

Legislative Assembly of Alberta

Title: **Monday, May 6, 2002**

8:00 p.m.

Date: 02/05/06

[The Deputy Speaker in the chair]

THE DEPUTY SPEAKER: Please be seated.

head: **Motions Other than Government Motions**

Motor Vehicle Exhaust System Standards

507. Mr. Yankowsky moved:

Be it resolved that the Legislative Assembly of Alberta urge the government to introduce binding and enforceable legislation to make it a provincial offence to operate a motor vehicle with an exhaust system that has been modified such that it no longer meets the standards for noise suppression set out in the Motor Vehicle Safety Act of Canada for that class of vehicle.

[Debate adjourned April 29: Dr. Taft speaking]

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

DR. TAFT: Thank you, Mr. Speaker. I'd like to carry forward the debate I was making before by saying thank you to the hon. Member for Edmonton-Beverly-Clareview for forwarding to me some detailed information and some of the background legislation from the Highway Traffic Act on acceptable noise levels for highway traffic and giving me a sense of how noise from vehicles is controlled. There's even an attachment of the decibel ratings, as I understand it. So I do appreciate that effort by the sponsoring member of this motion.

Having gone through some of the material, as much as I could understand it, and having given some thought to my own experience with the issue of motor vehicles that have been modified and are extremely loud, I'm inclined to speak in favour of this motion. I think it's probably a good idea to extend the legislation controlling the noise standards of vehicles to cover vehicles that have been modified after they've been purchased. There's no reason, it seems to me, that people should be able to go home and modify their vehicles to make them really noisy and get away with breaking the law that otherwise they couldn't break if it were an unmodified vehicle. I like the idea that noise, as I was saying when we adjourned before, is a health issue. There is actually interesting research on the noise effects, the stress effects, and the health effects of being exposed to inordinate noise, and there are moments in this Assembly when we probably all feel that stress and maybe even feel that a health issue is involved in our day-to-day work. Anyway, that's an aside. That might be the subject for a different motion from the same member or somebody else.

Seriously, there is a health issue to excessive noise, not simply going deaf but actual effects from the stress caused by the noise: increased rates of disease, increased rates of cardiovascular disease. So I think I will be supporting this motion, and I encourage others to give it very serious consideration as well.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Currie.

MR. LORD: Thank you, Mr. Speaker. I finally get up to do a speech. Good evening, everyone. It's my pleasure to rise in support of Motion 507 tonight, which urges the government to work to eradicate an increasing pollution problem in our communities,

specifically altered mufflers which are designed to produce excessive noise. In fact, I am very pleased to support this motion since it is an issue I've been concerned with for some years, and in fact I even introduced a similar request myself some years ago while on Calgary city council, only to be told that this was a provincial matter. Well, now, here I am. You know what they say: if at first you don't succeed, try, try again. So here we go.

Mr. Speaker, as an Albertan let me say that I appreciate the space and the general tranquility found throughout Alberta even in our cities, at least in the residentially zoned communities. It is one of the reasons that I chose to make this the province where I raised my family and enjoyed my life. Walking down some of even our busier streets in the summertime is generally still a pleasant experience because there isn't the dense noise traffic, broken exhaust systems, and so on that some of us are familiar with from having visited foreign cities and countries. Many Albertans I think would agree with me in choosing to live here for some of the same reasons. Cleaner air, fewer crowds, a more comfortable amount of space: these are all some of the Alberta advantages.

However, there is something that often disturbs our enjoyment of this peace, and that would be the quite astounding amount of noise that can be generated by a souped-up muffler. In fact, it's quite an oxymoron when you think about it: a muffler which is deliberately designed to make noise as opposed to muffle noise. Mr. Speaker, why some people would deliberately want to create an excessive amount of noise, deliberately want to upset the tranquil atmosphere of a quiet residential community – well, that's something that I will leave up to psychologists and social studiers to speculate upon.

But whatever sad excuse such people may have to attempt to justify such behaviour, suffice it to say that mufflers which have been altered away from factory specifications to deliberately cause noise pollution I personally do not feel in any way make a positive contribution to our communities. They especially do not make a positive contribution when their owners deliberately roar up and down quiet residential streets early on Sunday mornings or very late on Saturday nights and many other nights as well, which unfortunately happens quite regularly in my constituency and throughout the city as well.

Recently there have been scientific discoveries that prove that there are detrimental and severely damaging effects to people caused by noise pollution. Noise pollution causes stress in many people and can cause a number of other problems as well: loss of sleep, hearing damage, distraction at a critical moment, even heart palpitations. I support Motion 507 because I believe that noise pollution is a problem that is steadily growing in our province and needs to be addressed wherever possible. It is especially acute in the inner city, where there is constant traffic and thus a bit of a problem anyway without the added burden of empowering people who are deliberately trying to disturb others by letting them modify their mufflers. We see it more and more with motorcycles but also with beefed-up sports cars. They rev them up and race them up and down the block to stop at the next red light. Then they repeat the process all the way down the next street. It's distracting, disrupting. As I mentioned, the scientific studies have now proven that excessive noise is even harmful to our health, and it isn't just me or the Alberta health authorities that are saying this, Mr. Speaker.

While Alberta is leading the health revolution in Canada and while we're being innovative in looking at new ways of doing what we can to ensure that Albertans are healthy and enjoy a high-quality life, we should recognize that the World Health Organization itself has recognized excessive noise as not only a nuisance but a health hazard which should be taken seriously. It is also apparently the case that while all of us are affected, babies are particularly suscepti-

ble to the effects of excessive noise. Because of their not-yet-matured state of development, loud noises can damage babies' tender eardrums and may be causing some damage that will be irreversible. If this damage or impairment of hearing happens to an infant at an early age, it can lead to other complications such as speech impairments. A child continues to learn different sounds and tones until about the age of eight, and apparently these developments become difficult if the child is unable to properly hear the sound or audibly recognize certain tones.

As I mentioned earlier, impairment of hearing isn't the only extent of the damage that can be caused, however. Higher noise levels can cause higher blood pressure, heart rates, and increased levels of stress. As many of us are aware, stress creates fitful sleep patterns which affect the everyday activities of the individual. None of us are strangers to stress. I believe, Mr. Speaker, that we have enough cause for stress in our lives without the added pressure of excessive and very unnecessary noise on our streets.

The World Health Organization has also linked excessive noise levels with something else which may not be commonly known. Noise pollution's ill effects have been linked to psychophysiological damage, where a person, especially a child, could become overly fearful of the external world or develop other anxieties or phobias. Of course, it is understood that not every child is going to grow timid and have a hard time developing socially because one overly loud bike blew past him on the street unexpectedly, but these types of occurrences apparently can breed a fear or apprehension which may not be detected until later in life.

If you think about it, how many people still have or have had to get past a fear of dogs from their childhood? You can understand why others may fear bikers or teenagers in hot cars if you think about that. Fears and traumas don't always have to be physically related. You don't have to be bitten to be afraid of dogs. In fact, dogs are commonly feared, interestingly enough, because of their very loud and sometimes unexpected barking, another type of noise pollution. I am concerned that these types of loud noises as made by modified mufflers might be causing similar consequences, and the occurrence of modified mufflers appears to be becoming more and more trendy. I feel, Mr. Speaker, that this is a trend that should be muffled before it gets any worse.

8:10

Now, people have tried to do this before, but under the current situation it is difficult to gauge or measure excess noise. There is no meter or instrument that has been developed to accurately gauge these levels in an uncontrollable environment such as on a moving vehicle speeding down a city street. It is hard to measure the noise emanating from a moving vehicle in exact decibels as added to the background noise in the community. This is why, Mr. Speaker, Motion 507 suggests an easier, more enforceable, and appropriate measure of what should be looked at instead. Banning mufflers which have been altered outside of the manufacturer's specifications would alleviate most of the problems officers have in trying to measure vehicle-specific noise levels.

Mr. Speaker, there's currently a provision in the Highway Traffic Act which sets out regulations for muffler systems. It simply states that vehicles must have an exhaust system, and this system must work without excessive noise. However, the term "excessive" is not defined by the act, and that's what makes it extremely difficult to enforce.

Motion 507 urges the government to determine a definite way of addressing what is or is not acceptable to be driving on our streets. Mufflers which have been modified from the original manufacturer's specifications in order to make more noise should just be disallowed.

All the officer would have to do if he believes that a vehicle is causing excess noise is look at whether or not the muffler has been altered. He wouldn't have to have noise meters, decibel levels measured over a period of time with base background noise levels established first, the engine working at a certain rpm and so on, and all the other technical aspects. All he'd have to do is just look at the muffler and see if it was modified or not.

Mr. Speaker, it is no secret that we are rapidly growing as a province. We spend a great deal of government funding on infrastructure and building roadways to accommodate the increasing population in Alberta. Municipalities do plan their road systems to decrease the increasing noise from extra vehicles. However, some options like noise barriers along highways are very expensive, and these barriers certainly are not an option on most residential streets. I believe that Motion 507 is a reasonable and logical method of cutting back on that type of noise pollution. We have a responsibility to Albertans to continue to protect their quality of life, which is being threatened by a small number of vehicle owners. I think people like to enjoy some quiet in life. I think that if they wanted to be exposed to loud noise that some people think is inappropriate, they could just turn up the rock and roll on their stereos behind closed doors. I don't think they need to be hearing noisy vehicles roaring down the streets.

In conclusion, I will be supporting Motion 507, and I congratulate the hon. Member for Edmonton-Beverly-Clareview for introducing it and for being concerned with reducing noise-related health risks in our communities. I certainly hope that all members of this Assembly will support this motion. Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: I have two hon. members. I was looking at the opposition to see whether or not there was going to be a back and forth. The hon. Minister of Environment on the motion.

DR. TAYLOR: Yes, Mr. Speaker. I feel compelled to rise and speak against this motion. I mean, how much are we going to get involved in regulation of people's lives? We now want to, you know, legislate car exhaust. Is the next step to legislate human exhaust and the noise pollution that it causes? There's this whole issue around noise pollution that we already have controlled under the Highway Traffic Act. We don't need more motions. We don't need more legislation. We're far too involved with people's lives already, and this is just another step in being involved with people's lives. It's totally unnecessary.

For people to stand in this House, Mr. Speaker, and suggest that it causes heart palpitations and brain damage—sorry for laughing—is absolutely ridiculous. I don't know where people get this kind of information from. Surely not our researchers. It must be Liberal researchers.

Thirdly, Mr. Speaker, I think this is unnecessary, totally and completely unnecessary. You know, we have, as I've said, a Highway Traffic Act, which controls this. If we do pass this, what's the next step? Are we going to ask people to pass some kind of rule or legislation regarding how loud people play their car stereos when they're driving down the road? Is that the next step?

So I would encourage all members not to accept this motion. It's further interference in people's lives when it's already covered under the Highway Traffic Act, and we don't need that kind of interference. I mean, this Legislative Assembly is going far too far in interfering in people's lives. After all, from my perspective we passed a law on bike helmets which is totally inappropriate, and I know we can't go back and revisit that.

It's a situation where we don't need any more interference in people's lives. Thank you.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glengarry, followed by the hon. Member for Vermilion-Lloydminster.

MR. BONNER: Thank you very much, Mr. Speaker. It is a pleasure to rise tonight and provide a few comments from the official Liberals in the House, not unofficial comments as the Member for Cypress-Medicine Hat tried to say.

In looking at this whole motion regarding the noise suppression for cars and what is acceptable noise and whatever, we have to look at the Highway Traffic Act. I'm looking at section 125(2).

No person shall create or cause the emission of any loud and unnecessary noise from a motor vehicle, any part of it, or any thing or substance that the motor vehicle or a part of it comes into contact with.

Now, then, that certainly leaves this whole issue of noise open to interpretation.

I also see in the Highway Traffic Act, if we look at sections 46(1) to (5), that these are some of the things that are covered: an inadequate muffler, operating a motor vehicle with a disconnected muffler, operating a motor vehicle with baffle-plate or other parts removed from the muffler, operating a motor vehicle with an enlarged exhaust outlet on the muffler, operating a motor vehicle with a device increasing noise and causing flame from the exhaust. So here again we do have this basically covered in the Highway Traffic Act already.

As well, when we look at federal legislation, Mr. Speaker, this is certainly much more definitive. It's definitive to the point where when these vehicles are tested – and I'm reading right now from section 2(b)(i): “the exterior sound level does not exceed 83 [decibels] when a value of 2 [decibels] is subtracted from the highest average sound level recorded.” Now, this is certainly a very good standard and one that we all can abide by. When we start looking at mufflers, I think we also have to look at this whole idea not only of altered mufflers but, as the act says, mufflers which have not been maintained, muffler systems which have not been maintained, and those that are there to make automobiles quiet and safe.

As well, we look at this whole issue, Mr. Speaker. For example, if we want to look at *Car and Driver Magazine*, a very reputable magazine which outlines so much when it comes to the operation and the purchase and whatever of cars, muffler problems account for over 30 percent of air pollution in America. I would assume that that same figure applies here in Canada. If we want to look at another very reputable report, *Consumer Reports*, it says that cars with broken mufflers can get almost half the gas mileage of those with new mufflers. So certainly the advantages of operating motor vehicles with proper exhaust systems that are well maintained and functioning well do add tremendous advantages.

Of course, we have to realize that sound waves travel very similarly to water waves in that they do use that wave action, but there's one big difference, and that is that when sound waves are dispersed, they move in all three directions. I'm sure we've all been in a rat hole or in a tunnel or whatever and had some young person who really wants to hear the noise on their car, and they will rev that engine when they're in those positions. We certainly can hear that sound reverberate, and it's probably something that they do down in Cypress-Medicine Hat and get quite a bit of enjoyment from. If they don't, it's probably because they don't have any rat holes.

8:20

Anyway, Mr. Speaker, I do have to agree with the hon. Member for Cypress-Medicine Hat that we do have provisions in the Highway Traffic Act and, as well, we do have provisions in federal legislation as to what standards should be appropriate for the various

vehicles, so I think there's certainly an adequate amount of legislation to deal with this particular problem. Again, if we are going to make any changes, then rather than passing a motion in this House, we should be amending the Highway Traffic Act to include more stringent controls or spell out those controls that are in the federal traffic act.

Again, Mr. Speaker, those are my comments. I certainly don't think that we need any more pieces of legislation. The legislation we have, both at the federal level and the provincial level, is more than adequate for dealing with this situation.

Thank you.

THE DEPUTY SPEAKER: The hon. Member for Vermilion-Lloydminster.

MR. SNELGROVE: Thank you, Mr. Speaker. I guess I'd like to bring this back to why I think this kind of thing should be discussed as a motion and not legislation, because that's where it belongs: as a discussion on probably some problems that Albertans are looking at. If we just go back to the motion and read it, it doesn't mention anything in it about noise. It doesn't say “noise” at all. It simply says that you cannot operate a “vehicle with an exhaust system that has been modified” and “no longer meets the standards” set out in motor vehicle safety. So we automatically presume: oh, it's noisy. Well, it might be, or it might be that the exhaust was designed so that that vehicle fits the emission standards of the country it's running in.

Now, we are a country that's concerned about greenhouse gases and all the emissions we make. Is it right, then, that we can just take the mufflers off, whether they're quiet or not, and allow the emissions to go out? I don't think so. I agree with the hon. minister and members: no, we don't need more laws. We probably have enough laws, but obviously the laws aren't quite clear enough, maybe, about what we allow and what we don't allow with a muffler.

Let's take it just a step further, though, when we talk about standards and not just emission. We've probably all seen these vehicles out now with the little covers on the back taillights with some nice little shape, whether they're little lines – the one we saw on the weekend had a little bunny. A Playboy bunny logo was the total taillight. It's kind of ironic that a Playboy bunny would be the total taillight, but it was. [interjections] I don't write this stuff. Mr. Speaker, what I'm saying is that if there's a minimum standard for a taillight, that should be maintained. I don't think anyone would argue that, whether it's on the roof, on the side, or wherever they put all these now, but when they start to cover them, they start to become hard to see and maybe in certain circumstances impossible to see.

DR. TAYLOR: You obviously noticed the Playboy bunny.

THE DEPUTY SPEAKER: Hon. minister, you have had your chance to speak. You only get one time.

MR. SNELGROVE: I know it would be a great concern to most people, Mr. Speaker. We don't know whether our minister is starting to think like the opposition or they're starting to think like him, but it's scary either way that shakes out.

I just want to make the point that if it weren't so obvious to most people here that mufflers, probably particularly on motorbikes, are a problem, we wouldn't all presume that the hon. member's bill has to do with noise. Much of the information that comes out about it is directed at noise, but his motion says that it should be better than or equal to how the vehicle was designed and built. That's a pretty fair statement. To me, Mr. Speaker, I believe that when we have concerns like that as members, this is where we bring them: through

the motion process, not bills, not something that we can't get down. Nail it down as a motion. If it's a problem, it will be looked after. We'll come to some kind of consensus here, and maybe the minister will pick it up.

If it's a bill, then we have a problem. This is a motion. From the point of view of how the motion is stated, that a muffler should be as good as or better than it was built to meet the standards for pollution, for emission control, I can accept that, and Lord knows that I'm not one that really is in favour of a lot of bills, I've got to admit.

DR. TAYLOR: Bike helmets. Bike helmets.

MR. SNELGROVE: We should stick a bike helmet on every muffler, Mr. Speaker, and we'd kill two birds with one stone.

I know that the hon. member here would be concerned that my speech is too short. The simple fact is that pollution is a major concern of all industrial nations, especially ones with this number of vehicles in them. This motion states: let's leave the controls there. Noise obviously is a problem. I think that with some tweaking our laws can handle it. We don't need a new law. We certainly need to be able to enforce them. Other than that, I would just urge you to give consideration to the fact that it's a motion, not a law, and take it from that.

Thank you, Mr. Speaker.

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

MR. MASYK: Thank you, Mr. Speaker. It gives me great pleasure and privilege to speak in favour of this motion. It's quite different living downtown in a city on one of the major arteries, when you hear a bunch of hippies going up and down the street raising a bunch of racket at 2 in the morning versus some country boys going to town with loud mufflers out in the country. Noise control is very, very important if you happen to be where I live. I work very, very hard during the day, so at 2 o'clock in the morning I like to have my rest. You hear some noisy muffler tearing up and down the street and think it's something with 700 or 800 horsepower, and here it's a little Toyota or something. It's this muffler that magnifies the motor. That's exactly what the hon. Member for Edmonton-Beverly-Clareview was telling me about, and I happen to believe him. So I have to support this.

It's one thing to live out in the country and go to town with a couple of straight pipes. There you're just a country boy having a little fun, but in the city it's trouble. Mr. Speaker, that's why it's very important to put a damper on some of these noise amplifiers, and I would like everybody to support it. My windows are rattling at different times of the night, and the speakers – I don't know how big they are, but it's like a rock and roll band inside of a car.

So I would encourage everybody to support the hon. Member for Edmonton-Beverly-Clareview's motion. Thank you very much.

THE DEPUTY SPEAKER: The hon. Member for Wetaskiwin-Camrose.

MR. JOHNSON: Thank you, Mr. Speaker. It's a pleasure for me to rise this evening and add my thoughts to Motion 507. I'd like to start by thanking the Member for Edmonton-Beverly-Clareview for his initiative and efforts to bring this idea forward. I agree with his belief that noise pollution from vehicles is an important issue, and I'm pleased to contribute to the debate.

Vehicle noise pollution is an issue that at its very roots has been

derived from the success of our society. As Canada moves forward as a nation and continues to prosper, Canadians are able to enjoy life more fully. The ability to enjoy each day as we do comes from our high standard of living. This is especially true in Alberta, where we enjoy the lowest overall tax load and have the highest tax exemption rates in the country. Because this government has tried to create an economic environment where people can find opportunities, succeed in business, and still have the best social programs, Albertans find themselves with more disposable income than many others around the world. With increased disposable income Albertans are able to do many things like save, take holidays, renovate their homes, and fix up their cars, trucks, and motorcycles. Many Albertans are automotive enthusiasts. Some enjoy fixing cars as a hobby, and for others it is a livelihood. Whether it be for pleasure or for profit, many of those with automotive knowledge are passionate about their interest. Many modifications can be made to automobiles in this day and age; however, the one that we are concerned with here today can cause a lot of noise and disturb pedestrians, residents, and business owners who live and work along roadways.

8:30

In the eye of an automotive enthusiast muffler modifications have benefits, including enhanced engine performance as well as serving as a magnet for attention for the vehicle as it goes whizzing by on the roadway. Both of these factors are sure to bring the driver some pleasure as he or she drives it down the road. The problem with muffler modification is that they draw attention to the vehicle because they are significantly louder than most other vehicles on the road. When several motorists with modified exhaust systems are in close proximity, the noise can really be quite deafening. I'm sure that all members of the Assembly have been on a busy street in midsummer and heard the roar of engines racing down the streets in packs. I have noticed that as cars, trucks, and motorcycles go by that have been decked out, sometimes I'm unable to hear a conversation that I'm having with someone perhaps on the sidewalk. When I'm unable to hear a person talking next to me, I may miss out on some important sounds that would give me clues as to what's going on around me. With that said, Mr. Speaker, I think that we could agree that the level of noise that some modified mufflers create and the hearing difficulty that results can pose a significant danger to pedestrians.

In fact, noise isn't simply a nuisance. It's harmful to bodily health. Excessive noise is associated with increased blood pressure, headaches, low frustration tolerance, ringing ears, and loss of sleep. Noise levels above 70 decibels increase the risk of heart attacks by 70 percent. I am familiar with the health risks that can be caused by exposure to excessive noise. There is ample medical proof that hearing damage can be disruptive and have life-altering effects. I think that with health and quality of life considerations in mind, it would be of great benefit if we were to examine a way to reduce vehicle noise pollution in this province.

The Highway Traffic Act provides that motor vehicles propelled by an internal combustion engine shall be equipped with an exhaust system that cools and expels gases without excessive noise. It is easy to see the ambiguity that accompanies a term like "excessive." With an imprecise term such as this in place, it is very difficult for law enforcement officers to prove that noise emitted from exhaust systems is too loud. "Excessive" is a term that can be interpreted subjectively and may carry one meaning to one person and a completely different meaning to another.

The other factor that contributes to the difficulty that law enforcement officers have when trying to attain a conviction against a noise-polluting motorist is that there must be proof that someone was

disturbed by the noise caused by the vehicle. With this qualification included, the burden of proof goes beyond measurement or observation on the part of the officer and includes a third party. This inclusion of third-party evidence adds further complications to an already difficult process of attaining a conviction against a vehicle noise polluter. If we were to examine the possibility for comprehensive noise control legislation, the effectiveness of law enforcement agents could be significantly enhanced. If there were a firm guide or limit that motorists and manufacturers could adhere to, this problem could be eliminated.

Calgary city council has already voiced their support for this motion and has stated that they would support any initiative undertaken by the province to address vehicle noise. The city has received several noise complaints from residents along major roadways as well as requests to erect noise barriers along thoroughfares that border residential areas. These large walls serve the purpose of deflecting road noise back onto the roadway while keeping it out of the neighbourhoods. While they are effective and serve their purpose, perhaps the need for large, unsightly walls all around our cities could be reduced or eliminated if Alberta had more comprehensive noise control laws. Reducing noise levels on Alberta highways and municipal roadways throughout the province will increase the quality of life and health of Albertans.

Automotive manufacturers sell vehicles that meet the standards set out in the Motor Vehicle Safety Act of Canada. The standards listed in the act serve to ensure that vehicles that operate on roads in Canada are safe. Safety can certainly be seen to include a reasonable noise level when one considers what it is like to be on a busy street and be unable to hear due to loud road noise. Automotive manufacturers have accommodated the desire to have streets that are as quiet as possible when they manufacturer their products and as a result manufacture quiet and safe mufflers.

Supporting this motion to ban modified mufflers that don't meet the standards of the Motor Vehicle Safety Act will help to achieve an Alberta with less noise pollution and a more comprehensive and effective automotive noise pollution law. The benefits that would result from this Assembly supporting this motion include health and safety concerns as well as infrastructure issues. Hearing loss changes a person's life forever, and hearing damage is something that will never leave those who have suffered from it. I think that removing an unnecessary source of noise pollution is a positive step towards reducing the health risks that loud mufflers contribute to. In addition, supporting this motion may help to keep our neighbourhoods and roadways beautiful and open and not crowded in by large walls that protect residential areas from the intrusive and overpowering sounds of traffic.

I think that even motor enthusiasts can see the merit of this motion. There is nothing that says that they cannot modify their automobiles and motorbikes in any way that they like; however, the components must meet the standards set out in the motor vehicles act of Canada.

I would urge the members of this Assembly to join me in support of this motion. Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: We do have the opportunity if we go the full limit to hear from the sponsor of the motion if he wishes to close debate. The hon. Member for Edmonton-Beverly-Clareview.

MR. YANKOWSKY: Thank you, Mr. Speaker. I want to thank this Assembly for extending me the courtesy to present Motion 507 and giving it a fair hearing. I want to thank all of the speakers that spoke for and against Motion 507. Your thoughts and ideas are certainly very valued.

I want to quote from a letter to the editor that appeared in the

Edmonton Journal on January 29, 2002, and it's captioned "Noise bylaw appears silent on late-night snow plowing."

Is there still a noise bylaw? I will tell you why I ask.

I live in the Beverly area . . .

That's my constituency.

. . . where they just love to practice pro-active snow removal at any time of the day or night.

We were scared awake at 1 a.m. on a Monday night by the God-awful rumbling and scraping of a 15-ton front-end loader which was low-blading a parking lot.

So I called the police and the dispatcher said she would send a car out.

Meanwhile, my whole house is vibrating as this scraping noise that could literally raise the dead continued.

At 1:45 a.m., my six-year-old is awake. While we sit and watch the loader, the police come and talk with the operator.

Then I get a call saying, ". . . sir, there really is nothing we can do because this is the only time this poor fellow can exercise his God-given talent to plow this lot."

Did I mention that there was no snow on the ground.

So is there a noise bylaw or did I turn off my stereo so many times for nothing?

Keeping this letter in mind, I want to repeat again what the World Health Organization findings are on the effect of noise on people, and I quote. The recognition of noise as a serious health hazard as opposed to a nuisance is a recent development. The World Health Organization considers the health effects of hazardous noise exposure to be an important public health problem, especially among children. The World Health Organization has linked high levels of ambient noise to social and health problems such as noise-induced hearing impairment, interference with speech communication, disturbance of rest and sleep as well as psychophysiological, mental health, and performance effects such as increases in blood pressure, higher heart rates, and increased levels of stress hormones. These health effects in turn impact on behaviour and also interfere with attentive work and recreational activities. However, whether regarded as a nuisance or as a genuine health hazard, noise exposure is known to affect work, household productivity, quality of life, and property values. Unquote.

8:40

So if noise exposure affects work, keeping in mind the letter to the editor that I just read, what kind of a day did this father have at work the next day when he literally got no sleep that night? I hope that he wasn't an airline pilot, because I sure wouldn't want to be flying with him. What kind of a day did that child have in school? It's a six-year-old child. Be it in kindergarten or grade 1, what kind of a day did that child have in school if it went to school at all? If noise exposure affects household productivity, what kind of a day did the mother have? Whether she went to work or if she stayed home, there probably wasn't much productivity. If noise exposure affects quality of life, then certainly these people's quality of life was affected. If noise exposure affects property values, then these people's property value could indeed be affected. If they, say, bought a house on a supposedly quiet residential street and then it turns into a very noisy street with people roaring around with mufflers that are not up to Motor Vehicle Safety Act standards, then their property values can certainly be affected. And how many neighbours in that neighbourhood maybe paid a visit to their doctor the next day after this snow removal incident? It would be interesting to note, and as we struggle with health care costs, this is something to take into account.

THE DEPUTY SPEAKER: The hon. member will table the document that he quoted at some length from.

[The voice vote indicated that Motion Other than Government Motion 507 lost]

[Several members rose calling for a division. The division bell was rung at 8:43 p.m.]

[Ten minutes having elapsed, the Assembly divided]

[The Deputy Speaker in the chair]

For the motion:

Amery	Mason	Stelmach
Evans	Masyk	Taft
Johnson	O'Neill	Yankowsky
Lord	Snelgrove	Zwozdesky

Against the motion:

Ady	Hlady	Nelson
Blakeman	Horner	Rathgeber
Bonner	Knight	Renner
Broda	Lougheed	Strang
Coutts	Lund	Tarchuk
DeLong	Massey	Taylor
Ducharme	McClelland	VanderBurg
Forsyth	Melchin	Vandermeer
Friedel		

Totals:	For – 12	Against – 25
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[Motion Other than Government Motion 507 lost]

THE DEPUTY SPEAKER: Before we go to the next item of business, I wonder if we might have permission for the brief introduction of guests.

[Unanimous consent granted]

head: **Introduction of Guests**

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

MR. BONNER: Thank you very much, Mr. Speaker. It's a pleasure this evening to introduce to you and through you to all members of the Assembly a group of injured worker advocates who are here this evening to listen to further debate at second reading on Bill 26. They are seated in the public gallery. They are Joyce Waselenchuk, Darlene Zlokovitz, Ralph Teed, and Rick Bremault. With your permission, Mr. Speaker, I would ask that they now rise and receive the traditional warm welcome of this Assembly.

Thank you.

head: **Motions Other than Government Motions**

(continued)

THE DEPUTY SPEAKER: The hon. Member for Calgary-East.

MR. AMERY: Thank you, Mr. Speaker. Considering the hour and the time left to debate this motion, I would like to ask for unanimous consent to proceed to the next order of business.

[Unanimous consent granted]

head: **Government Motions**

Alberta Treasury Branches Act

24. Mrs. Nelson moved:

Be it resolved that the Legislative Assembly concur with the continuation of the Alberta Treasury Branches Act.

THE DEPUTY SPEAKER: The hon. Minister of Finance.

MRS. NELSON: Thank you, Mr. Speaker. In 1938 members of this Assembly did something very special, innovative, and indeed historic. They created a financial institution that would proudly and respectfully serve Albertans for the next 50 years and beyond. In November of 1938 the Alberta Treasury Branches Act was passed, and the bank was established with \$200,000 of government money.

Through good times and bad ATB Financial has been an outstanding asset for the province of Alberta. In recent years ATB Financial has performed exceptionally well. It has succeeded in turning a deficit of over \$150 million in 1997 into a surplus of over \$430 million at the end of the last fiscal year, and that surplus is now approaching \$600 million. Alberta Treasury Branches' financial assets have grown from over \$3 billion in 1997. The majority of those assets are loans to Albertans and Alberta businesses.

Mr. Speaker, previous ministers responsible for the act have indicated that the government will consult with Albertans before any fundamental change is made to the mandate or status of Alberta Treasury Branches. I wholeheartedly agree with this approach. Before we make any decisions with regard to this institution, we must have a thorough review of the financial services industry in Alberta.

Mr. Speaker, I am very confident in ATB Financial's ability to continue to provide excellent service to Albertans and solid financial returns for taxpayers. Therefore, as per the requirements of section 35 of the Alberta Treasury Branches Act, I move that the Legislative Assembly concur with the continuance of the Alberta Treasury Branches Act.

9:00

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Highlands on Motion 24.

MR. MASON: Yes, Mr. Speaker. I know that this is not Committee of the Whole, but I have questions with respect to this for the minister, and maybe she can address them at the end.

First of all, I want to say how much the Alberta Treasury Branches have meant to Albertans. They were formed at a time when the banks were simply instruments to make profit at the expense of the people of Alberta, particularly the farmers. We all know the resentments that occurred and existed when people lost their farms and their property to unaccountable and uncaring corporations based in other parts of the country. Since their creation the Treasury Branches have played a major role in this province and its development and have helped hundreds of thousands of Alberta families in towns, in cities, and on the farms.

I just wanted to express my real concern with the government's direction. I appreciate that the minister has indicated that she's prepared to support the principle of public consultation, but it's our view that the Treasury Branches are seen by the government as a bit of an embarrassment. Here we are one of the most right-wing governments in Canada, and they own a nationalized bank. Yet there was good reason for the creation of that institution, and those reasons continue to this day. So I just want to put on record the position of the New Democrats in this Assembly that the continuation of the Treasury Branches needs to be more than just a motion

put forward on a temporary basis by a government that may well be planning to get rid of it and privatize it. We do not see the Treasury Branches as a target for privatization. In fact, we think that its role as a publicly owned and accountable institution should be expanded in this province, and I think that many, many Albertans would concur with that sentiment.

I would like to ask the minister exactly what the nature of the motion for continuation is. What is the function that it plays, and why is it being brought forward at this time? There's I guess some concern that we have about the nature of this motion and what it means. It doesn't indicate any commitment to the continuation of the Treasury Branches as a public institution. So maybe the minister could just explain for some of us who maybe have not been around as long as others what exactly is behind this motion and why she's bringing it forward at this time.

THE DEPUTY SPEAKER: Hon. Member for Edmonton-Riverview, you can't have a back-and-forth. That's what I was trying to signal. So we'll close debate when the minister wishes to.

DR. TAFT: Thank you, Mr. Speaker. I, like the hon. Member for Edmonton-Highlands, would also hope that the minister is able to answer some questions around the nature of this motion. I'm sure I can say on behalf of the whole caucus that we are unclear why this motion is being brought forward in this particular way. In the way it's phrased, "be it resolved that the Legislative Assembly concur with the continuation of the Alberta Treasury Branches Act," the word "concur" suggests that we're agreeing, concurring with somebody else. "Concur with" is a curious choice of language. Are we being asked to agree to the continuation of an act of the Legislature, and if so, why does this issue even come up? Is this part of the mandatory review of the legislation, and if so, then why aren't we doing a proper review? Is this what the whole review amounts to? One motion and a few minutes of brief debate?

So the real questions for all of our caucus are: why are we doing this, why is it being done in this way, and is this in fact the entire review? If not, is that then why the minister, the Treasurer, links this motion to the issue of selling ATB? That is how I understood her comments. Okay; she may correct me on that. When the minister referred to the need to publicly consult before any sale of the ATB is undertaken – at least that's how I understood her remarks – it made me wonder: is this motion a precursor to the sale of Alberta Treasury Branches? If it is, let's be up front and address that square on. If it isn't, then please correct our impression here.

The Alberta Treasury Branches in their long history, a 64-year history so far, have been a remarkable institution, especially in rural Alberta. I would think that many of the MLAs here will find a deep and abiding loyalty to Alberta Treasury Branches in their constituencies in smaller centres. The Alberta Treasury Branches have been there for farmers and for small businesses when no other banks were there, and they're still there and are offering excellent service and earning the provincial government a substantial return. They are a significant tool of economic stability for this province.

If you look at the other provinces in this country, there are maybe only two things that separate Alberta from other provinces. One is the extent to which we have the astonishing natural resource of petroleum, and the other is owning our own bank. It may be that those two things work together to explain why Alberta is as prosperous as it is and why, for example, rural Alberta is flourishing in a way that perhaps rural Saskatchewan or rural Manitoba are not.

So the Alberta Treasury Branches are important to this province, to the people of this province, and if there is some suggestion through this motion that we're beginning the process or lining up the

necessary factors for the sale of the Treasury Branches, we would certainly like to know that. So, in a nutshell, why are we doing this? That's the question I hope the Treasurer is able to explain.

Thank you.

THE DEPUTY SPEAKER: Are there any comments or questions to be offered with respect to this speech before we go on to the next speaker? The hon. Minister of Finance.

MRS. NELSON: A comment, Mr. Speaker, for clarification for the hon. Member for Edmonton-Riverview. I'm referring to section 35 of the act, which I referred to in my opening comments. The act clearly says:

At least once in every 5-year period following October 8, 1997, the Minister shall ensure that a member of the Executive Council introduces into the Legislative Assembly a motion that would have the effect of facilitating a debate in the Assembly on the question of whether this Act should be repealed.

So all I am doing here is simply saying "let's continue the act" and just fulfilling the obligations under section 35. Nothing more, Mr. Speaker.

THE DEPUTY SPEAKER: Any further comments or questions to be offered with respect to this? The hon. Member for Edmonton-Highlands.

MR. MASON: Thank you. A question to the hon. Member for Edmonton-Riverview. Given the minister's response, it would seem, would it not, that this act is designed to play sort of a game of Russian roulette with the Treasury Branch? Sooner or later the chamber's going to come up with the bullet.

9:10

THE DEPUTY SPEAKER: Hon. Member for Edmonton-Riverview, do you wish to respond to the question?

If there are no further comments, questions, or answers, we'll now call upon the hon. Member for Edmonton-Centre on Motion 24.

MS BLAKEMAN: Thanks, Mr. Speaker. I do understand that this motion, Government Motion 24, asking us to "concur with the continuation of the Alberta Treasury Branches Act," refers directly to or springs from section 35 of the Alberta Treasury Branches Act, in which it's asking a member of Executive Council to facilitate a debate in the Assembly on the question of whether the act should be repealed. I was hoping for a bit more robust discussion, considering how much grist for the mill there is on the Treasury Branches in Alberta. I do agree that they certainly did have an important part in our history, particularly for rural areas and small towns, at which point they were the only banking institution that would be willing to open up, to set up shop so to speak, in smaller rural centres, allowing those centres to have a banking institution. Nobody else would go there. Over time as the rural centres grew larger and there were enough people for competition, we got some of the other banks in there that we're familiar with.

I think at a certain point the activities of the Alberta Treasury Branches and the fact that they were under the direct administration of the government and Executive Council gave rise to a lot of nervousness and some questionable practices. In 1997 I believe there was a move to distance the government from Alberta Treasury Branches, to establish a board of directors that the bank would be reporting to instead of reporting directly to whichever minister was assigned to it. The Treasurer. This was certainly a good move on behalf of the government because then they didn't have to be responsible for answering all those embarrassing questions about

West Edmonton Mall and others that have come up since then, because now they can claim that there's a board of directors in place that makes all of these decisions and the government is not directly responsible. But we certainly did have a point in the last 10 years where the government was directing actually many of the business dealings of the bank, and I think that was cause for great concern.

In that 1997 amendment of the act the government ended up putting in its standard clause for review, that all legislation will be reviewed every five years. I think in some cases it might be seven years. No. It's always five. I personally support reviewing the legislation every five years. As we slowly work our way through some of the older statutes, we come to understand that nobody has opened them up or looked at them in some time. The language is archaic, and there's gender-biased language and all kinds of things in there that really need to be updated. So I support the five-year review. I certainly support it coming up in this Assembly.

At this point I think I'm willing to go with Government Motion 24 to continue the act on. But I'm looking forward to other members, particularly those from rural constituencies, joining in on a robust debate and commentary on the usefulness of the Alberta Treasury Branches and the place that it holds today amongst banking institutions.

So with those comments, I will take my seat and look forward to comments from members of the government. Thank you.

THE DEPUTY SPEAKER: Before the question is called, the hon. minister to close debate? Okay.

[Government Motion 24 carried]

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

Bill 26
Workers' Compensation Amendment Act, 2002

[Adjourned debate May 1: Mrs. McClellan]

THE DEPUTY SPEAKER: Okay; the hon. Member for Edmonton-Highlands.

MR. MASON: Thanks very much, Mr. Speaker. I'm pleased to rise to speak to Bill 26. I think this is a very important piece of legislation and probably one of the most important to come before us in this spring session, if you can call it a spring session. I want to thank the minister for his hard work and diligence in attempting to resolve some of the questions around the Workers' Compensation Board. They have been a real sore point for many Albertans and for injured workers in particular for a number of years, and it's good that some attempt is being made to resolve the issues. It's also been a real issue and sore spot for the government, and I recognize that there must be a desire on the opposite side to try and deal with these issues once and for all. I think, though, that unfortunately this is not a final resolution to the questions that have arisen around workers' compensation but in fact is a step towards their resolution. The bill contains in my view some positive elements and some elements that are in fact a disappointment. I've characterized it outside the House as two steps forward and one step back, so tonight I'm going to talk about the two steps forward as well as the step back.

I think that this is a question and an issue that really requires all parties in the House to work towards a solution. It's so important and so critical to those people who need compensation and who have been suffering as a result of the lack of fairness in the existing system that I think we ought to try to put aside to a limited degree

the partisanship that normally surrounds the debate around some of these issues and see if we can't work towards a solution on behalf of injured workers and in fact everyone in the workplace who may face the possibility of an accident.

The Workers' Compensation Board and the workers' compensation system in this province are based on the Meredith principle, which the minister has talked about on a number of occasions. The Meredith principles include a number of things. It includes the right of workers to receive compensation benefits at no cost to them for work-related injuries. It's based on the principle that employers are to bear the direct cost of compensation and in return to receive protection from lawsuits arising from injuries. It includes that negligence and fault for the cause of injury are not considerations – in other words, it's a no-fault approach – and it must be a system administered by a neutral agency having exclusive jurisdiction over all matters arising out of the enabling legislation.

The issue in workers' compensation is really one of accountability. The foundation is the Meredith principle, but the structure of the Workers' Compensation Board has to be built on trust. We've got an outcry from workers, and this has gone on for a number of years. I don't have to recount the actions that they've taken to draw public attention to their plight: hunger strikes, camping out, sit-ins, all kinds of activities which come from the desperation that they feel. It demonstrates, I think, that there's been a breakdown in the trust relationship around workers' compensation. The culture of denial which was identified by retired Judge Samuel Friedman in the final report of the Review Committee of the Workers' Compensation Board Appeal Systems means that most workers and in particular a majority of injured workers do not trust the Workers' Compensation Board as it now operates.

9:20

We should also be very clear about who's being protected by the current structure of the Workers' Compensation Board. Primarily it is set up to protect employers. Employers share the risk of paying for workplace injuries, a small price to pay, especially because most injuries are avoidable when proper safety standards are upheld, and they get the benefit of protection from lawsuits. Workers on the other hand give up their rights to legal recourse, and that is a very significant right to give up in a democratic system. The right to pursue justice through established means should not be given up lightly.

So what have workers received in return for giving up this basic right? Well, they're promised, according the Meredith principle, compensation benefits at no cost for work-related injuries. What they have received on the other hand is a culture of denial and a board which essentially behaves like an out-of-control corporation. Justice Friedman's review committee found that 70 percent of respondents rated the appeals process as poor, contrasted to the fact that only 1 percent gave the appeals process a top rating. Clearly, workers are not satisfied with the systems in place.

Now, normally when trust is found to be lacking, we look to more formal mechanisms of accountability. If workers can't trust the Workers' Compensation Board to uphold its end of the Meredith bargain, then there ought to be some mechanism to force employers to do so. In the mid-1990s, however, the minister then responsible for the WCB gave up the Legislative Assembly's right to oversee the board's operation and hold the board accountable for treatment of injured workers, and without that element there is very little accountability. Since then, the WCB has not been accountable, and it's been very evident in all sorts of ways.

Fair claim settlements have been sacrificed in the name of cost cutting. CEOs have been given exorbitant salaries and enormous

golden handshakes. For example, the former CEO, Mary Cameron, was being paid over \$350,000 per year, and when the previous CEO voluntarily left his position as CEO, he received a \$580,000 golden handshake. Given these generous salaries and payouts, it's no wonder that workers are asking themselves: if my claim is being denied, where then is the money going?

Another example of the lack of WCB accountability was the decision to have the WCB donate \$100,000 to the 2001 World Championships in Athletics. The donation was made at a time when the WCB claimed to be facing a cash crunch. It also came at a time when the chair of the WCB happened to be the CEO of the 2001 world championships. Now, that would be considered a conflict of interest in most places, but at the WCB it seems that it was just standard operating procedure.

Now, while lost time for claims has dropped significantly from about 4.7 percent to 2.3 percent, the actual number of claims has tripled, and this clearly implies that more workers are filing claims but that their claims are either being denied or being whittled down. Either way, workers are not getting the treatment they deserve. Why should workers expect to get fair compensation? The employers are holding the purse strings, and the board seems to be interested in protecting its own interests first by doling out generous salaries and gifts and so on to its friends. Employers' interests come second by denying claims to allow premiums to stay very low. Workers meanwhile finish last in the list of priorities. It should be the role of the minister to correct this imbalance, and this legislation was an opportunity for him to do so.

[Mr. Johnson in the chair]

Now, I want to talk about some of the things that appear in this act which I think are beneficial. The first one is to set up an independent appeals system. That is certainly something that I think will benefit the workers in the long run. Even if it's just a perception that there was a conflict there, I think it needs to be corrected, and I think this act does so. It does set up an independent appeals commission, and I think that will give some satisfaction to workers and will certainly reinforce the sense that when an appeal is heard, it actually is going to be a fair process.

Now, another positive section in this bill is section 23, which makes the Auditor General of the province the Auditor General of the Workers' Compensation Board. I think that is helpful in increasing the board's accountability, and I think that it certainly is something which will at least give members of this Assembly considerably more confidence that issues are actually being addressed and problems are being pointed out and solutions are being demanded.

Another portion of the act, section 44, talks about increasing the fines for contravention of the act, and that is something that we are generally as well in support of.

There are issues around medical panels. I know that some injured workers want to see the medical panels make the final decisions, which are binding, but I believe that it's actually preferable for the panel to have a final decision only on the medical assessment. That's one of the most important factors in the decision if not the most important factor. The area of competence of the medical panel needs to be limited to what it is actually able to pass judgment on, and that is the question of the actual medical assessment.

Now, the problem with the bill – and it's a serious one – is the question of the onetime payouts. This is one in which the minister's statements a year ago or more are in contrast to what is actually before us, and I think that the expectations of workers, of people who have been treated unfairly by this system, some of whom have

been introduced in this House, of labour organizations, and certainly of our caucus have not been met in any way by this. This is in fact, Mr. Speaker, one of the biggest disappointments of the entire act. Instead of having a resolution to this question, it's all left open and it's all delegated to the cabinet to resolve. Given the history of this issue and the suffering of workers and the years and years of delays in getting justice, it's natural that this is not acceptable. They don't consider this acceptable, and this is for us a litmus test on the bill.

I have to say that I am very appreciative of the work of the minister. I'm very appreciative of some of the positive elements of the bill, but for us this is the test, and the bill fails the test because it doesn't resolve the issues related to the injured workers who've been denied claims and a satisfactory delivery on what we believe was a commitment to provide a fair mechanism to do that. I'm going to pay some attention to that in the committee stage, because I think there are ways that this can be done, but simply to turn the whole matter over to the cabinet because the employers don't want to pay the costs that may be associated with accidents is a violation of the Meredith principle, which says that the employers bear the responsibility for those costs. So if the workers are truly entitled to benefits, then it must be the employers that pay that, and it is not satisfactory, it is not acceptable to breach that simply because the minister cannot get support from the business community to pay their due. That is not an acceptable answer. There has to be the political will on the part of the government as a whole to insist that justice is done. If the employers don't agree, then surely the government needs to make sure that injured workers receive justice in any event.

Thank you very much, Mr. Speaker.

9:30

THE ACTING SPEAKER: Are there questions of the Member for Edmonton-Highlands?

The hon. Member for Edmonton-Centre.

MS BLAKEMAN: Not for questions but for continued debate?

THE ACTING SPEAKER: Right.

MS BLAKEMAN: Thank you, Mr. Speaker. I'm pleased to have an opportunity to rise in second reading debate of Bill 26, the Workers' Compensation Amendment Act, 2002. This bill has been a long time in coming, with a lot of people waiting for it on both sides, I think, with a great deal of anticipation, hoping that it will solve a lot of problems that have been in the system for a very long time. I don't think it is going to solve these problems.

When I look back, there are certain things like taxes and customs that seem to be a law unto themselves, a law above all others, and it strikes me that the way the WCB operates has come to be the same. It operates as a law unto itself, above all other things. It doesn't seem to be impacted by other laws. For example, the WCB predates the Canada Health Act, so it's not subject to it. So we have the WCB being used as a reason to have private health care facilities offering surgeries to WCB patients so that they can run them through faster and supposedly get them back to work faster. Time seems to be an issue of great importance to the WCB at this point. I think we do want to get workers back to work, but it's more than just getting them back on the job. This is about a lifetime, and always injuries take time to heal. There's such a rush to get workers back onto the job now that I think we make mistakes and may cause much longer term health issues and cause ourselves more problems. Unfortunately, at that point nobody else is around anymore, and it's just the worker that's left to deal with this.

The other thing that always comes to mind when I think about the

WCB is that the creation of the WCB was not an altruistic move. This came out of mining accidents in the Maritimes, and it was the coming together of owners saying: we're going to get our butts sued off if we don't come up with a way to stop the workers from suing us if there are terrible mine accidents.

MR. BONNER: The Hillcrest mine disaster in Alberta.

MS BLAKEMAN: The Hillcrest mine disaster in Alberta. I'm sorry; I've been corrected. These weren't mining companies standing up and going: jeez, we think we should start this program for the good of our workers. These were owners coming together going: "This is a serious financial consideration for us if we end up getting sued because we have somehow caused these workers death or injury. We've got to come up with a scheme here where we won't get sued." That's the deal, or at least that's how it started. The workers would be paid a portion of salary, a percentage of salary for the time it took the worker to recover, and along with that, money was put towards rehabilitation.

I have kind of a funny tie to workers' compensation and rehabilitation, because I grew up across the street from what's now called the Millard centre. In my day it was called the Workers' Compensation Rehabilitation Centre, in Belgravia on 119th Street and 71st Avenue. I have very long memories of the workers who went there to try and get rehabilitation so that they could go back to work.

So that's where we're starting from with this. I mean, it is about getting workers back to work, but it's getting them back to work in a healthy way where their long-term health is maintained and regained. It's also an understanding that this is supposed to be about a balance. It's supposed to be about a give-and-take: the workers receive coverage, but in exchange they don't sue the owners of companies. When that starts to break down, when it becomes uneven or imbalanced, we've got a problem, and I think that's what has happened.

Certainly it may not be illegal, but it's darn hard to take. When we have injured workers who are losing their homes or who have to move from an apartment to a cheaper apartment because they're struggling to get their WCB payments and they look and see that the CEO is being paid over \$300,000 a year, it's a bit hard to take. I know that there's been a defence that, well, in the world of business that's what this job is worth. Okay. But the other side of that is that these workers are worth something too, and they're supposed to be getting reasonable compensation, not poverty, not losing their possessions, but some kind of reasonable deal to keep going. I think we've hit a point of imbalance, and that's part of what's causing the struggle here.

I know that Calgary-Montrose spoke in favour of this legislation saying: you know, it's an okay deal; it's not perfect but there's stuff in it that's worth supporting. I guess it's always a question of: is the glass half full or half empty? Usually I think the glass is half full, except when it comes to legislation, because my experience has been that if you accept a piece of legislation that isn't the best you can possibly make it, it's such a long time until you can get that legislation opened up again. It's at least five years, and that's if somebody is working today to get it reopened. So is it acceptable for me to pass what we have in front of us? No, it isn't, because it will be a long time before we get back here, and there are a lot of injured people along the road before this act is opened up and made better, the rest of the glass is filled, the rest of the loaf is baked, or whatever kind of example you want to use.

I don't get a lot of WCB cases in my constituency office in Edmonton-Centre. I don't know why that is. I know that most of my constituents work in the retail and service sector. Perhaps that's

why, although I know that people in the retail and service sector also get hurt on the job. I don't tend to get a lot of people coming into my office asking for help, so I'm by no means an expert on this. I know that other MLAs' offices handle a lot more cases than we do, but one of the things that I do notice coming up repeatedly is the frustration over having the WCB's doctors' panel override what the worker's own doctor has said is the problem. There have been a number of attempts to sort of fix this, but it never quite seems to happen.

It logically doesn't sit right with me when a worker has gone to their own doctor or worked with their own doctor over an injury, when their own doctor says that they need more time or that this is the injury, and WCB says: "No. We're going to do a literature review of the file, and we're going to determine something else." Huh? I mean, how can that possibly happen when you have a WCB doctor who doesn't actually physically look at the worker but can decide from the case file that they're going to override what that individual's own doctor has said? That never sat right with me.

9:40

The other thing that we notice in my constituency office is that there seems to be an automatic turndown, that the first time you apply for WCB, you're automatically going to get turned down, and then the worker has to turn around and go through the whole appeal process. I don't say this with any flippancy, but that does seem to be what's going on here. You really have to question that. Again, what was this deal supposed to be? The deal was supposed to be that we looked after injured workers and helped them get rehabilitated so that they could go back to work and earn a decent living. What's the other side of the deal? The owners weren't sued. We have an imbalance here because we are not looking after those workers well enough.

I also would argue that we're not getting people retrained or getting them back to work adequately either. Part of my concern about the retraining is: "Okay. Fine. You know, you got hurt badly enough. You're never going to go back and do the kind of work you did before." Well, then, for heaven's sake invest the resources to get somebody retrained enough that they can actually make a go of it in another sector. Don't give them this six months' worth of something at NAIT or SAIT where they don't walk out of it with anything that's going to get them a job. I mean, give your heads a rub. How is a 55 year old with six months under their belt from NAIT supposed to be able to go and get a job in a different sector competing with 22 year olds? It doesn't happen. Now you've got a 55 year old who's still trying to support their family and live with some kind of dignity who's been told: sorry, you're supposed to get out there and compete with the young bucks in a different sector that you've supposedly been retrained in. No, you haven't. You know, that's some kind of weird night school thing. You have not been trained in a different career.

So once again I feel that the deal is broken here. It's costly to society when you have those people who don't get adequate training to go into a different sector, a different field successfully. When they're not able to do that, what do they do? Well, I imagine that they go back to their old sector even though they're not supposed to do it, even though their doctor says: don't lift anything heavier than 10 pounds. What the heck are you supposed to do? So you go back. You go back out on the rigs; you go back out as a welder, whatever you used to do, because you know how to do it. You also know that you can get paid 25, 26, 28, 32 bucks an hour doing it, so you go and do it even though it'll probably shorten your life, even though it may cripple you. But you didn't get trained in something else successfully. My other really big beef against what's happening with the

WCB today is that we don't follow through on that. We're not really cementing the deal.

Now, a couple of things in here are good. I like the idea of the annual general meeting being open to the public. A good idea. You can have people come. They can look at the books. They can, you know, follow the proper meeting procedure and get their voices heard. Excellent. I like the idea of the minister being made responsible for the Appeals Commission.

The possibility of an arm's-length appeals panel and the older contentious case appeals. Well, that one kind of fell apart. I know that there was great hope and lots of promises, and then it's been withdrawn. So once again the deal isn't being carried through here. It's in the act; it's supposed to be happening. That's good. But we've already had the minister on record saying that he's not going to do it right now, and he doesn't know when. It's hard to support something that's in legislation when you've already been told: "I don't think so. Well, maybe not, but I can't tell you when." Well, when? Ten years from now? Twenty years from now? I'm supposed to work to pass an act that isn't complete? There's already an acknowledgment that there's not going to be follow-through on some aspects of this. There's a longer time line in there – it's moving it from 12 months to 24 months, also a good idea – and some performance measurements, which are good.

I want to talk about two other issues that I think need work or I guess would go on my bad side of the ledger here. One is around the administrative penalties, which have been increased, and again there's not a balance here. There are much stiffer penalties and punishment, it seems, for the worker side than for the employer side.

[The Deputy Speaker in the chair]

The second is this whole concept – and it's been called many things here in the Assembly, but I'll call it the private followers or private investigators that are contemplated in the act. Again I wonder why there's such effort and such money contemplated being spent to chase down workers to prove fraud when we already know that the incidence of fraud is pretty low. So why are we spending all of this resource to try and catch these supposed bad workers when we know that the fraud rate is low? That doesn't work for me, and I haven't heard a good explanation of why that's contemplated in there. That's the end of my speaking time.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Mill Woods to ask questions?

DR. MASSEY: No.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Mill Woods to enter debate.

DR. MASSEY: Thank you, Mr. Speaker. I'm pleased to have an opportunity to speak at second reading of Bill 26, the Workers' Compensation Amendment Act, 2002. I thought I'd start with just a brief overview of the intent and then look at the specific principles that seem to be imbedded in the bill, and we'll make a framework for debate of the specific sections when we move into committee.

The main purpose of the bill of course, Mr. Speaker – it has two expectations, I guess – is to improve the Appeals Commission, the commission that hears the appeals of denied claims by injured workers. The effectiveness of the Appeals Commission has certainly been compromised, and Bill 26 was to address those concerns.

The second expectation for the bill was that it would deal with the

long-standing, contentious claims. All of our offices have heard from injured workers that they weren't dealt with fairly by WCB and have been denied the compensation that was legitimately theirs, and it's unfortunate that the government really hasn't dealt and admits that they haven't been able to deal with these claims in Bill 26. The minister has admitted that these claims may not be settled until he can get a consensus of employers as to the total cost of those claims and who actually is going to do the paying and if there is compensation owed, how it must be payed, and even the kind of punishment that would be meted out if the payments weren't made. That's unfortunate, because that was one of the hopes for this bill.

There are some other issues, I think, that are more appropriately examined when we look at the specific sections, but one of the issues that is going to become more prominent as debate proceeds is the rather sweeping powers of the special investigation unit. The way that this unit operates distresses a number of people.

So with that kind of overview of the bill, I'd like to look at some of the specific principles, Mr. Speaker. I think that one of the main overriding principles is that the Appeals Commission should be representative of the interested parties, and that's a principle that I think we can support. We can support it, yet in this bill the cabinet makes that appointment, so it's open to question, I suspect, as to how unbiased those appointments will be.

9:50

The second principle is that the Appeals Commission should have powers that are similar to those of a legal court. That's an important principle, Mr. Speaker, particularly in this bill, where the commission will have retroactive powers, which are powers that we have to be extremely careful about granting to any body but particularly a body such as the Appeals Commission, and we have to know exactly how those powers are going to be exercised. There's a further complication in that it frees the Appeals Commission from any legal action. I'm not sure that that will hold up to challenge, but at least it's here. That principle that the Appeals Commission should have powers similar to those of a legal court is one that I think we'll want to debate further.

There are some less important principles in the context of the total bill. One principle is that there's need for a clear definition of the term "worker," exactly who is included under the act, and the bill goes to some extent to try to define who exactly the workers are that are covered and those who are not covered by this legislation.

A further principle is that there is a time limit in which claims have to be filed. This would seem to be on the surface a useful and legitimate principle, that you have to file your claims within a specific period of time. Now, whether the time periods identified in the bill are the appropriate ones I think is another question and one again that we'll want to come back to.

There's also some more definitional work. There is a principle that there's a need for a resident clause, defining exactly who is considered a resident of Alberta under the act and can make claims and can be dealt with by the act. Again there's a rider in the bill that this definition can be overridden by the board, and I'm sure we're going to want to come back to that particular item and to raise some further questions about the appropriateness of having such a clause.

The bill is based on a further principle that the obligations of employers after an accident occurs must be explicit. This has caused some problems in the past. The act lays it out very carefully that there are obligations that the employers have to follow, and it lays out the kinds of actions that are to be taken. I think it makes it clear to everyone that's involved what kinds of activities must follow when an accident occurs. I think that's a good aspect of the act and a principle that's worth endorsing.

Some carryovers from the previous act. That the review body is needed for assessments is a principle that's included in this bill, and a further principle is that there's a need for medical panels to adjudicate. These, as I said, are carryovers. There are not a lot of changes, although there are some questions that have to be raised about the review body and the medical panels and their operations if workers are going to be assured that they're going to be treated fairly. The act indicates a need for an assessment review board, and again this is carried over from the last act. There are some questions that have to be asked about that assessment review board and the way that it's intended to operate in Bill 26.

When you move on to further sections of the bill, there's an outline, a principle indicating that the penalties for violations of the act need to be made explicit. There's a section there and there are questions about how public the consideration of violators will be under the act and how much information will be made public about supposed, or alleged, violators. I think it's a rather murky area and an area that most would feel needs to be expanded and needs to be explained in better detail than the act does as it is presently constituted.

So the bill is predicated upon a number of principles, some of them positive, some of them that are open to question, and certainly a number of them where the specifics that support the principles need to be explored further. We do that appropriately at the committee stage of the bill.

With those few comments I'd conclude. Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: Any questions or comments?

The hon. Member for Edmonton-Riverview.

DR. TAFT: Thank you, Mr. Speaker. I've been listening with interest to the comments on this piece of legislation, and we have a tremendous amount of background. Although I've only been an MLA for one year, I've already had a number of visitors expressing various concerns about the WCB and, in particular, most strikingly from constituents who are injured workers. There's not a large number in my constituency, but they are very important. Each one of them matters deeply. Of course, the ones that I've seen as an MLA and I'm sure the ones that we all see as MLAs are the most difficult cases, many times workers with very serious and enduring injuries. So this is, as the Member for Edmonton-Highlands said earlier, certainly an important piece of legislation for us.

I was reminded of the history of the Workers' Compensation Board at a recent funeral I attended, an elderly fellow who had been a judge for many years in the Camrose area actually. He had begun working shortly after World War II at a job painting grain elevators. He was a fellow who kept correspondence throughout his life, and at the funeral they had samples of different aspects of his life. Included in that was a series of letters between himself and his employer at the time expressing concerns over the Workers' Compensation Board. This would have been 1948 or something like that. The employer was writing to him, wherever he was stationed painting these grain elevators, saying: you need to be sure to put rails around your paint platform on the grain elevators because the Workers' Compensation inspectors are going to be coming around and checking up on you. And so on it went. Anyway, it was interesting to watch the correspondence.

I know from the injured workers who have come to see me in my constituency office that a lot of faith was placed in the two reviews done of the Workers' Compensation Board, the one by the Member for Red Deer-South and the one by Judge Friedman. In fact, the workers who have talked to me felt that those were pretty reasonable documents, pretty reasonable reviews, and were looking forward to them being realized in this legislation. I think we're all seeing that

they were only partially realized in the legislation as it is proposed right now, and undoubtedly as the bill moves through committee and so on, we'll have ample chance for discussion of that. There are of course concerns over the medical panels and the Appeals Commission and so on.

10:00

I also hear concerns from employers about the Workers' Compensation Board, and they're frustrated with various aspects, not just the level of the premiums but also, for example, the rigidity with which they feel the Workers' Compensation Board operates. For example, I think of a baker in my constituency who feels it's unfair that he has to pay in a small bakery the same kind of rates as major industrial bakers have to pay when, you know, in a major industrial bakery you might fall into a Mixmaster that's as big as a truck and be whipped into pieces and mixed into a loaf of bread as opposed to in a small bakery where the injuries may be much smaller, much less serious. So he feels there's a real rigidity with the Workers' Compensation Board.

What struck me is that from all sides the Workers' Compensation Board lacks credibility. It doesn't seem that anybody trusts it particularly, and that of course is I'm sure not news to the minister responsible. He's caught between many competing forces, but when things come down to legislation, it seems to me that we need to weigh out the consequences of our decisions for the workers and for the employers. It seems to me that while the employers may be faced with an increase in premiums, maybe a few dollars or depending on the size of the operation maybe substantial, that's a much smaller price to pay than a worker pays who is seriously and permanently injured, the kinds of workers that we all see coming into our offices.

When we reduce it to the simple human scale of who is suffering the most and where should justice fall, it seems to me that the benefit of the doubt should be given to the injured workers, and I think that is very much the conclusion that the reviews of the Workers' Compensation Board came to. I am concerned, when I read about the legislation and see some of the reactions to the legislation, that we forget the simple humanity that should be flowing through this bill, and we forget that people are – while they're not losing their lives literally, they're losing their lives figuratively, people who are so seriously injured that for the decades remaining of their lives they can't live it properly. That's a terrible, terrible price to pay, and I think that those people deserve the benefit of the doubt, and I certainly will be watching as debate goes on to argue where I can, to remember those people, and to understand the pain that I have seen in their faces when they've come to my office and I'm sure the same thing that all of you MLAs have seen as well.

So that's how I will be approaching this legislation. I realize it's difficult. It's complex. I'm not expert in it, but it is ultimately a piece of legislation with a profound impact on individuals' lives, and I'll be watching for that.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: Any questions or comments with respect to this speech? If there are no further speakers, I'll call on the minister to close debate. The hon. Minister of Human Resources and Employment to close debate.

MR. DUNFORD: Well, thank you, Mr. Speaker. I want to thank the speakers that have risen in the debate in second reading. I appreciate the comments from all members regarding the principles of the bill, and I know that when we move into committee, there are a number of revisions perhaps that people will want to make and of course they'll certainly be welcome.

I want to, though, reiterate a couple of things at this moment in time, and that is: let's not forget that of the two reports that have been referenced most recently by the Member for Edmonton-Riverview, there were something like 59 recommendations that were made through those two reports. I believe that, not counting the legislation today, 49 of those recommendations have been accepted. Some of them don't require legislation, Mr. Speaker. Some of them have been a matter of policy. The policy has been adopted and accepted by the current board of WCB.

That current board is in the process of hiring a new chief executive officer. One of the things that I'm pleased about this time is that rather than just simply going out and trying to select the new CEO, they've spent time on developing a CEO profile. It was developed, by the way, by the search committee, but then it was adopted by the full board. Once they had that profile developed, then they went out and started to seek individuals, men and women, from probably across this continent – I don't know to what extent – that would fit that profile. Part of that profile is a new sensitivity toward the injured worker and a new sensitivity as to how the needs, the desires, the wishes of that injured worker have been articulated through 83 MLAs that we have on the floor of this Assembly. If there was any motivation for any of this that's happening, it wasn't the board of WCB that caused all of this to take place. It wasn't employers around the province that caused this to take place. It was MLAs and it was injured workers coming together in offices all through this province to try to find a way to deal with this.

Now, here we have a rather comprehensive bill, and I think most members agree with what we're trying to do as we move forward. I hope that as we debate, then, through the rest of the steps of this bill in the going forward that we focus on what I believe Edmonton-Highlands refers to when he talks about two steps forward . . .

MR. MASON: And one back.

MR. DUNFORD: Well, just be patient. Two steps forward, because that's what we're talking about as we move from an old system, as we move forward, and let's remember that the Workers' Compensation Board system of Alberta is not a broken tool or a broken thing here. When you look at how it generally works for most workers within the province, this is a good system. Now, we have a philosophy around this place, and I think it translates itself and it's articulated by all members in this Legislative Assembly, that just because something's good doesn't mean it can't be better, and of course that's what we're trying to do. So we have to go forward.

Now, the step backward I think that people are referring to is the fact that we don't have, as we look at the bill, a coherent, concise way to deal with the contentious claims. I don't feel at this moment in time that I have to apologize for that. I think the record is pretty clear that I want something done in that particular area and that we've provided enabling legislation for that to be done, and actually I take some exception to the general theme that I've heard tonight, the automatic assumption that nothing's going to happen. We don't know that yet. We have contemplated that something will happen, and we're still working our butts off – butts have been mentioned by some of the members as well – to find a way in which we can move forward on that being fair to all of the people.

10:10

One of the things that was not articulated by the Member for Edmonton-Highlands in the Meredith principle was of course the idea that it would be current employers looking after current injuries. We can't forget about that aspect of it. Certainly I'm not forgetting about it, but the overriding concern is that we will find a way to look

at contentious claims, find a way to bring closure to contentious claims, find a way so that each MLA sitting on the floor of this Assembly will be able to look at their constituents and say that there is a process in place now that is better than what we had before and that there will be more confidence in those decisions and that we will try to find a way to go back in history where there's no legal obligation on the part of anybody to do that, so anything that gets done is something above and beyond what is required by law. We're trying to find a way to move forward as hopefully a combined unit, both having done something for the future and having done something for the past.

With that, I move second reading.

[Motion carried; Bill 26 read a second time]

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

[Mr. Tannas in the chair]

THE CHAIR: I'll call the Committee of the Whole to order.

Bill 24
Child Welfare Amendment Act, 2002 (No. 2)

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

DR. TAFT: Thank you, Mr. Chairman, and I rose when I spoke before to this bill in some anger I suppose at it, and I continue to be very concerned about this bill. I won't go on at such length tonight, but again I ask all MLAs here to consider what they're voting on. Just consider a piece of legislation that begins with a clause: "Despite any decision of any court," a piece of legislation that is about taking children away from their families. This is not about mufflers. This is not about fish. This is about families. I have enough knowledge of child welfare situations to realize there are in fact times when that is the appropriate thing to do, but I think that as a Legislature and as legislators we need to weigh very, very carefully a bill that talks about removing children from their families and suggests that that decision should be removed from any consideration by the courts.

This is an exceptional circumstance; not as exceptional as I would like, because we are talking about over 600 cases. I expressed the concern that I'll be mildly surprised, if this is ever challenged, that it actually withstands a legal challenge given the serious, serious nature which it is addressing: breaking up the family. I mean, what's more profound, what's more fundamental to our society than the family and then putting that beyond the courts? I don't think that this would stand up.

[Mr. Johnson in the chair]

So I needed to reiterate that. I've also expressed my views to this Assembly on my great, great disappointment that the situation requiring this bill ever arose, the fact that some 600 children were taken into temporary guardianship and did not have proper case plans filed within 30 days or in some cases even close to 30 days. Again, I will not review that, but I do remain very upset that we have to bring this bill forward.

Thank you.

THE ACTING CHAIR: The Member for Edmonton-Centre.

MS BLAKEMAN: Thank you very much. This is actually my first opportunity to speak to Bill 24, the Child Welfare Amendment Act,

2002 (No.2). I share the concerns that have been raised by some of my colleagues, and the Member for Edmonton-Riverview raised my number one concern. We have an obligation as legislators in this Assembly to create good legislation and hopefully to create legislation that won't be immediately challengeable in the courts and hopefully not easy to win by somebody else in the courts. I think that's what we're contemplating doing here with this legislation. By putting forward something that says essentially that it – it's not that it puts itself above the law, but it creates a separate place for it.

"Despite any decision of any court." What? How is it appropriate that we try and inoculate legislation from being challenged in the courts? There should always be an avenue of appeal, and that's why we have the courts and we have things like the Charter, to be able to test legislation to see if it's good. I think this legislation is imminently loseable and that if it gets into courts, it won't stand up at all. That's just time, for anyone that's involved in the legislation, where everything gets suspended while it's before the courts. And it's money, taxpayer money, to have the Crown prosecutors or whoever from the Justice department go up and defend this in court for however many appearances that takes.

So I think we have to be really careful about trying to put ourselves above the courts. I think the courts and the Assembly need to work in a respectful partnership but not in this kind of challenge: you know, I'll say something that means that what you have to say doesn't count as much. In some ways it's counterproductive; I think that's what I would be calling this.

What's really at issue here? Okay; what's really at issue here is that there were some 620 temporary protection orders that existed out there that had not been filed with the courts, contrary to what the Child Welfare Act says. So there was at one point legislation that was brought through this Assembly and debated saying that we need to have these case plans that are filed within 30 days of apprehending a kid and that these are to be registered with the courts at the same time. All right; let's accept that as a given then. That's the way we're going to do this. Well, then let's do it.

10:20

Now, what we have is a repeated failure to do so by the department. Why are we having trouble doing this? Is it because we have a staff shortage? Is it because our forms are confusing? Is it because we are apprehending too many children or not enough children or we're going for too many TGOs and not enough PGOs? Instead of looking at the circumstances around why this isn't working, this legislation just goes back and goes: "Okay; forget all of that. Let's just say that we don't have to do it or, rather, let's just say that we did do it. It's deemed to be done." I think that's much more of an issue.

I'll tell you kind of a little story. I'll take the names out of it. I don't have a lot of children in Edmonton-Centre, so the first time we had a child welfare case come to us, it certainly got the attention of the staff in the office. We had to call a lot of people for help with this because we didn't know who to call, we didn't know who the contacts were, and we didn't know the legislation. This was a whole new experience for us, and we couldn't find out on behalf of the mother what she was expected to do to get her kid back. This was a situation where a couple of kids had been apprehended. One kid was returned immediately. She was trying to get the second and third kids back, I think, and one kid had never been taken. It was one of those quite complicated manoeuvres.

We wrote to the then minister responsible for child welfare saying: okay; what exactly is this parent supposed to do to get these kids back to conform to this? No response. We waited the traditional six weeks for an opposition member to get a response back

from a minister. We didn't get anything. We sent a fax over going: you haven't responded to this letter dated six weeks earlier; here's another copy of it in case the first one got mislaid somehow. No response. We sent another fax after a period of another three or four weeks going: what is the problem over there? We got a phone call back saying that they'd never seen the first letter, ever. Well, the first letter we've now sent twice. So then I had to stop the minister in the hallway and go: what is the problem here? Why can't I get an answer from your office about what this parent is supposed to do to conform to whatever rules or whatever guidelines in order to get her kid back?

Well, you know, if there had been a case plan that had been done on that kid, if there had been a case plan that had been filed on that kid, we would have been able to find out from my office what that parent – maybe it was a father – was expected to do. But there wasn't, yet in the legislation itself we see a need for these case plans to be filed. I can see why they should be filed, so that they become part of a public document and so they become part of the reasoning that the government has essentially gone to court and said: "We're going to take this kid out of whatever situation they're in, and they will become our ward. They'll become a ward of the government. We will look after this child until certain circumstances change." And the circumstances are laid out in that case plan.

So I understand why and I agree with why we should have those case plans and why they should be filed, because I could have had access to that. But at the time this was happening, I'm sure this kid was one of many with no case plan. We can't find out what the parent is supposed to do. The parent therefore doesn't do it. Therefore, when they go back again after a prescribed period of time and say, "Okay; can I get my kid back, please?" the answer is: no, you didn't do what you were supposed to do. "Well, what was I supposed to do? Nobody told me, and there's no access to any information about it." So, one, I think there's a good reason why there's supposed to be a case plan. Two, there's a good reason why that case plan should be filed as part of the court order for the TGO.

Here we have a situation where for whatever reason – we haven't heard any explanation from the minister as to why – all of these TGOs weren't filed. I'll note that there are a series of cases that culminate in this amendment act being brought forward. I think in the first version someone representing the department came forward and said: "Well, yeah, we're supposed to conform to this, and we mean to conform to it, and we will conform to it. We'll get right on that." Then the next time it comes into court, we've got the same department, maybe even the same official – I don't know – going: well, no, actually we're not going to be able to conform to that. Then we end up with this piece of legislation that goes: okay; retroactively for anything after February 21 we're going to deem that this has happened, despite "a temporary guardianship order for which a plan for the care of the child has not been filed in accordance with section 31(3) is deemed to be valid from the date the order was made," and this applies only to temporary guardianship orders made before February 21, 2002.

So it is to get around the problem that these TGOs have not been filed, and somewhere there's something that says that if you don't file it within 30 or 31 days, it's null and void. So we have a situation where the department that is to be the parent for these wards of the government has in fact not completed what they were supposed to do. They didn't follow the law. This act is an attempt to go back and go: "Okay. Forget all of that. We'll just say it didn't have to happen, and then we'll be even." But that's not the point of legislation. We had these guidelines in place for these kids for good reason. As I've already pointed out, it's also good reason so the parents can tell what they're supposed to be doing as well as the

government understanding what its plan for care is. I mean, this case plan or care plan is supposed to have a lot of information in it.

What exactly is the plan to get this child restored back into the family that they were taken from? That's the point of it. What do the parents have to do? What does the government have to do or child welfare have to do? What kind of services and support does this kid need? What kind of service and support does the family need? That's why you have this case plan, so everybody understands what needs to be done to improve the situation and ultimately to reunite the child with their family. That's what we're all trying to do here, and to not have done that for an extended period of time and then to attempt to negate that or nullify that is even worse.

Now, let's get to the real root of the problem here. For whatever reason, you know – I want to know why it wasn't done, and if there was a need for it to be done before, why isn't there a need for it to be done now? I think there is a need for it to be done now, especially in light of the difficulties that this department is seeing. There have been choices about trying to change the delivery of services for these kids by going to a regional health authority system. There's lots of controversy out there about whether that's working or not working, and what's at the heart of this are children and families in Alberta. We know that families get troubled and that kids can get in trouble as a result of that, and I take it that the job of government is to try and move both of those parties to a point of healing and getting back together again to normalcy. So what's the problem? Why can't we get these plans done?

I think that it has to do with two things: one is priorities and the second is resources. This is a larger discussion about what government is for. What's government supposed to do? What ministries are we really supposed to have here? I think this government loses its way sometimes. In its eagerness to be forever reducing the budget and therefore being able to reduce taxes, it forgets that it's responsible for providing certain programs and services, and children's welfare is one of those programs and services it's supposed to provide and provide well. This is not a place to go cheap. It's a place to be careful, because you're affecting a lifetime. Whatever age that child is when it's apprehended, you know, if that kid lives to 80, the actions the government takes will affect that child for the rest of their life. So you've got to take this stuff seriously. I think you have to put the resources into it to show that you're taking it seriously, and at the point where you don't have enough staff resources to write the darn plan and file it with the courts, you've got a problem.

So take a step back, look at how the resources are being distributed, look at what the priorities of the department are. If the priorities of the department really are to have well children and healthy families, then invest in that. It is an investment. Stop looking at this stuff as being a cost. Look at it as being an investment. If the government chooses to always look at these things as a cost, you're always going to be looking for ways to cut the cost, because you're seeing it as a big dollar sign there that's somehow imposing on your ability to cut taxes for somebody. That's what this argument reduces itself to: children are a cost, and we've got to reduce that cost so that we can give the middle and upper income-earning Albertans some kind of a discount, a money-back guarantee. Boy, you've got to watch your priorities with that, because if you keep that up, eventually it's going to cost you a lot more, and we know that. There are all those numbers about how successful Success by Six and all those early prevention and investment programs are.

10:30

What I'm saying here is that I think that what this has really done is to bring into the Legislature and bring into the public eye and into

the media the way this government is viewing children's services. It's viewing it as a cost, not as an investment. I think we've got to change that, flip that around, and start viewing what we're doing for these kids in the programs and services that we're offering to them and their families as an investment. We've got to take that seriously. It doesn't mean that you have to spend more money, but you've got to spend your money right. You've got to take it seriously. You've got to make your priority not just a cost-cutting exercise. That's the concern I have that goes along with this whole bill.

I know that it hasn't received a lot of attention outside of this House, and it doesn't seem like all that many other people are really upset about what's happened here, but I think it's wrong. I think it shows a deficiency in the way we've been approaching this issue. I think that it's probably caused a number of individual MLAs some problems in trying to help their own constituents, because again they can't find out what it is they're supposed to be doing or what the parent is supposed to be doing to correct this situation and get their kid back, so that, you know, costs time and effort and resources from the constituency office level.

Ultimately we are talking about citizens. I know that children, until they reach the age of majority, don't have rights, and I know that they're just viewed as an expense, but it's part of my earlier argument. I think you have to view this as an investment, because I think it ends up costing us a lot more if we don't pay attention at this point in time. Frankly, it's cheaper. It's cheaper to pay attention to these kids now than it is if you end up with kids incarcerated or involved in the criminal system somehow. You know, there are all kinds of other possibilities of where they can go that cost us a lot more money down the line. So invest in it now. What's that saying?

AN HON. MEMBER: Pay me now or pay me later.

MS BLAKEMAN: No. I'm thinking about an ounce of prevention is worth a pound of cure. There you go. It took me a while. That's what's really important here. A stitch in time saves nine is another one. It's about prevention. Do the small thing now. It saves you the much larger thing later.

What we're looking at here is support for a minister and support for a ministry that needs to be able to do the job right and needs to be able to view it as an investment and needs to know that what they're doing is the right thing. Rather than somehow our having children that are called clients or customers, which is even worse, this is government providing a service. This is not a business, and it shouldn't be viewed as a business. It is government providing a service that they're mandated to do. The government has got to be really careful when it starts looking for things to unload, to say that we're not responsible for this and we're not responsible for that.

Well, there are things you are responsible for. One of the things that government is responsible for is children that have to be taken away from their families or apprehended or taken away from a dangerous situation. They then become wards of the government, and we have to look after them properly. One of those is to do the case plan and register it so other people can have a look at it. It's half a loaf to be able to do the case plan and then hide it somewhere where nobody else can get at it and read it and understand what's supposed to happen with it. If you've done the work for the case plan, you should have no problem registering it with the courts, in which case you don't need this act, which then goes about setting itself above the courts by saying: no matter what any court says, we're still right. Well, it's not a condom. You can't protect yourself against this stuff. You've got to do the right thing here. You've got to do the right thing up front.

So I'll be interested in what the other members of the Assembly

have to contribute to this debate in Committee of the Whole, and I'll be interested if the minister is willing to respond here as well. It's not that it's bad legislation, but it's not dealing with the situation at hand. It's not dealing with what needs to happen. It's just trying to cover it up, and that makes it bad legislation.

So thanks for the opportunity to speak to this, and I'll look forward to other members' contributions.

THE ACTING CHAIR: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Mr. Chairman. I've been looking forward to the opportunity to make some comments on Bill 24, the Child Welfare Amendment Act, 2002 (No.2), and I, like other members in the Assembly, certainly have grave concerns over a bill that overrides the law. It overrides the law because in the original act there were checks and balances put in place which would prevent this very situation from arising.

Certainly one of those was the fact that within 30 days of a child being apprehended, a case plan would have to be filed, and those case plans were very, very important. They identified the needs of the child and the steps to be taken to provide those needs. They list the immediate needs and how they are to be fulfilled for that child, whether those needs be shelter or a secure environment. They also list the long-term needs such as permanency of place, where the child will end up once the temporary guardianship ends.

These case plans also fulfill many other important roles, one being that they will communicate to the parents what they need to know in order to regain custody of their children. Of course, it is vital to the well-being of society that we have strong, functional families. The case plan not only identifies what happens to the child, but it also identifies the scheduled treatment for parents themselves. It is indeed an all-encompassing plan. It sets out required therapy and medication, if necessary, for one parent, both parents, whatever. Again these plans must be set in place, Mr. Chairman, in order that the well-being of the child takes place.

Now, then, as well, the case plans keep social workers accountable to children. The case plans identify the resources required to help the child. Ideally, the case plans also give social workers the reassurance that these resources will be provided by the ministry.

What's happened is that initially over 600 of these case plans were not filed, so at the end of 30 days what happens is that those court orders are not valid. What must take place is that these children must be reapprehended or the parents have every legal right to have their children back, putting those children back into a situation we've already identified as being at risk for children.

As well, there are some other situations here where court orders must be signed by the worker, by the parent, and by the children if they are 12 years or older. Now, in fulfilling these requirements, there are some reasons why this may not take place, and the minister did outline those. In some cases it's very difficult to find the parents, or in other cases, even though they can contact the parents, the parents don't want to agree or co-operate by signing these papers. In some other cases the courts may have adjourned. So we can see why in some situations it might be extremely difficult to get these case plans in order.

10:40

We talk and we pride ourselves so often in this Legislature and we continue to state that we have the Alberta advantage. The majority of us continue to live in a society which is full of advantages, but the advantages aren't shared by everybody. We look at our children that are in these positions, the children that are most at risk, the children

that are most vulnerable. What do we say about ourselves as a society when we cannot add this advantage to all members of our society, particularly those members who are most vulnerable?

When looking at this bill, we have to determine certainly what is the best way to deal with the situation that we find these children in today. It may be a case, Mr. Chairman, as another hon. member has said, that we might have to hold our noses and pass this piece of legislation because in the end it might be the best thing for those children. It certainly does not solve problems. It certainly does not address the ongoing situations that we have in Children's Services. As I said when I rose to speak on this, I still have many great concerns about a piece of legislation that is required to override the law.

I don't know, Mr. Chairman, how many times we would have to do this. Are we going to be coming back in the fall and saying that we need another bill – it may be Bill 52 at that point, which would be the Child Welfare Amendment Act again – to do the very same thing that we're doing here today. The assurances we gave to those children, to those families that we had a system in place that would work, that it would be the best chance for those people just don't seem to be working.

I look at a quote from Mother Teresa: "Loneliness and the feeling of being unwanted is the most terrible poverty." We all know that Mother Teresa's compassion and devotion to the destitute was second to none. Certainly these children cannot be in any worse shape than they are right now. Probably the reason that in the end I will support this legislation is because there are almost 600 children out there that require and deserve much better than they have been provided with so far.

Thank you.

THE ACTING CHAIR: The Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Chairman. Just a few comments on Bill 24. I think of two positions on Bill 24 that I heard most recently and that I guess summed up where we are. One was from a social worker who wrote me an e-mail and said: "Okay; we made a mistake. Let's get on with it. This has to be done. Just pass the bill and do what has to be done." That was followed by a second e-mail – I'm not quite sure whether it was from a worker or someone within the department – that said that there's no way Bill 24 should ever be passed by the Assembly, that it's reflective of what's going on in the department, and that it's an affront to pass Bill 24.

There's a real distaste on the part of the opposition, and I know that the minister, too, has mixed feelings about the bill that's before us, but I think in the final analysis there hasn't been an alternate solution come forward that would deal with the position that the department is being put in because of the court rulings. We have to, I suspect, Mr. Chairman, hold our noses and pass this piece of legislation, as regrettable as that is.

So with those comments, Mr. Chairman, I'd conclude. Thank you.

[The clauses of Bill 24 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE ACTING CHAIR: Opposed? Carried.

Bill 21

Alberta Personal Income Tax Amendment Act, 2002

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

[The clauses of Bill 21 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE ACTING CHAIR: Opposed? Carried.

The hon. Government House Leader.

10:50

MR. HANCOCK: Thank you, Mr. Chairman. In light of the hour I would move that the committee rise and report bills 24 and 21.

[Motion carried]

[The Deputy Speaker in the chair]

MR. JOHNSON: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: bills 24 and 21.

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

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Speaker. I would move that we adjourn until 1:30 p.m. tomorrow.

[Motion carried; at 10:51 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

