

Legislative Assembly of Alberta

Title: **Wednesday, March 15, 2000**

1:30 p.m.

Date: 00/03/15

[The Speaker in the chair]

head: Prayers

THE SPEAKER: Good afternoon.

Let us pray. O God, grant that we the members of our province's Legislature may fulfill our office with honesty and integrity. May our first concern be for the good of all our people. Guide our deliberations this day. Amen.

Please be seated.

head: Presenting Petitions

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

MR. GIBBONS: Thank you, Mr. Speaker. I have a petition on public health care to present today. It's 120 names from Edmonton, St. Albert, Leduc, Sherwood Park. They urge that the government of Alberta "stop promoting private health care and undermining public health care" in Alberta.

Thank you, Mr. Speaker.

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

MR. BONNER: Thank you very much, Mr. Speaker. With your permission I'd like to present a petition to the Legislature. There are 117 Albertans that have signed this petition, and they are from Sherwood Park, Ardrossan, and Edmonton. They are urging "the government of Alberta to stop promoting private health care and undermining public health care."

Thank you.

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

MR. MacDONALD: Thank you, Mr. Speaker. This afternoon I would like to present this petition of 144 individuals from Edmonton, Sherwood Park, and St. Albert urging "the government of Alberta to stop promoting private health care and undermining public health care."

Thank you.

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

MRS. SOETAERT: Thank you, Mr. Speaker. I, too, have a petition signed by 140 people from Edmonton, Warburg, Fort Saskatchewan, Leduc, and Beaumont urging the government "to protect, support, and enhance public health care in Alberta and to ban for-profit, private hospitals from receiving public dollars."

MS LEIBOVICI: It's my great pleasure this afternoon to present a petition by 120 Albertans from Bon Accord, Spruce Grove, Sherwood Park, Fort Saskatchewan, and St. Albert indicating that they, too, want the government to protect and support our public health care system and to "ban for-profit, private hospitals."

Thank you.

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

DR. PANNU: Thank you, Mr. Speaker. I rise to table a petition

signed by 635 Albertans from Valleyview, Fort McMurray, Lacombe, Rimbey, Bluffton, Eckville, Blackfalds, Leslieville, Winfield, Millet, Pearce, Falher, and Calgary for a total of 4,150 petition signatures to date. The petitioners are asking the Legislative Assembly of Alberta "to pass a Bill banning private for-profit hospitals in Alberta so that the integrity of the public, universal health care system may be maintained."

Thank you, Mr. Speaker.

head: Reading and Receiving Petitions

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

MS GRAHAM: Thank you, Mr. Speaker. Further to my report of the Standing Committee on Private Bills, which I gave Tuesday, March 14, 2000, I move that the five petitions for private bills presented in the Assembly on Wednesday, March 8, 2000, now be deemed to be read and received.

[Motion carried]

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

MS BLAKEMAN: Thank you. I would ask that the petition I presented on March 14 on listing of drugs for osteoporosis now be read and received.

Thank you.

THE CLERK:

We, the undersigned residents of Alberta, petition the Legislative Assembly to urge the Alberta Government to take an enlightened preventative approach and add the newer and more effective medications and therapies to the Alberta Drug List to ensure the health of an aging society.

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

MS OLSEN: Thank you, Mr. Speaker. I, too, wish to have the petition I presented on March 14 regarding private health care now read and received.

THE CLERK:

We the undersigned citizens of Alberta petition the Legislative Assembly to urge the government to stop promoting private health care and undermining public health care.

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

DR. MASSEY: Thank you, Mr. Speaker. With permission I'd ask that the petition I presented on March 14 now be read and received.

THE CLERK:

We the undersigned citizens of Alberta petition the Legislative Assembly to urge the government to stop promoting private health care and undermining public health care.

MR. SAPERS: Mr. Speaker, I would ask that the petition which I presented to this Assembly on March 14 urging the government to stop its promotion of private health care now be read and received.

THE CLERK:

We the undersigned citizens of Alberta petition the Legislative Assembly to urge the government to stop promoting private health care and undermining public health care.

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

DR. PANNU: Thank you, Mr. Speaker. I request that the petition I presented yesterday be now read and received.

Thank you.

THE CLERK:

We the undersigned residents of the province of Alberta hereby petition the Legislative Assembly of Alberta to pass a Bill banning private for-profit hospitals in Alberta so that the integrity of the public, universal health care system may be maintained.

head: Notices of Motions

DR. PANNU: Mr. Speaker, pursuant to Standing Order 40 I'll be asking for the unanimous consent of the Legislative Assembly to debate the following matter of pressing urgency.

Be it resolved that the Assembly, recognizing that the ongoing *Calgary Herald* strike and Mr. Conrad Black's refusal to engage in fair collective bargaining is an indictment of Alberta's unfair laws, urges the government to appoint a disputes inquiry board to facilitate the settlement of this dispute.

Thank you, Mr. Speaker.

head: Tabling Returns and Reports

THE SPEAKER: The hon. the Premier.

MR. KLEIN: Thank you, Mr. Speaker. I have two tablings today. Both are letters. One is from the Bonavista Eye Clinic, in which the writer says that "the idea of contracting out services is a sound and wise move."

The other is from the Kensington Clinic, which performs therapeutic abortions, and it points out that this clinic now charges the Calgary regional health authority "less than what was charged to patients privately between 1991 and 1996."

I would like to table these two letters, Mr. Speaker.

MR. JONSON: Mr. Speaker, today I have two tablings. First of all, I wish to table with the Assembly five copies of the report *Building Better Bridges*, prepared by the Hon. Gene Zwozdesky, Associate Minister of Health and Wellness. This is a very comprehensive report. [interjections] I regret that the members across the way think it's laughable; it certainly isn't. It's a serious report dealing with a very, very important topic. Along with it is a consultation form that would be sent asking the people involved in the review to comment on the recommendations. I wish to table that with the Assembly.

Further, Mr. Speaker, I'd like to table five copies of a news release I issued today along with an independent legal opinion which highlights the very significant similarity between Bill 11, the Health Care Protection Act, and Saskatchewan's Health Facilities Licensing Act, which was passed in 1996 by a New Democratic government, now a New Democratic/Liberal coalition.

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

MR. LUND: Thank you, Mr. Speaker. Today I'm pleased to table with the Assembly the six copies of the responses to the members' questions from Committee of Supply on Tuesday, March 7. These responses were given orally in the Assembly last night as well.

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

MS LEIBOVICI: Point of order.

DR. PANNU: Thank you, Mr. Speaker. I rise to table five letters and e-mails opposing Bill 11, which include an e-mail from a doctor in the Premier's riding, an e-mail from Rimbey in the health minister's riding, and the others from Edmonton and Calgary.

Thank you, Mr. Speaker.

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

1:40

MR. SAPERS: Thank you, Mr. Speaker. I have four tablings that I'll run through very quickly this afternoon with your permission. The first is an excerpt of a document entitled *An Opportunity to Develop a New Fiscal Partnership for Canada's Social Programs*, the 1999 Western Finance Ministers' Report dated May 20, 1999, in which our Treasurer was a participant. In part, the report concludes:

Western Canada, along with other provinces and territories, will receive an equitable share of the health supplement and the increased cash floor, as these will be paid on an equal per capita basis. This is a constructive response to the 1996 Western Finance Ministers' call for a more equitable allocation of the [Canada health and social transfer].

Mr. Speaker, the second tabling is *Current Analysis*, a document from the Royal Bank of Canada dated September 1999, and in part it concludes that "we project that by 2004/5 Ottawa will have a fiscal surplus amounting to \$25.9 billion, or 2.2% of gross domestic product." That of course is important in the calculation of tax room.

The third tabling is an analysis done on the province's flat tax. It's updated figures showing that unless there is a significant change in the personal exemptions, at the \$35,000 taxable income level, the \$50,000 taxable income level, and \$65,000 taxable income level the rate at 10.5 percent is still an Alberta disadvantage to taxpayers in this province.

Finally, Mr. Speaker, a report titled *Projected Reduction in Alberta's 11% Flat Tax Rate to Flow Through Federal Government Tax Measures affecting Alberta, 2004/05-2007/08*. The major conclusion is a required reduction in the Alberta 11 percent flat tax to fully capture Alberta tax relief would be 7.82 percent.

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

MR. MacDONALD: Thank you, Mr. Speaker. I would like to table for the information of the House this afternoon a letter I received from Harold S. Millican of Calgary. He is one of "130 Calgarians from all walks of life concerned about the quality of print journalism" in the city of Calgary and "the negative impact that the current labour dispute at the *Calgary Herald* is having."

Thank you.

THE SPEAKER: Hon. members, pursuant to Standing Order 109 I am pleased to table with the Assembly the 11th annual report of the Legislative Assembly Office for the calendar year ended December 31, 1999. This report includes the third annual report of the Alberta branch of the Commonwealth Parliamentary Association. A copy of the report is being distributed to all members.

head: Introduction of Guests

THE SPEAKER: The hon. the Premier.

MR. KLEIN: Thank you, Mr. Speaker. I am pleased to introduce to the Assembly today on your behalf four prominent Alberta business leaders. They are Kenneth Stankievech, president of Canspec; Adrian Met, general manager of RTD Quality Services Inc.; Robert L. Duke, QC, Miller Thomson, barristers and solicitors; and Val

Lopatka, Lopatka & Company, barristers and solicitors. I had the opportunity to have lunch with them today as a result of an auction luncheon that they purchased at the Aaron Moser fund-raiser. I would ask them to rise and receive the warm welcome of this Assembly.

THE SPEAKER: The hon. Member for Redwater.

MR. BRODA: Thank you, Mr. Speaker. It's my pleasure to rise today to introduce to you and through you to the members of this Assembly 61 students from the Gibbons school. I must say that the tour guides indicated to me that it was one of the best classes they've had as far as attentiveness. They're seated in the members' gallery. They're also accompanied by teachers Mrs. Cindy Hamilton, Mrs. Rhonda Hruschak, Mrs. Sheligne Connolly; parents Mrs. Donna McDonnell, Mr. Don Butler, Mrs. Becky Stoddard. I would ask them to please rise and receive the warm welcome of this Assembly.

THE SPEAKER: The hon. Minister of Infrastructure.

MR. STELMACH: Thank you, Mr. Speaker. It gives me great pleasure to rise today and introduce to you and through you a very familiar face to many legislators and staff of the Legislature Building, and that is Mr. Oscar Lacombe, who is seated in your gallery this afternoon. Mr. Lacombe was the first Metis Sergeant-at-Arms appointed in the province of Alberta and in Canada, if I may add, and held this position at the Legislative Assembly from 1980 to 1993.

Oscar was renowned throughout the Legislature Building for his wit, sense of humour, and friendly disposition. However, when it was time to carry the Mace and lead the procession into the Assembly, Oscar was extremely professional and delivered his responsibilities for MLA security and the Assembly with great pride and dignity. On behalf of all members in the House, past and present, we thank you, Oscar, for your commitment and years of service.

Oscar currently resides in the town of Two Hills in the beautiful constituency of Vegreville-Viking. Mr. Speaker, I would ask that Mr. Lacombe rise and receive the traditional warm welcome of this Assembly.

MRS. O'NEILL: Mr. Speaker, it's my pleasure today to rise and introduce through you to members of this Assembly 52 students who are likewise very attentive during their visit here today. They are from Robert Rundle elementary school. They are seated in the members' gallery. They are accompanied by their teachers, Mrs. Katherine Cornelius, Ms. Angela Bizon, Mr. Brad Shillington, and by parents Ms. Valerie Panchen, Ms. Shannon Wakefield, and Mr. Darrell Wakefield. Other persons accompanying them are Mrs. Kelly Kump and Mrs. Norine Seath. I'd ask them to please rise and receive the warm welcome of this Assembly.

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

DR. PANNU: Thank you, Mr. Speaker. It's my pleasure today to introduce to you and to all of my colleagues in this Assembly two youthful Albertans who are working as volunteers to collect signatures on the petition that I've been tabling in this House over the last few weeks. They are Elgar Schmidt and Leif Langvand. Both of them are seated in the public gallery. I'll ask them to rise and receive the warm welcome of the Assembly.

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

MRS. SOETAERT: Thank you very much, Mr. Speaker. I'd like to introduce to you and through you to members of the Assembly someone who I think is well known to members on both sides of the House. He's a former MP, former school principal, present golfer, and always a friend. I would like you to please welcome Mr. Norval Horner.

THE SPEAKER: The hon. Associate Minister of Health and Wellness.

MR. ZWOZDESKY: Thank you, Mr. Speaker. I'm very pleased to introduce to you and through you to all members of the Assembly today a group of individuals who are deeply committed to assisting members of our disabled community. This group has also been very keen to participate in and provide input to the Building Better Bridges report, which was tabled earlier today in support of programs and services for persons with developmental disabilities.

They are Bev Matthiessen, the executive director for the Alberta Committee of Citizens with Disabilities; Mr. Bryan Sandilands, co-ordinator of research and evaluation for the Premier's Council on the Status of Persons with Disabilities; Mr. Tom Fowler, the manager of community relations and policy analysis, also from the Premier's council; and Mr. Gerald Gordey, who is a council member as well and who also closely follows activities of the Alberta Association for Community Living. With them is Mr. David Steeves, the special adviser to the Deputy Minister of Alberta Health and Wellness, who was instrumental in assisting me with the preparation of this final report. Gail Davis, who is the executive director of the Alberta Association of Rehabilitation Centres, was here earlier, but I understand she had to leave for a commitment elsewhere. I would ask these very dedicated, committed individuals to please stand and take the warm applause and the warm reception of all members of this Assembly.

1:50

head: Oral Question Period

THE SPEAKER: First main question. The hon. Leader of the Official Opposition.

Private Health Services

MRS. MacBETH: Thank you, Mr. Speaker. "Viewing their doctor as an entrepreneur and health care as a commodity is an American invention that few Canadians are willing to support." That quote is taken from this March 2000 study by Dr. Richard Plain, a noted health care economist from the University of Alberta and a former mayor of St. Albert. Well, instead of using the current studies, the Premier has tried to pass off studies from the 1970s as proof for his private hospitals plan. That's why it was so astounding yesterday to hear the Premier accuse anyone using reports from the '70s as being "intellectually bankrupt." My question is: why is the Premier using these same studies to justify his government's attempt to force Bill 11 on Albertans, or is the Premier saying that the minister of health, who tabled the reports, is intellectually bankrupt?

MR. KLEIN: Well, certainly the Minister of Health and Wellness is not intellectually bankrupt. He is a very bright and dedicated individual and an asset to this government, Mr. Speaker.

The tabling of those reports by the Minister of Health and Wellness – I believe it was about a month ago – was simply to show that there are reports on both sides of this issue. It was not used in the preparation of Bill 11 in any way, shape, or form. It was simply a tabling to show that there are opinions on both sides of this issue.

MRS. MacBETH: Mr. Speaker, why would the Premier not listen to experts right here in Alberta, like Dr. Plain, who are saying that "surgical facilities with overnight stays," that is, private hospitals, should "not be permitted to operate within Alberta"?

MR. KLEIN: Mr. Speaker, Richard Plain is entitled to his opinion, and the hon. leader of the Liberal opposition is entitled to her opinion, and we're all entitled to our own opinions. That's why we have sent the bill out to about a million households, to get the opinions of Albertans on this particular issue. This is an unprecedented move to seek the wisdom and the guidance and the intelligence of Albertans in making sure this legislation is the right legislation.

MRS. MacBETH: Mr. Speaker, why doesn't the Premier withdraw his intellectually bankrupt Bill 11 and listen to the experts in this province who are committed to public health care, rather than telling them that it won't work.

MR. KLEIN: Well, Mr. Speaker, there are opinions, as I said, on both sides of this issue. I did a tabling earlier today, one from the Bonavista Eye Clinic, in which the writer, a medical doctor, says:

The idea of contracting out services is a sound and wise move. Everyone seems to know competition reduces cost while increasing service. I realize the media spin of a two-tier system and the other groups "American Health Care" make for good copy but is nowhere near the truth. Actually almost all doctors now practice in their private clinics and public hospitals.

I continually tell my patients how this new and innovative system will benefit them and all Albertans. I applaud your courage to take an issue and stay with it when the easy road would be to let future generations worry about an inefficient health care system. Continue the good work.

Another letter, a final . . .

THE SPEAKER: And I understand that document has been tabled.

MR. KLEIN: It has been tabled, sir.

MRS. MacBETH: Mr. Speaker, given that recommendation 4 from Dr. Plain's study calls for guidelines to identify "private costs and benefits," why has the Premier excluded that from Bill 11?

MR. KLEIN: Mr. Speaker, it hasn't been excluded. As a matter of fact, one of the main components of Bill 11 is that the RHAs must demonstrate to the minister and to the college that contracting out will reduce costs and it will produce efficiencies and it will shorten waiting lists. The bill is quite specific on that particular issue.

MRS. MacBETH: Mr. Speaker, given that recommendation 5 of Dr. Plain's study calls on the government to set out guidelines for the tendering of medical service contracts, why has the Premier excluded that from his bill?

MR. KLEIN: Mr. Speaker, it's quite obvious now that the hon. member has not read the bill, because the bill alludes quite specifically to that particular point. Again, if she has read the bill, obviously she can't understand it. I will have the hon. Minister of Health and Wellness give her another clinic.

MR. JONSON: Mr. Speaker, actually, the legislation with the explanatory notes should be something the hon. leader can understand. The legislation has a fairly comprehensive section which

outlines the factors that have to be considered in terms of deciding on awarding a contract.

The other thing that I think is very important here is that there's also the openness in the legislation dealing with the contracts being made public, Mr. Speaker. There are quite a number of sections of the legislation which follow that theme.

MRS. MacBETH: Mr. Speaker, given that recommendation 8 from Dr. Plain's study calls for the public to have access to all information and reports, not just an agreement on the spin but all the information and the reports regarding regional health authorities and private clinics, why has that been excluded from this Premier's private hospitals bill?

MR. KLEIN: Mr. Speaker, again I'll have the hon. Minister of Health and Wellness supplement, but I would point out that Dr. Plain's report, to the best of my knowledge, was prepared before the bill was tabled in this House.

I'll have the hon. minister supplement.

MR. JONSON: Well, Mr. Speaker, as I've indicated, there is a section of the bill which provides for the disclosure of contracts. There's a section of the bill which outlines in some detail the circumstances that have to be taken into consideration when the actual proposal is considered. The legislation is basically about that particular set of requirements as it applies to surgical clinics. I think this is really a rather fortuitous criticism of the bill, because the bill has right within its clauses the very things that the leader is asking for.

MRS. MacBETH: No, Mr. Speaker. Albertans are seeing through this net that's been created by the government.

Clearly this government's health care policy is to go backwards to the 1970s model of the U.S. two-tiered private health care that's gotten them in so much trouble. What Albertans are looking for is a strong public health care system that will serve us in the 21st century. This question is to the Premier. Rather than relying on outdated, irrelevant U.S. studies, why not commission a made-in-Alberta solution based on current and relevant data from Alberta?

2:00

MR. KLEIN: Well, Mr. Speaker, with all due respect, that's what Bill 11 is all about.

Mr. Speaker, since the hon. leader of the Liberal opposition alluded to going backwards, I would like to read a letter that was sent to the leader of the Liberal opposition. It was sent by the Kensington Clinic, which performs therapeutic abortions. I tabled five copies of that letter today. It is talking about going ahead, and it's talking about what it used to be like. It says:

We now charge the CRHA less than what was charged to patients privately between 1991 and 1996. Our current offer to the CRHA, if accepted, would further reduce our fees by 15%. We pay the equivalent of union wages as well as benefits to our staff, but need fewer staff to provide the same level of care. The clinic also uses fewer physician services resulting in a minimum \$100 savings per patient. Our outcomes are compiled quarterly by the CRHA and remain consistently better than the hospital site. We have not sent our most difficult cases to the hospital because prior to funding we were seeing all the difficult cases. After funding, the hospital agreed to share the load with us, resulting in more timely care for these women. Furthermore, in the last 8 years there have been at least 5 renovations to the hospital-based abortion clinics. If this clinic were to engage in that kind of haphazard planning, the funds at least would come out of our contracted operating funds. We would not be demanding more each time . . .

THE SPEAKER: Okay. I gather the letter has been tabled as well. Is that correct?

MR. KLEIN: It has been tabled.

MRS. MacBETH: Getting back to the question, Mr. Speaker, rather than letting cataract surgery clinics, as an example, continue to mushroom at taxpayers' expense, why doesn't the Premier commission someone like the Medicare Economics Group here at the University of Alberta to do a cost-benefit analysis of private health care delivery? Isn't that just common sense?

MR. KLEIN: Well, Mr. Speaker, since the hon. leader of the Liberal opposition alluded to cataract operations, I tabled a letter earlier from the Bonavista Eye Clinic, where the writer, a doctor, says that "the idea of contracting out services is a sound and wise move."

MRS. MacBETH: Mr. Speaker, getting back to the question, rather than letting the chairman of the Calgary regional health authority embark on yet another of his expensive health care experiments, why doesn't the Premier ask the University of Calgary or the institute of health economics to conduct a cost-benefit analysis on, say, MRI services? Wouldn't that just be common sense?

MR. KLEIN: Mr. Speaker, the only expensive experiments that were ever undertaken with a great deal of failure were under the hon. leader of the Liberal opposition's watch when she was minister of health. That's when health care costs started to skyrocket, and she did nothing about it.

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

Magnetic Resonance Imaging

DR. PANNU: Thank you, Mr. Speaker. Chairman Jim Dinning of the Calgary regional health authority had another innovative idea today on how to waste taxpayers' dollars while messing up the public health care system, and that is to bail out the two private MRI clinics in Calgary. But, then, again, Chairman Jim is also busy working on putting privately owned MRI machines into public hospitals. This will give Calgarians the dubious privilege of waiting in line for public MRI during regular office hours or, if they prefer, paying privately and thereby jumping the queue after regular office hours. My questions are to the Premier. Can the Premier please explain how this bailout of private Calgary MRI clinics will accomplish anything other than bleeding personnel and resources away from MRIs located in public hospitals?

MR. KLEIN: Mr. Speaker, this is not a bailout of MRI clinics; this is providing options. This is a measure to reduce waiting lists for MRI procedures. Certainly, there can't conceivably be anything wrong that; that is, to reduce waiting lines for MRI procedures.

DR. PANNU: Thank you, Mr. Speaker. Will the Premier confirm that despite the CRHA bailout of private MRI clinics, Calgarians will still be allowed to buy their way to the front of the line at private MRI clinics and that the government plans to do nothing to put a stop to this queue-jumping?

MR. KLEIN: Mr. Speaker, the Calgary RHA is looking for ways to reduce waiting lists for insured MRI scans, and I think it's a good idea to see if there are services out there who can provide these scans safely and efficiently and allowing the RHA to get more services

done and reduce waiting lists. That's what it's all about. For insured MRI scans and to reduce waiting lists: that's what it's all about.

DR. PANNU: Thank you, Mr. Speaker. My last question to the Premier: how can the Premier justify the appointment of Dr. Bill Anderson as a so-called impartial consultant to review bids from the two private Calgary MRI clinics when Dr. Anderson is part owner of a private MRI clinic in Edmonton and thus has an interest in expanding this form of private, for-profit health care delivery?

MR. KLEIN: Well, Mr. Speaker, I don't know the business arrangement that Dr. Anderson has with the Calgary regional health authority. Perhaps the Minister of Health and Wellness can shed some light on this situation.

MR. JONSON: Well, Mr. Speaker, Dr. Anderson is a former president of the Alberta Medical Association. He has, I think, a reputation for neutrality, and he's a man of integrity. He's highly regarded in the medical profession, I think, in the city in which he works.

It is my understanding that the regional health authority has engaged Dr. Anderson to be an outside observer and reviewer of the whole process of putting in these MRI clinics in Calgary. He will be called upon to provide both his expertise and advice as far as the actual installations and the services to be provided and also to make sure that the selection process dealing with companies such as Western Imaging Systems Inc. and so forth is fair and the contracts are awarded appropriately.

THE SPEAKER: The hon. Member for Calgary-West, followed by the hon. Member for Edmonton-Meadowlark.

Public Health Labour Negotiations

MS KRYCZKA: Thank you, Mr. Speaker. Today's media states that the Alberta Union of Provincial Employees are seeking a range of 30 to 45 percent increase in wages for health care employees. The Provincial Health Authorities of Alberta, who are bargaining with the Alberta Union of Provincial Employees, have requested a mediator to assist in negotiations. How will the government assist the parties? My question is to the Minister of Human Resources and Employment.

MR. DUNFORD: Thank you, Mr. Speaker. First of all, I think it would be important for all of us to understand that collective bargaining has begun between the Alberta Union of Provincial Employees and the public health authorities, so I suspect that what we're seeing today is, of course, first positions. My understanding is that, yes, a request has gone in for a mediator by the Provincial Health Authorities of Alberta. With any mediation request we first look at it and then try to determine as best we can whether or not it is an appropriate request and, if so, then we look for a qualified and experienced mediator to get into the situation as soon as possible. We're in the situation of doing that as we speak.

I would hope that all members here in the Legislative Assembly would be aware that we have a very good track record in the area of issue management and particularly as it comes to mediation. We have a success rate of something over 90 percent. So we'll work as best we can. We'll do what we have to do to see that a settlement is ultimately reached.

MS KRYCZKA: Thank you. My first supplemental question is to

the same minister. What is the process that occurs in selecting a mediator?

2:10

MR. DUNFORD: Well, with the reorganization that has taken place, Mr. Speaker, we actually maintain a roster of skilled mediators that we turn to whenever we need to put someone into a situation. The mediators that we have access to have a proven track record, and in the past they've dealt both with employers and unions in working together to reach settlements. But we must make it clear that the process and the negotiations themselves are the responsibility of the parties involved, and the mediator is there to assist however they can.

MS KRYCZKA: Thank you. Also to the same minister: what will happen once a mediator has been appointed?

MR. DUNFORD: Well, again, the process, Mr. Speaker, would be that meetings would be set up with the parties. The mediator would then work with the parties to try to constructively address whatever the particular issues are that are in dispute. We want our mediator to be a catalyst and, of course, a catalyst toward productive areas. But I want to repeat in this answer once again that the mediator does not absolve the parties themselves of the responsibility to come to a negotiated agreement.

THE SPEAKER: The hon. Member for Edmonton-Meadowlark, followed by the hon. Member for Livingstone-Macleod.

Private Health Services

(continued)

MS LEIBOVICI: Thank you, Mr. Speaker. Yesterday and today we established that the studies the Premier has used to support his private hospitals plan, or as he'd like to call them, approved surgical facilities, were outdated and irrelevant. The question on Albertans' minds is: why isn't he using more current studies, and where are the department studies to support his plan? My questions are to the Premier. Given that the 1999 study in the *Journal of the American Medical Association* concluded that the "decade-old experiment with market medicine is a failure" and that "the drive for profit is compromising the quality of care," why did the government draft Bill 11 in order to promote private hospitals in this province, otherwise known as overnight approved surgical facilities? Why are you doing it?

MR. KLEIN: Quite simply, Mr. Speaker, Bill 11 is to protect the health care system as we know it today in Calgary and to set very stringent rules and regulations for the operation of surgical clinics. The bill, as stated in the householder, is about "a stronger health system for the future." That's what the bill is all about.

Mr. Speaker, what is frustrating, though, is the kind of orchestrated campaign of fear and misinformation being conducted by the opposition Liberals and their Friends of Medicare. There is an organized campaign to tell Albertans what they should think about Bill 11, but it's not coming from the government.

One of our MLAs received an e-mail, and I'm about to entitle this. It's entitled *More Hints from Margaret*, and it's all about Friends of Medicare and how to organize protests. It talks about groups deliberately jamming government phone and fax lines. There is a well-orchestrated phone and letter-writing campaign going on by groups opposed to change, and this campaign of misinformation and fear is being led by the opposition Liberals.

THE SPEAKER: Hon. Premier, I'd ask that you table that document as well, please.

MS LEIBOVICI: Thank you, Mr. Speaker. As there are, as the Premier so often points out, surgical facilities now operating in this province, such as the Kensington Clinic, can the Premier tell us: what are the standards that are over those clinics right now? Are you saying that there are no standards in this province right now and that that's why you need Bill 11?

MR. KLEIN: Relative to the delivery of medical services, yes, there are standards. There have always been standards set down relative to the delivery of medical services by the College of Physicians and Surgeons, but we have not had sufficient rules and regulations relative to the conditions for contracting out, Mr. Speaker, and that's what Bill 11 is all about.

MS LEIBOVICI: Well, given that the studies that we've put forward in the Legislative Assembly show that private, for-profit hospitals, or overnight surgical facilities, cost more and provide less care and that there is no need for standards for the current facilities that are operating in this province, why does this Premier want to contract out overnight services?

MR. KLEIN: Mr. Speaker, there may or may not be. It depends on the requirements and need of a particular regional health authority as to whether there are certain surgeries, minor surgeries that can be done in a surgical clinic that would require overnight stays.

Mr. Speaker, this is being done now, as I understand it, in Toronto in a riding next to Mr. Rock's own constituency. It's called the Shouldice clinic. This clinic specializes in hernia operations. It doesn't contravene the Canada Health Act. It's done under the publicly funded system within Ontario. If it can be done there, why can't it be done here?

THE SPEAKER: The hon. Member for Livingstone-Macleod, followed by the hon. Member for Edmonton-Glenora.

Workers' Compensation Board

MR. COUTTS: Thank you, Mr. Speaker. The Workers' Compensation Board of Alberta has a long history of working co-operatively with health care providers to ensure that injured workers receive appropriate, timely treatment. This has been a very successful partnership, and it is vital to small rural communities to continue that partnership. The WCB is now requiring physical therapy and chiropractic clinics to undertake accreditation by an external agency if they want to continue doing business with the WCB. My question to the Minister of Human Resources and Employment is: why is the WCB Alberta imposing this requirement on those clinics?

MR. DUNFORD: Mr. Speaker, I think it's incumbent upon the board of directors of the Workers' Compensation Board to do whatever they can to assist delivery of services to injured workers. It's my understanding that they are working on what's called the Commission for Accreditation of Rehabilitation Facilities, which has the acronym CARF, and that they're working on this initiative with both the College of Chiropractors and the Alberta physical therapists association.

Now, it's true, Mr. Speaker, that I have been hearing from some individual clinics that are unhappy about the requirement for the accreditation, but I think something will have to be worked out, because again I don't think we can hardly blame a board for

requiring a level of standard on an institution that it's going to contract with.

I believe it's being done on behalf of the injured workers. I believe the majority of the physical therapy clinics in Alberta are supportive of the initiative, and it's my understanding that currently there are over 20 physical therapy clinics in Alberta that have gone through the accreditation process.

MR. COUTTS: First supplemental to the same minister. Many of these clinics are small independent businesses. Is it fair that WCB Alberta impose the cost of this accreditation onto these businesses?

MR. DUNFORD: Well, I agree that the cost is a situation that has to be dealt with. My understanding is that if a physical therapy clinic bills less than \$10,000 a year of WCB work, they are not required to go through the full accreditation process and of course they are not required to pay the accreditation fee. If, of course, you are billing more than \$10,000, then this will be a requirement.

Now, WCB apparently has committed up to half a million dollars to assist those clinics that have to go through the accreditation in terms of trying to defray some of the costs. I don't know if it's necessarily a yearly cost, but my understanding is that the accreditation is either for a year, two years, or three years. Certainly once that accreditation lapses, of course the process would have to be gone through again. I believe that WCB is trying to assist.

2:20

MR. COUTTS: Final supplemental to the same minister. In many smaller Alberta communities there may be only one clinic. Can the minister assure this House that accreditation will not affect the delivery of health care services to injured workers in smaller communities?

MR. DUNFORD: I can't make that guarantee Mr. Speaker, but I am asking for direction from the board of directors of the WCB as to how they are going to deal with injured workers that might be in some of the more remote areas of our province. My understanding is that as a policy they are trying to have a service where an injured worker would not be required to travel any more than 20 miles in order to receive the kind of support they would need.

I believe that we're going to have to watch very, very closely what happens not only in the urban areas but in the rural areas as well. Through this question today and through the means that we have of both *Hansard* and the Internet now, should there be any physical therapy clinic in this province that feels they're going to be impacted and not be able to provide the kind of the service that they have become accustomed to and that injured workers have become accustomed to, then I invite them, of course, to contact my office.

Private Health Services

(continued)

MR. SAPERS: Mr. Speaker, my questions are to the Premier. Would the Premier name one private clinic anywhere in Canada that admits patients overnight for services that are paid for under medicare? Just name one.

MR. KLEIN: The Shouldice clinic in Toronto, Mr. Speaker.

MR. SAPERS: So we are talking about hernias, Mr. Speaker. We're talking about hernias. All right. [interjections]

Now, Mr. Premier, if you could you get your backbenchers to tone it down for a minute, name one of the 170 surgical procedures currently done in Alberta private clinics that will require an overnight stay?

MR. KLEIN: None right now, Mr. Speaker.

MR. SAPERS: None, Mr. Speaker.

Well, Mr. Premier can you explain why, then, you believe that Alberta needs a law to allow publicly funded overnight private facilities when no evidence, not one shred of evidence exists to support them or to support that need?

MR. KLEIN: Mr. Speaker, I'll have the hon. Minister of Health and Wellness supplement, but I would remind the hon. member that cataract surgeries, for instance, were done only in hospitals at one time. Whether or not they were overnight stays, I don't know. There have been tremendous advances in the medicine relative to this procedure, and now they can be done very effectively in surgical clinics.

Mr. Speaker, I alluded to the point of overnight stays I think it was yesterday in answer to a question. Now, when is the cutoff? Is it after 12 hours, or is it 13 hours, or is it 15 hours, or is it 23 hours? You know, that is a medical decision, a medical adjudication. The bill quite clearly states that it doesn't matter whether it's overnight or day surgery as long as it is a minor surgery. There is a very clear definition that defines what a full-scale hospital is and what a surgical clinic is.

THE SPEAKER: The hon. Member for Leduc, followed by the hon. Member for Calgary-Buffalo.

Day Care Standards

MR. KLAPSTEIN: Thank you, Mr. Speaker. Recently a media story focused on an incident in an Edmonton day care that raised questions about day care standards. To the Minister of Children's Services: how are day cares monitored to ensure that children are being well cared for?

MS EVANS: I think that's a good and very timely question. To the hon. member through you, Mr. Speaker, we are committed to high-quality standards for day cares. Throughout Alberta every child and family service authority in all 18 regions has licensing officers that provide at least two inspections per year to day cares and more frequent inspections dependant upon the number of complaints or the concerns that have been raised by parents or members of the community. Further to that, we have educational programs for day care operators and for their staff, and we persist in working with them to ensure that the standards are maintained.

MR. KLAPSTEIN: Mr. Speaker, my first and final supplemental question is also to the same minister. If a day care is not in compliance with provincial standards, what steps are taken by the ministry?

MS EVANS: Mr. Speaker, problematic day cares are inspected at least once a month, and through the compliance management system – in other words, the reports that we get – they are carefully tracked, and unannounced visits are made to day cares that we suspect may have problems. If, in fact, we are discovering that those problems and those complaints are valid, we can respectfully request due consideration and improvements within that day care on an immediate basis. We can revoke or suspend their licence.

Mr. Speaker, all the day cares that we inspect have to comply. If in fact they don't comply, we can close their doors, and child and family service authorities will find ways and means of accommodating the children on an interim basis until other solutions can be found.

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

Regional Health Authority Contracts

MR. DICKSON: Thanks very much, Mr. Speaker. One of the most troubling aspects of the Calgary regional health authority has been its historic failure to police apparent conflicts of interest. That region hands over \$250 million to private contractors without any adequate oversight and without provincewide rules for conflicts of interest, and now that the Calgary region proposes to offer 5,000 cases to private MRI clinics, we're assured that Dr. Anderson has been retained to, quote, make sure contracts are fair and awarded appropriately, close quote. My questions are to the Premier this afternoon. Given the very sorry record of the CRHA on apparent conflicts of interest, wouldn't it make more sense to hire someone who's completely independent of the CRHA board to police conflicts rather than a consultant hired by the board itself?

MR. KLEIN: Mr. Speaker, first of all, I take exception to the hon. member's comments relative to the way the RHA is being operated. It's being operated very effectively and very efficiently. Yes, there are about 5,000 people on waiting lists for MRI scans, and what the RHA wants to do is find a way under the publicly funded system to reduce those waiting lists.

The Liberal opposition doesn't want to see that happen. They would rather have people wait six, seven, eight, 10, 12, 18 months for a medically required MRI scan than have the RHA explore more efficient and more effective ways of reducing the waiting list. That's what they would want; that's what they are advocating. The Liberals are advocating longer waiting lists for a medically required procedure as it relates to an MRI scan.

MR. DICKSON: Mr. Speaker, if this government and this Premier were genuinely interested in policing these kinds of private contracts, why wouldn't they simply adopt strong, clear guidelines that apply provincewide to all 17 CRHAs rather than seeing this kind of nonsense perpetuated?

MR. KLEIN: Mr. Speaker, as I understand it, all RHAs have their own set of guidelines relative to conflict, and I do believe – and I stand to be corrected – that the hon. Minister of Health and Wellness tabled the guidelines as they relate to the RHA. If he hasn't, I would encourage him to do so, because there are guidelines relative to the RHA.

Now, if this is a genuine concern relative to the whole issue of conflict and having standardized rules, perhaps we can look at that when the bill enters second reading. Maybe it could be a reasonable amendment. So help us with it.

2:30

MR. DICKSON: Let me offer this little bit of help to the Premier, Mr. Speaker. Will the Premier commit today, right now, that any new or renegotiated MRI contract in the city of Calgary and in that region will be fully disclosed to the public on the Internet?

MR. KLEIN: Mr. Speaker, if the Liberals would help us with the legislation, the legislation compels all contracts to be open and transparent. If they would be constructive instead of organizing orchestrated meetings such as that attended by the hon. Member for St. Albert last night, where she was shouted down and was treated with great rudeness but nonetheless held her head high and did a tremendous job . . . [interjections]

Mr. Speaker, if they would be helpful, then they would indeed be

performing a service to their constituents. As it is right now, the Liberals are being destructive. They are part of a campaign of vicious misinformation. If they want to be helpful, then bring forward some reasonable amendments when the bill is introduced for second reading. They could be much more useful than they're being right now by being constructive rather than destructive.

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

Scientific and Technological Innovation

MR. HERARD: Thank you, Mr. Speaker. As you know, technology is a key driver to the success of our new economy. A report was released today by Ernst & Young along with Silicon Valley North, TD Bank, and CompCanada. This report, entitled Alberta Technology Report, recommends that the government of Alberta take action in several areas including increasing R and D funding and initiatives to attract and retain high-tech workers. My question is to the Minister of Innovation and Science. What is the government doing to address these recommendations?

DR. TAYLOR: Thank you. It is a timely question, Mr. Speaker, because I happened to be at a launch of the report at noontime today. I'd like to congratulate the four organizations that were involved in presenting the report, because it does look at high tech across this province and does present baseline data for the province. I think it's very worth while, and I encourage all members on both sides to get a copy of the report. It is a good report. To facilitate that, if they'd like to call my office, I'll make sure they get a copy.

In response to the member's questions the report did identify several areas. Two in particular were R and D funding for what I call the knowledge-based industries, as well as the necessity of having the critical mass of people. The question is: what is this government doing in these two particular areas?

Well, certainly in addressing R and D funding, we've taken some major steps just in the last few months. We created the informatics circle of research excellence, announced that last fall. That's a commitment of \$10 million a year to find some of the best scientists in the world to work in this whole area of information and communications technology.

They have put out some advertising. The advertisement they put out was really neat. It had a picture of the mountains, and then it had "extreme computing" across the mountains.

We actually are negotiating right now with two world leaders that are interested in moving to Alberta to work in this ICORE, as we're calling it, this centre of research excellence for information and communications technology. So that's one step we've taken.

Another step we've taken, of course, through Bill 1, that's proceeding through this Legislature, is the creation of a \$500 million fund, Mr. Speaker, with the possibility of \$100 million a year being added. So it will be a total of \$1 billion by our centennial in 2005.

Then, of course, there is the budget that is part of my department, Mr. Speaker. Initially we had about \$15 million a year in there for research, and it is now up to almost \$100 million a year.

MR. HERARD: Thank you, Mr. Speaker. To the same minister: the report also identifies the need for a high-tech infrastructure. How is the government of Alberta addressing this recommendation? [interjections]

DR. TAYLOR: Well, Mr. Speaker, perhaps if the intellectually challenged members across the way could keep quiet, they could hear my response.

We have to recognize, Mr. Speaker, that the infrastructure for

high-tech, knowledge-based business is in fact as important as highways; it's as important as railroads in this province. So we have just recently released an RFP that is requesting proposals to really provide a fibre-optic network from Manyberries to Fort Vermilion, from Vermilion to Edson, right across this whole province. There's only one other jurisdiction in North America that's attempting this, and that's Massachusetts. They're doing it with copper, which is old technology. As we work through this and have this fibre-optic network blanketing the province, it won't be any more expensive in Manyberries than it is in Calgary, postage-stamp rates. We will develop that infrastructure and make it available to all Albertans.

As part of this infrastructure, Mr. Speaker, I'm recommending a community kiosk in all of these communities so that if people don't have access to a computer at home, they'll be able to walk into the community kiosk and access this high-speed Internet.

MR. HERARD: Thank you, Mr. Speaker. Again to the same minister. The report once again raises the issue of brain drain. Can the minister explain specific initiatives aimed directly at the issue of attracting and retaining our best minds in Alberta?

DR. TAYLOR: Certainly the initiatives that I've already described: the ICORE initiative; the AHFSER initiative, Alberta heritage foundation for science and engineering research. As you know, we have the HFMR, the Alberta Heritage Foundation for Medical Research. That is a very good model, and we know it works. It's been working since 1982, and Alberta is recognized as one of the key places in the world to do medical research. If we do the same thing with the Alberta heritage foundation for science and engineering research – we need to get a good acronym for that, Mr. Speaker, perhaps AHFSER. We can have before and 'afser.' If we can get that up and running, which we've already committed money to, \$500 million, as I said, we will be able to attract the best science in the world.

THE SPEAKER: The hon. Member for Edmonton-Manning, followed by the hon. Member for Fort McMurray.

Mental Health Services

MR. GIBBONS: Thank you, Mr. Speaker. Mental illness has been identified as one of the highest users of our health care system and is predicted to grow even more in the future. The most effective way of treating mental health is through community-based programs, yet this government insists on committing 80 percent of the entire Mental Health Board budget to institutional care. My questions today are to the Minister of Health and Wellness. What is the rationale for closing the community-based clinics in Red Deer to bolster the institutional care out of Ponoka?

MR. JONSON: Well, Mr. Speaker, the community-based clinic services are being continued in Red Deer. There has been a review by a community advisory group which has recommended certain changes. Those changes have been made, but the services are still being provided and I think improved in terms of their co-ordination with the regional health authority.

MR. GIBBONS: Six months isn't very long.

Why did the acting, now new CEO of the Alberta Mental Health Board receive a \$4,000 increase? Is it the reward for increasing funding to the Ponoka hospital? [interjections]

Mr. Speaker, the next question: as the suicide rate in this province continues to increase, when will the minister admit that the focus needs to be on community-based care, not on institutionalizing people?

2:40

MR. JONSON: Mr. Speaker, we are expanding community-based care across the province. I indicated in response to a very similar set of questions from another member across the way that we have more than doubled our overall monetary commitment to community mental health. I can go through an extensive list of initiatives that are under way. Most recently I was in the Chinook region visiting Lethbridge, and one of the specific proposals there, which is going to go ahead, is the expansion of a number of beds – I think it was 14 beds – in a group home in Lethbridge along with the addition of a six-bed acute care or psychiatric service for children, which would be in the hospital. So we still have to have that balance of beds and intensive care for our mentally ill, but as well we have to have continuum into the community. We're making a lot of progress in that regard contrary to the implications of that question.

THE SPEAKER: Hon. members, before stopping for a brief recess and the recognition of hon. members with respect to Recognitions, I'd like to remind hon. members that today, March 15, is the 94th anniversary of the first sitting of the first Legislative Assembly in the province of Alberta. It was held on March 15, 1906.

Hon. Member for Calgary-Fish Creek, were you attempting to catch my attention in just the last minute or two?

MRS. FORSYTH: A point of order on the question.

THE SPEAKER: You want to raise a point of order?

MRS. FORSYTH: Yes.

THE SPEAKER: Well, we'll deal with it at the appropriate time.

head: Reading and Receiving Petitions

THE SPEAKER: We'll now proceed first of all with the hon. Member for St. Albert.

Martyn Godfrey

MRS. O'NEILL: Thank you, Mr. Speaker. I wish to take this opportunity to recognize the late Martyn Godfrey. Mr. Godfrey was born in Birmingham, England, and after immigrating to Canada as a young boy, Martyn attended school in Toronto, received his arts and education degrees at my alma mater, the University of Toronto, and has taught and inspired students in Ontario and Alberta.

Mr. Speaker, Martyn Godfrey was best known for his authorship of stories in a variety of genre for children and young adults. Martyn lived in St. Albert and spent many hours with the children in our local schools. Our own children along with hundreds of other fortunate children were touched by Martyn's infectious love of the written word, his own creative fun and sensitive expression with both imaginary and real-life stories, and his incredible ability to encourage young writers and readers to pursue their interests.

I would ask all Members of the Legislative Assembly to join me in extending our condolences to the members of Martyn Godfrey's immediate and extended families.

Marco and Carlos Rivera

MS CARLSON: Mr. Speaker, we recently heard of the case of a woman who had collapsed and expired at a bus stop while a stream of motorists passed her by. This incident should not be taken as a measure of the community's compassion.

Recently, in the early hours of the morning, Marco and Carlos Rivera,* while driving home, encountered an elderly woman. She was crying, clad only in a housecoat, wandering aimlessly in the winter cold. Marco and Carlos stopped, picked her up, and took her to the local police station, which they discovered was closed. They then proceeded to the Grey Nuns hospital to make sure she was cared for. The woman, who suffers from Alzheimer's, had somehow been able to leave the house and place herself at extreme risk.

Marco and Carlos are like many other Edmontonians quietly going about thousands of acts of kindness. On behalf of the constituents of Edmonton-Ellerslie I say thank you to Marco and Carlos Rivera. Thank you for caring for your neighbours. Thank you for taking action that makes Mill Woods and this city the caring place we know it to be.

THE SPEAKER: The hon. Member for Edmonton-Beverley-Clareview.

Ukrainian Bilingual Education

MR. YANKOWSKY: Thank you, Mr. Speaker. A huge celebration recognizing the 25th anniversary of the establishment of the Ukrainian bilingual program in Alberta was held at Edmonton city hall on March 1, 2000. The capacity crowd heard congratulatory tributes paid to the visionary founders who 25 years ago sensed the need to promote the continuation of the Ukrainian language and culture. The founding committee went to work finding funding, resources, and volunteers, allowing the vision to become reality.

Now, 25 years later a celebration recognizing 25 years of success was discussed, and three ladies – Barbara Hlus, Carol Evans, and Maryanne Bazuik – agreed to take on this monumental task. The success of the celebration is a tribute to the hard work of these three dedicated individuals. The city hall celebration, consisting of tributes from government, clergy, and others and enhanced by dancers and school performances, was superb. Thank you, Barbara, Carol, and Maryanne, for a job well done. You did Ukrainians proud.

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

Connaught Community Outlook

MR. DICKSON: Thanks very much, Mr. Speaker. I'd like to recognize the efforts of all the volunteers at the Connaught Community Association who have worked so hard to produce an excellent community newspaper, the *Outlook*. The *Outlook* provides Connaught residents in the downtown constituency of Calgary-Buffalo with an excellent opportunity to stay informed and voice their concerns on issues such as development, business, and community resources. I might add that there is no more active or vital part of the city of Calgary than the Connaught community.

In particular, I'd like to recognize the association executive for their excellent work and single out Stan Turner, president; Rob van Wegen; and Cindy Graham, who have all been instrumental in producing this excellent newspaper for the Connaught community in downtown Calgary.

Thanks, Mr. Speaker.

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

Fraud Awareness

MS KRYCZKA: Thank you, Mr. Speaker. On Monday, March 13, I hosted an information seminar for my constituents of Calgary-West

on the ABCs of fraud at the Westgate community centre. Abuse of seniors occurs in many forms, and this seminar focused on the fraud scam and telemarketing artists and operations who disrespectfully target the seniors population because of their vulnerability, their trustworthiness, and the perception that many seniors have money. Fact: for every 1,000 incidents of abuse, only 100 are reported.

Recognition is due to the Scotiabank fraud awareness program, the ABCs of Fraud, which Scotiabank proudly sponsors, and the volunteer presenters on Monday, Margo and Juergen Jahn, who are members of the Calgary Seniors' Resource Society, and to the print and television media for further dispersing very important information to the public at large. Thank you. Thank you. It is very important that all of us learn about and support very worthy nonprofit societies who exist through private-sector sponsorships and community volunteers.

Thank you.

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

Calgary Herald Strikers

DR. PANNU: Thank you, Mr. Speaker. I rise today to recognize the striking *Calgary Herald* workers, who have been out on strike since early November '99. These workers have been subjected to insults from the paper's owner, who declared recently about the *Calgary Herald*: it's better without you and that the paper was amputating gangrenous limbs, referring to employees engaged in the legal strike. The owner, Mr. Black, also told workers: this strike is going to be resolved either by coming to an end after two years, by decertification, or by you people coming back to work.

These workers have endured the fear and uncertainty that occurs to workers on strike who see owners and management not bargaining in good faith. They have persevered in the face of name-calling and antidemocratic behaviour by this organization. I applaud these striking workers' continuing defence of journalistic independence and integrity, Mr. Speaker.

Thank you.

2:50

head: Motions under Standing Order 40

THE SPEAKER: The hon. Member for Edmonton-Strathcona on a Standing Order 40 application.

Calgary Herald Strike

Dr. Pannu:

Be it resolved that the Assembly, recognizing that the ongoing *Calgary Herald* strike and Mr. Conrad Black's refusal to engage in fair collective bargaining is an indictment of Alberta's unfair laws, urges the government to appoint a disputes inquiry board to facilitate the settlement of this dispute.

DR. PANNU: Thank you, Mr. Speaker. I will speak to the urgency of the matter, but I'll just take a moment to outline the issue. It will take me less than a minute. The issue in this strike is that the employees asked for a basic seniority clause which would come into effect only during layoffs. Such a provision is vital to ensure employees are not arbitrarily terminated. Seniority clauses are standard in collective agreements in newspaper rooms across Canada. This company said no.

Now to the urgency, Mr. Speaker. Speaking to this question of urgency then, today is the 128th day of the *Calgary Herald* dispute.

*This spelling could not be verified at the time of publication.

About 100 employees of the *Calgary Herald* have been on strike for over four months, as have 67 employees belonging to the Graphic Communications International Union. These union members have tried their best to negotiate a fair first collective agreement.

Mr. Speaker, the ongoing *Calgary Herald* strike and Mr. Conrad Black's refusal to engage in fair collective bargaining is an indictment of Alberta's unfair laws. The recent statements by Mr. Conrad Black violate both the spirit and letter of the law regarding collective bargaining. To quote Mr. Black: this strike is going to be resolved either by coming to an end after two years, by decertification, or by you people coming back to work. In referring to these striking employees, Conrad Black said: we are amputating gangrenous limbs. These statements are incredibly offensive.

Mr. Speaker, long strikes divide communities. The right of employees to join unions should be respected in all workplaces, including newsrooms. When a legal strike occurs and the management side shows by its actions an unwillingness to reach a fair first collective agreement, the minister responsible for labour relations must act. This motion calls on the minister to appoint a disputes inquiry board to facilitate a resolution of this unfortunate dispute. I urge all members to allow the debate on this motion to proceed.

Thank you, Mr. Speaker.

THE SPEAKER: Hon. members, as per Standing Order 40 the mover of the motion is provided an opportunity to briefly provide for an urgent and pressing necessity, and then the question is immediately called, and it requires unanimous consent in order to proceed.

[Unanimous consent denied]

THE SPEAKER: I do believe we now have a couple of points of order to deal with. The hon. Member for Edmonton-Glenora.

Point of Order

Offending the Practices of the Assembly

MR. SAPERS: Thank you, Mr. Speaker. I am going to rise pursuant to Standing Order 23(l), which reads:

A member will be called to order by the Speaker if, in the Speaker's opinion, that member . . . introduces any matter in debate which offends the practices and precedents of the Assembly.

Mr. Speaker, I am going to refer specifically to the exchange that transpired when my colleague from Calgary-Buffalo was questioning the Premier regarding conflicts of interest in Calgary and the provision of MRI facilities. The Premier in his response mentioned in part – and I don't have the Blues in front of me, so I'm paraphrasing from my hearing of the Premier's response – that that's why we need the bill, referring to Bill 11, and that we should be able to count on Albertans understanding that this is why this kind of legislation is necessary.

Well, the Premier also has said many times that we should read the bill. Maybe the Premier should read the bill. Bill 11 does not deal with diagnostic imaging or any diagnostic services. Bill 11 deals with surgical services. I submit that the Premier either is not aware of the contents of his bill or he is deliberately distorting the contents of Bill 11 and confusing its purpose in the minds of Albertans. Mr. Speaker, that is clearly offensive and a violation of Standing Orders.

The Premier has spent millions of tax dollars to try, in his words, to inform Albertans. He invites response, yet in this very Chamber he misrepresents the intent and the contents of the proposed legislation. I can think of nothing greater than that which would offend the practices and precedents of this Assembly, and I would request that you call the Premier to order.

MR. HAVELOCK: Well, Mr. Speaker, there is no point of order, but I do feel compelled to express my admiration for the opposition member's courage in raising this matter, especially under section 23(l), especially so after yesterday's, what I would consider to be, dishonest, false, fraudulent, indecent, insincere, misleading, obscene, scandalous, unscrupulous, and untruthful actions on the part of not only himself but 11 other members of his party regarding the tabling of newspaper articles under the guise of reports.

Mr. Speaker, we often discuss in this Legislature the need to respect each other, the need to respect the rules and procedures of this House, yet those words ring hollow when we continue in this House to refuse to call to account those who continue to abuse the procedures of this Legislature. There is no point of order.

THE SPEAKER: Hon. members, on two occasions this week rather interesting arguments have been put forward by certain members, and they've been dealt with. The other matters have been dealt with.

There have now been two occasions this week where either the House leader of the Official Opposition or the former House leader of the Official Opposition have asked for the Speaker to intervene. On one occasion the current House leader of the Official Opposition had asked to rule out any questions which may be repetitious, in essence, or questions that have been raised before, and the chair said that he would consider that. Now there's an appeal to the chair to invoke section 23(l), which is really rather interesting, because the chair's view is that if the chair were to in fact invoke these things and in light of most of the questions in the question period thus far in this session, this being day 15, virtually all questions would have been ruled out. So I think it is extremely important – extremely important – that hon. members begin to start reading the rules and understanding the rules.

Now, hon. members can't have it both ways. They can't one day say something on a point of order and the next day come in 180 degrees opposite on another point of order. The chair has absolutely no difficulty – no difficulty – intervening, and all question period will become is the chairman of this particular Assembly standing up for virtually the whole question period and giving his thoughts or rulings.

Now, hon. Deputy Government House Leader, the matter that you refer to today was dealt with yesterday, so the chair does not view that there was a point of order in here and really, really, really would like to ask hon. members to understand the rules.

The hon. Member for Calgary-Fish Creek.

Point of Order

Allegations against a Member

MRS. FORSYTH: Thank you, Mr. Speaker. I'll be the first to admit in this House that I don't stand up on a lot of points of order. In fact, I got elected in 1993, and I think this is the second one since 1993.

THE SPEAKER: Good. Then you've got the experience to know that you have to give a citation.

MRS. FORSYTH: I am referring to 23(h), (i), and (j).

THE SPEAKER: Good.

MRS. FORSYTH: It's in regards to the question from the Member for Edmonton-Manning. Mr. Speaker, I know you don't know this, but I've known the Member for Edmonton-Manning for, oh, many years, before we were even elected, probably the last 15 years. When I knew this member, it was in regards to community leagues and our involvement as community league presidents. I admired him. He had a great deal of integrity.

The questions he was asking the minister of health from Ponoka-Rimbey in regards to the construction at Ponoka I think were absolutely awful and deplorable. I want to remind the member that myself, the Member for Calgary-Fish Creek; the Member for Livingstone-Macleod; and the Member for Little Bow did a mental health review. I'm trying to think. It was probably in 1996. At that point in time the Member for Drumheller-Chinook was the minister of health, and the Member for Ponoka-Rimbey was not even the minister of health. It was at that time, in those recommendations that we decided that Ponoka should stay where it is and that the mental health funding should stay in Ponoka.

3:00

THE SPEAKER: Hon. member, please. You have to help me with the point of order.

MRS. FORSYTH: I did.

THE SPEAKER: No. You're giving a speech. Please. What's the point of order?

MRS. FORSYTH: Okay, Mr. Speaker. I'll be brief, and like I said, I'm not good. I believe the questions were insulting, they were making allegations against another member, they were making false motives to another member, and I would like your ruling on that.

MR. DICKSON: Mr. Speaker, briefly. Standing Order 23:

- (h) makes allegations against another member;
- (i) imputes false or unavowed motives to another member;
- (j) uses abusive or insulting language of a nature likely to create disorder.

It is very clear that there may be acute sensitivities on members on the government side with the nature and topics and subject matter, but none of the questions that have been asked, in my respectful view, deal with anything other than a questionable policy and a form of business dealings on the part of the government of the province of Alberta.

Now, if a member chooses to take that personally, then I suppose she can take it any way she wishes, but your job, with respect, Mr. Speaker, is hopefully one of protecting the integrity and the reputation of members in this Assembly in terms of what's said, not to deny any member, certainly a member of the opposition, to attempt to hold the government accountable for practices that run contrary to what many Albertans would like to see.

So I think, with respect, the citations aren't appropriate. I understand she's concerned, but let's hear that in a forum of debate. This is not an appropriate point of order, in my respectful submission.

THE SPEAKER: The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you, Mr. Speaker. Actually, I believe the hon. Member for Calgary-Fish Creek has raised a legitimate point of order. If I recall the offensive part of the language used by the hon. member across the way, it was that he was alleging something along the lines of whether or not the minister of health influenced a particular individual's decision with respect to the construction of a hospital facility or a health facility by giving or directly influencing the giving of a raise to that particular individual. Now, I hope I've captured the essence of what was said.

Very clearly, if that's what the hon. member was saying, then it does offend 23(i), and it does offend 23(h). Clearly, an allegation has been made against another member, and 23(i), "imputes false or unavowed motives" – well, very clearly, again, the inference is that

there was an exchange of favours, the granting of a salary in exchange for a decision with respect to the construction of a facility.

So very clearly to me, Mr. Speaker, I believe the hon. member has raised an appropriate point of order, and I hope that you would direct the hon. member to withdraw the remark. If you do not do so, however, I hope the hon. member would reconsider the statement he has made.

MR. GIBBONS: The question was asked around the now CEO of the Alberta Mental Health Board receiving a \$4,000 increase. Maybe the emphasis was pointed, and the concern is: is that a reward, increasing funding to the Ponoka hospital? The thing is I also had a question last week, and it was pointed around quite a few different studies around mental health in Canada and Alberta. It's been emphasized that Alberta has been pointed to by Canadian mental health across Canada as being in the dark ages. We have studied mental health to death. We have had a study . . .

THE SPEAKER: Hon. member, we have a point of order here. It's on the point of order. [interjection] Please retire to your chair. We're on a point of order. That's what we're dealing with here, not a speech. Please proceed.

MR. GIBBONS: I don't believe there's any point of order, because I don't think there were any allegations against the minister over there outside of asking a question around the CEO.

THE SPEAKER: Hon. members, what is unique about this point of order is that the hon. member who might be rising on the point of order has not made an argument with respect to this. The chair will however review the Blues and, if required, make a comment on this tomorrow.

Speaker's Ruling Reflections on Nonmembers

THE SPEAKER: In the interim the chair would like to draw all members' attention once again to *Beauchesne* 409. Again, this is constant repetition about reading the rules, and 409(7) is a very, very powerful statement.

A question must adhere to the proprieties of the House, in terms of inferences, imputing motives or casting aspersions upon persons within the House or out of it.

Increasingly there's some kind of creep going on in here in the sense that more and more frequently comments are made either in questions or responses about individuals who are not within this House. They are not in a position to defend themselves. Those individuals are not here.

Oftentimes statements are made ascribing certain things to certain individuals. The veracity, the truthfulness, of the statement may or may not be as acute as it might be. If the individual who's quoted as being responsible or standing for something disagrees, that individual has no way of counteracting that assumption, and the same holds true on the other side, when in a response someone ascribes to an individual outside of this House and gives something about that individual.

Now, again, that individual might call my office and say: "You know, I'm really angry. I'm hurt. My public reputation has been hurt." That individual has no way – no way – of having that view corrected, and I want all hon. members to know that that does occur. That does occur, and it's not a matter to be taken lightly. The chair does not want to stand up in here three or four or five times a week with a sworn affidavit from a citizen at large and then proceed to read the affidavit, because then I'm participating in the debate.

This is a system and a policy forum. It's not a personality forum. It's a policy forum, and it should be ideas that the war should be waged over, not individuals. Might is not right; knowledge is right.

head: Orders of the Day

head: Written Questions

THE SPEAKER: The hon. Associate Minister of Health and Wellness and Deputy Government House Leader.

[The Deputy Speaker in the chair]

MR. ZWOZDESKY: Thank you, Mr. Speaker. Proper notice having been given yesterday, I will now move that written questions which appear on today's Order Paper do stand and retain their places.

[Motion carried]

3:10

head: Motions for Returns

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. ZWOZDESKY: Thank you, Mr. Speaker. Proper notice having been given yesterday, it is my pleasure to move that motions for returns which appear on today's Order Paper do stand and retain their places with the exception of motions for returns 1, 2, 3, 4, 8, 10, and 17.

[Motion carried]

West Edmonton Mall Refinancing

M1. Mr. Sapers moved that an order of the Assembly do issue for a return showing a copy of the October 19, 1993, document from a third party to the Executive Council/office of the Premier relating to the refinancing of the West Edmonton Mall.

MR. SAPERS: Mr. Speaker, I note that it's day 15, and this best before date is day 18, so I want to thank the government for rushing headlong into the debate on this motion for a return only three days before it was due.

Mr. Speaker, in order to support this motion, I want to retrace quickly just a couple steps of history here with the West Edmonton Mall saga, because I know that in the minds of some this trail has got a little bit cold. Of course, it's being actively pursued in several courtrooms across this province, so it's not that cold at all. I guess it's that old adage about out of sight out of mind, and I guess the government was hoping that if it was out of sight here in the Legislative Assembly, maybe it was out of mind as well, but that's not the case.

Mr. Speaker, the first bit of history I want to retell in support of this motion is that, of course, when the Official Opposition used the freedom of information legislation to request that Executive Council/office of the Premier release to us all of the documents it held regarding the Premier's office and the government's office involvement in the West Edmonton Mall refinancing, I recall that the first response was that the Premier could not be responsive to the request, not because he chose not to but because in fact there were no documents held in Executive Council relating to the West Edmonton Mall refinancing.

Well, Mr. Speaker, that was an unbelievable claim, and it was proven not only to be unbelievable but untruthful. In fact, an appeal

was made to the Privacy Commissioner, and a subsequent investigation revealed that the Premier's office violated the access to information law in this province. That was shocking, because of course the freedom of information law was the Premier's own flagship bill. He seemed to take great joy in claiming that a whole new era of openness was about to begin in Alberta. What's really damning, I think, in the report of the Privacy Commissioner is that the reason why the Premier's office didn't comply is because they had not set up procedures to deal with records management. They hadn't trained their staff properly. I think thrown in somewhat gratuitously was the observation that staffing might have been at an all-time low because of Christmas holidays or some other kind of vacation. What we have then is the Premier being called to account for his office breaking the law. Of course, there wasn't much of a consequence, but what we do know is that subsequently many, many documents were found not just in Executive Council but throughout government.

Now, the reason why we are bringing this motion for a return forward is because in spite of the Treasurer saying – and I'm paraphrasing – that there will be no closed door or no closed drawer when it comes to West Edmonton Mall disclosure and the Premier saying that everything will be made public in due time and to wait for the courts and to wait for the Auditor General's report, et cetera, the truth is that Albertans are still being kept in the dark. There is still this stony silence when it comes to requests for documents.

Now, I can almost anticipate that whoever the hired gun is on the government side, who I'm anticipating will reject this motion for a return – I can almost anticipate what they're going to say. They're going to say: well, you know, the Auditor General looked at all of this and exonerated the government. Well, that's not the case. What the Auditor General did is the Auditor General was able to review some documents and talk to some people, not everyone and not all documents, and based on that limited evidence, the Auditor General said: I cannot find evidence of government wrongdoing. He did find lots of evidence of government involvement. Of course, it then becomes a matter of judgment whether it was appropriate or inappropriate involvement. I would submit it was inappropriate, particularly because this was a government that denied any involvement whatsoever.

I think Albertans get really tired when a government starts shaving the truth. I mean, look at the reaction to Bill 11, Mr. Speaker, if you want to see how angry the taxpayers of this province will become when it comes to shaving the truth. Just look at the anger in the streets over this government's plans to privatize surgical services in this province.

In fact, there are a lot of parallels between West Edmonton Mall and Bill 11. Here's a pop quiz, Mr. Speaker. What do you think exactly these two initiatives have in common? Well, one is the government did something that they denied they were going to do, and the second thing is that both arguments are absolutely papered in blank pages. That's what we've received in requests about the government's foundations for privatizing hospitals. It's also, of course, what we've received in response to freedom of information requests in regards to West Edmonton Mall.

Mr. Speaker, let's take a look. The motion for a return specifically asks for a document that originated on October 19, 1993. A couple of things to put that request into context, some other things that were happening back in 1993 in the fall. In September of 1993, in fact September 7, there was a letter from Gentra, who was one of the mortgage holders on West Edmonton Mall, to the Ghermezian family, of course the owners of Triple Five, and Triple Five are the owners of the mall. Now, Gentra, the private lender, insisted that all funds generated from the mall be used for the purposes of operating

expenses or payment to the first mortgage bonds and payment of tax arrears. No payment was to be made to the nonsenior bondholders, including, most interestingly, the Alberta Treasury Branches.

Later on that month there was a series of discussions between Gentra and West Edmonton Mall which resulted in the development of the so-called plan A refinancing proposal. Under plan A the maturity of the loans was to be extended for five years, and subordinate lenders such as the Alberta Treasury Branches would be repaid over a much more extended period of time. Later on in the fall the owners of West Edmonton Mall engaged another private lender, in this case one from the United States, First Boston, to assist them in pursuing other alternatives for refinancing the total indebtedness of West Edmonton Mall.

Now we get into October of '93, when West Edmonton Mall defaulted on a \$50 million second-level mortgage held by the Bank of Montreal, Alberta Treasury Branches, and other financial institutions. This is where it gets really interesting, because the document that we're requesting is one which came from a third party to the Executive Council office regarding the West Edmonton Mall refinancing.

In October of '93 there was a \$50 million default. On October 29, 1993, there was a memorandum from the Premier to the then Minister of Economic Development, and it reads as follows, quote: I would like you to be the minister that deals with all aspects of the government of Alberta's interactions with Triple Five Corporation; it would be costly and harmful to Alberta if bankruptcy, foreclosure, or enforcement procedures commenced against Triple Five Corporation at this time without a full and comprehensive review and a determined attempt to solve their refinancing difficulties, end quote. So this is what was going on in Executive Council in the fall of 1993 at about the time we were asking for this document.

Now, there were some other things going on in the fall of 1993. You may recall the steely-eyed Premier saying that he wasn't going to blink and his favourite right-hand man, the Treasurer, Mr. Dinning, who is now presiding over the privatization of surgical services in Calgary, saying that he'd rather just cut than plan. So this refrain of his about his predilection, wanting to do experiments rather than planning, goes back to his days as Treasurer as well.

At the same time that the government was becoming intricately involved in the private business dealings of a shopping mall and its lenders, of course this government was going about its 20 percent cuts in health care and in education. Thousands of frontline health care workers were losing their jobs. Classrooms were becoming overcrowded. Municipalities were being downloaded. Albertans were being told that the cupboard was bare. It seemed the cupboard was bare except when it came to half a billion dollars that was going to be made available to a private mall without telling taxpayers that they were footing the bill.

3:20

So I would argue that in order for this government to live up to its claims of full disclosure, openness, and transparency, to try to make amends for clearly what was the error of their ways back in the fall of 1993, they have a responsibility to produce this document. It is clearly in the public interest. I would hope that they don't hide behind some third-party rules. I would hope that they don't argue that there is too much of a proprietary or commercial interest. I would hope that they don't argue that there is Executive Council privilege. I mean, the fact is, Mr. Speaker, this story is being dragged out in the courts, and I think that does a disservice to taxpayers.

This government can demonstrate that it's true to its word when it says that it wants to disclose, and it can produce this document,

right here, right now, today. What a surprise it would be, Mr. Speaker, if in fact that happened, if we actually had a member of government, Executive Council, saying: "You're right. We want to keep our word. We don't want there to be a growing gap between what we do and what we say. We want Albertans to be able to have trust and faith in their government, so we're going to produce this document. We're going to live up to the commitment we made." What a treat that would be. So I hope those are the words that we hear today.

With those few short remarks I will leave it to the government to respond to the motion for a return, and we'll see where that leaves us.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. ZWOZDESKY: Thank you, Mr. Speaker. On behalf of the Premier I will respond that government is rejecting Motion for a Return 1. The document in question actually relates to a letter from a third party to the Executive Council/office of the Premier in relation to the refinancing of West Edmonton Mall, as noted. The record will not be disclosed because it involves a third party's personal and/or commercial information, which, as we all know, requires third-party consent for release to be made.

Also, the particular issue of the refinancing in question has been before the Ethics Commissioner, the Auditor General, and there are now several cases in this regard which are before the courts. As we all know, the courts are an open and transparent process, and most people have great respect for the court system in this province and in this country. This issue will be dealt with in a fair and impartial manner there.

So I will respond officially that the government is rejecting Motion for a Return 1.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glenora to conclude debate.

MR. SAPERS: No surprise, the rejection. A little bit of a surprise in the rejecter but no surprise in the rejection. I guess they're becoming too predictable, because I clearly anticipated the arguments. You know, they just don't hold any water.

There is a public interest involved here, Mr. Speaker. The fact is that while this government was telling Albertans that they couldn't afford classrooms and teachers and hospital beds and diagnostic services, while they were telling municipalities that they couldn't afford to continue to pay as much as they were for policing costs and road paving and other infrastructure, while all of that was going on, this government was in secret, behind-closed-door meetings with some of the wealthiest financial institutions and businesspeople not just in this province but in this country, and they were negotiating a half billion, 500 with lots of zeros behind it, a half billion dollar bailout.

You know, if this government wants to continue to hide behind the work of the Ethics Commissioner or the good work of the Auditor General and say, "Oh, look; the work has been done; the disclosure is there," then not only are they doing a disservice to Albertans, but in fact they are diminishing the offices of both the Ethics Commissioner and the Auditor General, because those gentlemen who occupy those offices did what they could with what the government allowed.

It is really a shame and quite disappointing to me that any member of Executive Council would stand up and put a cloud over the offices of the Ethics Commissioner or the Auditor General. Their

work does not excuse what this government did, and their work does not excuse the subsequent cover-up of what's happened, and their work does not excuse the government from escaping its responsibility to act always in the public interest and not in the selfish private interests of a few members of Executive Council.

So, Mr. Speaker, it is consistent. I'll give them that. They're consistent. They seem to have their song sheet set on this one, and you know, they're beginning to do it even without teleprompters. It is still about time that they put into action the words that they have uttered about openness and transparency and disclosure.

This story will come out, and I hope that I am still a Member of this Legislative Assembly when this story comes out. I'm hoping, when that opportunity arises, that those individuals who have distorted the facts, who have misled taxpayers, who have created suspicion, and who have denied responsibility will finally be called to account. They will be called to account not just in this Chamber but elsewhere, and every taxpayer of this province will have an opportunity to see them for what they are and to call them to be accountable for what it is they have done and then denied it.

So, Mr. Speaker, when the Deputy Government House Leader says that he's going to have to reject it, I'm certain that the whips are on and the government will use its majority to once again stifle the public interest and we won't see the disclosure of this document. I would hope that just one or two of the Conservative members of this Assembly will have it in their heart to vote along with us. It won't be a standing vote, you know. It will just be a voice vote. I'm going to be listening carefully because I know that there are some hon. members on that side who also want to see this issue put to rest.

[Motion for a Return 1 lost]

West Edmonton Mall Refinancing

M2. Mr. Sapers moved that an order of the Assembly do issue for a return showing a copy of the December 3, 1993, letter from one MLA, Member of the Legislative Assembly, to a second MLA in the possession of the Executive Council/office of the Premier relating to the refinancing of West Edmonton Mall.

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

MR. SAPERS: Thank you very much, Mr. Speaker. You know, I didn't hear that chorus of voices that I was calling for, so that saddens me. I'll try again.

Now, let me say that we wouldn't even need this motion for a return if the Premier's office had done its job, respected the law, and responded appropriately to the freedom of information request that the Official Opposition put in. So for any member that is sitting there thinking, "Why are we spending time again on this issue?" well, that's why. Because the Premier's office didn't respect the law and didn't do the job that the people of this province would expect it to do. What I will say, Mr. Speaker, is that this again is an interesting exchange of correspondence at a particular point in time.

Now, earlier in my comments on Motion for a Return 1 I brought the Legislative Assembly through to the early part of the fall of 1993. Well, let's look at what began happening in November of 1993. Remember I mentioned that plan A about the refinancing? Well, interestingly, in November of 1993 Gentra, that private financier, withdrew its support for plan A and presented West Edmonton Mall with plan B.

Now, plan B called for a consensual foreclosure in which all nonsenior debt, including ATB's, would be purchased at a discount.

You know what that sounds like? You know what plan B sounds like? It sounds like a private-sector financing solution. It sounds like a way for ATB to be off the hook and for taxpayers to be off the hook.

3:30

This is what was going on in the late fall and the early winter of 1993. On November 1, 1993, a \$150 million government loan guarantee proposal from the Ghermezian family was sent by the office of the Premier to the Alberta Treasury Branches. Now, isn't that interesting? Obviously the owners of West Edmonton Mall contacted the Premier's office. Who knows? Maybe that was the document from October 19. We can only guess. They contacted the Premier's office. What did the Premier's office do? The Premier's office sent it to the Alberta Treasury Branches.

Now, let's remember that the Alberta Treasury Branches did not have an independent board of directors, in fact was operating in 1993 very much as an arm of the government, of the Provincial Treasury, very much considered to be a department of government. When the Premier's office sends something over to the Alberta Treasury Branches, it's like getting a little wake-up call from your boss. The boss sends a note along to the ATB, and we can only assume that the intent was that they wanted the ATB to be aware of this \$150 million loan request and to consider it. So this is what was happening on November 1, 1993.

To his credit the then superintendent of the Alberta Treasury Branches, Mr. Al Bray, appears to have ignored this little missile from the Premier's office because Mr. Bray believed, I believe, in the independence of financial decisions, that they should not become political decisions.

Now, the very next day, on November 2, 1993, a letter from the Bank of Montreal to West Edmonton Mall citing the default of \$50 million on the syndicated loan went on to say that the syndicate demands payment by the borrowers, that all indebtedness is due and payable by the borrower to the lenders. So West Edmonton Mall was in some kind of financial trouble. That's never been in dispute. What we know is that there were private-sector deals being worked out.

Now, when these private-sector deals were being worked out, it appears that the response from the government was to ignore what was going on in the private sector, to ignore what was going on in the business world, in the market. While at the very same time in public saying, "We have to slash and burn public services," they were saying in private: we've got to figure a way to support and maintain and enhance private businesses. This is an irony, Mr. Speaker, that I don't think we've spent quite enough time talking about.

November 26. We understand that the hon. Member for Edmonton-Meadowlark sends a letter to the Premier urging the government to ensure that the positive worldwide awareness of the mall and the tax benefits and the influx of millions of tourists are protected and that negative publicity is curtailed. Now, the Premier has used this correspondence from the MLA who happens to represent the area in which the mall is located as the excuse for government interference in the refinancing of West Edmonton Mall.

You know, people have said that the Official Opposition doesn't always have enough influence on this government. Isn't it remarkable that on one of the most sensitive political issues that this government has faced, dealing with almost half a billion tax dollars, the government would say in its defence: it was that member of the Official Opposition that made us do it; she wrote a letter, and the power of that letter convinced us to put half a billion dollars of taxpayers' money at risk. Well, of course that is an absurdity.

What the Member for Edmonton-Meadowlark was doing was of course representing the interests of her constituents in asking the government to do what was within their power to do, which would be not politically expedient, not just politically acceptable but would be in the public interest. I know that the hon. Member for Edmonton-Meadowlark puts the public interest first, and it's about time that members of Executive Council followed her lead and put the public interest first when it comes to disclosing the truth about their involvement in West Edmonton Mall.

Now, according to Michael Walrath by affidavit, on November 30, 1993, there was a meeting between the Ghermeziens, the Premier, the then Minister of Economic Development, the then superintendent of Alberta Treasury Branches, Mr. Leahy, and a gentleman by the name of Rod Love. During this meeting, according to the affidavit, the following transpired.

Now, this is going to be a quote from the affidavit, Mr. Speaker, so you'll forgive, please, the use of proper names. Quote: upon the instructions of Premier Klein to Deputy Premier Kowalski, Mr. Tadman invited Elmer Leahy to join the meeting at which Rod Love was also in attendance. I am further advised by Nader Ghermezi and verily believe that at the meeting the government ministers directed and encouraged Elmer Leahy to assist the Ghermeziens with the refinancing of West Edmonton Mall. Thereafter, further meetings and correspondence ensued. End of quote.

Now, this is despite the protestations to the contrary by the Premier. This sworn affidavit – and this is on file – says that government ministers directed ATB with the refinancing of West Edmonton Mall. That's what this says. This affidavit is on file.

We have heard rumour of a statutory declaration from the Premier. It has been referred to in the Auditor General's special audit, but we have not seen it. We don't know what questions were asked of the Premier. We don't know what responses he provided, and we don't know what responses he didn't provide. We don't know what list of documents was provided to the Auditor General because the government won't tell the public what it is they provided and what it is they continue to keep secret.

All I can argue, Mr. Speaker, is that we have one affidavit here. If this affidavit is false, then there is recourse through the courts because of that. If this affidavit is not false, then it is quite an indictment of the government. If it is false, I would expect the government to offer a robust defence of their behaviour and quite a spirited attack on Mr. Walrath, but we haven't seen that. So I would guess that as all of these things were happening in the fall, one piece of the puzzle that we need is this letter from one MLA to another regarding the refinancing of West Edmonton Mall.

Now, later on in 1993, towards the end of the year, West Edmonton Mall experienced operating losses to the tune of nearly \$6 million. West Edmonton Mall's annual municipal tax bill was hiked up about \$2 million. They then failed to pay the \$10 million property tax bill and were penalized at a rate of \$100,000 per month. So there was some urgency in resolving the financial woes of the mall.

Now, keep in mind that in the background were these private-sector deals that were being arranged. But lo and behold on January 5, 1994, which takes us just beyond the period of time in which this earlier exchange of correspondence occurred, there was a letter that was sent from the Premier to the Member for Edmonton-Meadowlark, which read in part, quote: accordingly, the present difficulties brought on by various mall lenders carry serious consequences to the province of Alberta and the city of Edmonton, close quote. So the Premier was absolutely aware.

There were a series of discussions within the Premier's office and Executive Council. We know that there were meetings of agenda

and priorities. We know that there were discussions in cabinet. So we now have a pattern, Mr. Speaker, that would convince even a casual observer that the government was intimately involved and following very closely the fortunes and misfortunes of West Edmonton Mall and its potential for refinancing and for economic viability.

So again I will say that to make that record more complete, to ensure that there is full disclosure, to make sure the government lives up to its commitments, I would request that Motion for a Return 2 be quickly complied with so we can get this one more little piece of the puzzle on the table so we can begin to fill in the frame.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. ZWOZDESKY: Thank you, Mr. Speaker. On behalf of the Premier I will indicate that government is rejecting Motion for a Return 2. The opposition is aware of these records as a result of a FOIP request to Executive Council. The Information and Privacy Commissioner did issue order 99-017 on the request, and under his order he upheld Executive Council's refusal to disclose these records. Again, similar to the FOIP request Executive Council will not be releasing them today.

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

MR. WHITE: Yes. Mr. Speaker, I had not intended to rise on this matter because this matter has a long, long, long history and will have a much longer history. There will be books written about this, and there will be books written about each and every part of it except the part that says that this government has a member of their caucus denying this information to an opposition who asked for this information. When that member was a member of the opposition, he was the one that was asking for the information. It is simply not fair for that caucus to have this member do its dirty work in this particular matter.

3:40

He is on record asking and demanding this information from that chair right in front of this member. It's not fair to put this member through that embarrassment. Quite frankly, this information – I cannot put words into his mouth. He did that already, and I will not go to the record to throw those questions back at him, but you'd think there would be a little sensitivity to half a billion dollars, \$500 million. That's enough to keep Regis Philbin busy for at least three lifetimes when trying to give away money. This government signed it off faster than "Jack be little." Not only did they sign it off, but then they deny that they ever did it: it weren't me; it weren't me. It is unbelievable that this could happen.

AN HON. MEMBER: The sky is falling.

MR. WHITE: Someone says, "The sky is falling." I think it's the member opposite. Well, maybe the sky is not falling, but I'll tell you that this government certainly would try to buy it to bring it down.

I mean, they can cover up so much. It's hard to believe that the citizens of Alberta can stand by and watch this occur, particularly with one member opposite being on both sides of the issue: demanding this information and now denying it. It is hypocrisy at its best, sir.

Thank you for the time.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glenora to conclude debate.

MR. SAPERS: Thanks, Mr. Speaker. Again no surprise, but there is a terrible irony here. April 1, 1998: now, I know that that was April Fool's Day. Let's hope, though, that that didn't have anything to do with what the Member for Edmonton-Mill Creek was thinking and doing that day.

On April 1, 1998, on page 1295 of *Hansard*, there was Motion for a Return 62, which read

that an order of the Assembly do issue for a return showing copies of all correspondence exchanged between the ministries of Treasury, economic development and tourism, and Executive Council for the period January 1, 1994, to January 26, 1998, relating to the refinancing of West Edmonton Mall and the involvement of the Alberta Treasury Branches in that refinancing.

Now, as events would transpire, of course, the Treasurer rejected that motion for a return. I had an opportunity to make some comments on it, but so did the Member for Edmonton-Mill Creek. I just want to quote from page 1296 of *Hansard* of April 1, 1998, where he said in part in defence of his motion for a return:

Here is yet another opportunity, I think, for the government to climb out from whatever rock it may be under with respect to the refinancing package, and I would have hoped they would have taken the opportunity through this motion to do that.

You know, it is most disturbing to me that in a couple of years we've seen this transformation from a suggestion that the government needs to crawl out from under a rock to hiding behind some procedure to protect the government instead of the public. That is a very disturbing transformation.

Mr. Speaker, none of this is to make an argument about the merits of West Edmonton Mall or the value that the mall has provided to the people of this province. This is all about government accountability and government responsibility and truthfulness, and that's the purpose that we are pursuing this matter.

[Motion for a Return 2 lost]

West Edmonton Mall Refinancing

M3. Mr. Sapers moved that an order of the Assembly do issue for a return showing a copy of the December 3, 1993, memo from one MLA, Member of the Legislative Assembly, to another MLA in the possession of the Executive Council/office of the Premier relating to the refinancing of West Edmonton Mall.

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

MR. SAPERS: Thank you, Mr. Speaker. You have no idea how much I look forward to these Wednesday afternoons and the opportunity to ask the government time and time and time again to do the right thing and then live with the disappointment time and time and time and time again of the government doing the wrong thing. I guess if that's my destiny, to spend my Wednesday afternoons defending the public interest against an overwhelming government indifference to the public interest, then I'm quite willing to live up to that responsibility, as are my colleagues in the Official Opposition.

It was nice that the member for — I get it wrong. Is it just Airdrie now?

AN HON. MEMBER: Airdrie-Rocky View.

MR. SAPERS: Whoever that person is. The hon. member was applauding, so I take it that she won't be — well, she is the whip, so I can't say she can't be whipped into just doing the government line.

Mr. Speaker, I don't want to prolong debate this afternoon. Motion for a Return 3 is remarkably similar in form to the previous motion for a return. I will incorporate by reference my earlier comments, but I will note that on that day back in April of 1998 not only was Motion for a Return 62 put forward by the Member for Edmonton-Mill Creek, then a member of the Official Opposition, but so was Motion for a Return 63, that asked that the Assembly

do issue for a return showing copies of all loan guarantee agreements for the period January 1, 1994, to January 28, 1997, between the Alberta Treasury Branches, TD Trust Company, West Edmonton Mall Property Inc., WEM Holdings, and 626110 Alberta Ltd. relating to the refinancing of West Edmonton Mall.

So clearly that member at that time, a couple of short years ago, had an abiding interest in getting to the truth in this matter. I would hope he still has that abiding interest, and I would hope that he will recommend to his colleagues that this motion for a return be supported.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. ZWOZDESKY: Thank you, Mr. Speaker. On behalf of the Premier I will respond and let it be noted that government is rejecting Motion for a Return 3.

I'd like to make a few comments here in light of some comments that have been made on the other side. It's true that when you're in opposition you do bring forward motions for returns and you do bring in written questions and you're looking for answers. That's part of what the role of opposition is, and it's certainly one that I took seriously and did put forward those specific requests.

However, it's also true that I had then and I have now great respect for the rules and procedures of this House and for the laws and guidelines that exist under the freedom of information and protection of privacy laws, as I also have great respect for the Auditor General's office and for any other offices, the Information and Privacy Commissioner, for example. When these bodies respond and explain what reasons are given for particular decisions, I think they should be respected as well. You may not like them, but the fact is that you have to respect them. I respected them in whatever role I played, and I will continue to respect them because I believe in the integrity of the process.

Having said that, I will again state that the Information and Privacy Commissioner, one of the individuals and one of the individual's offices that I referred to earlier and one for which I have great respect, did issue an order on the request, and under his order he did uphold Executive Council's refusal to disclose the records in question. So again, similar to that request, Mr. Speaker, they will not be released today.

3:50

MR. WHITE: Mr. Speaker, it is difficult to believe that the member opposite can stand in his place and make those arguments. Yes, he has a point on motions for returns 1, 3, and 4. There is a possibility — and this member will admit there is a possibility — that there is an obligation at some point to deny the public knowledge from a third-party communication. There is a possibility. This government has ignored that many times and in this particular issue ignored it a great many times in publishing information. But when it comes to trying to hide behind that ruling, for one of the items that was asked for today — the member generalized about all of those — it's an MLA to MLA communication. There is no such third party.

Now, I have to ask what service this member thinks he's delivering to his constituents in denial of information from one MLA to

another MLA when previously he sat in one chair, the chair immediately in front of this member, and demanded that information. This, sir, is nothing short of the worst kind of hypocrisy, and it is sad to see it from this member, who was formerly, in my view, highly respected.

Thank you, sir.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glenora to conclude debate.

MR. SAPERS: Thanks very much, Mr. Speaker. I guess my disappointment has grown, and now I have a brand-new reason. It seems to be the failure on the part of the Deputy Government House Leader to understand that I wasn't asking the Ethics Commissioner, the Privacy Commissioner, the Auditor General, the Ombudsman, or any other legislative office to do anything. I'm glad that he respects those offices, and you know, that's between him and the people he confesses to.

My request in this motion for a return is to ask the government to produce a document. You see, the government can always do that regardless of what any other legislative office found. This Chamber has the authority to direct the government to do something, and they could. They could ask the government to do the honourable thing, to live up to its commitments about openness and truthfulness and produce these documents in the public interest. Even the freedom of information legislation in this province contemplated that there may be times that the exclusions would be overridden by the public interest. It is simply referred to as the public interest override.

The Member for Edmonton-Mill Creek and Deputy Government House Leader can claim untold allegiance and respect to the legislative officers, and that is totally relevant to the issue at hand, because the issue at hand is the government living up to its word and producing the documents that it's hiding from Albertans, bringing them out into the public. That's what this motion for a return calls for.

[Motion for a Return 3 lost]

West Edmonton Mall Refinancing

M4. Mr. Sapers moved that an order of the Assembly do issue for a return showing a copy of the February 18, 1993, letter from a third party to the Executive Council/office of the Premier relating to the refinancing of West Edmonton Mall.

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

MR. SAPERS: Thanks, Mr. Speaker. Again a very interesting point in time in the whole legacy regarding West Edmonton Mall refinancing. In late 1992 West Edmonton Mall experienced a net loss of \$4.3 million. In early 1993 the same mall renovated the existing phase 1 at a cost of about \$20 million. In June of 1993 West Edmonton Mall withheld almost \$12 million in taxes due to the city of Edmonton.

Now, Mr. Speaker, in February of 1993 again, third-party correspondence to the Executive Council has now come to light, correspondence we can only surmise was being held by Executive Council at the same time that office denied they had any records on West Edmonton Mall refinancing. In other words, we know the correspondence exists. It's been documented elsewhere – in the Auditor General's report, and it's been documented, I believe, in one of the court proceedings – but we still don't know what it is. Now, isn't that curious? The government, which claims openness and

transparency, after denying that anything existed only grudgingly admits that it does exist, only because it's referred to in another place, whether that be the Auditor General's report or a court of law. So we get the truth sort of through some kind of torture, and this government seems to make a habit of this.

Whether it has to do with Opron Construction and the Paddle River dam, whether it's got to do with Bovar, whether it's got to do with Millar Western, or whether it's got to do with any of the issues that have gone up before the courts, what happens is that when the government is caught, it finally says: oh, yeah, we meant to tell you about it all the time. That seems to be what's happening now in these court proceedings with West Edmonton Mall.

Well, I'm going to give the government an opportunity to get out ahead of the game. I'm going to give this government yet another opportunity to be honourable; to put the documents forward, all the documents; to tell the truth, the whole truth, and nothing but the truth about its involvement in West Edmonton Mall; and to be heroes. You know, they could actually be heroes. They could say: "Look, Sapers; you have nothing else to complain about, because here we are. Here's the box of documents. Read 'em and weep. It's all good stuff. We didn't do anything wrong. We've nothing to be ashamed of." That would be great. I don't think we're going to see that, but wouldn't that be just great?

Now, this date of February 18, 1993, is curious for another reason as well, because it was almost a year later to the day that the agenda and priorities committee met on February 14, on Saint Valentine's Day of 1994, and we had the Saint Valentine's Day Massacre of the Alberta taxpayers, which was the meeting of agenda and priorities that decided to scuttle all the private-sector financing, put a hold on it, and then put into place a series of decisions which led to taxpayers backstopping the West Edmonton Mall.

The irony of ironies there, Mr. Speaker, just in case you've forgotten, is that one of the arguments put forward was that we can't allow the financing of this mall to go to some eastern lenders, and that's why we need a made-in-Alberta solution. That was really the essence of the Premier's February 1994 memo. The ultimate funder of the loan was the Toronto-Dominion Bank, or TD Trust. I believe the Toronto-Dominion Bank is headquartered in Ontario. Now, I don't admit this to many people, but I was actually born in Toronto. I've been to the main office of the Toronto-Dominion Bank, and unless they've moved it, they're an eastern lender. Isn't it an irony that we have the excuse that we can't allow an eastern lender to be responsible for the financing of West Edmonton Mall, but we're going to organize a bailout, backstopped by taxpayers of Alberta, ultimately through an eastern lender? That engineering began pretty much a year to the day after this February 18, 1993, letter was received by Executive Council.

So I would ask once again that this government take this opportunity that the Official Opposition is providing them to stand up and do the right thing: accept this motion for a return quickly and produce the document.

4:00

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. ZWOZDESKY: Thank you, Mr. Speaker. On behalf of the Premier I will indicate that government is rejecting Motion for a Return 4. I think perhaps the member needs to know that the reasons stated earlier for some of these responses apply equally here as well in this case.

MR. SAPERS: Well, I don't know which reasons those would be.

Would that be the reason that the government is hiding behind some exclusions, or is the reason that that hon. member likes the Auditor General? I mean, which reasons for rejection was he referring to? The readers of *Hansard*, as few as they may be, I'm sure would want to know what exactly the government is relying on to justify its abdication of responsibility in truthfully and quickly producing these documents. That being said, I can't put words in that member's mouth, and I won't pretend to know why on behalf of his friends in government he is rejecting this very legitimate request, particularly because it is so similar in form to requests for information that he made just a couple of years ago.

So, Mr. Speaker, we'll only be left to wonder, and in spite of the hon. gentleman's recommendation to the contrary, I hope the motion will pass.

[Motion for a Return 4 lost]

West Edmonton Mall Refinancing

M8. Mr. Sapers moved that an order of the Assembly do issue for a return showing a copy of excerpts of cabinet agenda, with attachments, dated March 12, 1996, pertaining to the refinancing of West Edmonton Mall as listed on page 34 of the affidavit of records of Her Majesty the Queen in right of Alberta dated November 30, 1999.

MR. SAPERS: Mr. Speaker, this is very curious, and again I'm going to have to walk the Assembly through some of the history.

What we find is that the troubles for West Edmonton Mall continued. The refinancing package was put into place, but there were some legal actions with some numbered companies, a company called Mansfield Tek. We have the Treasurer in January of 1996 talking about how ATB had adopted a whole new policy for loans after he was appointed the Provincial Treasurer. We suppose that was because of briefings he had about questionable lending procedures beforehand. We know that in February of '96 Mansfield Tek, in that lawsuit I was referring to, was awarded \$1.7 million in a court judgment against Triple Five. On February 23, '96, we know that there was a lease agreement between West Edmonton Mall and an enterprise called Sunningdale. This was signed by the then superintendent, Elmer Leahy.

The agreement grants exclusive management rights to the mall to the Ghermezian families for 99 years, plus limited occupancy and utility costs on the hotel for 99 years. This lease also provided for the construction of a second hotel at the mall through Sunningdale Investments, which is in fact a Ghermezian-held company. The Alberta Treasury Branch claimed that they did not find out about the Sunningdale lease agreement until April 3, 1998, and they did not receive a copy until April 21, '98. Furthermore, the ATB claims that each of the side agreements, if given effect to, would disadvantage the Alberta Treasury Branch, would be highly detrimental to the ATB's position with respect to the mall, and would jeopardize the recovery of the guaranteed funds.

So, Mr. Speaker, what we have is that a whole series of things transpired even after the government-engineered refinancing package took place. It seems we have some side agreements, and it seems we have some evidence of some other legal and financial trouble that the mall was getting itself into. Most interestingly, we know that there was further discussion in cabinet, so it wasn't simply a onetime deal.

Mr. Speaker, I would say that the government yet again has an opportunity to let Albertans know what was going on behind closed doors in 1996, while people were still suffering the effects of provincial government cuts in core services such as education and health care, what was going on in those Executive Council meetings to deal with the West Edmonton Mall.

Mr. Speaker, I could continue in my history. In March a couple of other interesting things happened in regard to the government's involvement in West Edmonton Mall. The Alberta Liberals, as the Official Opposition, asked the then Provincial Treasurer, Jim Dinning, about changes in lending practices at the Alberta Treasury Branch. The Provincial Treasurer responded, and I'm now quoting from *Hansard*, March 4, 1996, page 352.

Well, Mr. Speaker, as the hon. member well knows, I sat down with the acting superintendent . . . when he took on the job, and I asked him to carry out a study with a local consulting firm to look at the lending practices of Treasury Branches.

What exactly was it that led the Treasurer to do that as one of his first items of business? On March 26, 1996, Alberta Treasury Branch and West Edmonton Mall Property Inc. concluded a right of first refusal agreement. Alberta Treasury Branch granted West Edmonton Mall Property a right of first refusal to purchase any outstanding mortgages that the ATB was a beneficial owner of or guarantor for. This agreement also entitled West Edmonton Mall Property to receive a copy of the offer made to the Alberta Treasury Branch by a third party to purchase any outstanding mortgage or mortgages. Alberta Treasury Branch claims they had no knowledge of the right of first refusal agreement until a letter was received from McLennan Ross, a law firm, on June 8, 1998.

If this document has any effect, it would be to restrict the Alberta Treasury Branch's flexibility with respect to a sale of its position and would potentially diminish its recovery. That means diminish its ability to protect taxpayers' interests in this regard. A very interesting development that took place at about the same time that we are asking for copies of the cabinet agenda where we know this matter was dealt with.

So, Mr. Speaker, I would ask once again that the government do the right thing and produce the materials requested in Motion for a Return 8.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. ZWOZDESKY: Thank you, Mr. Speaker. Once again, as with the previous requests, I'm responding on behalf of the Premier to indicate that government will be rejecting Motion for a Return 8.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glenora to conclude debate.

MR. SAPERS: Mr. Speaker, this is perhaps the most curious refusal of the bunch, and let me explain why. Not only do we have this whole legacy now of government involvement stemming back to the early 1990s, not only do we have meeting after meeting of Executive Council, of agenda and priorities committee, the most powerful committee of government, not only do we have an exchange of correspondence between the Premier and his most powerful lieutenants, not only do we have handwritten notes emerging from the Premier's office, not only do we have direction to scuttle private-sector financing, but we have, in fact, a continued series of events that bring us right through the period of time that the refinancing was negotiated.

We begin to uncover evidence of side deals, and of course those circumstances which have led us to the legal battles which are now raging in the courts happened at about this point in time. But with all of that, as interesting as it is, all of that history, that whole legacy and that whole sordid involvement of the government in this affair, it may be that it's not as interesting as what happened more recently.

Now, I have a document that I believe should be available to the

government because it's a court record, a public document. It's an affidavit dated November 30, 1999. It's signed by a commissioner for oaths by the name of Kari Becker. It's an affidavit of Robert Bhatia, and what it says is that the Crown doesn't have any problem disclosing the material that I'm requesting.

4:10

So we have the government through Executive Council saying that we're not going to tell you the answer to that question, we're not going to produce the records and the documents, we're not going to respect the procedures of this Assembly, we're not going to respect the legitimate requests of the Official Opposition on behalf of the public, but if you happen to be one of the privileged few who can be in court, then it's okay. On the one hand, you have the government saying: "No closed drawer; no closed door. We're going to be open and accountable. It'll all come out." On the other hand, you have the government saying, "But we're not going to tell you here in this Chamber," in the one place in this whole province where free speech is supposed to always prevail, where truth is always supposed to be the watchword, where we're supposed to take each other at our word at all times, even when some of the utterances are most unbelievable.

Now, this document, which references Action No. 9903-18469, is an action in the Court of Queen's Bench of Alberta in the judicial district of Edmonton between Alberta Treasury Branches as plaintiff and Nader Ghermezian, Raphael Ghermezian, Bahman Ghermezian, Eskander Ghermezian, 273905 Alberta Ltd., Howard Anson, Mavis Halliday, 218703 Alberta Ltd., 579511 Alberta Ltd., 298936 Alberta Ltd., Triple Five Properties Inc., West Edmonton Mall Property Inc., WEM Holdings Inc., WEM Management Inc., Avista Financial Corporation, 298926 Alberta Ltd., ABNR Equities Corp., Devcor Investment Corporation, Elmer Leahy, Ventana Investments Inc., and Adirondack Investments Ltd. as defendants. I will read from it. The Crown says:

The Crown has in its possession or power records, as set forth in the First and Second parts of the First Schedule hereto, that are relevant and material to one or more of the issues in this action.

Simply put, they have records.

In "The First Part" the Crown goes on to say, "does not object to produce." Now let me read to you the form of the affidavit. It says:

The First Part: showing records in the possession of the Crown which it does not object to produce.

See attached list hereto marked "The First Part" and which list forms part of this Affidavit of Records.

The Second Part: showing records in the possession of the Crown which it does object to produce, being:

See paragraph 2 and the attached list hereto marked "The Second Part", which list forms part of this Affidavit of Records.

So if you read the first schedule, Mr. Speaker, it says that here's a whole list of records, including "excerpts of cabinet agendas with attachment(s)" from 08/13/96, which the Crown does not object to produce.

Now, I am very puzzled by this. I'm also deeply concerned, because it seems a little bit duplicitous to me. It seems as though we have the government saying one thing when it's convenient and saying something else when it's convenient. It seems that we have a growing gap once again between words and deeds. Why is it that the Crown would have no objection to producing these cabinet agendas and attachments in court, in that public forum, but will reject them and refuse to produce them in this public forum? Are they hoping that nobody will notice when they're produced in that public forum? Is it because one hand doesn't know what the other hand is doing? Is it because they're just trying to be difficult? Is it because it's the Official Opposition that's asking?

Mr. Speaker, what legitimate reason could there possibly be for

the government to say, "It's okay; we'll produce these records in one forum but not another"? I don't think there is a legitimate excuse. I think this government is clearly trying to confuse, mislead, and otherwise obscure its role in putting nearly a half billion dollars' worth of taxpayers' money at risk. It is clearly a touchy, sore point for this government. It's an embarrassment to them, as it should be. You know, it must be an embarrassment, because it is their newest Deputy Government House Leader who has been given the task of standing up and saying: we won't comply with your requests.

You know, Mr. Speaker, that hon. member and I were once colleagues on this side of the House, and I still have a soft spot in my heart for those days. I know that that member doesn't take his responsibilities lightly, but I can't help but observe that he must be feeling awfully abused right about now. First of all, he gets put up to be a member of the truth squads; not just a member of a truth squad but in fact one of the capo de capos of the truth squads. Then of course when that initiative seems to fail to capture the public imagination in a positive way, the government says: "Okay; we'll go soft on the truth squads. Maybe that was a mistake, but I know what we can do. Wouldn't it be fun . . ." And I can just imagine the sort of boyish glee in the Premier's office when he was talking to his advisers about how they're going to obscure the truth and how they're going to deny these requests. I can just imagine the boyish glee as they said: "Oh, I know what we can do. We can get Edmonton-Mill Creek to stand up and deny the request. Won't that be an irony?"

So of course here we are today, where we have this situation which must be awfully uncomfortable and embarrassing for that member. I want to say to him that I feel his pain, and I want to say that it truly saddens me to see him abused like this when, after all, all he was trying to do was serve his constituents.

What we have, Mr. Speaker, to try to quickly summarize, is an affidavit of record put forward by a representative of the Crown, in fact an assistant deputy Provincial Treasurer, saying that they don't have any problem in releasing these documents, yet we have the Deputy Government House Leader saying just the opposite, just the contrary: we're not going to release the documents. I think Albertans will want an explanation as to why we have this to and fro, why we have these totally opposite and opposing responses to similar requests. I don't think Albertans are going to be satisfied if the answer is "I don't know," which seems to be about all we've heard from this government; that is, either "I don't know," or "I don't want to know," or "I might know, but I'm not going to tell you." That does not bring this House into a positive light either.

So we have a rejection from the government. We also have an acceptance from the government, but it's in a different forum. Maybe those members here will be compelled to help save the face of the government and will vote to release the document so the government at least can be made to look consistent on this one little point. I mean, rife with inconsistencies throughout this whole saga, but at least on this one little point we can give the government an opportunity to look like it's doing the things it says it's going to do and it can be consistent in all forums.

I think the minds of the public would be put at ease if they could see that their government was being consistent. Of course, if the government chooses to continue to be inconsistent, then one couldn't blame any taxpayer of this province for thinking that the government has something to hide. Because you know, Mr. Speaker, when you have something to hide, you forget what you've said and what you've done and you're scrambling to figure out what really is the truth and how you can shave it, and you often just get tied up in your own words. Maybe that's what we're facing with this government on this matter now.

So I would once again ask that this Motion for a Return 8 on the Order Paper in my name be accepted.

THE DEPUTY SPEAKER: All those in favour of Motion for a Return 8 as moved . . . [Mr. Jacques rose] Hon. member, the call was from one side to the other, and there being no speakers at the time, then the chair invited the hon. member to conclude debate, so that's why we're holding the vote. Perhaps the next one.

[Motion for a Return 8 lost]

Government Fees and Charges

M10. Mr. Gibbons moved that an order of the Assembly do issue for a return showing copies of all fees and charges and copies of expense and revenue analyses prepared by the Department of Government Services and Alberta Registries between May 1, 1999, and February 17, 2000, for Alberta Treasury and the Fees and Charges Committee.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. ZWOZDESKY: Thank you, Mr. Speaker. I'm pleased to rise on behalf of the hon. Minister of Government Services and indicate that the government will be accepting Motion For a Return 10.

4:20

THE DEPUTY SPEAKER: To conclude debate, the hon. Member for Edmonton-Manning.

MR. GIBBONS: I rise to close, and I'm pleased to receive this information. I had tried to get it earlier on last year, and all I got was 23 pages of FOIPed items. Some of these items that we're needing lead up to Bill 5 and Bill 16, items that are on the table right now, and I appreciate getting that information.

Thank you.

[Motion for a Return 10 carried]

Agriculture Financial Services Corporation/ Alberta Opportunity Company

M17. Mr. Wickman moved on behalf of Dr. Nicol that an order of the Assembly do issue for a return showing copies of all studies and reports prepared by or for the Department of Agriculture, Food and Rural Development between May 25, 1999, and February 17, 2000, relating to the integration of the Alberta Agriculture Financial Services Corporation and the Alberta Opportunity Company.

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

MR. LUND: Thank you, Mr. Speaker. One of the members in this Chamber was appointed to oversee and study the whole issue to see what could be done as far as the integration of AOC with AFSC. It's an ongoing procedure. The hon. member has, I know, met with the various boards that are involved, has asked for a number of reports, and has done that kind of work. But it's a work in progress, and to our knowledge there have been absolutely no studies or reports completed at this time. Because of the nature of the work, it's ongoing, so we would have to reject this particular motion.

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

MR. WICKMAN: Mr. Speaker, to conclude debate, the statements made by the minister really surprise me. They're a contradiction. On the one hand, what the minister is saying is that there are no reports, that there are no studies, that there is nothing to table or to report. On the other hand, the motion for a return clearly says, "copies of all studies and reports prepared by or for." Why he doesn't accept it, I don't know. If there aren't any there to submit, then there's no reason why he shouldn't accept it. The fact that he's rejected it indicates to me that there may possibly be some studies or reports there that he's not prepared to release for whatever reason.

The Member for Lethbridge-East, Mr. Speaker, I would think is going to be quite surprised. He anticipated that the minister would have no hesitation accepting this particular motion for a return. I don't really understand why on the one hand the minister would say that there's nothing to report and on the other hand he rejects it. If there's nothing to report, why not accept it and submit whatever's there? If there's nothing there to submit, there's nothing there to submit. At least he would then have accepted the motion for a return rather than have rejected it.

On that note I'll conclude, but let me say that I'm very disappointed that the minister has rejected it.

[Motion for a Return 17 lost]

head: Public Bills and Orders Other than
Government Bills and Orders

head: Third Reading

Bill 202

Marriage Amendment Act, 2000

[Debate adjourned March 14: Mr. Dickson speaking]

THE DEPUTY SPEAKER: The hon. Member for Calgary-Lougheed, followed by the hon. Member for Edmonton-Strathcona.

MS GRAHAM: Thank you, Mr. Speaker. I rise this afternoon to take this opportunity to outline the reasons why I'm unable to support Bill 202, the Marriage Amendment Act, 2000, a private member's bill sponsored by the Member for Red Deer-South. In my view, this bill does not and cannot do what I believe the sponsor has suggested that it does do; in other words, protect the institution of marriage in Alberta from challenge under the Charter of Rights and Freedoms by way of restricting solemnization of marriage to only opposite-sex couples.

Mr. Speaker, for the reasons that I will describe, in my view Bill 202 is largely meaningless and ineffective to achieve the purposes stated by the sponsor, and unfortunately I believe that it sends a message to Albertans which is misleading and suggests to them that we are doing something that we really can't do as a provincial Legislature.

During the debate on this bill the sponsor and other hon. members of this Legislature, in their speeches both at second reading and at committee, spoke of the very positive benefits to society that the institution of marriage has contributed and the importance that marriage has for many people in Alberta and elsewhere in this country, and in all of this I concur. However, Mr. Speaker, to express these sentiments at length does not ensure the legal and constitutional validity of the contents of Bill 202. It does not ensure that, nor can these sentiments cure the weaknesses in Bill 202.

[The Speaker in the chair]

Mr. Speaker, it is my belief that the content of a private member's

bill should be held to the same standard as the content of a government bill in terms of the scrutiny it receives and the debate it receives. I don't believe this has happened here, and I think that is unfortunate. I do believe that private members' bills, or any bill for that matter, should be more than a form of public relations for the consumption of the public, who often have neither the time nor the resources to check out the validity of the legislation which is being passed in a Legislature. For me as a member of this Assembly to support a bill which I believe is beyond our jurisdiction as a provincial Legislature, that I believe to be at the worst or at the best a somewhat meaningless piece of legislation – for me it is not responsible to support it, for of course once this legislation is passed, it has the same effect as any other piece of government legislation.

I'm proud to be a member of this Legislature, and I would like to think that the bills we pass here are ones that we are entitled to pass and that give us credibility in this country. I want to be proud of what we do here. I'm by no means saying that I'm not a big supporter of marriage. I've been married, and I believe in marriage as much as anyone else here, but that doesn't mean, in my view, that we pass bills that we're not entitled to pass.

Yesterday, in moving third reading of his bill, the sponsor, in a very genuine attempt, I'm sure, to garner support for his bill, stated that all members of the Legislature had to ask themselves whether the institution of marriage is worth protecting and said that that is at the heart of this bill. Well, I do not believe that that is the right question that members of this Legislature should ask themselves at all. In fact, I would suggest that the right question is: does this provincial Legislature have the jurisdiction to legislate on the subject of who can marry? The answer, in my view, is: no, we do not. In my view, this bill attempts to do something by the back door that can't be done through the front door.

4:30

The Constitution of this country defines for us the generally clear and exclusive jurisdiction of the federal government versus the provincial government. I think it is essential that each level of government legislate within its own area, especially where it's clearly stated, and I think it's important that we as a provincial Legislature have respect for the division of powers and that we adhere to our own areas of authority, for this is the very foundation of how our Canadian system of government works. We certainly don't like it when we think the federal government is intruding into our areas of authority, so by the same token I think we have to respect those areas that belong to the federal government.

To be specific, Mr. Speaker, it is section 91 of the Constitution of Canada which defines the areas of exclusive federal jurisdiction, one of which is marriage and divorce. This has always meant that the federal government has the jurisdiction to decide on those issues relating to the capacity to marry or, in other words, who can marry. Now, section 92, which outlines the provincial exclusive jurisdiction, gives the province the right to legislate in the area of the solemnization of marriage, which is very simply the form and the process of how a marriage is conducted, registered, and the like. In other words, the province says how you can get married, but it is the federal government who says who can marry.

In fact, there is no federal statute, I believe, that defines what marriage is. The federal Marriage Act doesn't define it. The legal definition of marriage in this country is found in the common law or case law or jurisprudence that has developed over time. It's very clear: marriage means the voluntary union for life of one man and one woman to the exclusion of all others. This is the law in Canada.

In the final analysis, Mr. Speaker, I guess my point is this. The province doesn't have the jurisdiction to legislate on who can marry.

Even if it did, I don't believe that this bill even accomplishes the objective of the sponsor, which was to prohibit unions of same-sex couples, because it doesn't go far enough. It doesn't prohibit them. It just includes a definition of marriage by using the word "marriage." It doesn't include a prohibition. I don't think it could do this legally, but it doesn't in any event. In my view, the bill – that is, the preamble and the definition of marriage as drafted in this bill – at the very best adds nothing to the law, and at the worst it is an intrusion into federal jurisdiction.

I would now like to talk briefly about section 5 of the bill, which is an attempt to use the notwithstanding clause relative to our provincial Marriage Act, which is a licensing act in the main. I would start by saying that the notwithstanding clause of the Constitution can be invoked to allow a statute or a provision of a statute to remain valid when it would otherwise be in violation of a right or freedom guaranteed by section 2 and sections 7 through 15 of the Charter of Rights and Freedoms. However, there is no statutory provision to be protected, and therefore in my view the notwithstanding clause has no effect here. The law on marriage, as I mentioned, is in the common law, and the notwithstanding clause cannot affect the common law. It has no effect. Including the notwithstanding clause in this provincial Marriage Act does not, in my view, Mr. Speaker, cure the fact that the province has no jurisdiction over the authority to legislate capacity.

I would just go on to say – and I find this is why I most strenuously disagree with the inclusion of the notwithstanding clause in this bill, which I think is quite ill-conceived and somewhat clumsily done – that if the bill is passed, this will be the first time in Alberta that we have ever included the notwithstanding clause in our legislation. I think we should be very, very clear that when we start invoking the notwithstanding clause, which is very significant and in my view a provision that should be used sparingly, we should know exactly what we're doing when we use it and know what we're protecting against. There's nothing there to protect against. There's no statute. The federal government hasn't done anything. They've had the opportunity; they've done the opposite. There's nothing on the horizon. So we don't even know what we're protecting against, but we're throwing it in, and I think it's not responsible of us as legislators to use the notwithstanding clause in that way. That isn't to say that in the proper case it wouldn't be justified, but I think it doesn't exist yet, so that is why I cannot support the inclusion of the notwithstanding clause in this bill.

For those reasons, Mr. Speaker, I will not be supporting this bill.

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

DR. PANNU: Thank you, Mr. Speaker. I am pleased to concur with the position that the Member for Calgary-Lougheed has taken on Bill 202. Bill 202 is indeed a bad piece of legislation from a constitutional as well as a legal standpoint. In fact, its legality and constitutionality stand in serious question. I'm surprised that it passed committee stage and now is at third reading stage. At the very least I would have hoped that at committee stage there would have been more members like the Member for Calgary-Lougheed and the Member for Medicine Hat who, while supporting the principles of the bill, voted against it because it's simply a bad law. I ask the government members to consider carefully the arguments put forward by the Member for Medicine Hat, the Member for Calgary-Lougheed, and the Minister of Justice before voting this very ill-advised bill into law.

Bill 202 deserves to be defeated because it represents an unacceptable intrusion into the jurisdiction of the federal government. The attempt by the Member for Red Deer-South to rationalize this

intrusion lacks credibility. Mr. Speaker, the comments made by the Member for Medicine Hat on March 1 bear repeating. The member said:

As has already been pointed out by the Minister of Justice, the institution of marriage falls under federal jurisdiction. The Alberta Marriage Act, which we are here to amend today, does not deal with the institution of marriage; it deals with the regulation of marriage. The reference to marriage that is contained repeatedly within the Marriage Act is using the definition that comes from federal legislation. So how can we in the Legislature of Alberta purport to be able to bring something about that is clearly under the jurisdiction of the federal government?

This is wise counsel by the Member for Medicine Hat.

4:40

The Alberta government historically has insisted that the federal government respect the Constitution and not make intrusions into areas that are within provincial jurisdiction. If Alberta's call for the federal government to respect provincial jurisdiction is to have any credibility, this Legislature should not be passing Bill 202, which intrudes on the federal government's constitutional responsibilities. I note that the Minister of Justice has, I believe courageously, opposed Bill 202 because he, too, believes that it represents an unwarranted intrusion into matters properly within the jurisdiction of the federal government. Has the Minister of Justice consulted with his federal counterpart on the question of jurisdiction? I wonder where the minister of intergovernmental relations stands on the question of jurisdiction. Has she consulted with her federal counterpart?

I'm concerned that the fast-tracking of Bill 202 through the Legislature will mean that no answers to the above questions will be provided. There's no good reason to fast-track this bill through other than the hope that by doing it this way, the government can save itself political embarrassment that would no doubt come from a detailed public scrutiny of the bill.

Clearly, the use of the notwithstanding clause to shield Bill 202 from court challenges under the Charter is offensive. I note that the Member for Calgary-Buffalo attempted to address this by introducing an amendment that would have removed this provision from the bill. While this may have made the bill less offensive, it remains the case that the courts could rule that the bill is unconstitutional because it violates the division of powers under the Constitution Act. If a legal challenge was made on these grounds, the bill could not even be saved by the use of the notwithstanding clause.

The fact that Bill 202 is being fast-tracked through this Legislature shows that this government has learned nothing from the public uproar following the introduction of Bill 26 two years ago. Bill 202, which obliges the government of Alberta . . .

THE SPEAKER: Hon. Member for Edmonton-Strathcona, we have a point of order.

The hon. Member for Grande Prairie-Wapiti.

Point of Order

Private Members' Business

MR. JACQUES: Thank you. I noted with regard to the speaker's comments that he was referring to, quote, government. I know that you, Mr. Speaker, have cautioned us in the past that this is a private member's motion. Hon. member, you have very eloquently identified members individually who were speaking to the motion, and I fully concur with that, but when you now in the last two references referred to the government, I have to take exception to that. This is a private member's bill.

THE SPEAKER: Hon. Member for Edmonton-Strathcona, without even hearing any further comments, I think the reminder has to be made again. This is private members' business, and the points made by the hon. Member for Grande Prairie-Wapiti are absolutely correct. This is private members' business.

DR. PANNU: Thank you, Mr. Speaker. If I erred in this regard, I am prepared to correct myself. I mentioned that only in that we need to learn from our past. That was essentially the point of my observation.

Debate Continued

DR. PANNU: Let me resume then, Mr. Speaker, with your permission. This is the point I was making. Bill 202, which obliges the government of Alberta to invoke the notwithstanding clause, could be law in this province within days, despite the assurances that we received from this government that it will be much more cautious in the future before it considers invoking the clause. I'm in fact here restating the government's own position and reaffirming it.

Again, Mr. Speaker, tell me if I'm erring, but I would like to go on record as saying that I'd like to remind Albertans once again of the Premier's undertaking made two years ago. On March 11, 1998, the Premier said that the government would give the use of the notwithstanding provision much more serious thought in the future because "the seriousness and the power of this particular clause" became crystal clear to his caucus. Furthermore, the Premier responded to questions in this House about the use of the notwithstanding clause by saying that "if the notwithstanding clause is ever contemplated, indeed, there will be a tremendous amount of open and honest and public discussion" before it's invoked.

As I said at committee stage and I repeat: where, then, do the Premier and the government stand on the use of the notwithstanding clause as referenced in section 1.1 of Bill 202? Where is the open and honest discussion promised before approving another bill that contains a notwithstanding clause? I again point out that this bill is being proposed at a time when the government has failed to address the need to bring provincial legislation into compliance with the May '99 Supreme Court decision in *M versus H*. The federal government and most other Canadian provinces are moving rapidly to ensure that those involved in same-sex relationships have legal status equal to opposite-sex common-law couples. Even the Conservative government in Ontario has amended its statutes to remove this discrimination.

What are we doing in this province? Unfortunately, Alberta is moving in the wrong direction. Last spring and fall this Legislature approved amendments to such acts as the Domestic Relations Act, the Employment Pension Plans Act, and the Insurance Act. These amendments entrenched discrimination against same-sex couples by excluding them from the definition of spouse even when that term is clearly understood to include those couples living in common-law relationships. This is wrong, just as Bill 202 is wrong.

I'm not questioning the sincerity of the Member for Red Deer-South or the sincerity of other government members who are supporting Bill 202. I mentioned at committee stage that my wife and I recently celebrated our 40th wedding anniversary. I do value the institution of marriage and the lifelong commitment that marriage entails. At the same time, I'm realistic enough to recognize, Mr. Speaker, that when we talk about marriage, we need to participate in this discussion with some humility. It's a fact that 1 in 2 marriages today ends in divorce. It's also a fact that we no longer as a society require someone who lives in a psychologically

or physically abusive relationship to stay in that relationship under the pretext of preserving the sanctity of marriage.

Finally, it's a fact that many couples choose to live in mutually supportive relationships even though they are not legally married. The preamble to Bill 202 says that marriage between a man and a woman is firmly rooted in our philosophical and religious traditions. It is important to note that in a modern state such as Canada or Alberta marriage is a civil matter which sets out the legal rights and obligations of those who participate in it. The state should not be involved in promoting particular religious traditions or understandings of marriage. It is the responsibility of the state to ensure that those living in mutually supportive relationships fulfill their obligations to each other and to any dependent children.

Many gay and lesbian adults live in marriagelike relationships. Many same-sex couples subscribe to a lifelong commitment despite the lack of legal recognition of their relationships. I have been privileged to know many individuals with the same-sex orientation who take their responsibilities to their partners every bit as seriously as those of us involved in opposite-sex relationships. These are realities that will not be changed by this Legislature's approval of Bill 202. Whether we give recognition to the reality of the relationship by allowing same-sex couples to legally marry or whether we do so through some type of separate legal recognition, one thing is certain. If it is beneficial to society for opposite-sex couples to make a lifelong commitment to each other, the same should apply to the relationships of same-sex marriages. As J. Edwards said many years ago: what we wish for ourselves we desire for all.

As a society we will have to in the future face the question of public recognition of same-sex relationships in the same way that societies in the past had to struggle with questions of women's equality or racial equality. There were those in the 19th century who argued that slavery was deeply rooted in philosophical and religious traditions. There were those in the 20th century who argued that the subservience of women was deeply rooted in philosophical and religious traditions. Just because something is rooted in tradition doesn't automatically make it right. Societies evolve and change. As legislators we also have the responsibility to challenge our own assumptions and prejudices and be prepared to change.

The fact that the judiciary has on a few occasions ruled that the decisions of parliaments and legislatures are unconstitutional does not necessarily mean that the politicians are right and the judges are wrong. Just as politicians have a responsibility for making laws, judges have a responsibility for interpreting the law. In that context I make the following request of the Minister of Justice. Should Bill 202 regrettably be passed into law by this Assembly, the Minister of Justice should, prior to proclamation, commit to referring the bill to the courts for judicial review to ensure that it does not violate the division of powers in the Canadian Constitution.

In conclusion, Mr. Speaker, I respectfully urge all members to vote against Bill 202 at third reading. Whatever our views are on the institution of marriage itself, Bill 202 is an ill-conceived piece of legislation and does not deserve the support of this Assembly.

Thank you, Mr. Speaker.

4:50

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

MRS. O'NEILL: Thank you, Mr. Speaker. I appreciate the opportunity to speak to private member's Bill 202, Marriage Amendment Act, 2000. Before I do speak to the specifics of it, I would like to read into the record and I would wish to declare that I truly respect the institution and the sanctity of marriage. I also believe that we as legislators have the responsibility to not only acknowledge the legal

and religious values of marriage but indeed to pass laws that even assume those values.

However, Mr. Speaker, with reference to clause 2 as proposed in the bill, I find that while I believe that "marriage is the foundation of family and society," as is stated in the second whereas section, I cannot assent to read into the law of this province the ending of the second whereas clause, which reads, "without which there would be neither civilization nor progress." As I understand this whereas clause, it implies that marriage is the sole determinant of civilization and progress. While I agree that marriage contributes to civilization and progress, I do not believe it is the only factor that defines them.

The second point that I want to make is in reference to section 5, which does suggest that we write into law, again, this bill which suggests the use of the notwithstanding clause. My understanding of that clause contained within the Canadian Charter of Rights and Freedoms is that it is only to be used when it is a situation that truly merits it in reference to another statutory situation, and I do not believe that there is a statutory provision to be protected under this whereas clause. Section 5, I believe, is beyond the scope of provincial legislative jurisdiction. I am not a lawyer, but I do believe that the Member for Calgary-Lougheed expressed it very well in saying that we cannot suggest the invocation of that against another government's jurisdictional powers, as I understand it.

So, Mr. Speaker, I stand here today to identify that I will be voting against this private member's bill, and the reason for it is not because I do not believe, again, in the sanctity and in the legality of marriage. It is truly to be respected. However, I do feel that this particular private member's bill is beyond the scope of our legislative approval.

Thank you.

THE SPEAKER: The hon. Deputy Government House Leader.

MR. HAVELOCK: Yes. Thank you, Mr. Speaker. I will be brief, but I'd like to respond to a couple of the remarks made by the hon. Member for Edmonton-Strathcona and some others here today.

For me the issue is not whether the government can or cannot pass this legislation. It's not whether it should or should not include the notwithstanding clause. Having had a rather vivid experience myself with respect to that particular clause . . .

MR. DICKSON: Tell us about that.

MR. HAVELOCK: Well, I don't think I have time to tell you about my experience with respect to that particular clause.

MR. DICKSON: Show us the scars.

MR. HAVELOCK: Yes, I can show you the scars.

I will make a couple of points, Mr. Speaker. I consider myself, in light of that experience that I had, to be somewhat of an expert on the notwithstanding clause. For one thing, when the government responded to the Vriend decision, which the Supreme Court rendered and indicated some changes that had to be made to or rather read into our human rights legislation, it was made very clear that with respect to the institution of marriage we would not take that particular issue to Albertans with respect to a full referendum or full discussion. In fact, I do recall the point being made very explicitly by the Premier and by other members of our caucus that the institution of marriage is so important and should be protected that we felt we would try and implement the notwithstanding clause in the event some changes occurred which we did not agree with.

So I have to take issue with the argument of the hon. member across the way, the Member for Edmonton-Strathcona, that it was

our intention to consult with respect to this particular type of change. It wasn't. What the hon. member across the way who is sponsoring the bill has done is simply incorporate that philosophical position in a private member's bill.

As concerns the role of the provincial government, we do play a role with respect to the institution of marriage. We are involved in the solemnization of marriage. We are involved in the licensing. I myself had the honour of actually marrying a couple last year and very much enjoyed the experience.

MR. DICKSON: Did it work better than the Premier's experience?

MR. HAVELOCK: Well, I don't know if it was better than the Premier's experience. I can tell you that this particular experience was a lot smaller than the Premier's experience. There were about 50 people there as opposed to the hon. Minister of Environment, who I think filled the Jack Singer hall with all of his supporters. In fact, I think it was a combined nomination meeting and wedding.

MRS. McCLELLAN: It was very successful.

MR. HAVELOCK: He was successful. He not only won the nomination; he also has a lovely new bride. I'm sure he's very happy with her.

So we do play a role. Sometimes we bring forward legislation in this House and/or take positions where we feel so strongly about them that we're prepared to take the risk as to whether or not they could be challenged by the federal government. We took a very strong position with respect to federal gun control. While I appreciate that it's important for us to respect the jurisdiction of the federal government, again this is not a black and white issue. There is some overlap with respect to the role that the provincial government plays regarding the institution of marriage.

I will be voting for this particular private member's bill, and one of the reasons is this. After the Vriend decision we quite openly discussed whether or not there was another way to recognize a relationship which may be entered into by same-sex couples. Now, since having moved on from being Minister of Justice and Attorney General to my new post, I haven't been following that issue with a great deal of closeness or scrutiny myself personally. Nevertheless, there are some ways in which same-sex couples could, if they wanted to pursue it, have their particular relationship recognized. I know there are some European countries where they have done that, and if those individuals wish to pursue that, perhaps that's an option they should seriously consider.

I do support the intent of what the hon. member is trying to accomplish, and it's not for me a negative statement or passing judgment in any way on those who wish to pursue an alternate lifestyle. My position is simply that I feel the institution of marriage as presented by the hon. member reflects quite accurately what I believe in.

Thank you.

THE SPEAKER: The hon. Member for Airdrie-Rocky View.

MS HALEY: Thank you, Mr. Speaker. I'm glad that I have this opportunity to rise just before the debate closes on this particular bill that was brought forward by my colleague from Red Deer-South. I've listened carefully to a lot of people discuss the merits of this bill, both the pros and the cons, and not being a lawyer, perhaps I don't appreciate the finer points of some of the comments that are being made. I do, however, want to say that the spirit of the bill and

the intent of the bill I'm absolutely one hundred percent in accord with. I don't believe there's another way to do this type of bill other than what the hon. Member for Red Deer-South has brought forward.

Our whole society has been inundated with change, and I think the one thing that has remained rock solid and stable throughout our creation as a civilization is the fact that we've had the bedrock foundation of family. A family was inherently a man and a woman and children, and I don't think that this government or the people in this caucus have any desire to see that change.

Mr. Speaker, by supporting this bill, I want to send a strong message to my constituents as well who feel very strongly that marriage is sacrosanct in this province and that it needs to be respected by not only all of the people in this province but particularly by its legislators. I will in fact be supporting Red Deer-South's Bill 202.

Thank you.

THE SPEAKER: Hon. members, under our rules we afford an opportunity for the hon. mover of the bill to conclude.

The hon. Member for Red Deer-South.

MR. DOERKSEN: Thank you, Mr. Speaker. I'm just going to review briefly some of the debate that we've had and then have my closing comments.

The Marriage Amendment Act, 2000, is of course focused on the recognition and value of marriage by adding to the Marriage Act a preamble and a definition. There has been some suggestion that the scope of the bill isn't large enough, but I would remind members that for a private member's bill to have success, you have to keep it as narrowly focused and precise as possible. In that sense, Mr. Speaker, this bill is very specific to the value and importance of the institution of marriage.

5:00

In the debate I want to remind members that evidence was produced to show that the social science research supports those principles. To date in the debate I haven't heard anybody argue against that research or present something to the contrary. In the debate the principles that we have outlined in the bill in the preamble have been affirmed by most speakers. The bill also uses the mechanism of the notwithstanding clause primarily to indicate the commitment to stand by those principles.

There has been some debate around jurisdiction. We've been able to show by reference to section 92(12) that the provinces indeed do have jurisdiction on the matter of solemnization of marriage. I also refer to the Alberta Law Reform Institute in their presentation on family law and reference case law, which also confirms that position.

The main point of contention in the debate has centred on the use of the notwithstanding clause, not necessarily so much as to whether it would be effective but whether this would be an appropriate time to use this. The question was raised: why would you use the notwithstanding clause at a time when there's no challenge before us?

Mr. Speaker, I would argue that that is precisely the right time to do it, when we can make a reasoned and determined debate in this Legislature to affirm a position ahead of the time when that controversy may arise. So we are making a commitment to the people of Alberta, a firm and clear commitment that we are prepared to defend the definition of marriage. The principle is certainly more important than the mechanism. Mr. Speaker, the institution of marriage is worth defending and is worth preserving.

Up to this point I have confined my comments to research, to the

principles, to the argument for using the notwithstanding clause. I want to close with a few personal comments. I want to dedicate the efforts on this bill that I have taken forward to those who have exemplified to me what marriage and commitment are all about. I want to reference my two sets of grandparents: John P. and Katharina Doerksen, who were married for 54 years; Heinrich and Helena Harder, who were married for 40 years. In fact, Mr. Speaker, I'm wearing today the ring from Heinrich Harder that he wore when he was married and still with us. Both of those couples lived through a time of inconvenience, a time of poverty when they were forced to leave their homeland of Russia to come to Canada. It was a time of war, a time of resettlement, a time of new language, and the commitment that they had to each other continued throughout that period.

To my own parents, Peter and Tina Doerksen, who will be married for 53 years on June 28: this is dedicated to them as well. Those people have shown to me the value of passing down commitment, commitment to each other in marriage.

Lastly, Mr. Speaker, I want to dedicate this bill to my wife, Doris. We will be married for 25 years on June 28.

MR. TRYNCHY: You're only halfway there.

MR. DOERKSEN: You're right. There's still a lot of work to be done, Mr. Speaker, before I get to that magic 50 years and above. She has stood by my side for all those years, been the mother to our four children, and I can't say enough about her. She's a woman and she's a lady.

Lastly, to my children, who are not yet married but one who will be married this coming June. I would also want to pass on to them the importance and value that they would see from us, the importance of being married and the importance that would be for future generations.

[The voice vote indicated that the motion carried]

[Several members rose calling for a division. The division bell was rung at 5:05 p.m.]

[Ten minutes having elapsed, the Assembly divided]

For the motion:

Burgener

Jonson

Pham

Cao
Coutts
Doerksen
Ducharme
Forsyth
Friedel
Haley
Havelock
Hlady
Johnson

Klapstein
Kryczka
Langevin
Lougheed
Lund
Marz
McClellan
McFarland
Melchin
Paszowski

Shariff
Stelmach
Strang
Tannas
Tarchuk
West
Woloshyn
Yankowsky
Zwozdesky

Against the motion:

Bonner
Boutilier
Dickson
Graham
Hancock

Jacques
MacDonald
Magnus
O'Neill
Pannu

Renner
Sapers
Severtson
White
Wickman

Totals:

For - 32

Against - 15

[Motion carried; Bill 202 read a third time]

THE SPEAKER: The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you, Mr. Speaker. In light of the hour I move that we call it 5:30 and that the House do now stand adjourned and reconvene this evening at 8 in Committee of Supply.

THE SPEAKER: On the motion put forward by the hon. Deputy Government House Leader, would all members in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

THE SPEAKER: This House is adjourned until 8 o'clock this evening.

[The Assembly adjourned at 5:18 p.m.]