Legislative Assembly of Alberta

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

[Mr. Tannas in the chair]

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

Bill 16
Condominium Property Amendment Act, 2000

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

MS CARLSON: Thank you, Mr. Chairman. I'm happy to add my comments on Bill 16 to those on the record. This is a bill that we've been able in my constituency to do some fairly extensive consultation on. There are a number of condominium developments in Edmonton-Ellerslie, and there are some proposed in the near future as we see some major development happening right around Ellerslie Road over the next 10 to 15 years. It's something that I always run into at the doors: concerns and questions from condominium owners about their rights and what's happening in their associations. We were able to contact those people and run through the bill with them and get their comments.

Overall, Mr. Chairman, the condominium owners in my constituency felt that there was a need for this act, but they felt that it didn't completely meet their particular needs as owners. One of the points that they talked about was that purchasers want to know all plans concerning construction that would jeopardize their own property value. What we found in the past is that sometimes people have bought the condominiums, particularly prior to construction being completed on the units, and then moved in to find that there were some construction items that hadn't been completed or that were being completed differently than what they had anticipated, and they felt that sometimes those did jeopardize their own property values. They felt that information should be more explicitly available and some sort of contingency which meant that the developers would have to meet all of the criteria.

One of the ideas brought forward was that in fact the developer should have to maintain a bond for three to six months after the last piece of construction on the development so that were there any discrepancies, purchasers felt they had some recourse to have those discrepancies met. That was actually the major concern that we heard about in the area.

They also want the purchaser to be allowed to cancel the purchase agreement if not provided with full and absolute disclosure of all documents and drawings registered or proposed. That seems like common sense, Mr. Chairman. Certainly it would seem to be a possibility when people are having houses built, but it's a problem for these condo owners when things change prior to the full development being done, and then there's no way for them to get out of the arrangements.

Often we've seen cases where continued development means continued costs to the owners. Condominium owners are often first-time homeowners, and they often don't have access to a lot of resources. In some cases they are people who are purchasing the condos with the intent of renting them to other people. They are satisfied with the specs as they were when they went into the purchase and don't need or want any additional items and can't afford to pay for anything additionally.

Of course having had some experience with condominium associations myself, I know that once you've got the mortgage for the condo, even if there are substantial increases or upgrades within the association, either prior to overall completion of the construction or sometime down the road, it's very hard to go back to the bank and get refinancing at that particular time, Mr. Chairman. The mortgage companies don't seem to look very favourably upon improvements in condominiums even if they're substantive in nature. So it's a problem for them, and it's reasonable for them to want to be able to cancel the purchase agreement if they don't get all the information they need.

Another concern of theirs is that they want to ensure that a purchaser is fully aware of the conditions for canceling the purchase agreement. What they want mostly, Mr. Chairman, is for those agreements to be in plain English. Any of us who have gone through mortgage documents over the years know that they're written in legalese. They require a lawyer to interpret them, and often it's a problem for people purchasing the agreements. They don't have that kind of a background. They don't have access to the kind of dollars required to have a lawyer . . . [The chairman waited until the committee came to order]

THE CHAIRMAN: Very good. If we could keep it at that level, we might be able to hear the hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. They want to make sure that they understand what the procedure is for canceling, and that hasn't always been the case in the past.

Also, it's not reasonable to expect the purchaser to examine the entire complex and often certainly not possible, particularly if there are people living in the complex at the time, but it can have an impact on the long-term viability and in fact the market value of the condominium afterwards. Here the people were particularly talking about the rot that's been found in some of the condominiums. First of all, the rot is hard to find. Secondly, it's mostly internal within the condominium units, so while you may have had an extensive investigation of the condominium unit that you're buying, you can't do that for all of the units in the complex. It's a buyer beware kind of situation right now.

We saw that huge scandal occur over condominium rot in British Columbia over the past few years. Of course, the problem is worse there because of the kind of weather they have. Being wet and muggy, the mold that caused all the lawsuits seems to grow a lot faster than what it has in Alberta, but we have that problem here. We have that problem in my constituency.

The condominium owner that I talked to didn't have it in his particular unit, but it was in the complex as a whole, and it substantially increased the costs during renovations on the outside walls of the complex, for which he was partially responsible. Had they had some sort of extensive and complete inspections done on a regular basis, this information would have been available. It should have been a part of a disclosure document. A purchaser should have been fully aware of that kind of condition, and that should be an option for canceling a purchase agreement. So not being able to examine the entire complex is certainly an issue.

Another issue: prohibit a developer from controlling a board outside of elections to the boards. This was an issue particularly in new complexes or those that aren't fully filled and where a developer still owns the title to some of the particular units. As such, they're able to have people nominated or appointed to the condominium boards. That's seen as a degree of control that isn't necessary,

Mr. Chairman, and something that they would like to see prohibited.

Another point: board members names and addresses registered with the land titles office are accurate and up to date between annual general meetings. Of course, this is a problem because sometimes you can't find those board members. If you need to have a decision made about something and you want to call a meeting of the association, then you need to be able to access these people. Often between annual meetings they move. You only have to own the condominium in order to be eligible to be a board member. You don't have to actually be resident within the unit. So we find oftentimes that condominium owners are not residents within the complex; they live elsewhere. They are difficult to track down, particularly if they've moved between annual meetings, and that can be a problem for members at large within the association. So they felt that that would be a very small thing but a necessary item to be addressed.

Another point: the validity of any act performed by a board member should be open to review. Again, it just makes common sense, Mr. Chairman, that this would happen and that the associations would have some provisions that acts performed by board members within the context of their responsibilities as board members should be open to review, but it seems that that isn't often the case. People I've spoken to felt that should be addressed.

They also felt that adequate representation of unit owners on the condominium board is essential, and we find also that that doesn't always happen. It's more than the number of units a particular person may use. What they need is an adequate cross-representation of people who actually live within the complex. Absentee owners cause problems in this instance. People who aren't on the ground all the time to see what's happening on a day-to-day basis within the complex can add to the kinds of problems that occur. I thought this was a valid point and something that could have been addressed within the context of this bill.

8:10

They also wanted to know why they couldn't include that meetings should be held in the municipality in which the units are located. Once again this is a problem, Mr. Chairman. It doesn't always happen that the actual board meetings are held in an area easy to access for general members of the complex. You'd think it would just be common sense that they'd have them in somebody's living room or in a common area if there's a common area within the complex, but it doesn't happen. Often they are outside of the region or the area, and they are difficult for members at large to get to.

They wanted to see a prohibition of developers drafting bylaws that are in their own self-interest. Why developers should be involved in the development of bylaws within a condominium association is a question anyway, Mr. Chairman, but particularly they shouldn't be able to draft them in their own self-interest. Where this particularly becomes a problem is in new complexes where there isn't a fully developed, operating board yet and units are left vacant or haven't been sold. There's that crossover time between when the units are full and the board can operate in the best interests of the unit owners and holders rather than the developers, so that's an issue that needs to be addressed.

I think it's particularly concerning that nearly every condominium owner I talked to had an issue with the developers in terms of how the initial set of bylaws gets drafted for the condominium association. Then often the people who own the units thereafter don't understand the process for revising or deleting bylaws, so those bylaws get left on the books sometimes for a long time, and down the road when large problems occur with the units, they can also become a problem.

They wanted to ensure that all condominium corporations are governed by the same minimum bylaw standards set out in section 27 of the act. It doesn't explicitly say that it's going to happen, and it's an issue. People wanted to see that that was addressed.

They wanted to clarify that capital improvements refer to items other than repairs and replacements to items that do not occur annually. So this again, although not expressed in exactly those terms, Mr. Chairman, was an issue that was raised with me time and time again. Of course, this becomes an issue for financing for the condominium association itself in terms of whether or not these items are paid for annually out of the yearly budget, which can mean a hefty sum in the monthly condominium fees, or whether they're capitalized over time and a reserve fund gets set up or you plan to do these capital items in two to five years' time so that you can establish a reserve fund so that condominium owners aren't hit with a huge bill in any given year, and it's happened often.

We've seen cases with the pine shake roofing issue where suddenly the condominium association realizes that the roofs they've got on all of these condominiums are not adequate, need to be replaced immediately. That's a huge bill, Mr. Chairman. Depending on the size of the units, we're talking close to $100,000 sometimes. Well, a bank isn't going to give anybody more money on their mortgage in order to do their roof. We've seen that. So what happens is that if there hasn't been a reserve fund set up by the association, they literally go to each unit owner and ask them to pay their share of that repair, anywhere from $2,500 to $7,000, and they've got to come up with the money right away. There are no exceptions made. So it's up to the individual owner how they access that cash, and often they simply don't have access to those kinds of resources. That's an example of why you would want to clarify the capital improvements and separate them from ordinary kinds of repairs and replacements.

They wanted to see listed that in the case of termination of the condominium status under section 52 any funds left over are to be distributed to the owners proportional to unit factor. Again, this has been an issue in some cases where there have been dollars left over. For whatever reason the condominium status has been changed, and then the moneys are seen in some people's eyes not to be properly distributed. It'd be quite easy to write that into the act and see that this is done. Now, perhaps this can be done by regulation, whatever, but it needs to be addressed. It's certainly an issue for some people in this province.

They also wanted to see that a purchaser should not be held responsible for a late filing of a notice, that the mortgage of the previous owner should be held responsible for any contributions owing from the previous owner. This gets into detail, but, Mr. Chairman, it can be quite important to these owners. I've seen lots of cases where we have young couples who are buying a property for the very first time. They're not told all of the costs to get into the association and legal fees associated with moving into the complex in the first place, so some of those bills come as a surprise. When a month after they've taken possession of their unit they get another legal bill because the previous owner didn't fully discharge all of their responsibilities prior to moving and somehow it wasn't picked up by the lawyers, it's a big surprise and not one that condominium owners are happy with. So that's something that needs to be addressed too.

Many of the people that I talked to said that the owners should also have the same rights as the mortgagee, and I think that's an interesting debate. Certainly you can see their point of view in terms of rights and obligations. We've heard previously from mortgagees saying that they should always have the first discharge and rights on properties in this case, and we see that they're protecting their

dollars. One is protecting their ownership and the investment they've made, and the other one is protecting the ongoing cash flow that they're expecting to receive as a result of being a mortgage holder. So it's an interesting debate and one that needs to be addressed, I think, in this case.

To a person, everybody I talked to felt that the main purpose of having condominium legislation is for consumer protection. I think that what we see in this bill, Mr. Chairman, primarily is protection for the condominium developers and for the potential for developers in the future to develop condominiums. It doesn't necessarily address the specific rights of the condominium owners from a consumer protection perspective. Once again, I will use the example of pine shakes particularly and the mold or rot that is now being found in some of these condominium units. These people, through absolutely no fault of their own, find themselves in situations where they are facing absolutely massive repairs, repairs that cause some of them to lose their complete investment in the property and the equity that they've got, and they often have trouble discharging the mortgages because they can't find a buyer.

If I knew that a condominium unit had mold in it, for sure I wouldn't be buying a unit there. I wouldn't care if I'd already signed on the dotted line. I'd be backing out of that deal as fast as I could. What you see, then, is that the property values of these units plummet far below their original purchase prices and often far below a value where owners can recover. So you're faced with the situation where you personally cannot raise any more cash, yet you're facing a bill of $2,500 or $5,000 or $10,000 in terms of repairs needed for the facility. You can't sell the unit because people know that it's got mold in it. As a conscientious owner you feel obligated to disclose the things that are wrong with the unit. You haven't got a buyer. You can't sell it for any kind of a price at all. What do you do? Walk away from the mortgage?

Well, if you do that, your credit rating is significantly damaged, and you lose any equity that you had in the property. In addition to that, where are you going to live then? You haven't got anything in terms of equity for purchasing a new home, and you may be in a situation where you can't walk away from the mortgage because of whatever other investments or commitments you have. You're not going to want to live in the unit. To live in a unit with that mold in it is significantly a health risk, particularly a concern for anybody with a chronic health condition, for young children, or for seniors, in fact exactly the kind of individual that we often find living in these condominiums. So, Mr. Chairman, I have the greatest sympathy for these people when they say that who should have the highest degree of protection is the consumer and not necessarily the developer.

Thank you. I believe I am nearly out of time, and I'm happy to have had an opportunity to speak to this act.

8:20

THE CHAIRMAN: The hon. Minister of Government Services.

MRS. NELSON: Yes, Mr. Chairman. Just some very brief responses to the Member for Edmonton-Ellerslie. In this bill the concerns that I would say she has raised are addressed, and that's what this bill actually does. Let's be very clear that the bylaws for condominium associations are set by the members of the association, and they vote as to their bylaws. If there are problems with those bylaws, it's up to the owners and members of the condo association to make amendments to those bylaws. That's not a government role, because they in fact are the owners and partners in the condo complex.

Insofar as disclosures, one of the things that is good about this bill is that it does require that there be a capital upgrade or capital maintenance report done and filed with the condo association every five years. That alleviates surprises for people coming in to purchase a condo and not knowing what lays ahead insofar as capital maintenance that would be required. I think that's important. Now, then it's up to the condo association to do the scheduling and determine how in fact they're going to deal with the short-term and the long-term report as to types of capital maintenance that have to take place. That is addressed in this bill. So when someone does come to buy a condo from someone, they can look at those reports – they must be filed and readily available – and can in fact make some planning and determination as to whether this is a venture they want to enter into.

I think that some of those concerns that the hon. Member for Edmonton-Ellerslie raised have really been very much addressed in this bill. What was outstanding and asked for by the condominium owners and the condominium builders was a coming together of some of these outstanding issues, and that's what this amendment act is all about. So I think that it's incumbent upon us to move forward with these amendments and get this bill in place and let the condominium associations determine their own bylaws.

The other thing that's important, Mr. Chairman, is that the reserve fund that is put in place by each condominium association is, again, determined by that association as to the amount that they will require to maintain the condominium complex based on the evaluation by a qualified person as to what type of capital will be necessary. They will make that determination, not the government.

I think there is a lot of good disclosure in this bill, and it's one that not only protects the consumer but protects the existing association and takes away the debate on whether the builder should or shouldn't have done something in the longer term, because it's clearly laid out.

So I think those issues that were raised by Edmonton-Ellerslie are in fact dealt with in this amendment, and I would encourage her, if she still has concerns, to call over to our department and go over some of these issues.

This is one of the first times that builders and buyers have come to consensus and conclusions on some of these issues, and I think we should, again, applaud them for their efforts. As the Member for Calgary-Buffalo alluded to in second reading, it's been 10 years of coming together to get to this point, and it's been done through consensus. I think that they have exhausted pretty much all the arguments on either side, and this is the position that they have asked us to put in place. They are in agreement with this program and with this legislation, and I would hope that the members opposite would support it.

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

MR. DICKSON: Thank you very much, Mr. Chairman. A couple of comments I want to make. One of the things I want to observe is that I represent probably one of the most condo-intense constituencies in the province. I have absolutely no doubt that no sooner will the bill be passed than I'm going to have a number of condo corporations showing up at my constituency office asking questions, offering suggestions in terms of amendments.

DR. WEST: They don't do that with the rest of us.

MR. DICKSON: Mr. Chairman, I'm going to avoid being provoked or baited.

The point I wanted to make is in terms of how I deal with this as a representative for downtown Calgary, not having the benefit of being able to consult with every one of the hundreds and hundreds of condo corporations. I have, I guess, done some extrapolation

from those corporations that have come to me with issues and concerns. I must tell you one of the things that I hear most often. I spoke with a woman this afternoon who lives in a building where there have been a whole series of problems. They are anxious for this legislation. In fact, she said to me: "We are holding off our general meeting. In fact, we're trying to schedule it after the legislation comes into force, because it allows our corporation and our board to do some things we couldn't do before. There's some flexibility in this bill that we need, and as our MLA, Mr. Dickson, we'd like you to do what you can to expedite passage of the bill."

Certainly I've heard from unit holders that are interested in moving forward on this. Now, I've also had the benefit of talking to some developers and some property managers. Really, we have here, if you will, three different communities of interest. You have the unit owners, and we have thousands of those people in downtown Calgary. We've got the developers, and that's an obvious interest that they have. Then we have managers. When we were dealing with this four years ago or so in the House, I'd not realized how well organized the condominium management group is. I learned a lot and I heard a lot from people while we were dealing with that bill some four years ago. So this time around I've made a point of trying to do some broader consultation with managers as well as developers and unit owners.

I think that when I look at the bill, the reason I'm supporting this bill is there are some very positive developments in it. You know, unlike bills 18 and 19, that I had a lot of difficulty with, in this bill I was able to find some really positive provisions. For example, the mandatory reserve study is an important step forward. That's been a major issue in the past when I've talked to people who have gone into buildings. There are a number of older buildings in downtown Calgary that had been condominiumized after they had existed for a while as apartment buildings. Whether it was sloppiness or not a tremendously efficient management outfit, what we had was some of those unit holders being faced with special assessments to cover capital expense. I don't think it was, in anybody's view, the most satisfactory way of dealing with it.

I like the fact that we have some increased disclosure to purchasers, and I think that's an important feature of this bill. It's another reason why I'm inclined to support it. I also like the express incorporation of provision for arbitration and mediation. That's a really important tool and something that's positive to see in this. The new, more flexible process to amend condominium plans is also, I think, a significant step forward.

We've heard a lot of talk that the developers wanted a phase-in provision for new complexes. I know it's important. For example, I had occasion to drive around with a relative recently in the Tuscany area in northwest Calgary, and there are some huge condominium projects. We're talking about projects that have 350 different units and bowling alleys and swimming pools, and as I think we get more and more seniors looking to leave single-family dwellings and move into places where they have more sociability, more amenities, this becomes more and more important. I hold no particular brief for developers, but what I recognize, because I believe in a market system, is that things that can reduce the cost to developers help to ensure that the cost of individual condominium units hopefully continues to be affordable, particularly for our parents or for seniors who are looking for the kind of accommodation that can be offered in larger condominium complexes. So I support the phasing not just because it makes life easier for developers but because I think it helps to streamline the process and it's easier in terms of cash flow for developers. My hope is that that's going to translate into affordable condominium living, particularly for seniors and for those people who are looking for that kind of accommodation.

8:30

Now, one of the things I wanted to make note of is that I've heard from some groups who wanted to see a number of different changes to the Condominium Property Act, and what I've explained to those groups and those constituents is that in a bill like this you just can't go off and bring in amendments to cover anything under the sun. To a large extent we have to deal with the bill that's in front of us, and to go out and address some of the things that people would like to see when they're not addressed in the bill, we can't do. So what I've undertaken to people who have raised that is to spend some time with the Minister of Government Services and the Member for Calgary-Bow, and I'm collecting a cumulative list. As the Minister of Government Services said sagely to me at one point – her phraseology is always more colourful than mine – if I might paraphrase, she made the observation that this is a work in progress, that just as we have seen substantial tinkering with it in the past, we will likely see further adjustment in the future. I believe that to be the case.

I don't know what the total percentage is now, but if you look at the extent to which condominiums have increased in terms of the number of condominium units – in the city of Calgary, for example, we were actually quite slow in terms of moving from getting out of those big single-family dwellings, but now we're doing it in big numbers, and I think that's significant. I think there are going to be some other changes to the legislation. To those people who have raised concerns that cannot properly be incorporated into an amendment in Bill 16, my commitment as the Calgary-Buffalo MLA is to try and find solutions and to attempt to work with the Minister of Government Services and the Member for Calgary-Bow to look for further change down the road.

Now, I had outlined some concerns before. I think at this point, because I may be losing the interest of members, I have an amendment I want to propose, and I advised the Minister of Government Services earlier about this. I forgot to advise the minister of intergovernmental affairs, who looks absolutely shocked that I would have the temerity to bring in an amendment now, but this is an old favourite. This recognizes the fact that I don't . . . [interjections] I think we'll keep members in suspense just a moment longer, Mr. Chairman. This is the one that if you look at Bill 16, what we find is that in section 6 we have a new section 14.1, and what we find there is that we have delegated lawmaking. We have section 9, which deals again with expanded roles for regulations. We've got section 11. [interjections]

I'm being encouraged. I want to specifically thank the Minister of Government Services and the minister of intergovernmental affairs for cheering me on, because a moment ago I thought interest was flagging, but I'm now encouraged and I'm buoyed to carry on right to the end of my 20 minutes and maybe beyond. So thank you, ministers. Thank you very much. My heart soars like a hawk when I see the kind of support we're getting from across the floor, and it may be that on this bill we're seeing some of that cross-Assembly support where people in their respective constituencies can come together and say: we can do a better job for condominium projects in this province.

The point I was going to make is that if you look at section 9 and section 11 and section 6, what do we find there but more regulation? Now, one of the things I find here is that a lot of my constituents, when I point this out to them, say: "So, Dickson, what's the big deal with that? What's the matter with regulations?" And then I explain to them the sorry, the tragic history in this province of how the Standing Committee on Law and Regulations has been allowed to atrophy, atrophy, ladies and gentlemen, to next to nothing. Its only

existence is the fact that in – what is it? – every Thursday *Hansard*, when we look at the back, past the index page, there's a list of the committees, and you know, it's listed there. We have a chairman. We have a very live chairman in the Member for Banff-Cochrane. But beyond that, this is an invisible committee. This is a disappearing committee.

When I pass away and the Speaker of the day stands up in the House, when we have a moment of silence and he reads out the committees that this member served on – I'm going to have to leave a specific note: please, do not read in that I was a charter member from 1992 to the time of my passing of the Standing Committee on Law and Regulations, because I just don't want to be associated with a committee that doesn't do anything, Mr. Chairman. [interjections] Well, there may be some others who want that, but for those of you who are here when I'm long gone and you do that little moment of silence, please, please, would you make sure the Speaker knows not to read out my membership on that committee.

MR. HAVELOCK: That's presupposing that he'll read about you.

MR. DICKSON: Well, that's entirely true. That may be the day the Legislature is adjourned.

Mr. Chairman, the point I want to make is this. We've got some laws and regulations here that have gotten away on us in so many statutes. This isn't the fault of the Member for Calgary-Bow. She's certainly tried, and if she had unfettered discretion, if she didn't have a cabinet that was sort of looking over her shoulder, I'll bet you dollars to doughnuts that Member for Calgary-Bow would be the first one to say: yes, Dickson, I agree; the Standing Committee on Law and Regulations should review those regulations.

Now, because she may not feel free to do that, I want to take this moment right now to move an amendment. This has been seen in the past by . . . [interjection]

The original amendment is coming to you, Mr. Chairman, on top of a pile of 89 copies of the amendment. I'm going to ask that it be distributed. Would we call this amendment A, Mr. Chairman?

THE CHAIRMAN: It's A1.

MR. DICKSON: It's A1. I'm moving this amendment on behalf of and in the name of my colleague from Edmonton-Manning. I'm moving the amendment in the name of the Member for Edmonton-Manning, but here's what the amendment would do. It would add after section 55 a section 55.1. This would add section 73.1 after section 73:

> (1) In this section, "Standing Committee" means the Standing Committee of the Legislative Assembly on Law and Regulations.
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> (2) Where the Lieutenant Governor in Council proposes to make a regulation pursuant to section 73, the Lieutenant Governor in Council shall cause to be forwarded to the Standing Committee a copy of the proposed regulation.
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> (3) On receipt by the Standing Committee of a copy of a proposed regulation pursuant to subsection (2), the Standing Committee shall examine the proposed regulation to ensure that
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> (a) it is consistent with the delegated authority provided in this Act,
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> (b) it is necessarily incidental to the purpose of this Act, and
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> (c) it is reasonable in terms of efficiently achieving the objective of this Act.
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> (4) When the proposed regulation has been examined as required under subsection (3), the Standing Committee shall advise the Lieutenant Governor in Council that the proposed regulation has been so examined and shall indicate any matter referred to in subsection(3)(a),(b) or (c) to which, in the opinion of the Standing Committee, the attention of the Lieutenant Governor in Council should be drawn.

So that's the amendment I'm putting forward.

What I'd hope, Mr. Chairman, is that we recognize on this amendment that there's a new and compelling reason why I put this forward. There may be some members in this Assembly who are tuning me out as I speak, there may be some members who tuned me out 15 minutes ago, but the point is this, Mr. Chairman. There is a really new and fresh reason that the members have not heard before in terms of why we should look carefully at amendment A1. Members may be asking: so what is this new, fresh reason why we should support it?

8:40

Well, it's this. We have a process that started 10 years ago to update our Condominium Property Act, and four years ago the government thought they had it right. We debated that bill, and we passed it. I still clearly remember the bill being passed, and it was sort of paraded out. You know, there was a band in front and fanfare and the rest of it, and we thought this was going to become law.

What we found was that in terms of development of the regulations, the developers and the condominium property managers and the unit holders were not ad idem. They did not agree, and there were fundamental disagreements. The point, Mr. Chairman, becomes this: that consultation has demonstrated more impactively than anything else I can think of that the regulation process has got to be open. I say to the Member for Calgary-Bow and I say to the Minister of Government Services that it is not good enough to have a closed consultation around the regulations, and I make the offer I've made before. I mean, this is all we want to see. If we got this amendment, we'd be able to shut this process down and we'd be able to move on, confident that we had done something positive for the people of the province of Alberta.

So, Mr. Chairman, I want to point out with this amendment that you know what this would do? It would allow those three different constituent groups, those three different communities of interest to know that there is an open process, because the process for development of regulations now is not open. There are people in the Department of Government Services that presumably are sitting up there behind me who are shaking their heads and saying: we've done an open, open consultation. But with respect to these very capable people – and I appreciate the excellent briefing we got on this bill when it was first introduced. There were some very capable people in the department working on it. But do you know something? There is always a problem with not everyone being consulted, and I can guarantee you there will always be some stakeholders that are left out and are not included on the list.

I just think it's so important we make sure, Mr. Chairman, that what we do is have a more open process in terms of how those regulations are developed, and I think this would be a really good model to do it on. It's not good enough that we have this committee that just never meets.

I look at it this way. You know, it's great to have the Member for Calgary-Bow in the Assembly and looking particularly healthy, and I just think: what a great tribute to the Member for Calgary-Bow. It's great to have that member in the Assembly tonight, and what better gift to that Member for Calgary-Bow than gift wrapping this amendment? Let's pass it unanimously. Let's present it. I want to be able to go around and collect autographs on the side of the amendment. I want to be able to do that. We'll tie it up in a bow. I want to hand deliver it to that Member for Calgary-Bow. This could be her finest hour in this Assembly since 1989, and who,

ladies and gentlemen, would deprive the Member for Calgary-Bow of that distinction tonight?

So let's work together. We have an amendment. This is not going to hurt anybody. You know, this is not painful at all. We can just as one collective mass support our colleague from Calgary-Bow, celebrate her involvement back in the Chamber this Monday evening, and then move on to the other important business of the Assembly.

Thank you very much, Mr. Chairman.

Chairman's Ruling
Clarification

THE CHAIRMAN: Before we recognize the next speaker, just a clarification. Under the line where it says, "55.1 The following is added after section 73," please note that below that it should read 73.1. It goes then, "(1) In this section 'Standing Committee' means." So if you'd put that in there for greater clarification.

The hon. Member for Edmonton-Riverview.

Debate Continued

MRS. SLOAN: Thank you, Mr. Chairman. Well, I've heard many things in this Assembly, but I've never heard the proposal of a bill to prescribe to clean your arteries. I suppose anything could happen. I would like to also lend my welcome to the hon. Member for Calgary-Bow. I have to disagree with the hon. Member for Calgary-Buffalo. I really don't think Bill 16 has quite got it in it to give that particular member her strength back. Perhaps some time out of the Assembly with family, friends, some good food and sleep, all those things, might be just what the doctor ordered, but most certainly it is good to have her back in the Assembly.

The amendment before us this evening on Bill 16, the Condominium Property Amendment Act, in essence directs that after section 55 we would insert a new section that would direct this bill to the Standing Committee on Law and Regulations. We've seen in recent days a similar amendment proposed actually, I believe, twice. We've seen it proposed on Bill 18, and we've seen also a similar amendment proposed for discussion in this Assembly on Bill 11. It has been certainly a bit of a puzzle to me that the Standing Committee on Law and Regulations of the Legislative Assembly never meets.

What I've concluded is that instead of having this legislative committee meeting, what has happened over time is the government practice to substitute committees comprised solely of government members to review standing policy, to serve in a preliminary way for the review of legislation, to provide feedback and input into budget debates, but specifically when we talk about laws and regulations in this province, there is a parliamentary tradition that suggests that a party comprised of all members should in fact be reviewing laws, particularly those that might be seen to be contentious or where in fact the government is unable to achieve some form of consensus. Yet we see this committee not meeting. Certainly the Condominium Property Amendment Act, quite a young piece of legislation, in essence accompanied by a 10-year consultation period, would be a primary candidate for going before that committee.

It would also, I think, for those people who exist in the category that aren't completely satisfied with the bill, who don't feel that the bill has completely addressed the concerns they've raised or if particular sections they recommended have been excluded – it gives those individuals, those organizations or groups the sense that they have gone the full mile, Mr. Chairman, in undertaking all the possible mechanisms and meeting with all the authoritative groups possible. The sad fact, though, is that while this committee has its authority in statute, while it has its authority in long parliamentary traditions, in this particular province we have a government that chooses not to activate it, number one, and not to fund it, number two. In fact, this year in the Members' Services Committee we had proposed draft budgets that completely eliminated any mention of this committee from the budget statements. Of course, then when that was raised, it was inputted but with a zero budget balance.

I think the amendment before us most certainly achieves a compromise, if you will, for government. It also respects a tool that is there and that government should use when appropriate.

8:50

Now, in just recent debate I had mentioned that there were a number of outstanding concerns, and I believe the hon. minister for government affairs did respond to that. There are several individuals who have raised concerns with respect to the bill, and there has been a series of correspondence exchanged but no real resolution. Perhaps the government might find it, even as a trial, Mr. Chairman, expeditious to send this particular bill in its current state to the Law and Regulations Committee and have them meet with these individuals and see if a resolution can be achieved.

One of the other trends I've noticed during my short term in this Assembly is the fact that we quite often pass bills in a very fast fashion, and then before you know it – it won't even be a year past – there will be additional amendments brought forward either through amendment acts or through miscellaneous statutes. We find ourselves now looking at a series of amendments to the Health Professions Act, just passed last fall. We see amendments being brought forward in a number of other different areas. Given the growth in the condominium industry, the fact that is looked upon as perhaps something all of us will consider as an option for our homes as we approach retirement, I wonder if we will find ourselves in the same position, Mr. Chairman, where we will have amended the bill only to find it needing substantive amendment at some point just a short time down the road.

There hasn't been with this bill nor is it common practice for government to share in detail the impetus for why such legislation or such amendments are necessary. While to a degree the hon. minister did provide some of that clarification in her remarks, the question has to be asked: if the industry has worked without it for 10 years while we were consulting, how urgent is it that it be passed now? I certainly haven't noticed that there's any shortage of construction or any shortage of demand for condominiums, so obviously the industry is not being restrained in that respect.

One of the primary concerns we've heard repeatedly in the debate on this bill is that the bill seems to favour developers more than owners of condominiums, or perhaps the collective is favoured more than the individual. So, again, why not utilize a legislative tool that exists and refer this to the Standing Committee on Law and Regulations? It just makes sense, Mr. Chairman.

I'm not going to recite in detail the concerns that were raised by many speakers around consumer protection, surrounding consultation, surrounding enforcement, concern around how the additional regulations will be drafted and what consultation will occur surrounding that.

Chairman's Ruling
Decorum

THE CHAIRMAN: There seems to be a lot of lively discussions that are not too loud, but they're just collectively loud enough to nearly drown out the hon. member. Thank goodness for the modern technology of microphones that can isolate the speakers. I wonder

if we could bring the conversation level to one or two or maybe five notches lower.

The hon. Member for Edmonton-Riverview.

Debate Continued

MRS. SLOAN: Thank you, Mr. Chairman. Well, I'm not sure if it's my emergency training or the fact that I'm a mother of two children, but I can maintain my focus despite what ruckus might be going on. I know that the hon. members were completely, absolutely and completely intent on my comments on the amendment before us this evening, so I certainly don't take any offence. I know that we've been in here now almost four months, and the tendency is very strong to just need to get on with chatting and other business, et cetera.

In any event, the amendment before us is important. It's an important suggestion to heed and to hear the concerns expressed by condominium property owners and condominium associations. With that, Mr. Chairman, I feel that I've sufficiently provided my rationale for supporting the amendment, and I will take my seat.

Thank you.

THE CHAIRMAN: The hon. Member for Calgary-Bow on amendment A1.

MRS. LAING: Thank you, Mr. Chairman. I'd like to thank the members for their kind comments. [applause] Well, thank you very much, colleagues. I appreciate that.

As it's been said, there is a very strong consensus between the stakeholders of the condominium industry and the owners and the managers, and there is some impatience to get this legislation passed. It has been over 10 years that consultations have been going on. We did the first bill on this in 1996, and at that time there was great concern about getting the consumer protection passed, because that's why there's this growing list of problems that people are meeting. That is still waiting to go, so people are getting impatient. They want to have this bill passed.

They will be independent and they will be able to make their own bylaws, and they will be able to arrange through mediation and other methods to solve their issues, so there is no need to refer it to a third body, which would again be another layer telling them what to do in their own homes. So I don't see that there's a further need for delaying it any more than now. Four years seems to be the amount of time it takes for me to get some of the housing legislation through. If you look at the Mobile Home Sites Tenancies Act, it took four years for it, so I think it's time. It's four years. I'm ready. That would be my gift, hon. member. So I would appreciate it if the House would defeat the amendment.

Thank you.

[Motion on amendment A1 lost]

[The clauses of Bill 16 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

9:00 **Bill 13**
Energy Statutes Amendment Act, 2000

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

MR. HLADY: Thank you, Mr. Chairman. It gives me great pleasure to stand this evening and introduce some amendments to Bill 13. I believe the government amendment is being circulated as I speak, and I would like to move the amendment as a package and have it voted on under a single vote.

Speaking to the amendments, Mr. Chairman, under part A, section 1(11), what it says is:

> Except as to outstanding debts to the Board or to the account of the orphan fund in respect of suspension or abandonment costs.

That comes in under section 17(3). Really, what this amendment is allowing for is for the orphan fund to collect moneys that would be outstanding, due by the company that was working the well before it was shut in. At the same time, this will allow future companies to continue on and not be burdened by outstanding debts that were created by past companies.

The second section, Mr. Chairman, really is based around the creation of a DAO that would allow the orphan fund to be managed outside and be arm's length from government. Just to give you a couple of points on that, it would be governed and controlled by the industry with nominal government representation. The EUB continues to collect and enforce funding for the orphan fund from the industry and grants the same to the arm's-length entity on an annual basis. The arm's-length entity assumes authority over orphan fund expenditures and operations. Also, the arm's-length entity would be fully accountable and transparent to industry, the EUB, and the government.

Based on those comments, Mr. Chairman, I'll sit down and wait for some comments from the other side.

THE CHAIRMAN: The chair would just ask if it's agreed that we'll handle this as one amendment, as A1.

HON. MEMBERS: Agreed.

THE CHAIRMAN: Agreed? Okay.

The hon. Member for Edmonton-Calder.

MR. WHITE: Thank you, Mr. Chairman. This particular piece of legislation was agreed upon quite some time ago between the member that introduced the bill and the opposition in that we recognized the initiative some 11 years ago by the industry to solve this problem of orphan or abandoned wells, wells that have no means of financial support in order to reclaim the site and put it back into an original condition and/or to refurbish the site to be a producer again. But we were stopped a little short Tuesday last when we found that there were some amendments that were being brought forward. They were not benign by any stretch of the imagination. In fact, two of them are, and they're quite reasonable.

The first, in section 17(3), was a reasonable amendment where a second party or a third party, for that matter, any subsequent parties to the original party that abandoned the site would not be then burdened with any of the previously accumulated debts. That individual corporation would take over that well as is in order to continue on with either production or reclamation of some description.

The second is an addition to section 60(b), which really is an extension of the recovery. Should any funds be recovered by one of

those second or third parties that I was speaking of through either a prosecution or a negotiation or litigation with some earlier owners of the site, if any of that is recovered, then it should be promptly forwarded to the board to add back to the fund, of course, which is all reasonable. That's adjudicated and determined by the board, which is also reasonable.

The third amendment gives the opposition cause to concern itself with the matter. We had a great deal of concern at the outset with the creation of a delegated authority, because, as the House would know, a delegated authority sets the accounting completely away from the Legislature. We thought that perhaps there would be room there to move, to have the matter at least audited and filed in the Legislature under the Auditor General's auspices, and therefore some public scrutiny would be brought to bear on the accounts. Our reason for doing this is twofold. First, we're dead set against delegated authorities. They have a spotted history at best. Notably, some have been abject failures. Some of them have been performing reasonably well. This particular one gives us less concern, of course, because of the participants and the desire, but we'll get to that in a moment.

The concern that the caucus had with the delegated authority is that, setting aside these matters, in other jurisdictions this could not and would not occur. Other jurisdictions take on the reclamation of public or private lands in oil exploration, surface and subsurface, as a government responsibility, and all work would be performed under the auspices of a government either directly or through contract with the private sector. It would be enforced in law to find and prosecute those people that abandoned that well, even to the extent of personally, I'm told, in some states in the United States. However, that is not the case here.

This has been worked on by the industry and the good faith in the industry for so very long. The industry was most convincing to this member in a discussion we had Friday last such that they sought our concurrence to get on with the matter. As I understand the recent history of the fund, it was attached by Treasury in the belief that the AEUB, which was holding the fund as a reserve fund, a fund that was built up to a substantial number – I believe that in the order of $3 million was set aside as a buffer or an insurance fund, if you will, that was big enough to handle any manner of work that was taken on in that particular year of budgeting. What happened is that under the Financial Administration Act the Treasury decided that that reserve fund was not in fact a reserve fund but a surplus and therefore attached it and reduced the budget accordingly, such that I gather that in the year 1999 there were simply not enough funds available to do the work that was allotted. This, of course, angered and upset the private-sector participants, both CAPP and SEPAC. They came back with a number of solutions, none of which seemed to work out.

On Tuesday last we were instructed that some changes had to occur. Well, it's a little upsetting at the eleventh hour to find that everything we'd spoken of before on the fund was set aside. Further, I find that the Thursday prior to that is when the participants, SEPAC and CAPP, found that the solution that was in the act was not going to be able to perform as they expected. I gathered from some discussions with some members that part of the problem is one element of government having difficulty with the other element. It's the old right hand beating up the left hand, if you will, and this particular piece of legislation got caught in the middle.

Now, in the normal case we would be dead set and dig our heels in really quite deeply with a delegated authority, because we've had the experience of DAOs before and are not overly pleased with them, particularly in dealing with a reclamation matter. However, the participants in this particular DAO have absolutely nothing to gain from bending the rules or from setting the rules lighter than they might be, if you will, so as to let them off. The fact is that this DAO does not have anyone's interest other than the public good, and that was the intent at the outset of the establishing of this fund. I have been able to convince my members in caucus to be able to swallow a little and understand that this particular DAO is a reasonable compromise, even though the concept of DAOs is something foreign and alien to the wishes of our caucus.

9:10

Mr. Chairman, with that, I have nothing further to add to the amendments, save and except that we shall be supporting them as one would support a mail-order bride. We don't know what is coming. We would dearly like to have some check and balance with the Auditor General being able to review the annual report and then report those through the normal course and review of public accounts. Should that not occur, we still will support these amendments as presented to Bill 13.

Thank you, sir.

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

MR. DICKSON: Yeah. I had a couple of comments I wanted to make with respect to the amendments. I think a number of industry representatives in Calgary have taken time to offer me some good information on the bill and the purpose of the bill. I've learned more about the orphan fund than I ever thought possible in the last two months. I'm indebted to the industry representatives that have been kind enough to give me some good information about the bill, about the reasons for the bill. I listened to the explanation when the bill was introduced, and I've got some good advice from the Member for Edmonton-Calder, who spoke just moments ago, with respect to the reason for the bill and why it's a bill worthy of support. Now, I certainly indicated that I was prepared to support it at second reading and in fact did support it.

I must say that I experienced some frustration and some concern when I saw the amendments, particularly the one dealing with regulations. You know, I think that one of the most important things for an elected person is to be consistent. I don't think you can sort of take one position when the subject matter is X and then toss that out and then take an entirely different position because the subject matter is Y.

Just a few scant moments ago I was talking about the importance of managing regulations and the way they're made and so on. Now, there's a very large provision. I think the first two parts of the amendment package are not very controversial, but I am certainly troubled by the third element of the amendment package because what it does is it gives, again, the Lieutenant Governor in Council broad, broad regulation-making power.

Mr. Chairman, I agonized over this. I had to weigh my concerns over the way subordinate legislation is made in this province and the fact that on so many bills I've raised basically the same concern and also to recognize that we're dealing with something a little different here. In fact, from the input I received from industry, I guess what makes this quite different is that we're really not dealing with public moneys as such. These aren't tax dollars involved. This is basically an industry-funded fund. In effect, we have been able to see since I think it would have been 1994 – I'm just trying to think. In '96, when we saw the expanded scope of the orphan fund – and I remember debating that at the time – I think I learned then the fact that this is an area where the oil and gas sector in fact has shown some really responsible leadership.

Recognizing what makes this different than some of the other bills where I've opposed because of the way they dealt with regulation –

in this case recognizing that the funding is basically industry-generated funding, that we have a demonstrated record, if you will, in terms of effectiveness in managing orphan wells and then since '96 the expanded scope to include abandonment of pipelines and things like that, I think we've got a meritorious record. I think the other thing is that really it's in the industries self-interest, if you will, to ensure that this thing works and it continues to work, that the orphan fund is monitored and managed carefully through its regulatory agencies.

So, on balance, after agonizing over the amendment – and just so people are clear, it's amendment B(b), which has to do with what the Lieutenant Governor may do by way of regulations. I've decided to support the bill, because I think the other circumstances outweigh it.

I do want to say that it seems to me that it's just too darn easy for government to keep on meting out greater and greater authority by way of regulation, and I keep on thinking to myself that there will come a time when Albertans stand up and say: it is no longer acceptable to make so many major decisions in secret without the benefit of any kind of formal record, to pass regulations in a way where the public has no notice or no opportunity to review them. You know, it just is unacceptable. The government may have lucked out on this one, because the set of amendments relate to an industry-financed, industry-managed fund that works well for the interests of Alberta, but I still have to say how disappointed I am that there isn't better all-party scrutiny of these regulations.

One of the things that I'd refer members to is in the *Canadian Parliamentary Review*, autumn of 1997. My colleague for Edmonton-Norwood excerpted a presentation she had made to, I think, a Canadian parliamentary conference in Regina, Saskatchewan, and it was titled The Delegated Administrative Organization in Alberta. As I read this analysis, once again I get indignant. Maybe I have a low indignant threshold, but I read this, and once again I think of what a poor job we do in this province in terms of subordinate lawmaking.

It goes back to the two companion bills that we looked at in the fall of 1994, when government wanted wholesale authority to create delegated administrative organizations, DAOs, and they wanted a blanket statute. It wasn't even done by sector. We were going to pass this one thing that allowed government to take any particular area of government endeavour and to turn it into a DAO. It's a problem, and I say to the members of the Assembly this evening that I hope people go through and read the problems with that, because what it does is take responsibility for subordinate lawmaking out of this Assembly and squirrels it away someplace where it becomes even less accessible.

I mean, we saw in so many ways with Bill 11 that the process of this Assembly is not seen as being accessible nor responsible to the interests of many Albertans. Yet to take it a further step away, out of this building all together and into a boardroom in a department, there are problems with that, Mr. Chairman.

9:20

Anyway, I didn't intend to go on so long, but I just wanted to advise that I have some real concerns with this. My support on Bill 13 is without prejudice. It's without prejudice to my right to come back on the next bill where I see this kind of regulation-making authority and object, and oppose it and try to amend it and do whatever I can to change it.

I know that there may be some other members that may share some of my concerns with the proposed section 66, but I've explained the reasons why on balance I will be supporting it. I sure encourage the government to do better. I know the hon. Member for Calgary-Mountain View will be taking that message back that government has to do better in these areas. I look forward to seeing enlightenment come to the furrowed brows of everybody in the cabinet of the province of Alberta.

Thank you very much.

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

MRS. SLOAN: Thank you, Mr. Chairman. I am pleased to rise this evening to debate Bill 13, the Energy Statutes Amendment Act, 2000. You know, as a junior legislator I always find the amendment acts and the amendment . . . Mr. Chairman, thank you. I'm definitely speaking to the amendment before us this evening.

When I find myself amending an act, I always find it useful to go to the original act to see in fact what is the breadth and theme of this piece of legislation. What powers does this statute hold in the energy sector?

I was particularly prompted to do that when I saw within the amendments this evening that it would be proposed that the Lieutenant Governor in Council would make regulations "respecting the establishment or designation of delegated authorities" and accompanying that under section 66(1)(b) "delegating to one or more delegated authorities any of the Board's powers, duties or functions under this Act or the regulations."

Now, I went back to the original act, the Oil and Gas Conservation Act. It might be useful for the purposes of our debate this evening, Mr. Chairman, to just summarize the purposes of the original act and in fact what is being delegated to unelected authorities in a variety of capacities. The original purpose of the act is "to effect the conservation of, and to prevent the waste of, the oil and gas resources of Alberta." I am summarizing, Mr. Chairman.

> (b) to secure the observance of safe and efficient practices in locating, spacing, drilling . . . and abandonment of wells and in operations for the production of oil and gas;
> (c) to provide for the economic, orderly and efficient development in the public interest of the oil and gas resources . . .
> (d) to afford each owner the opportunity of obtaining his share of the production of oil and gas from any pool;
> (e) to provide for the recording and the timely and useful dissemination of information regarding the oil and gas resources of Alberta;
> (f) to control pollution above, at or below the surface in the drilling of wells and in operations for the production of oil and gas.

Now, when I read the original amendments and the attached briefer prepared so competently by our opposition research staff, Mr. Chairman, it really changed my sense of what this was about. This is really something where the industry has demonstrated its ability to monitor, to intervene, to enforce, to regulate to a degree.

I'm sure there are Albertans who are in this field that would disagree with me, but for the purposes of debate this evening the industry has done not a bad job. The bill proposes to expand the purpose of the orphan fund to cover abandonment and reclamation of production facilities and licensing of new and existing facilities as well as extending it to other oil and gas facilities such as pipelines, gas plants, batteries, and compressor stations.

So basically from that perspective, I drew that it was going to be on the production side of things, but when you look at the original purpose of the act, it talks very, very much about provincial resources, the public interest, and the need for owners, be they perhaps individual or collective, to obtain a share of the production, to receive timely and useful information on the resources in the province.

That puts this in a bit of a different light, Mr. Chairman, because now what the amendments suggest is that the development of

regulations or the fulfillment of any of the powers of the board could be extended three steps away from government, not a minister, not the cabinet, not an MLA committee, not a parliamentary committee but an unelected authority that is delegated by government to fulfill the essence of this legislation. What I'm struggling with is: how is the public interest achieved through that?

The hon. Member for Calgary-Buffalo spoke about some of the pitfalls of delegated authorities, and he mentioned the hon. Member for Edmonton-Norwood's paper. I'd just like to cite a section from that paper, because it's certainly the best summation of the risks of delegated authorities that I have come across in my tenure so far. The hon. Member for Edmonton-Norwood in her paper presented to the parliamentary conference identified the pitfalls as follows. She said:

> As the Auditor General of Alberta said: "Accountability is an obligation to answer for the execution of one's responsibilities." By their very nature, delegated authorities are not directly accountable to the electorate. Yet, as the Auditor General has pointed out "Accountability is necessary when responsibility is assigned or delegated . . . an effective accountability framework is required when central control is reduced or eliminated."

She further went on to identify some of the drawbacks:

> • A Minister can enter into a contract or . . . agreement to delegate a . . . responsibility to a private sector corporation through a simple order-in-council.

It doesn't require an engagement of the Legislative Assembly or debate.

"There is no specification of the programs or services that could be delegated to [the] private sector," and this amendment this evening doesn't contain any specifics as to what exact regulations. It just says that a delegated authority could be empowered to make regulations or to fulfill any of the board's powers, duties, or functions.

Further identified as a pitfall: "There is no appeal mechanism" in existence. Here in the context of this proposed change, Mr. Chairman, we are talking about an industry that generates huge revenue. It also generates waste, which the province must contend with. It requires monitoring. All of these things may cause someone or a group of people to find themselves in a position that they need to appeal a decision and there is not, in fact, an appeal mechanism.

9:30

Further, it's pointed out that "the government is not liable for any action taken by a [delegated authority] that causes injury or loss." You get the sense or the spirit of where I'm going with this component of my debate, Mr. Chairman, that I have huge concerns about the further delegation of statutory responsibilities to entities that have no accountability, no mechanisms for engagement of the public, and really no mechanism that requires them on an annual basis to report to the public.

Now, to cite just from the 1999 Auditor General's report, he raised in the report in the cross-government section the fact that there were a number of problems and inconsistencies with delegated authorities. It causes me to wonder: when the government has had it pointed out to them that there's need for improvement in the functioning of delegated authorities in their reporting, in their financial statements, in the thoroughness with which they report on an annual basis, why would we be proposing a further expansion of the use of delegated authorities in the energy sector? It's certainly not a secret that energy provides a very large component of the province's revenues. Is there any risk through the delegation of authority to such entities that that revenue might be compromised at some date in the future? Would we want to compromise the province's overall financial status through some action to that effect? I think not.

The reality is that the Auditor General says:

> In reviewing the annual reports of several of these entities I found considerable variation in quality. Also, I found the extent to which guidance had been [offered] by Ministries, on the content of the annual reports, varied considerably. Examples of deficiencies include the lack of comparison of budget to actual for financial information and the lack of non-financial performance information in the annual reports of accountable organizations. In short, published annual reports for some organizations are not as useful as they could be.

Or, I would say, as they should be. So I have huge concerns about the amendments proposed this evening to further remove accountability for a whole range of activities under this statute to a delegated authority.

The final area I wanted to focus on was just in fact around the authorities of the board in the original statute. Part 3, section 7, talks about the general powers of the board under the Oil and Gas Conservation Act.

> The Board, with the approval of the Lieutenant Governor in Council, may make any just and reasonable orders and directions the Board considers necessary to effect the purposes of this Act and that are not otherwise specifically authorized by this Act.

When I read under the amendment 66(1)(b) that it would be possible to delegate

> to one or more delegated authorities any of the Board's powers, duties or functions under this Act or the regulations in respect of suspension, abandonment and reclamation of orphan wells, facilities, facility sites and well sites,

we're talking about way more than orphan wells here. We're talking about the fundamental powers and authorities within the Oil and Gas Conservation Act. Am I wrong? In essence, based on how this is written, how the regulation is written, it talks about the delegation of "the Board's powers, duties or functions under this Act," that it may be delegated to a delegated authority. That to me, Mr. Chairman, represents an engagement of the whole act, because in the original act it says that the board "may make any just and reasonable orders and directions [it] considers necessary to effect the purposes of this Act." So it's not just about orphan wells. It does, in fact, take us into a much broader area, and that I don't find supportable.

Further, the amendments talk about:

> (d) authorizing the Board or a delegated authority to disclose
>
> (i) information acquired in the course of or as a result of the operations of the delegated authority,
>
> (ii) information respecting the operations of the delegated authority, and
>
> (iii) information respecting the officers or employees of the delegated authority.

Again, Mr. Chairman, I think what the public would say to this is: if we have a law that specifies that there would be a legally comprised board and that board would be the governing body that enacts and monitors and controls and evaluates the legislation, why would we want to remove that to delegate that function to an entity that is not known, not comprised, not described before us this evening? I don't think any reasonable Albertan would say that that's good government.

I think Albertans want to see what the hon. member is proposing. They want to see what the composition of that delegated authority is. What are the interests represented on it? How is it more effective either in efficiencies or cost-effective than the statutory board that exists within this original act? Those are the questions that I would put forward this evening as the public's representative.

I'll reserve my position at this stage. It seems to me that there's a bit of a trend happening with respect to delegated authorities. The Auditor General has clearly cautioned the government about their ability to provide accountable, informative reporting that meets their

statutory obligations. So why would we want to risk the energy sector's viability, their profitability, and our own by undertaking this type of delegation, Mr. Chairman?

With those remarks, I will take my seat. Thank you.

THE CHAIRMAN: The hon. Member for Calgary-Mountain View.

MR. HLADY: Well, thank you, Mr. Chairman. I'll just speak briefly to some of the comments that I heard across the way. I appreciate and I'm glad to hear that they are going to support these amendments. I'd just like to concisely say: this is the industry's money; this is not government money. That's why this is being presented as such. The industry felt it was very important that they be able to manage the money. By having it set up and structured this way, they will be able to get many more wells done, and none of the money will be rolling inside the general revenue fund, keeping the money outside, at arm's length from the government. That was very important for the industry.

The industry's been very proactive on this whole process and had set it up before and in good faith had run this. This is the legislation to follow and make it all happen and put it in good working order. I have a great deal of confidence in the industry to make this happen effectively and efficiently, and by having this process set up, they will hopefully be able to do it in an even more timely manner than they have scheduled at this time.

Based on those comments, Mr. Chairman, I'll call the question.

[Motion on amendment A1 carried]

[The remaining clauses of Bill 13 as amended agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Carried.

9:40 **Bill 23**
Apprenticeship and Industry Training Amendment Act, 2000

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

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Mr. Chairman, it's nice to greet you again. The problem with Bill 23 is that I had participated in the second reading debate on May 2, 2000, and in good faith had identified a number of issues. One of those issues yet again related to regulations, about subordinate law-making. What frustrates me is that that was on May 2, and here we are on May 15 and there's been no response on behalf of the government to the concerns that were raised.

As we go through the bill, section 3(c), and look at the provisions there that the Regulations Act "does not apply," I asked some questions. What part of the Regulations Act was it intended should not apply and why? You know, Mr. Chairman, you go through the list. Was it section 2 of the Regulations Act that requires filing the regulations with the registrar? Is it section 3? Section 3 requires gazetting. Is it section 5? Section 5 requires that the registrar of regulations file a monthly report.

Now, I'd almost forgotten, until I reviewed my notes, that it was the minister of intergovernmental affairs who had been the minister who spoke to this bill at second reading. Now, she did a fine job that night, and I have to say to her in the absence of anybody else: I haven't got answers to any of the questions I asked. It may be that the minister assumes that I just ask these things without ever expecting a response, but every time I ask one of these questions, raise one of these concerns, I do it genuinely hoping – not always expecting but hoping – that I'm going to get a response. Whether I'm happy with the response is irrelevant, but I want the government or a representative of the government to at least try and meet the issue, the question, the need for clarification.

So here we are 13 days later, and you know I'm sort of like a little kid at Christmas. I rush out every morning to check the fax machine: oh, no faxes. I scroll through my e-mails: "Oh, is there going to be a message from the minister of intergovernmental affairs? Calgary-Buffalo: answers to apprenticeship and industry training." It's not on my e-mail list, and it's not on the fax machine. I check my phone messages: "Is there a message from the minister's office, from an executive assistant, saying: this is the answer to those questions you asked the other day." There are messages on my machine, but none from anybody who is going to impart some wisdom about Bill 23.

So what's a fellow to do, Mr. Chairman? What's a fellow to do? You ask the questions; they're in *Hansard*. Well, I could ask more questions. I could repeat the questions and I could go through, but to save everybody some time, if you look at *Hansard* from May 2, 2000, paged 1264 right through to 1266, I go through and list a whole series of questions. Where are the answers to those questions? Absent responses, how can I in good conscience support a bill which on the face of it appears to have some very positive things, but why would it be that the building trades or any of the other trades in this province would not want that material subjected to some greater scrutiny, some more notoriety, some greater publicity? I can't think of any reasons.

I've not talked to anybody in the affected industries and trades that has a problem with making the Regulations Act apply or submitting regulations to all-party scrutiny. The people in the industry don't have a problem with it. The only people that have a problem with dealing with regulations in an aboveboard and transparent way are the members of this government opposite. It's the people sitting in the front row. It's not an industry-driven concern. Let's be absolutely clear about that. It's sort of shadow-boxing. Then you say to yourself: well, in terms of why regulations that affect in vital and important ways the trades and apprenticeship program in this province, why would the government be opposed to making the Regulations Act apply or to deal with some of those things?

I just thought of one thing while I was going through the litany of no e-mail message answers to me, no phone messages, no correspondence. It may be that my colleague for Edmonton-Gold Bar has heard some of those responses. Maybe he's heard some answers to those questions I've asked, so maybe he'll be able to share that with us.

I just say to the minister: go through those questions and tell me why it would be that we would not allow the tradespeople of this province a public record when regulations are being put forward, when they're being considered. It would be of enormous benefit to the tradespeople. I expect, for example, that the government is going out to the people in the constituency in the course of the by-election in – what's that constituency?

MR. SAPERS: Highlands.

MR. DICKSON: How could I forget? Well, the seat has been absent for such a long time that I just haven't heard reference to the seat during that time.

The Premier and his candidate are presumably going to go and talk about the great work being done by the government in this Legislative Assembly, and I suspect there are lots of tradespeople in that constituency that have an interest in what happens with the apprenticeship and industry training program. I think if the government goes out there, they may well be met with questions, people asking: why is it that you want to make changes to the apprenticeship program and do it in secret; why do you pull that big veil of secrecy over all of these programs and all these regulations? I think most people would say: we'd sooner have this information more available, more transparent.

Mr. Chairman, I don't know why government would go on and on about the review of regulations by December 2000 by industry advisory committees and key stakeholders and the public, but what you've got is a poor second in terms of regulation management and so on.

So those are some of the concerns I've got. I just can't tell you how very, very disappointed I am at the fact that the government won't respond to these questions. I just for the life of me can't figure out why government continues to give people like me a chance to talk again and again about unanswered questions. I would have thought that government would have been trying harder, particularly in the run-up to an election. We've got a by-election coming up.

9:50

You know, I remember that in 1993 the current Premier had to go out and promise a much stronger FOIP Act. He was responding to the will of Albertans at that time. They wanted more transparency in government, and it was a big issue. The Minister of Learning will remember that the government brought in Bill 60, which was a weak, weak access to information law. It was modeled on Manitoba. It would have had our ombudsman offering recommendations on FOIP complaints, with no power to make binding orders.

There's a graduate student now doing his PhD thesis on the subject of the development of the FOIP Act, and I met with this fellow the other week. One of his questions was: how did we go from Bill 60 in the spring of 1993 to Bill 18 in 1994? Do you know what the answer was? The public insisted on stronger access provision.

I suspect that in the next provincial general election, whether that comes in the fall of 2000 or the spring of 2001 or the fall of 2001, this is going to be an issue again. This is my gift to the government of the day, Mr. Chairman: they can anticipate that Albertans once again are going to start registering much higher on the demand for access. I think what you're going to find is that Albertans yet again are going to demand a greater degree of transparency and openness. Wouldn't it be a wonderful thing? I put this as positively as I can. Would it not be a wonderful thing for the Minister of Learning to be able to go around speaking in his constituency and go to meetings in Brooks and Bassano and those key communities in his constituency? You know: "This is a government that believes in accessibility, believes in accountability. This is why when we changed the rules around the apprenticeship program, we decided to make it open, we decided to make it subject to all-party review, and we decided to make it subject to the Regulations Act, so those regulations had to be gazetted." Pretty powerful stuff. This could account for another 1,000 votes. I mean, the number of people who are interested as well . . . [interjection] You know, he thinks I'm kidding, Mr. Chairman. He thinks I'm kidding.

There are some smart people in that constituency with a particular interest in secrecy in government. I know that, and I've had a chance to talk to some of them. So here's a gift I make to the Minister of Learning and to his colleague the minister of intergovernmental affairs, a gift that I hope they're going to accept graciously. The way you accept a gift is that you don't spurn it; you don't throw it out. After the guest gives you a gift, you don't open the door and throw it at them as they're going down the sidewalk to their car. You accept it. You unwrap it. You open it up. You put it out on the coffee table and invite the family in to look at the gift that you've just been given. Well, I'd hoped that it would be in the same spirit of gracious reception that the government would take these suggestions and do something with them.

Thank you very much, Mr. Chairman.

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

MR. MacDONALD: Thank you very much, Mr. Chairman. I've been listening to the wise remarks from the hon. Member for Calgary-Buffalo, and I'm anxious to participate in the debate on Bill 23 at committee. Not many individuals across the province may be aware at the moment of the significance of this bill, but for well in excess of 100,000 individuals across this province, Mr. Chairman, this bill is going to have a direct impact on their ability to earn a living. I'm very pleased to see that the debate has entered the committee stage, because there are a number of questions that I have, and hopefully they will be answered in time by the hon. minister.

The Regulations Act and its application in this series of amendments was ably described by the hon. Member for Calgary-Buffalo. I realize that certainly in section 9 of the current act the Regulations Act does not apply to the by-laws of a local apprenticeship committee, Mr. Chairman. In this amendment particularly the amended act has the Regulations Act not applying in a number of sectors but particularly sections 23 and 24 and 13.1. I believe this is going to allow suspicions, shall I say, to occur as this piece of legislation governs the workplace. People are not going to know, they're not going to be able to have a grasp of exactly how the apprenticeship programs are going to be administered because, simply, the minister is going to be exempt from the Regulations Act. I'm not going to spend too much time on this at the moment, because there are other issues that I want to deal with here.

For instance, in the general responsibilities of the minister, "The Regulations Act does not apply in respect of any documentation prepared by or on behalf of the Minister relating to the carrying out of any functions under this section." I would much prefer, as the hon. member said earlier, that this information be gazetted so that all interested parties, whether they be in industry, whether they be in craft unions, whether they be members of the general public, whether they be a manufacturer, for instance, a competing manufacturer or competing business interest, have access to this. Whenever we have so many exemptions, so to speak, of the Regulations Act, that causes alarm in this camp.

Now, Mr. Chairman, the whole idea of compulsory certification trades in this province is a good idea. We have the optional certification trades. We've come a long way with this process, and many government members over the years who have devised this program and have enhanced it are to be commended, but I cannot see the value of any more exemptions to compulsory certification trades. In the current act section 21 surely should be enough. We've gone along quite well. We've progressed in this province with those exemptions as they already exist, so why open the door even wider with the addition of section 22.1(1)? This is going to provide a wider scope of approval in the case of a compulsory certification trade.

[Mr. Shariff in the chair]

We only have to look at what occurred in Swan Hills with the deficiencies in the welding that went on. This was, oddly enough, withheld from public view by the fact that the judge in this case sealed exhibits, and in the exhibits was the necessary information to determine how these welding errors or deficiencies occurred. This occurred, I remind all hon. members, with the welding trade. That is a compulsory trade, so why do we need section 22, Mr. Chairman, to revise or expand this authority that is going to allow for more deregulation or perhaps more ways for someone who is not adequately qualified to perform a compulsory trade?

10:00

Now, a better way of doing this would be to take, for instance, some of the optional certification trades and move them into the compulsory bracket. If the hon. minister could in due time explain to all members of the House how, for instance, the insurance industry feels about this – the insurance industry is underwriting policies all the time, and they're relying on the skilled craftsmen of this province. We forget about that. We forget about that all the time, and it is something I think we need to be cognizant of.

We see further on another attack on the compulsory certification trades; we see that in the amendments to section 33. Now, we're diluting the trade, and we are making, in my opinion, an error whenever we are allowing for undertakings that are going to be described as optional, that these are optional certification trades, or in essence the trade can be divided up and a group of individuals can do one part of the work. I do not see in here where they have to be qualified. Perhaps I'm wrong, but they don't have to be registered apprentices, they don't have to be individuals with other trade qualifications from other jurisdictions; they can literally be people that are just given this qualification. Now, what does that say to the people who have already worked very hard? They've gone to school. They've gone to NAIT or SAIT, for instance, and they pursued through that avenue a trade. What exactly are we telling them here, Mr. Chairman? We cannot devalue or de-skill the qualifications that people have worked very, very hard to acquire.

My major problem with this bill is that I'm not convinced this has been thought out. I know there has been an extensive consultation process and I know there's a shortage of skilled labour in this province, but this is not the proper way to deal with it, by simply amending an existing act to add more loopholes so that the compulsory certification trades can be practised by anyone.

Now, there are a lot of hon. members in the Assembly this evening, and I'm sure there's not one constituency in this province that doesn't have at least one rig welder living in it. Rig welders are skilled tradesmen, they're entrepreneurs, and above all else they're very hardworking. They will work at 30 above in Medicine Hat, and they'll work at minus 30 in High Level. Now, when they read about the changes to this legislation and what we're attempting to do to the compulsory certified trade of B-pressure welding, what are the rig welders and the pipeliners going to think about this? Are they going to wonder if maybe a pipeline company is going to apply to the minister and the minister is going to grant some sort of behind-closed-doors secret trade qualification to an individual?

AN HON. MEMBER: Oh, stuff it.

MR. MacDONALD: I can see why the hon. member is talking about stuffing it, because that's what will happen to the quality control on a pipeline, for instance, whenever you have unqualified individuals attempting to do a very skilled job.

Now, we look at this, and we look at the past reputation of this province. We look at that reputation, and it's a very fine reputation. Welders from this province are recruited all around the world, but with this decertification or this attempt to change the qualifications of those individuals, how can we be assured that companies are going to continue to want to employ welders that have been apprenticed and trained and ticketed in this province? The rig welders are an independent lot, and I don't know what they're going to say. I don't know if the hon. minister and the staff that consulted with so many individuals have talked with the rig welders' association about this. I would be quite skeptical if they did.

Mr. Chairman, when we talk about the compulsory certification trades, we also have to talk about the automotive industry. As consumer critic I get a lot of complaints from consumers whenever they have sky-high repair bills. They come to the constituency office and say, "Mr. MacDonald, I'm not sure that auto mechanic was qualified." And I ask: "What do you mean? Please explain this." They say that that was an apprentice and they were employed on piece work. We only have to look at the regulation on automotive service technician, and there are always questions.

[Mr. Tannas in the chair]

Certainly repairs, everyone will acknowledge, can be very costly. We look at the shop rates, and everyone realizes that apprentices need the chance to learn, but is this right? How is this act going to deal with that issue? It can't. Whenever we look at the schedules that are set up in the Employment Standards Code for the compensation of apprentices and they're working at flat rates – perhaps the hon. minister of energy and Acting Provincial Treasurer is going to take a pickup truck, for instance, to one of these individuals. It's fine, maybe, if this apprentice is checking the rad level, tightening the fan belt, maybe rotating the tires if the hon. minister has a lot of miles on his truck. But to do a complicated job – for instance, say this vehicle would have electronic ignition. Now, that individual has to be trained at that, Mr. Chairman, and he has to be trained under the guidance of a journeyman. These issues are not being addressed so far, I believe, in the debate on this bill.

I cannot accept this bill because of a number of issues, but certainly whenever we're trying to water down the compulsory trades in this province, I can't accept that, and it is my view that this is what this Bill 23 is doing. I pointed that out for all hon. members, and if I'm wrong, I will listen with a great deal of interest to members from across the way.

10:10

In conclusion, Mr. Chairman, I would like to remind all hon. members of this Assembly of what the hon. Member for Calgary-Buffalo said about regulations. For every reaction there is an action, and in this case I would like to present to the Assembly one amendment to deal with this issue of regulations. I think it is very necessary, after what happened in Swan Hills, that nothing regarding apprenticeship and trade certification in this province be done behind closed doors, whether it's by sealing a file or a court record or whether it's a ministerial decree by whoever is going to be Minister of Learning. This is not only for the current time but also into the future. I feel that this amendment will satisfy not only my colleagues, in particular the hon. Member for Calgary-Buffalo, but also other hon. members from the other side of the Assembly.

I'm going to take my seat for a moment, Mr. Chairman, while the amendment is distributed to all my colleagues. Thank you.

THE CHAIRMAN: The amendment will be called A1.

Okay. Hon. Member for Edmonton-Gold Bar, if you would like to speak further to your amendment A1.

MR. MacDONALD: Yes, Mr. Chairman. At this time I would like to move this amendment to Bill 23, Apprenticeship and Industry Training Act. It reads:

A. Section 3(c) is amended, in the proposed section 3, by striking out subsection (3).
B. Section 8 is amended, in the proposed section 13.1, by striking out subsection (2).
C. Section 16 is amended by striking out clause (b).
D. Section 17 is struck out.

Now, the reason for this – I will be very quick here, Mr. Chairman – goes back to not only what I said at the initial debate that I started at Committee of the Whole but also what the hon. Member for Calgary-Buffalo said not only in committee but also at second reading. This series of amendments is going to correct – it will allow in this legislation for the minister to act openly and for all the regulations or the administration of this act to be done in public.

With that, I shall cede the floor to another hon. colleague. Thank you.

THE CHAIRMAN: The Hon. Minister of Learning.

DR. OBERG: Thank you very much, Mr. Chairman. I'd like to just start off by talking in general about the amendment and then move to being a little bit more specific. The hon. Member for Edmonton-Gold Bar has read the bill, and we have communicated back and forth on several occasions. The hon. member has said that he is in favour of the bill in general.

I have a little bit of a problem with some of the wording that was used today in the hon. member's speech in that, as the hon. member knows, the trades unions, the employers, and the employees all are in agreement on this bill. This has been done over three years of consultation, and it's been done over three years of negotiating between the building unions, the trades unions, and the employers. So I really question the hon. member's expertise in bringing forward amendments when you have employers and employees who've been mulling this over for close to three years on what, I'm sure the hon. member will agree, has been a long, extensive and, without blowing my own horn, excellent consultation in the field of apprenticeship. I find his comments a little bit difficult.

However, Mr. Chairman, what I will do is first thing tomorrow relay his comments to the trades unions and to the employers, and I'll give them the chance to take a look at his comments and go from there. If they like his comments, well, they can tell me. If they don't like his comments, I surely will invite them to make representation to the hon. member about his comments, and that will be done.

Mr. Chairman, the hon. member has made an amendment about the Regulations Act, and what I'd like to do is explain a little bit of the rationale. The Member for Calgary-Buffalo had asked about answers to the questions. Typically, what happens is that members speak in second reading, ask questions, and they get answers in committee. This is the first time this bill has been discussed in committee, so that's why the answers are coming tonight.

First of all, on the nonapplication of the Regulations Act. Members may recall that several years ago the government of Alberta identified regulatory reform as a permanent feature of the government's ongoing efforts to improve the Alberta advantage. Government stated that only those regulations necessary to ensure protection of the public interest would be retained. Phase 2 of the industry consultation A Vision for the Future looked at ways to make the apprenticeship and industry training system more responsive to employers, employees and, most importantly, apprentices. It focused on proposals about the regulatory framework for apprenticeship and industry training. It included the board's review of regulations under the government's regulatory review project.

One of the board's – and this is the apprenticeship board I'm talking about, Mr. Chairman – recommendations coming out of that review was that the program and process detail be removed from regulation as long as the existing authority of the board and the industry advisory committees, the provincial apprenticeship committees and occupational training committees, are able to set standards and requirements that remain in legislation.

Mr. Chairman, the impact of implementing this recommendation is primarily seen in the amendments to sections 3, 33, and 37 of the act. To ensure that this detail is not placed back into regulation – I will repeat that – to ensure that this detail is not placed back into regulation, it is specified that the Regulations Act does not apply. It is referenced again in several places to clarify that the applicable documentation need not be filed as a regulation. This clarification is new, but the fact that the documentation not be filed as a regulation is not new. The board and the minister will continue to operate in the open fashion that currently prevails, and the information will continue to be widely available to all those who are interested.

The second theme raised. I beg the indulgence of the chairman perhaps a little bit on this one in that it does tie back into the amendment. The hon. Member for Edmonton-Gold Bar had talked about standards. He talked about the high standards, so I'm assuming that some of those are in the amendments he's brought forward. First of all, program standards will continue to be set by the Alberta Apprenticeship and Industry Training Board on the recommendations of the applicable industry advisory committee, as they are now. This will ensure that program standards continue to reflect industry needs.

There were also questions related to communication; for example, the information in and communication about the regulations that are in the amendment before us. The information currently in regulation and more will be readily available to the public and to employers, apprentices, journeymen, and trainees through a variety of means. Examples include publications containing boards' orders and decisions, brochures available in many government offices and labour market information centres, and electronic means such as the Internet. The Alberta Apprenticeship and Industry Training Board newsletter, which has a circulation of 60,000, is published three times a year.

10:20

Mr. Chairman, I believe that by allowing the Regulations Act not to apply, we are giving the industry, the employers, the apprentices, and the Apprenticeship and Industry Training Board more authority and more power in putting forward the changes they want when it comes to apprentices.

I will say one other thing, and I think this is very, very important. The existing apprenticeship board is head and shoulders above anything else in Canada. We are by far, by far, Mr. Chairman, the best apprenticeship training province in Canada. Other provinces look to us, to the partnership we have created between employers and employees, between union and non-union shops. All these things apply. To change this act after the consultation we have done and to throw it back in the face of the unions, back in the face of the employers I think is wrong.

I think we have an extremely good act here. I would urge the members not to vote for the amendment. I think there were reasons that the hon. member brought up about the regulations. I hope I provided the answers to him about the regulations. I really feel this is a very important act. It's an act that needs to be passed. It's an act that needs to get better to allow us to get better on a very, very good system in apprenticeship.

I would urge all members to vote for the bill and against this amendment. Thank you.

MR. DICKSON: Mr. Chairman, I'd just be very brief. I was going

to ask for unanimous consent that if there should be a standing vote on the amendment package we're dealing with now, we'd agree that rather than the 10-minute interval provided for by Standing Order 32(2), we would have a single minute between bells.

[Unanimous consent granted]

[The voice vote indicated that the motion on the amendment lost]

[Several members rose calling for a division. The division bell was rung at 10:24 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:		
Carlson	Nicol	Sloan
Dickson	Sapers	White
MacDonald		
Against the motion:		
Broda	Klapstein	Shariff
Cardinal	Kryczka	Stelmach
Clegg	Laing	Stevens
Coutts	Lund	Strang
Ducharme	Magnus	Thurber
Fischer	McClellan	West
Graham	McFarland	Woloshyn
Havelock	Melchin	Yankowsky
Hlady	Oberg	Zwozdesky
Jonson		
Totals:	For – 7	Against – 28

[Motion on amendment A1 lost]

[The clauses of Bill 23 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.
The hon. Deputy Government House Leader.

MR. HAVELOCK: Yes. I'd like to move that we do now rise and report.

[Motion carried]

[The Deputy Speaker in the chair]

10:30

MR. SHARIFF: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: Bill 16 and Bill 23. The committee reports the following with some amendments: Bill 13. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

head: Government Bills and Orders
head: Second Reading

Bill 19
Alberta Income Tax Amendment Act, 2000

[Adjourned debate April 3: Dr. West]

AN HON. MEMBER: Question.

MR. SAPERS: Yeah, I suppose, Mr. Speaker, that the government would like to have absolutely no speakers on their tax plan bill, when I hear that call of question.

[The Speaker in the chair]

Mr. Speaker, when we last visited Bill 19, as brief as the introduction was by the Acting Provincial Treasurer, he left us with a tantalizing thought. He said in *Hansard*:

> It's easy to put in a percent here, an 8 percent surtax on certain [tax] brackets, but it's very hard to remove them once the animal starts to feed on them. That's a good reason never to bring in a sales tax in this province until all the other taxes are gone or lowered.

I thought this was a bill about tax reduction, not about tax replacement, but as we proceed, maybe we will get a clearer picture of what the government has in mind when it comes to income tax reform in the province of Alberta.

The major objective of Bill 19 is to amend section 3.03 of the Alberta Income Tax Act to eliminate the 8 percent provincial surtax after the 1999 taxation year. Now, keep in mind that this was one of two deficit elimination taxes that were brought in by a previous Conservative government or a previous form of this Conservative government.

The 8 percent surtax applies to those Alberta tax filers who earn a taxable income above $46,450 or pay the Alberta basic tax above $3,500 annually. There are approximately 390,000 tax filers in Alberta paying this surtax. Mr. Speaker, that's about 25 percent of all taxpayers in this province that pay that surtax.

There are some other changes outlined in Bill 18: the elimination of programs that lapsed in 1986 and '88 such as the renters' assistance credit and the Alberta stock savings plan credit. The bill cleans up corporate references in the Alberta Income Tax Act such as the corporation income tax act, mutual fund corporation refunds, and the small business deduction, that are all leftovers from pre-1981 when Alberta did not collect its own corporate taxes.

Bill 18 will update changes resulting from the establishment of the Canada Customs and Revenue Agency, or the CCRA, Mr. Speaker, which just reminds me of another political issue that's going on in this country at this time, in place of Revenue Canada. It will also reinsert a definition of adjusted earned income for the purposes of administering a family employment tax credit.

So there's an interesting mix of housekeeping and substantive change in this bill, and that's a problem with the bill, Mr. Speaker. I've talked on this theme before: how the government always manages to come up with a bill that's maybe largely benign but it has one great big problem in it. In this case, the problem is the removal of the 8 percent provincial surtax before the other so-called

deficit elimination tax is removed, which would be of far greater benefit to most Alberta taxpayers. Keep in mind that only 25 percent pay the 8 percent.

Now, the 8 percent provincial surtax was introduced in 1987 as a means to assist in the elimination of the then chronic provincial budget deficits. The 8 percent provincial surtax is paid by Albertans who are relatively high-income earners. In the 2000 tax year the 8 percent surtax would have generated $144 million in revenue for the provincial government.

Now, in October of 1998 the Alberta Tax Review Committee recommended the elimination of these temporary deficit elimination taxes, both the 8 percent surtax and that .5 percent flat tax that I referred to just a moment ago. In March of 1999 the Klein government announced that it would eliminate the 8 percent surtax as of July 1, 2001, as a component of a move to, at that time, an 11 percent single-rate system by January 1, 2002. The 8 percent surtax was to be reduced in half on July 1, 2000, and eliminated as of July 1, 2001. The revenue impact from the elimination of this surtax was estimated to be $36 million for the tax year ending 2001, $88 million for the tax year ending 2002, and as much as $105 million for the tax year 2002-2003.

On September 1 of 1999 the government announced that it would accelerate its tax reform plan. On July 1, 2000, the 8 percent surtax was to be cut in half and eliminated as of January 1, 2001.

On October 14, 1999, the Premier announced that the entire 8 percent surtax would now be eliminated as of January 1, 2000. The impact of the elimination of the surtax as of January 1, 2000, is estimated to cost the government $36 million in 1999-2000 and $135 million in its first full year, the tax year ending 2001.

Mr. Speaker, by my count this government milked as much mileage as they could out of this tax plan by announcing it eight separate times. It even generated front-page headlines in one of the national newspapers months after it was originally announced as yet another new initiative. This caused the phone to ring in my constituency office with people asking me: "I thought we weren't paying this tax already. Don't tell me they reintroduced it. They snuck it in, and now they're going to cancel it again?" I had to explain that, no, it was just the government playing the game that the government usually does by making not one, not two, not three but as many announcements as they could to try to convince taxpayers that by talking about tax reform and tax relief, they were actually doing something.

All the while, of course, the only real tax relief that Albertans were feeling came as a result of successive federal budgets courtesy of Jean Chretien and Paul Martin. So given that they are living in the shadow of Ottawa in this regard, it's no doubt that they felt they had to at least keep on talking about tax relief so that Albertans might be somehow distracted from the reality that they were all talk and no action.

Now, Mr. Speaker, I can very happily agree that we should be reducing, eliminating in fact, this 8 percent surtax. I understand that the cost is $144 million. I think the government can well afford that considering the revenue stream and the underestimation of revenues that come in and the fact that this government has managed to chalk up nearly a $10 billion surplus over the years since they came into power, but the difficulty I have in just giving this a wholehearted endorsement is that there is this other deficit elimination tax, this .5 percent flat tax.

Now, I can't understand why this government wants to reward the top 25 percent of Albertans who earn more than $46,450 in taxable income and ignore the $325 million that's being taken out of the pockets of the other taxpayers, the 1,562,000 hardworking Albertans that pay the .5 percent flat tax. Why is it that this government would want to reward 390,000 high-income Albertans and make the remaining one and a half million Albertans pay for it?

Mr. Speaker, we've got another bill before the House, Bill 18, which does the same thing. It advantages one group of taxpayers at the expense of another group of taxpayers, so we've got something that seems to be a pattern now. We've got a government that wants to support private health care, which of course is really only accessible to the rich. We've got a government that wants to bring in a flat tax which burdens the middle-income taxpayers disproportionately, and now they want to eliminate the 8 percent surtax, which applies only to the highest income, the top 25 percent, and the rest of Albertans will continue to pay. That doesn't make any sense to me, and apparently it didn't make any sense to the provincial government once upon a time either. Now, I would like to know what changed their minds.

10:40

It is interesting to note that when the Alberta government initially came forward with a tax cut plan back in Budget '96, the timetable was to eliminate the .5 percent flat rate tax by January 1, 1999 – well, that didn't happen – before the 8 percent surtax. The 8 percent surtax was originally to be eliminated by January 1, 2001.

Now, if I can quote from page 122 of Budget '96, which was called Reinvestment: The Tax Plan – it sounds like another one of those slasher movies – it said that "the tax plan proposes to reduce the tax burden for all Albertans starting with low to middle income working families." Mr. Speaker, what happened? Why the change of heart? Why the change of mind?

Well, apparently the Premier and his former Provincial Treasurer have forgotten about these hardworking Albertans who pay the majority of the bills in this province, the middle-income Albertans who have to pay these taxes, these deficit elimination taxes. They're the ones that pay the majority of the user fees. They're the ones that are hardest hit by the health care tax that's collected in the form of premiums. It's these hardworking Alberta families in the middle income that this government seems to have forgotten all about.

Mr. Speaker, the Official Opposition supports tax cuts, but we support sustainable and fair tax cuts as part of a comprehensive package. We certainly don't support rewarding one group of taxpayers while you're punishing another group. The Official Opposition would like to see 100 percent of Albertans collectively enjoy a tax cut. That's why our submission would be to remove the .5 percent flat tax first. Now, the government seems to support this playing favourites, and that's why, I suppose, they only want to provide this income tax relief to 25 percent of Albertans by removing the 8 percent surtax.

Mr. Speaker, I have struggled to understand why the government has adopted this very strange position and, I will say, internally and consistent position. I've looked at the government's stated position on tax reform over the years. I've read the Treasury papers. I've seen the submissions made in the federal/provincial meetings. I've looked at some of the background papers written and published, for example, by the Fraser Institute or the C.D. Howe Institute, and I can't find the explanation for this.

Now, I will say that this government has a very mixed record when it comes to tax reform. We've heard the former Provincial Treasurer talk for years about tax bracket creep and bemoan the fact that tax bracket creep is not fair, but it wasn't until this year, and again following the lead of the federal government, that this government did anything about indexing brackets and eliminating tax bracket creep. Mr. Speaker, I will remind the House that between 1993 and 2000 the government will have collected in

excess of $2.4 billion in cumulative personal income tax revenue from Alberta taxpayers through provincial tax bracket creep. By just not indexing to inflation, they have picked the pockets of Alberta taxpayers to the tune of more than $2.4 billion.

In 1993, the first year this government came to power with its new fiscal agenda, it raked in $201 million because of tax bracket creep. By 1996 it was up to $288 million. By 1999 it was a high of $365 million, and even with the proposed changes, Mr. Speaker, this tax year, year 2000, this government is going to take through tax bracket creep 363 million loonies out of the pockets of Alberta taxpayers. I can't understand the sort of self-righteousness this government has when it comes to its tax plan when they continue to take money in this way.

The government has nothing to brag about when it comes to user fees either, while I'm on the subject. While the government likes to say that the only way taxes are going in this province is down, the reality is that additional user fee revenue has continued to go up. Even during the period of time between that Ontario court decision, the Eurig estate decision, until the end of February of this year, the government collected an estimated $80 million in user fees that in fact would be considered today as illegal taxes. So, Mr. Speaker, this government has very little to brag about when it comes to its tax policy.

Mr. Speaker, I've asked the former Provincial Treasurer on a number of occasions to explain to me the statements and the claims made in the tax plan. For example, if you would refer to sessional paper 441/2000, which was a response to a written question as amended, not as originally put in but as amended, you will note that the written question talked about

> the breakdown of the fiscal impact of the $600 million provincial income tax cut under the 11% single rate proposal for years 1 through 5 inclusive . . . as cited on page 163 of [the budget document].

It also asked about what parts of the fiscal plan could be

> attributed to the components of the elimination of the 8% surtax, the elimination of the 0.5% flat tax, the increase in the personal and spousal exemptions . . . the increase in the personal and spousal exemptions in the 1999 federal budget, and the introduction of the 11% single rate tax.

We asked for this information to be broken down by the categories "personal income tax, corporate income tax, other direct taxes, fuel and indirect taxes, federal transfers, other transfers" and whether or not all of this had an impact on revenue recovery.

Now, Mr. Speaker, you would think any careful, thoughtful tax plan would be based on some solid homework. You would think that at a minimum this is the kind of information that would have been collected. But you would have been wrong had you held that thought in your mind, because in fact what we find from the government – and I quote from sessional paper 441/2000 – is the answer:

> No information has been prepared by or for Alberta Treasury on the breakdown of the economic impacts attributable to various components of the tax plan. Thus, the overall fiscal impacts of the various components of the plan on personal income tax, corporate income tax, other direct taxes, fuel and indirect taxes, federal transfers, other transfers cannot be estimated.

Mr. Speaker, if they can't estimate the economic impacts based on these categories by this breakdown, how do they make the claims that they make in the budget document regarding feedback? How do they make the claims in the budget document not knowing whether or not this is affordable, sustainable, or appropriate?

Mr. Speaker, it's not dissimilar to the question in question period that we dealt with earlier today when it was revealed that the provincial government hasn't done capacity studies within the health care system, yet we now have a bill they've just passed through by the use of closure, Bill 11, which says that health authorities have to use existing capacity before they can contract to private clinics. The reality is that the government doesn't know what the existing capacity is, so it's sort of hollow. In fact, it's very hollow.

Now we find the same thing with their tax plan. We ask: where's the homework; where are the facts? What we get told is: trust us; we didn't do the studies; we didn't crunch the numbers; we didn't run the tests; just trust us. So what we're left with once again, Mr. Speaker, is just ideology. "We want private health care because we want it. We wanted this kind of tax plan because we want to. It doesn't matter what the facts are. Don't confuse us with the facts. They just get in the way."

Sessional paper 440/2000, which was an answer to Written Question 220 as amended, was even a more straightforward information request, Mr. Speaker. It wanted to know what information was prepared by or for Alberta Treasury on

> how much of the $20 million economic offset or revenue recovery projected in 2000-01 as cited on page 17 of Budget '99 . . . results from the reduction of the 8 percent surtax, and how much is from the increase in the personal and spousal exemptions contained in the 1999 federal budget?

Once again, Mr. Speaker, a very straightforward information request. How much of what the government is claiming will be an offset or a revenue recovery for the first full year of the implementation of the tax plan will be due to the elimination of this surtax or the federal tax plan? You would think they would have that, that there would be some justification for removing this 8 percent surtax before the .5 percent flat tax. So once again I waited with bated breath for the government to provide the information, the response to the question, to tell Albertans that in fact they have done the work.

10:50

MS LEIBOVICI: You could turn blue by the time you got an answer.

MR. SAPERS: Well, you're sure right, hon. member. You could hold your breath until you turned blue, but you wouldn't want to do that in the province of Alberta because you might have to pay for the health care and the ambulance ride to get there.

Mr. Speaker, what you find out is that once again the answer is that no information has been prepared by or for Alberta Treasury on how much of the economic offset or revenue recovery in 2000-2001 results from the various components of the tax plan. They haven't done the homework. How can they bring this kind of legislation forward, something that is technical, something that is specific, something that affects every Albertan, something that affects the ability of the government to carry on its core programs – how could they bring this kind of legislation forward and not have done the work? I can think of many hon. members who would never have allowed that to happen had they been the Treasurer.

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

MS CARLSON: Thank you, Mr. Speaker. I'm very happy to stand up and speak to Bill 19, the Alberta Income Tax Amendment Act, 2000, and speak to it in terms of the principles of the bill that I simply don't agree with. There are two main principles in this bill that I don't agree with, and both of them are examples of styles of how this government has managed at least since 1993.

The first style is to dangle a carrot on a stick in front of the taxpayers of Alberta by promising them that things are going to get better and that they're going to help them out, to just trust them and everything will be better. This is an example. They say they're now

going to eliminate the 8 percent surtax. Well, in fact we know that carrot only works for a very small percentage of Albertans. In fact, about 25 percent of them will end up benefiting from this, and too bad for the other 75 percent out there who are listening to the promises made by this government but not seeing any substantial follow-through in terms of the delivery of real commitments and promises made repeatedly.

As my colleague from Edmonton-Glenora talked about, they've been promising this tax cut for about a year and a half, it looks like, and it's promises made in the future, because of course it won't actually occur until sometime next year, but it will never occur for 75 percent of taxpayers in this province.

That's a real issue for us, because in fact this government had other options. They could have easily taken a look at the .5 percent flat tax rate and eliminated that. What they did was put the two of them in a hat and picked one as one method of planning, and they picked the one that will assist a few people. If they didn't just pick them out of a hat, then I'm even more concerned, because what that means is that they had a huge interest in selectively benefiting high-income Albertans. I would never attribute that kind of motive to the government, except that we have seen two other examples of that in legislation that has come through this Assembly this spring, where this government has deliberately chosen to advantage a particular segment of our society, that being high-income earners. We've seen that in Bill 18, where the flat tax rate is going to substantially benefit high-income earners as compared to the rest of Albertans, and in Bill 11, where those who can access private health care will have more of a franchise than the rest of Albertans, and those who can access private health care are those with more money, those who can afford private insurance systems.

What we see here, Mr. Speaker, is actually a trilogy of bills through the Legislature this spring that will specifically advantage people who have more money than average Albertans. So 25 percent of Albertans are going to receive a significant benefit under this government's mandate this year and next year in terms of the kind of legislation we've seen come through here, and that's an issue for us. There's just no two ways about it. We'd like to see benefits. We'd like to see good health care. We'd like to see fair taxation, and we'd like to see the elimination of specific surtaxes but for the benefit of all Albertans, Mr. Speaker, not a selective few as we see this government talking about.

When you take a look at this bill, you have to think in terms of: is it really economics they're talking about, or is it politics? When you're only benefiting a select few people, then for sure it isn't economics, Mr. Speaker, unless this government is trying to save more money in the tax coffers, which is what they say they're not trying to do. So it must be politics.

Why would they deliberately be trying to afford a few taxpayers in this province a benefit that others don't get? That's a question I think we should see answered before we get out of second reading on this bill, and I'm hoping that the Acting Treasurer will address these concerns, because they are very legitimate concerns. We need those answers before we can move on, but particularly this is of concern because once again, as we saw with the other two parts of the trilogy of bad bills through the Legislature this spring, we see a bill that cannot be backed up with any substantial evidence. Let's take "substantial" out of that sentence: a bill that can be backed up by any evidence in terms of it being significantly beneficial.

My colleague from Edmonton-Glenora has repeatedly asked for documentation. He started asking for documentation to back up the Provincial Treasurer's claims when the idea for the bill was first introduced back in early 1999, evidence to support why the government would reduce the taxes of a few Albertans before cutting taxes for all Albertans, but the Treasurer, the Acting Treasurer, and the whole Treasury Department keep telling us that they haven't analyzed those economic effects, Mr. Speaker. So what's that all about? How can you bring in tax legislation when you haven't analyzed the effects?

Well, I think they have analyzed them. I just don't think they want to table them. Clearly you couldn't have a whole department punching out all these numbers on their little pocket calculators, figuring out the tax benefits down the road. It wouldn't be happening. They're analyzing them.

MR. SAPERS: They've got big computers.

MS CARLSON: Well, maybe they do. Maybe they've got very sophisticated machinery. If they have very sophisticated machinery, then for sure they've got these results. So what is it about those results that they don't want to share with Albertans? I think that's an important question to have answered.

Certainly it's a credibility stretch, Mr. Speaker, to say that they haven't done the work, so why can't we see it? Why won't they provide the documentation? We need to know the basis on which the government decided to cut the taxes for a few before cutting taxes for all if it didn't know what the economic benefits would be. I'm hoping that the Acting Provincial Treasurer will answer that question. In fact, I believe that the majority of his constituents are not going to have the benefit of this tax cut, and I'm sure they would like those answers too: why some get it and others don't and how it is that only people with money fall into the right criteria to benefit from any of the kind of legislation that this particular government is getting involved in.

Where were they going with this? What comes next, Mr. Speaker? When we see all this legislation coming forward that talks about benefiting a select few in this province, what's next? Where are they headed in the five, 10, 15 years of strategic planning that we would hope a government would be doing in terms of the direction they're heading? It's taking a look at definitely . . .

DR. OBERG: The extra taxes were put on the select few.

MS CARLSON: We hear some chattering over on the other side. I can see that the minister wants to get into the debate, and if he would like to speak, then definitely I won't be adjourning when I'm done, because we'd like to have them defend some of their positions. I particularly think they are indefensible. So we'd like to see them stand up and defend the reasons for a few getting benefits and the great majority of Albertans not benefiting from it.

11:00

Why didn't they go to the .5 percent tax reduction? They made a commitment, Mr. Speaker, that they would eliminate that debt reduction tax, which was how it was sold to the general public, when the debt was reduced. Well, we saw that happen in this province a long time ago, yet they continue to collect tax dollars off the backs of hardworking middle-income and low-income people in this province, and the first opportunity they get to bring in a tax break, they give the break to their friends. They don't give it to the low-income people and the middle-income people in this province who need it. And why is that, Mr. Speaker? We don't get any answers to that particular question, and I think that's a real problem.

We pointed out that eliminating the flat tax first in conjunction with the plan to restore excellence in all kinds of programs is what this province needs instead of pushing us to a point where we become a user-pay society, which is, I believe, in direct contradiction

with the Canadian Constitution and the identity that Canadians have in terms of how it is that we expect our country to be run. We are not a user-pay society, but that's what this government is driving us to. They only like to support their friends, not support the average person in this province.

Let's take a look at doing the right thing here for a change. Let's see this government take some leadership in maintaining a Canadian identity. If there's going to be tax elimination in this Assembly, we want to see the flat tax eliminated first, not the surcharge tax. [interjections]

Mr. Speaker, given those comments, I will continue, because I want the Acting Treasurer to respond to my remarks. If I'm not satisfied with the responses, which I think is quite likely, then I will be back on my feet several times in committee. So with those comments I will adjourn debate.

[Motion to adjourn debate carried]

[At 11:02 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]