legislative exposure and eight hours – eight hours, Mr. Speaker – of debate on something that's going to fundamentally affect their relationship with their physician? You bet it is.

9:50

There's one other point I want to make on the private health care, private hospitals, the taxpayer subsidy of same. I don't think that in all my years of following the Legislature in this province – and that has actually been since 1971, believe it or not, Mr. Speaker. I don't think I've seen a more cynical treatment of a population than the one that we have seen affecting the citizens of the city of Calgary. The citizens of the city of Calgary are being used by this government as guinea pigs, and really by their actions this government has got Calgarians over a barrel when it comes to health care and the provision of health care within their city. We know that this province cut back extensively on health care from '93 until '96. In that period of time, of course, they blew up the Calgary General hospital; they sold off the Grace hospital; they sold off the Holy Cross hospital.

Is it any wonder there is a severe shortage of hospital beds in the city of Calgary today? The city of Calgary has 98 percent occupancy in its acute care hospitals right now. That is a very dangerous situation, and we on this side of the House think that the citizens of Calgary deserve better from their provincial government. Health professionals in the city of Calgary – our physician workforce, our nurses, our allied health workers – have been holding together this health care system and the health care system in Calgary and working with the reality of a 98 percent occupancy in their acute care hospitals. I would like to give special commendation to those people

working in the Calgary health care system with the reality of a 98 percent occupancy. That is pressure like nobody in this Legislature is even aware of except perhaps those that have worked in the health care system.

Finally, Mr. Speaker, the issue of privacy, the issue of the Canadian Medical Association privacy code not being even closely met by these standards within Bill 40. Privacy is of primary importance to Albertans, obviously. I've said that on many occasions. The analogy that's worth drawing is that these privacy provisions are very, very disturbing to some of our physicians in this province. In fact, I asked the question in question period about whether this minister would be willing to support our physicians who choose to operate at a higher standard than his legislation is compelling. It was interesting. His answer was, again, a nonanswer, one that has had physicians across this province leaving messages on my voice mail to a very great degree ever since I raised the question in the Legislature.

But, you know, Mr. Speaker, I had the realization in the last little while about what is really going on with this legislation, and I think the best analogy to give is that for the patient who is in talking to their physician, having a personal conversation obviously, because it concerns one's health, it's as if that conversation between those two individuals in that office is being done and across the wall is a one-way glass. You know, that one-way glass we've all seen in those police station movies and all those kinds of things. Well, the thing is that within that examining room with one's physician that one-way glass is there, and that physician and that patient do not know who is looking through that glass. That's what this government has opened up with their health information bill.

We all know that this government has the power to do what they've done, which is choke off debate, invoke closure in the Legislature. They certainly have the heavy hand that they need to do this. But, you know, Mr. Speaker, they've forgotten something. They have forgotten the people who brought them where they are today. They've forgotten those people, and a lot of those people are exactly the people that are calling us and saying: what can we do to stop this government's heavy-handed approach to governing in this province?

Mr. Speaker, privacy is one of those fundamental issues that is at the root of some of the very important values that Albertans hold: the right to keep to ourselves the things that we want kept to ourselves. It's a fundamental principle, and this government has totally misread what Albertans care about.

You know, we saw a similar thing happen in the spring session with Bill 31, the agriculture statutes amendment act. That was another bill that touched on something which was very fundamental to Albertans, and that's property rights. That's why we raised the issue in this Legislature. We thought it was an important principle to protect, but again this government had to shove it through, ram it through.

Privacy is one of those rights that is as fundamental as property rights in this province, and this government has decided that they are going to fundamentally alter that privacy right that Albertans see that they have. They're going to fundamentally alter it after eight hours of debate. It is a fundamentally flawed exercise. It is one which they are going to have to live with the consequences of. We've tried to help them. We have been completely open in terms of the amendments, the suggestions we have to improve. Every single one of those amendments is sound health policy, and they have refused to deal with the bulk of those amendments.

Mr. Speaker, let me simply close my last opportunity probably, unless something happens that I'm not aware of, to speak in this fall session and thus close off this parliamentary session for 1999 to say

that we in the Official Opposition are going to be fighting for public health care in this province. We think it's a fight for what Albertans believe in. We think it's a fight worth having, certainly something that we believe very strongly in – we have great confidence in the people of this province – leading a fight for public health care and inviting all Albertans who want to be part of making this province better based on a public health care system that can and will be sustainable if we take the steps that need to be taken. We're looking forward to fighting for public health care, and we look forward to seeing the results of all of this come together as the months and days roll on.

Mr. Speaker, there should probably be no doubt – but I do want to put it on the record – that I will not be supporting this bill in third reading, and I'm very pleased to not be supporting it. I think there are elements of this bill which are very important to access to information, but the whole issue of protection of privacy, of patient/physician confidentiality has been very seriously mishandled in this legislation. It's a pity that this government hasn't listened to Albertans and done the right thing, which would have been to delay the bill.

Thank you, Mr. Speaker. I look forward to the vote on the bill.

THE SPEAKER: Having heard the motion that the question be now put as proposed by the hon. Minister of Justice and Attorney General, would all those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

THE SPEAKER: The motion is carried.

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

[Ten minutes having elapsed, the Assembly divided]

For the motion:

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|-----------|-----------|------------|
| Boutilier | Hancock | Nelson |
| Broda | Herard | Oberg |
| Cao | Hierath | O'Neill |
| Cardinal | Jacques | Paszkowski |
| Doerksen | Johnson | Pham |
| Dunford | Jonson | Renner |
| Fischer | Klapstein | Severtson |
| Friedel | Laing | Stelmach |
| Gordon | Lougheed | Tarchuk |
| Graham | Marz | Woloshyn |
| Haley | McClellan | Zwozdesky |

Against the motion:

| | | |
|----------|-----------|----------|
| Barrett | Leibovici | Sapers |
| Blakeman | MacBeth | Sloan |
| Bonner | MacDonald | Soetaert |
| Dickson | Olsen | White |
| Gibbons | | |

Totals: For – 33 Against – 13

[Motion carried]

THE SPEAKER: Pursuant to Standing Order 47(2) and *Beauchesne* 521(2) I must now put the question on the original question.

[Motion carried; Bill 40 read a third time]

THE SPEAKER: Hon. members, when we reconvene – and God willing that we all will reconvene – it will be in a new century and a new millennium. To all of you, may I wish you a Merry Christmas and a Happy New Year.

[Pursuant to Government Motion 23 the Assembly adjourned at 10:14 p.m.]

