Legislative Assembly of Alberta

Title: **Tuesday, May 7, 2002 8:00 p.m.**
Date: 02/05/07
[The Speaker in the chair]

THE SPEAKER: Please be seated.

head: Introduction of Guests

THE SPEAKER: Hon. members, before we call on the hon. Minister of Justice, in the galleries tonight are young representatives from throughout the province of Alberta who are with us in Edmonton this week as part of the Forum for Young Albertans. The gentleman that has co-ordinated this project on their behalf for nearly 14, 15 years, Mr. Blair Stolz, is with them. They've had a busy itinerary in the last two days and will have for the next number of days.

I want to thank all hon. Members of the Legislative Assembly who have taken time during their schedules during the day to meet with them, to participate with them. All hon. members should know that earlier today they were here in this Chamber. They sat in the desks of hon. members and participated in a seminar with the chairman, and this evening we had our annual opportunity to host them. Again, I want to thank the hon. members who were able to join with us and attend and to thank all of them for taking the time during this part of their school year to be with us. They are in grade 10, grade 11, and grade 12 from various parts of Alberta, and six of them were here a year ago to participate in Mr. Speaker's Alberta Youth Parliament.

A number of them have indicated that as the years go into the future, they would look forward to finding a suitable spot in this Assembly on behalf of various people in the parts of Alberta that they will be living in. So if you would join with me in welcoming them, that would be very nice.

head: Government Motions

Appointment of Information and Privacy Commissioner

25. Mr. Hancock moved:
Be it resolved that the Legislative Assembly concur in the May 2, 2002, report, part 2, of the Select Special Auditor General and Information and Privacy Commissioner Search Committee and recommend to the Lieutenant Governor in Council that Franklin J. Work be appointed Information and Privacy Commissioner for a five-year term.

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

MR. HANCOCK: Thank you, Mr. Speaker. There has been a select committee of this House to interview and go through the process of recommending to us a new legislative officer for that position, and I think this House would be well advised to abide by the decisions of that committee.

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

MR. MacDONALD: Thank you very much, Mr. Speaker. At this time, regarding Government Motion 25 to appoint as Information and Privacy Commissioner for a five-year term Mr. Franklin J. Work, I too would like to state that the entire Assembly should recognize the efforts of the committee, and I wish Mr. Work well in this five-year appointment. Certainly if this hon. member had his way, there would be an increase in the scope of the work for the Information and Privacy Commissioner. One always must remember that there's a delicate balance between providing information and protecting the privacy of individual citizens.

Thank you.

[Government Motion 25 carried]

head: Government Bills and Orders

Committee of the Whole

[Mr. Tannas in the chair]

THE CHAIR: Good evening. I'd like to call the Committee of the Whole to order. For the benefit of those in the gallery I'll explain what the committee is. This is an informal part of the Legislative Assembly, and it enables members to ask an unlimited number of questions and to ask more than one time. They can be up and an answer can be given and they can go back and speak again, so they can speak an unlimited number of times. It is a vulnerable stage where it could take many, many, many hours or a brief time. It's where we deal with the clauses of a bill item by item and make amendments and that kind of thing.

The informality you can already see as a number of gentlemen have removed their jackets and that kind of thing. Also, as we see, people are able to move around, and if you're trying to follow your sheet, the members will not be where they're supposed to be except when they're speaking. We have a convention here in the Chamber that we try and remember to abide by, and that is that we only have one member standing and talking at a time. You can see the importance of that later on.

Bill 23
Municipal Government Amendment Act, 2002

THE CHAIR: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Whitecourt-Ste. Anne.

MR. VANDERBURG: Well, thank you, Mr. Chairman. I'm very proud to rise today to speak on Bill 23, the Municipal Government Amendment Act, 2002. As the Member for Edmonton-Glengarry noted in his comments, the bill does reflect the wishes of stakeholders and will help to improve and strengthen the Municipal Government Act. The amendments outlined in the bill will provide a consistent standard of liability protection for municipal officials and for the municipal boxing and wrestling commissions and will improve the equalized assessment process. The proposed amendments provide a standard of good faith for liability for municipal officials and for municipal boxing and wrestling commissions. The proposed amendments also improve the equalized assessment process by eliminating the one-year lag between the preparation of the current year's municipal assessments and the preparation of the equalized assessments.

The Municipal Government Act is a legislative framework for municipal governments in Alberta and is viewed as one of the most progressive legislations of its kind across Alberta. The proposed amendments will help to improve that framework, sir. These amendments are based on consultation with the municipalities, the AUMA, the AAMD and C, and other stakeholders. Maybe I should say: AUMA is the Alberta Urban Municipalities Association; AAMD and C is the Alberta Association of Municipal Districts and Counties. I thank them for that valuable input. These are very, very valuable stakeholders in this process, and, sir, I really do want to end this by thanking the Minister of Municipal Affairs and his staff for allowing me to make these amendments here tonight.

Thank you.

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

MS CARLSON: Thank you, Mr. Chairman. I'm happy to respond in committee on Bill 23. As we see it, the highlights of the bill are that it changes some of the dates for filing property assessment information, and it will be for the year just past instead of the year before that, which is good. Now this is possible because information will be submitted on-line rather than on paper forms, which of course is also good. As much as sometimes we may complain about the increased workload we have from dealing with e-mails and on-line information, there are times when it is very beneficial, and this would be a good example of that.

We also agree with this bill making the amendment so that municipal employees, volunteers, councillors, and boards of directors for boxing commissions will be held to the same standard of performance in good faith as provincial and federal employees. A very important change, and one that we can support. This is one of those rare occasions when there's been a great deal of co-operation between government and the Official Opposition. We have had the time and the opportunity to consult with stakeholders, and they are by and large very supportive of this bill. So we are pleased to not only support this bill but to support a call for the question.

8:10

[The clauses of Bill 23 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIR: Opposed? Carried.

Bill 22
Tobacco Tax Amendment Act, 2002

THE CHAIR: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Minister of Revenue.

MR. MELCHIN: Thank you, Mr. Chairman. I'd just like to respond to some of the questions that were raised with respect to second reading. One of the first questions in debate had to do with cigars manufactured in Canada being treated differently than cigars manufactured in the United States and asked whether that would raise an issue in North American free trade, and I'd just like to respond. There's no real difference in the tax treatment between the domestic and foreign cigars. The base price on which tax is calculated is the price charged on the first sale in Canada. In other words, in the case of cigar manufacturing in Canada that's the price charged by the manufacturer; in the case of foreign cigars it's the price charged by the importer. Since there's no difference in treatment, there'll be no challenges under NAFTA.

Another one was that the percentage increase in tax was different for cigarettes than loose tobaccos and cigars, and that's in relation especially with respect to loose tobacco and cigarettes. They would be increased to be the same rate per gram, so loose tobacco would equal the same effective tax cost as it would on cigarettes. That would be to discourage any switching from one form of tobacco to the other.

The other question was with respect to a wellness fund, linking the tax to a wellness fund in particular. This bill is in response to raising the revenue. Our revenue sources aren't dedicated revenue sources. None of our tax policies are dedicated revenues; they're for general revenues of the government. For the smoking cessation programs you'd have to refer to the minister of health's programs in his department with respect to the Alberta Alcohol and Drug Abuse Commission.

I think I'll end my comments there. Thank you, Mr. Chairman.

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

MS CARLSON: Thank you, Mr. Chairman. This Bill 22, the Tobacco Tax Amendment Act, 2002, is such a classic Conservative bill. They tell everybody that they're lowering taxes.

AN HON. MEMBER: And they are.

MS CARLSON: Through the front door, but through the back door they're increasing all these other head taxes and all the sin taxes that they just love to increase.

What are we talking about here? A hundred and twenty-eight percent on cigarettes, 183 percent on cigars, and 300 percent on tobacco. Everybody says: well, what does it really matter, because we want people to quit smoking anyway, so this is a good tax; right? [interjections] Yeah; clap. Go ahead. But the fact is, Mr. Chairman, that it does nothing to eliminate addictions, which is the basic problem with people once they start smoking. Do you think people want to pay 10 bucks a pack for smokes out there? No way. Lots of them that I have talked to have said that now with these increases, when there are two people in the family smoking, they're paying a mortgage payment just to buy cigarettes.

The best example I got was from our new member's constituency when I was out there in the by-election from a fellow who was working in a hardware store.

AN HON. MEMBER: You just wasted your time, then.

MS CARLSON: It wasn't a waste of my time at all. It wasn't a waste of time for any of the Liberals who were out there working, because you'd be quite surprised at the information we gathered. We had an increase in votes out there. There's a huge dissatisfaction with government and some of the really stupid decisions they've made in the last little while, particularly all the flip-flops, so don't tell me it was a waste of my time.

What this fellow said to me is that he and his wife smoke: $300 a month for each of them. That's $600. That's more than their mortgage payment. This fellow is working for a very low salary in the service industry, and they're having real problems making ends meet. I said to him: what should the government have done? He said: if they're serious about us quitting smoking to lower the health care costs, then what they should have done was initiated some kind of wellness program like making the patch available to people or other kinds of programs. That's what he said.

I think that's a great idea. That would be part of the solution to eliminating the health risk we have for everybody who is associated with smokers but particularly for smokers. What does this government do? No way. You talk to them about some of the solutions they could have if they're going to raise these taxes and put them into general revenue. We just heard from the Minister of Revenue, when someone said to him, "How come there isn't dedicated money then going to providing preventative programs for smokers?" he passes the buck, which is again a classic Conservative ploy in this particular government, and says: "It's not my fault. It's not my department. Talk to the Minister of Health and Wellness."

Well, in fact it is his responsibility, Mr. Chairman. If he's going to increase the taxes and he's going to see that there's a reason for the decrease overall in smokers, then it's his responsibility as a part of this government to see that the money flows through to the end use where it can do the most good. Perhaps this government's policy is not to have dedicated revenue and dedicated sources, but when you're picking the money out of the pockets of Albertans, then there are some instances when it's very important to dedicate that revenue.

I would suggest that gambling, alcohol, and cigarettes are prime examples of that. If they're going to increase these taxes, then we should see a subsequent increase in dollars dedicated to preventative programs and to elimination of health risks. This minister has the responsibility and, I would suggest, the ability to do that when they're deciding where money gets dedicated, and particularly given this minister's background, I would suggest that he get on the record saying that he's quite happy to do that. Two hundred and eighty-one million dollars in increased taxes they have received from this, and I do not see a corresponding $281 million going to AADAC or to Health and Wellness. That's the challenge that we have for this minister to deliver to Albertans.

With that, Mr. Chairman, I will take my seat, and we can have the vote.

THE CHAIR: Before I recognize any other members in this debate, I wonder if we might have permission to briefly revert to Introduction of Guests.

[Unanimous consent granted]

head: Introduction of Guests

(reversion)

THE CHAIR: The hon. Member for Calgary-East.

MR. AMERY: Thank you, Mr. Chairman. It's my pleasure to rise and introduce to you and through you to members of the Assembly Mrs. Janis Marz, the wife of the hon. Member for Olds-Didsbury-Three Hills. Mrs. Marz just came back from Spokane's Bloomsday. She is seated in the public gallery. I would like to ask her to rise and receive the traditional warm welcome of the Assembly.

Bill 22
Tobacco Tax Amendment Act, 2002

(continued)

THE CHAIR: The hon. Minister of Learning.

DR. OBERG: Thank you very much, Mr. Chairman. After those provocative words, I deemed it necessary to stand on my feet and give my two cents worth as well, and it is not very often that I do stand on my feet with the bills.

Mr. Chairman, what I will say is that the $600 per month multiplied by 12 is yes indeed $7,200, but the health risks that these people are going through by smoking that one pack a day – a 20-pack a year cigarette smoker, for example, you can almost guarantee will develop lung cancer. The health care costs of that are included in the $6.795 billion that we just voted on today on first reading of Bill 27, the Appropriation Act, 2002.

When you talk about preventative programs, take a look around North America. Those constituencies, those areas that have high costs of cigarettes have lower consumption, and that is proven time and time again, Mr. Chairman. I am certainly not one to advocate higher taxes. I am one, though, to advocate higher taxes for cigarettes, and I commend the minister for bringing this forward.

8:20

MS CARLSON: Well, Mr. Chairman, then I have a question for this particular minister. Did he at the cabinet table suggest that all of this money be revenue dedicated to prevention and to elimination of smoking because that's where the money needs to go?

THE CHAIR: Hon. minister, I'm not really sure that you're the sponsor of this bill, but we'll allow.

DR. OBERG: I would love to speak again, Mr. Chairman. Cigarettes cause a huge toll on the general public of Alberta. They cause a huge toll on the health of smokers in this province. The amount of dollars that are spent on smoking-related illnesses – be it diabetes, be it heart attacks, be it lung cancer, be it ulcers; you name it – is astronomical. So to say quite simply that it should be spent on preventative practices is ignoring the whole cost of health care by cigarettes, which is to the acute health care system. When I was in active practice, if you could eliminate smoking, quite frankly you would have eliminated 30 to 40 percent of the reason people came to see doctors. This bill goes a long way in doing that.

THE CHAIR: The hon. Member for Edmonton-Highlands, and then we'll go to Edmonton-Ellerslie.

MR. MASON: Thank you, Mr. Chairman. I'd like to ask the Minister of Learning whether or not he feels that preventative programs are as effective as raising the price of tobacco and whether or not it wouldn't be a sound investment for the government to spend considerably more on preventative programs given the costs to the acute health care system that he has just outlined.

Chair's Ruling
Question and Comment Period

THE CHAIR: Hon. members, we have before us a bill entitled Tobacco Tax Amendment Act, and yes, some of these are debating points, but the minister responsible and who is supposed to answer is here. I know it's wonderful to be able to get the Minister of Learning into the debate. I did allow it before, and if the hon. Minister of Learning wants to take this on – but you're not obliged to. Okay.

MR. MASON: A point of order, Mr. Chairman.

THE CHAIR: The hon. Member for Edmonton-Highlands is rising on a point of order. Would you share with us the citation?

Point of Order
Question and Comment Period

MR. MASON: Standing Order 13(2) permits any member other than the person introducing or responding to the bill or closing on the bill to be asked a question. That does not simply apply to members who are not members of Executive Council, Mr. Chairman. Any member who rises except for the first, second, and last speaker is entitled to be asked questions by any member, and the chair ought not to be interfering in that.

THE CHAIR: Okay. What the hon. member is saying is absolutely correct. The new Standing Orders do permit that on second reading and third reading. This however, hon. member, is committee. In committee members are allowed to stand up for unlimited periods of

time. The rule that you're invoking really is only for the other two readings, and besides that, your citation was incorrect.

MR. MASON: I apologize, Mr. Chairman.

Debate Continued

THE CHAIR: The hon. Member for Edmonton-Rutherford on Bill 22, one trusts.

MR. McCLELLAND: Thank you, Mr. Chairman. I'll be very, very brief, to the comfort of everyone here. I think that it's very important to make the point that there is a very direct relationship between the price, the elasticity of cigarettes, and the take-up, particularly by the young. The opposition knows that and knows that full well. There are times when we know that the opposition must oppose for the sake of opposition. This may not be one of them.

MR. MASON: Now that I'm in sync with everyone else, Mr. Chairman, I'd just like to make a few comments. I did speak to this on second reading. I certainly do not disagree with higher taxes on tobacco, but I certainly do believe that the money ought to be going towards prevention. Given the state of this budget as a whole, I see this as nothing more than a tax grab and, as has been pointed out, from the lowest income group in our society. At the same time that the government is reducing corporate income taxes, as we well know, it seems to me that in this particular case it's not, as some members opposite would have us believe, simply a careful, well-thought-out plan to reduce the incidence of smoking and the related costs in our society. It's not, and I think that's the point.

The relevant point is that this is a tax revenue item. It is considered by the government to be a politically acceptable way to raise taxes after they've repeatedly promised that they would not do so. If it were intended strictly for the prevention of smoking, I'm sure that I would support it and I'm sure that other members in the opposition would support it, but that's not what it is. It's a revenue item. The government is desperate because it's put itself into such a terrible box with the fundamentalist fiscal policies it keeps following that give it no leeway: cutting taxes, no deficits, and lots of promises to the public about increasing program spending. There was no other way out for the government but to raise taxes on cigarettes. So let's dispense with the hypocrisy opposite, Mr. Chairman. This is a tax grab.

[The clauses of Bill 22 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIR: Opposed? Carried.

The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Chairman. I move that the committee rise and report bills 23 and 22.

[Motion carried]

[The Deputy Speaker in the chair]

MR. VANDERBURG: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: bills 23 and 22.

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

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

head: Government Bills and Orders

Third Reading

Bill 2
Child and Family Services Authorities Amendment Act, 2002

THE DEPUTY SPEAKER: The hon. Minister of Justice.

MR. HANCOCK: Thank you, Mr. Speaker. I would move Bill 2, the Child and Family Services Authorities Amendment Act, 2002, for third reading.

The bill essentially, as has been discussed at second reading and in committee, provides for various amendments to the structure and operation of the child and family services authorities, and I would commend the act to the House.

8:30

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

DR. MASSEY: Thank you, Mr. Speaker. I appreciate the opportunity to make a few comments about Bill 2, the Child and Family Services Authorities Amendment Act, 2002, at third reading. The object of the bill is really twofold. One, it gives the Minister of Children's Services more control over the authorities, and the second one is to actually reduce the size of the board of each authority. We've spoken in the past about the benefits I think of some of the amendments in this bill, Mr. Speaker. I think that the publicity that children's authorities have received in the last several months points out the importance of these authorities and how crucial it is that the government get it right in terms of the makeup and the operation of the authorities.

One of the questions we're continually faced with is: are those authorities effective in doing the kinds of tasks that were put under their purview in 1999? When we address this particular bill, I think we have to ask: will this make them more effective or simply more responsive to direction from the government? I think that on balance, Mr. Speaker, we would agree that it has the possibility of making the authorities more effective, and for that reason we're supporting the bill at third reading.

Thank you.

[Motion carried; Bill 2 read a third time]

Bill 4
Public Health Amendment Act, 2002

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

MR. ZWOZDESKY: Thank you, Mr. Speaker. It's my pleasure on behalf of the hon. Minister of Health and Wellness to move Bill 4 at

third reading, that being the Public Health Amendment Act, 2002.

I think that all members here would agree that health care remains an intensely important part of our proceedings in our daily living, and it depends on very highly skilled and highly trained individuals to make it all happen. Using these individuals as effectively as possible will help meet a very growing and changing demand for health services in our province.

The Public Health Amendment Act before us supports an expanded and more flexible role for registered nurses. In particular, if I could highlight a couple of points, Mr. Speaker, it creates the formal title of nurse practitioner, and it provides authority to make regulations on training, experience, or conditions of employment. I might add how appropriate it is to see third reading of this bill at this particular time given that we are celebrating Nursing Week throughout our province. I wear their badge on my lapel very proudly, as I promised Sharon in my office I would, and I say that because I have many friends who are in the nursing profession and I know how reliant we are upon their services.

Mr. Speaker, to make sure that nurse practitioners have the supports they need, this legislation sets criteria that employers must meet instead of simply listing who can be an employer. Health region CEOs and nurses themselves support these amendments, and this is a very positive step for both rural and urban health regions. I know that we are all very pleased to provide Alberta's registered nurses with opportunities to take on expanded duties, and other health professionals can also look forward to welcoming more nurse practitioners to the health care team.

So on that note, Mr. Speaker, I will cede the floor and look for everyone's support of the Public Health Amendment Act, 2002.

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

MS CARLSON: Thank you, Mr. Speaker. As we have at the various other readings, we will be supporting Bill 4, the Public Health Amendment Act, 2002. Besides the definition changes that we heard about here, the main change in the bill introduces moving restrictions on who can employ nurse practitioners out of the act and into the regulations.

Moving this requirement out of the act and into regulations could be seen in two ways. In the first way, Mr. Speaker, it ties in with recommendation 11 of our own discussion paper, Making Medicare Better, which states that "the Alberta government should act quickly to ensure that all health care professionals can fully utilize their training and expertise."

In Alberta we are not making the best possible use of our medical professionals; that's well known inside and outside of the industry. These amendments could be seen as a positive use of these professionals, positive by allowing more flexible work arrangements for the nurse practitioners, better use of multidisciplinary teams in clinics, which we have asked for for a long time. Up until now nurse practitioners have only been able to work in areas designated as being under service by Alberta Health, and proposed changes to the regulations could help ensure that these nurse practitioners are better utilized, something we have called for for many years. According to government documents proposed changes to the regulations will allow other organizations such as nonprofit community groups to directly engage nurse practitioners, which of course will be positive on a cost perspective.

The amendments could also be seen as negative for the public health care system. Moving into the regulations the requirements on where nurse practitioners can work takes away some of the legislative oversight we would have over these issues as opposition, a group that is left out of the regulatory process. Moving more power out of the legislation and into regulations can be seen as negative, and we have seen often in this Legislature, Mr. Speaker, that the devil is in the details, and those details are in regulations. We see the nonpositive effects of those regulations and their impacts consistently on legislation that goes through this Assembly.

We will be supporting the bill. However, we are putting up a red flag to say that we will be watching to see what comes through in the regulations and will be certainly kicking up a fuss if we see something happening down the road that isn't supportive to Albertans, to the profession, and to health care in general.

Thank you.

[Motion carried; Bill 4 read a third time]

Bill 5
Interjurisdictional Support Orders Act

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

MR. RATHGEBER: Thank you, Mr. Speaker. It is indeed a pleasure to rise today to move third reading of Bill 5, the Interjurisdictional Support Orders Act.

I consider this proposed legislation to be of great benefit to all Albertans and specifically to Alberta's families. I have seen situations where a former partner, a parent, or, most sadly, a child goes without the support they deserve because the person required to pay support resides outside Alberta. I've also seen frustrated payers of support who feel that the amount of maintenance they pay should be reduced but who must wait up to two years for a variation application they commenced to be heard in Alberta, a provisional order to be granted, documents to be transferred to the recipient's jurisdiction, a confirmation hearing to be conducted there, and the final confirmation order to be returned to Alberta, all before their support amount can be decreased or their arrears reduced, as the case may be.

I understand, Mr. Speaker, that in September 2000 Canada's ministers responsible for justice unanimously approved an initiative to strengthen the enforcement of child support payments when the parents are living in different jurisdictions. They adopted an interjurisdictional maintenance and enforcement protocol aimed at ensuring that provincial and territorial borders are not barriers to child support. In November 2000 Canada's deputy ministers responsible for justice considered and approved a model interjurisdictional support orders act to be implemented by all Canadian provinces and territories. In August 2001 Canada's Premiers agreed to pass their respective versions of this act within one year.

8:40

As one can see, Mr. Speaker, Bill 5 is the result of a series of commitments by all of Canada's jurisdictions to harmonize their reciprocal support order legislation in order to assist Canadian families: parents and, most importantly, children. Given Canada's increasingly mobile population, I'm very happy to see Alberta move so quickly to realize this important objective through the implementation of Bill 5. When the establishment or enforcement of a support order is delayed, parents and children can suffer serious economic hardship. They may also find it necessary to rely on government assistance in that interim.

In reading Bill 5, I am confident that the Interjurisdictional Support Orders Act will make the ability to obtain, vary, or enforce a maintenance order faster and easier. By reducing the number of court hearings in most cases from two to one, I suspect that much of

Alberta's court time and courthouse resources will be freed up so that they can deal with more important matters. Indeed, a courtroom, a court clerk, and a judge will only have to be booked for support applications coming into Alberta. Outgoing applications would only involve the completion of an application package forwarded to the other jurisdiction for a hearing there. If court resources are no longer needed for up to half of the reciprocal support cases under provincial legislation that now require two court hearings, this will mean that documents will be able to be transferred more quickly between jurisdictions and matters will be able to be heard more readily. I should also mention the possibility of non support-related matters being resolved more quickly as a result of this newly available and created court time.

Mr. Speaker, I also think that Bill 5 is very well conceived, because it preserves the ability of both parties to have their evidence heard before the court. Claimants and applicants get to put their case forward in their paper application, attaching legal authorities and their sworn evidence. Respondents have the opportunity to appear in court to convey their side of the story. Further, courts have the ability to request further information from either party if they require it to grant the most appropriate and beneficial court order.

Mr. Speaker, I've also noted Bill 5's appeals mechanisms and its requirements for judges to give reasons for refusing to grant or vary a support order or for declining to set a foreign order aside. These provisions further ensure justice and fairness in all matters of interjurisdictional support.

I am confident, Mr. Speaker, that the streamlined procedures of the Interjurisdictional Support Orders Act will achieve the efficiency that Albertans have been seeking when they are involved in matters of support with someone outside the province. Quite clearly, orders granted in other Canadian provinces and territories should be given priority equal to orders obtained in Alberta. Why should an Albertan have to wait to have their order enforced or face any other obstacles just because their order happens to be from, for example, Newfoundland, Northwest Territories, Prince Edward Island, or Manitoba? I appreciate the way that Bill 5 has removed the need for people in those types of cases to wait 30 days before their order may be enforced. Waiting 30 days just means that arrears can accumulate under that court order. Quite simply, the faster a court order may be registered and enforced, the faster the parents and children get the support they require to meet their daily needs.

Mr. Speaker, national co-operation is crucial in matters that involve the well-being of children. I am glad that Canada's 13 jurisdictions have come to an agreement to pass virtually identical legislation in the form of their interjurisdictional support orders acts. It is encouraging to know that the principles and mechanisms for reciprocally obtaining, changing, and enforcing support orders will be essentially identical across Canada: only one court hearing in most cases, fewer delays in transferring documents between jurisdictions, fewer costs to the parties involved, and faster enforcement of all Canadian maintenance orders.

It is also very encouraging to see Alberta so committed to co-operating with other jurisdictions in matters of spousal support and child maintenance. I see in Bill 5 the possibility for further co-ordination in such areas as the creation of application forms, service of documents, the translation of documents, and the conversion of support amounts granted in foreign currency.

In brief, Mr. Speaker, Bill 5, the Interjurisdictional Support Orders Act, is a very beneficial piece of legislation because it improves and simplifies the way that individuals can obtain a court order under provincial legislation and the way that both payers and recipients can vary an existing order because their circumstances have changed. This legislation will be welcomed by my constituents and indeed by all Albertans.

I know, Mr. Speaker, that there was great support for this bill in second reading and in Committee of the Whole, and I encourage all members to support Bill 5 in third reading, as I have no hesitation in supporting this piece of legislation. Thank you, Mr. Speaker.

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

DR. MASSEY: Thank you. I'm pleased on behalf of the Official Opposition to support Bill 5, the Interjurisdictional Support Orders Act, spring 2002. The objective of the bill is to improve the process for obtaining and varying support orders where the claimant and respondent live in separate jurisdictions. [interjections] I thought we'd say it maybe four times, Mr. Speaker.

At third reading we of course return to the principles of the bill, and I think that that's appropriate. The principles here are important ones, indicating that no matter where you happen to live, that shouldn't be an impediment to you seeking the kinds of orders and relief that you require in terms of the cases you're involved with and that you shouldn't be hampered by jurisdictional requirements in terms of seeking relief in support orders.

So I think the principles that are underneath the bill are sound principles. It should make it easier for claimants to obtain an initial support order from reciprocating jurisdictions. It streamlines the court proceedings. It makes them more efficient in processing applications, and it's extremely important that it be consistent with legislation in other jurisdictions.

With that, Mr. Speaker, we'll be supporting Bill 5.

[Motion carried; Bill 5 read a third time]

Bill 6
Student Financial Assistance Act

THE DEPUTY SPEAKER: The hon. Minister of Learning.

DR. OBERG: Thank you very much, Mr. Speaker. It gives me great pleasure to move third reading of Bill 6.

This is a very good bill that allows for further harmonization with the federal government on student loans. It also allows for direct lending on student loans. I will say, Mr. Speaker, that this has been brought into the House after a considerable amount of consultation with the student bodies, and I will say that all the student bodies are in favour of this bill.

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

DR. MASSEY: Thank you, Mr. Speaker. We appreciate the opportunity at third reading to speak briefly to Bill 6, the Student Financial Assistance Act. As the minister has indicated, this is a bill that has wide student support. It's a good move in bringing student loans under one roof and making the province the financing agent to be responsible for agreements for financial assistance to students, and it gives the minister the power to I think make the loan system a better system and to respond to student needs more appropriately.

As we have from the beginning, Mr. Speaker, we will be supporting Bill 6.

[Motion carried; Bill 6 read a third time]

8:50

head: Government Bills and Orders
Committee of the Whole
(continued)

[Mr. Tannas in the chair]

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

Bill 26
Workers' Compensation Amendment Act, 2002

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

MR. HERARD: Thank you very much, Mr. Chairman. It's with a great deal of hope and anticipation that I rise to speak in committee on Bill 26. It's been a long time coming, and before I get into the actual clause by clause, I need to make a few comments with respect to this bill, because it is in essence some of the clauses of this bill that I find that some injured workers are asking me questions about. They don't necessarily understand the intent, so I wish to make a few comments with respect to that.

Having worked on both of these committees, I want to begin by thanking the Minister of Human Resources and Employment for having taken I guess the pleadings of MLAs throughout the province from both sides of the House and having looked at doing reviews that in essence today are leading to their logical conclusions in this bill that we are discussing in the House tonight. I wish to thank the minister very much because I recall that when I first got elected, I think one of the first things that I got involved with in 1993 was some WCB claims.

I can certainly remember at the time not knowing exactly where I was coming from and where they were coming from, and essentially I had to make a somewhat hard decision by saying to injured workers, "Look. I'll do what I can for you until the day that I find out that you're lying to me, and then it's over." Some of those injured workers did not come back, but those who did – and I've been working with them for years – were telling me the truth all along. So I want to thank the minister very, very much for the opportunity to speak to this legislation tonight, and I want to thank everyone who worked on both of those committees to make these changes that we are trying to make to the WCB Act a reality.

I want to express a very special thank you to Judge Sam Friedman, who chaired the appeal system review and who taught us a great deal about fairness and gentle persuasion. I also want to thank the hon. Member for Red Deer-South, who chaired the other committee, as well as all the committee members and all of the people who participated and who I think did a great job of defining precisely where some of the problems are that we're trying to address in this legislation.

But I have heard from a number of injured workers who are not too impressed with this legislation. They have concerns with the clauses that we're discussing this evening, and they want to see specific changes or specific clauses that address each and every recommendation that was made and that was accepted by government. To my knowledge – and I've been involved in every stage of developing this legislation – all 45 or so recommendations are being addressed. Some are being addressed in legislation, some are being addressed in regulation, and some are being addressed by policy statements. So for those injured workers who do not see all 45 or so recommendations falling directly into clauses of the bill, that's the reason. It's because not all of it can be addressed in legislation. Some can be addressed in regulation and some through policy statements.

As I understand it, the only recommendation that is not being addressed in this WCB Act is the WCB authority, who were proposed to be a body between the board and the government, and they were to monitor the implementation of the recommendations that were made by both committees. That is not being recommended anywhere in this legislation. So here I have to suggest to the hon. minister that there is a need to monitor the progress of the changes because organizations do what is measured and don't necessarily do what isn't measured. So, Mr. Minister, I urge you to announce how you intend to monitor how well the WCB are implementing the recommendations of both of these committees.

One of the biggest concerns that is being addressed is the concern about medical panels and how to implement medical panels. I had the honour and pleasure of meeting just yesterday with Dr. Ohlhauser, the former registrar of the College of Physicians and Surgeons, to try and understand the process that he is implementing with respect to medical panels. I've got a lot of respect for Dr. Ohlhauser, because in my nine years here I've dealt with Dr. Ohlhauser a number of times and I've found him to be up front, forthright, and a man with a lot of energy to do the right thing. He answered all of my questions, and I'm confident that he is putting together a framework for medical panels and building a system that will be evidence based, impartial, timely, and fair.

One of the other issues with respect to medical panels was this whole issue of something called independent medical examiners. There were a number of people who would relate the extent to which an independent medical examiner would spend some time with them when they were sent there by the WCB to have an independent medical examination. Many people would say: well, you know, I talked to the doctor for a few minutes, and that was it, and he wrote a report. One of the things that's happened since then is that the College of Physicians and Surgeons have put out a document called Medical Examinations by Non-Treating Physicians; NTMEs they call them. So there are no longer IMEs.

This is a protocol that essentially outlines what a physician needs to do when engaged to do a nontreating medical examination. This I believe should be of interest to injured workers, because exactly what needs to be done with respect to independent medical examinations is now published. So that's another major improvement that has occurred as a result of all of this work that all the members in this Assembly and in the committees did. This will help to ensure that best practices are followed with respect to the future of each individual that goes through a medical examination.

One of the interesting things that was also recommended by the committees was an alternate dispute resolution process, and the recommendation that came about through I believe the appeals committee was to bring early resolution to claim difficulties. As we understood it at the time, other jurisdictions had implemented processes that essentially provided a mediator very early in the dispute to look and see whether or not early resolution of the conflict could in fact occur without having to go to an appeal. Those jurisdictions, some of which are in Australia, have had phenomenal results with this sort of alternate disputes mediation process. What has happened is that there's been improved worker satisfaction and there have been fewer appeals, all resulting in lower costs of claims.

9:00

That is what was proposed. That's not exactly what's happening. The WCB is currently doing an early resolution initiative, which is a pilot project. I'm not going to stand here and suggest that there's anything wrong with it, because I think it's too early to determine whether or not this particular pilot is going to work. All I do is applaud their initiative to try and come up with an early resolution

initiative that will work in the province of Alberta. Again I urge the minister to monitor the progress of this pilot, and without putting a body in place to do that, it's going to be very difficult to see just exactly what progress we're making.

Another major issue that injured workers were concerned about was the accountability to the courts. In this act we are broadening the privative clause to allow an appeal to the Court of Queen's Bench on a question of law and jurisdiction, which is considerably better than what existed, because what existed was something that had to be patently unreasonable. I'm not a lawyer, but if you talk to lawyers, there are very few of those cases that ever succeed. So this again should be an encouragement to injured workers because of the accountability that is being put in this act.

The last thing I want to speak about is long-standing claims resolution. As you know, there are still a number of issues with respect to that. The minister has asked the hon. Member for Bonnyville-Cold Lake, the Member for Calgary-Cross, and myself to try and bring some consensus with respect to that process. I just want to share with you that I believe that what has happened is that employers have quite correctly reacted to misinformation. Initially there were rumours that there could be up to 24,000 such claims, that this could cost – I've seen numbers all the way up to a billion dollars, but $250 million is one of the numbers that was bandied about. I can't blame employers for being a bit nervous with respect to that, but there's been a lot of work done since all that was brought into place, and I think that we need to sit down with employers and discuss the facts from the perspective of good, solid research that's been done since these rumours first began. It's my view and it certainly has been my experience that when you sit down with an employer and you discuss the reasons why we need to look at outstanding long-standing contentious claims, the reason always is that some claimants were denied natural justice. When people understand that that's what we're dealing with, they all say: gee, if I had known that that's what you were dealing with, I wouldn't be opposing this.

So I believe, Mr. Chairman, that as this committee does its work, we will find that employers care about their workers. I believe that employers will understand that this is not about getting a number of files off our desks; it's about doing what's right.

Thank you very much, Mr. Chairman.

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

MR. MacDONALD: Thank you very much, Mr. Chairman. It's a pleasure to participate in debate this evening on Bill 26, the Workers' Compensation Amendment Act. I certainly have been receiving a great deal of feedback from supposedly, as they're described, stakeholders from across the province, not only from injured workers but from industry, so I can effectively say from both employers and employees. There are reservations about this bill expressed by both parties.

Now, the hon. Member for Calgary-Egmont stated that every recommendation as discussed by retired Justice Samuel Friedman, by the hon. Member for Red Deer-South, and by various other groups, which so far in this debate have not been mentioned, who participated in this consultation process have been incorporated into the legislation or the regulations that are to be proposed. I don't know how this can occur. Certainly, if it's not there, then it will be in the policy at the WCB. There are many individuals who are expressing the opinion: no, what's in this bill was never discussed. Whose wish list is this bill? This member certainly does not know.

When we're looking at this item by item, line by line, as we must thoroughly do during committee, we cannot do this in haste. We cannot pass this legislation in a cavalier fashion. We must have a good look not only for ourselves but for employers and employees. This is a major piece of legislation. It has been a long time in the making. With the consultation process and with the studies that have been done, I'm disappointed with this legislation. I think that instead of making less visits to respective MLA offices regarding injured workers and their lack of treatment by the WCB or their perception that they are not being treated in a fair and equitable fashion, this bill is going to increase the traffic. It's not going to reduce it. Whether it is another three years or another 12 years representing that fine area of Calgary, I think that the hon. Member for Calgary-Egmont will eventually conclude that there are several major flaws in this bill.

Now, it's going to take a while to go through this, and it is this member's view that it's going to take a considerable amount of work and effort to improve it, because we just simply cannot pass this legislation as it stands. There are just too many deficiencies in it. We must take our time and we must have a good look at this and we must do the right thing.

Calgary-Egmont suggested to the hon. Minister of Human Resources and Employment a process to monitor the progress of this bill, and the first thing that would come to my attention is: why then would we reduce the amount of time that the board of directors is to meet? This legislation is going to allow the board of directors to meet perhaps, if they so desire, quarterly, every three months. If we were to have an effective monitoring process of this bill, then one would have to consider demanding that the board of directors – this is a billion dollar outfit – should be meeting on a monthly basis, not reducing the amount of times that they are to meet. How are they to monitor the progress of this legislation if they're to have four meetings a year, one of which is going to be the annual general meeting? I don't understand that, and I am astonished by that proposal. This is, as I said before, a billion dollar outfit. I think it needs hands-on leadership, and that has to be provided by the board of directors. If they're not meeting and communicating with one another on a monthly basis, then I don't understand how this can be done.

9:10

Now the Appeals Commission: as I said earlier, in second reading, if this were the only change that was to be made, then perhaps it would be acceptable. I don't know why we have to give the WCB intervenor status with the Appeals Commission. Surely we can have faith in the Appeals Commission. This notion that the board can "make representations, in the form and manner that the Appeals Commission directs": I can't understand why they should have that right to intervenor status. Now, perhaps in the course of this debate my mind can be changed, but we need to wait with the Appeals Commission. I can see how people would want to wait and see how the Appeals Commission deals with their new powers here, because there are some new powers. But binding the Appeals Commission, as suggested in 13.2(6)(b), where the Appeals Commission "is bound by the board of directors' policy relating to the matter under appeal": if the hon. minister could explain why this is happening, I would be very grateful.

Further on here: "The Board is bound by a decision of the Appeals Commission." I have to question: what will happen to the board if there's a breach of this? Is there a penalty? If so, what is that penalty to the board of the WCB? The idea that one can go "to the Court of Queen's Bench on a question of law or jurisdiction": how is this the same as the privative clause discussion and the suggested amendment that was provided in Justice Samuel Friedman's report? If the hon. minister could explain that, I would be very grateful.

Further on here, the "consensual resolution process" I think is a good idea. It will be certainly a less expensive way to deal with issues.

But there are other things further on here that in my view are not very good ideas. When we go through this and we get to the section dealing with "persons deemed workers," my interpretation of this is that we are excluding small subcontractors. I thought everyone was going to be included, as I understood it, because certainly if you have someone who is injured or unfortunately killed on the job who was working as a subcontractor and was a principal of a company, then that allows a steady parade to the courts. I thought that with this we were going to clean that up. We need to clarify better or more distinctly who is a worker. I'm of the opinion that small subcontractors should not be allowed on a site unless they have WCB coverage regardless of whether they're a principal of the company or not. A clarification on that certainly would be appreciated.

Now, we all are aware of the change in the family farm. Certainly the growth of the corporate farm in Alberta has in the last 10 years been significant. It would be this member's view, Mr. Chairman, that it should be specific regardless of where one works, that if one is paid a wage, then there should be some WCB coverage. This would certainly exclude the family farm. But I was horrified, as was a large percentage of the Alberta population, when two employees of Drain Doctor were gassed and unfortunately died on the job on, as I understand it, a corporate farm. How is this legislation going to deal with events like that in the future? The last I heard, the families of those two deceased workers were going to have to pursue some sort of resolution through the courts.

There has been case after case after case in this province of farm workers without WCB and without any form of coverage. They've been injured on the job, and now they're living very modestly on some other income support program, most of the time off the farm that employed them. How is this legislation dealing with their predicaments? I don't believe it is.

The time limit for claims, the notion that this is going to be for two years, section 26(1): I can certainly support that. But if it's good enough there, why is it not good enough at the claims adjudication level? Now, certainly section 46(1) currently states:

> Where a person has a direct interest in a claim for compensation in respect of which a claims adjudicator has made a decision, that person may, within one year from the day the decision was issued by the claims adjudicator, seek a review of the decision by

a review body appointed under section 45. That will be the new review body. It's reflected there. But if it's good enough over here, the time limit for claims at two years, why is it not good enough also in section 46?

Now, spin-off companies. What studies have been done to evaluate the cost of this to premiums in this province? Within the meaning of section 134, does this include spin-off companies of, say, a construction company in this province? Can they use cheaper WCB rates in Alberta to operate in, say, Chicago, Illinois, at a construction site? Perhaps the accident rates are much higher in Chicago, Illinois. How is this going to work? Is this going to be a subsidy to certain Alberta companies? Are we going to find that small businesses in this province are going to wind up subsidizing the payrolls of large multinational corporations?

9:20

We look at the oil well servicing industry in this province, and we recognize that many of these companies have international offices and deal with many different countries. I would remind all members of this Assembly that regardless of where you go, there are different sets of occupational health and safety rules. Some would be stronger than we have here; in Norway, for instance. The Soviet Union, I would suggest, has very few. How is all this going to work? Who is going to pay for this? What cost-benefit analysis if any has been done on this amendment? My interpretation of this is that this could turn out to be a gigantic subsidy paid for by small and medium-sized businesses in this province to the big shots. Now, if the minister could clarify that for me at this time, I also would be very grateful.

Certainly there is section 33, notice by employer. I have some things to say about that, but I will do that later on, Mr. Chairman.

Now, at section 33(1)(c), to be specific, I think we need to clarify again the difference between first aid and medical aid. My question to the hon. minister would be: what is first aid as determined by the board in comparison to medical aid? That definition could lead to a lot of disputes: "Oh, I didn't report it because, well, it wasn't medical aid. I thought it was first aid." I can hear all this now. I think there has to be a specific definition for this, the reporting of both first aid and medical aid. I think it could certainly solve a lot of issues that this member sees developing in the future.

Now, the medical panels. This in my view is not what was discussed. The role, again, of the GP: how are they going to be able to get involved? There were recommendations in both the Friedman report and the report from the hon. Member for Red Deer-South. I would appreciate a clarification on this as well. Certainly when we see that the medical findings of a medical panel are binding on the board, the Appeals Commission, and all other persons with a direct interest in the claim, that in my view is completely usurping the authority of the Appeals Commission. This needs further explanation as to how this is going to work. At this time I cannot see that working.

Again, the rate stabilization reserve has been struck out, and I think this is just a lame excuse for the WCB to plead poverty and not pay claims out to the frustrated injured workers, the contentious long-standing claims. I think this has been done on purpose. There's no other reason why this fund was initiated and then canceled.

Thank you.

MR. DUNFORD: Perhaps just as we go along here, I will provide some explanation so that we keep ourselves focused. Some time ago – and I don't remember the exact date – it had been my practice to get together with opposition critics to go over the sections of a bill that I would be bringing forward, so I want to make sure that that conversation wasn't lost on the hon. Member for Edmonton-Gold Bar. There are two types of amendments that are in Bill 26. There are those amendments that are dealing with the Friedman/Doerksen reports and with what we are trying to do through a series of symposiums and feedback from the industry as it pertains to some issues as to an injured worker trying to deal with their particular appeal. So we've contemplated things that would happen inside the WCB. We've contemplated things that would happen with a more independent system. We've contemplated things that would happen with a medical panel pilot. We've contemplated things that would happen in the courts.

A couple of the amendments the member seemed to raise issue with, and that's fine. I just want to remind the hon. member that these were amendments that were provided to us by the WCB with the assertion that stakeholder support was behind those amendments. I'd made it very clear that I was not willing to accept an amendment from the WCB that was beyond routine or beyond the agreement of the stakeholders that the WCB has to respond to, primarily of course employees and employers. In working with some of these, such as the fact that it doesn't extend itself to farm workers, I think it should

be patently obvious, then, as to why it's not there. As far, then, as the first aid definition and medical panels, again these are amendments that have come forward from the WCB with stakeholder support.

The question has been asked: why would we provide the opportunity for the WCB to intervene at appeals? It's really quite straightforward in my view, and that is that if you're going to take something away, you have to consider how you then give back so that the situation can be handled. One of the things that we heard from injured workers from the get-go, from the first time that I ever dealt with an injured worker in my MLA office and certainly the first time I ever dealt with an injured worker after I was called upon to be the minister of this portfolio, was: how was it that the Appeals Commission could make a decision but that because of section 8(7) of the current act, the decision basically could be turned around and almost as if it were at the whim of the WCB? So a very, very major amendment to the current system is the fact that section 8(7) disappears from the act. I'm sure that all hon. members and especially the hon. Member for Edmonton-Gold Bar will agree with that.*

In order to do that – of course, it dealt with the fact of matters of policy – if you're going to not provide the WCB, then, with the opportunity to automatically reverse a decision because they're concerned about a policy issue with what the Appeals Commission has determined, there has to be another outlet for them. You complete the circle. So we now provide the fact that the WCB can make representations on such matters.

9:30

The second item, as I was listening, that the hon. member talked about was worker definition. Again this is a WCB amendment provided to us with the agreement of stakeholders, but as I understand it, it was to simply allow that small contractor the continued choice that he or she currently enjoys.

In terms of time limits the hon. member will recall that it was in this House where in terms of the statute of limitations we went to a basic time period of two years, so on the principle of making an appeal, it was deemed necessary, then, for us to provide the same opportunity to injured workers as we would to any other citizen of Alberta in bringing a matter forward. So that is there.

I don't know that it was even subtle, but the hon. member was talking about how it's going to take so much time to get through these amendments, and I have as much time as the hon. members, and we'll follow their particular lead on this.

I was talking to another hon. member and missed some of the questions during part of his discussion, so I'd invite him to bring those up again. To this point I've dealt with what I've been able to hear and concentrate on. Thank you.

THE CHAIR: The hon. Leader of Her Majesty's Loyal Opposition.

DR. NICOL: Thank you, Mr. Chairman. I rise to speak to the Workers' Compensation Amendment Act, 2002. I guess we have to start and look at the parts of the act now that we've talked about the process of getting things in place. When we deal with the specifics of how we're going to see some of the different phases or the different parts of the act actually put in place, you kind of question the good parts of it that are there, and some of them are going to be a significant improvement in the way the WCB works, but others probably raise just about as many questions about the process as we see being solved by the rest of it. So, you know, you have to balance out what parts of the act will achieve the fairness and the opportunity for both the workers and the employers as they deal with the crises or the issues that come up.

I think we have to look at it from the point of view of kind of the overview. The first part of it starts to talk about the new approach, the new system that they're going to set up. They talk about increasing the openness of the WCB, and this is going to be done through a series of annual meetings, but when we start to look at what's going to happen there, it's really basically a presentation of an annual report much more than really a debate of the kinds of things that need to be done to improve or change or refocus the WCB. So you question whether or not it's really going to achieve the two-way dialogue that's necessary to keep the WCB responding to the concerns both of the employers and the workers, whether regular on-site workers or the injured workers that are in the claim process.

What we're going to have to wait and see, then, is whether or not this actually does build into a constructive process at these annual meetings. If it's just going to be a presentation of the annual report, you know, kind of a report from the WCB about what they've done without the opportunity for that second feedback, then it does in effect create some opportunity for increased openness, but it's only an information flow out from the WCB as opposed to any kind of constructive dialogue that could lead to the board being proactive in dealing with changes. I guess even if there is a question period at the end of the annual meeting, that might even facilitate some responsiveness and that would be better than what we've got now.

The other part of that accountability that they talk about is in the context of how they're going to have a review or an audit by the Auditor General. Now, this is an extension of what came out of the reports where they were talking about outside audits, and now we're seeing the Auditor General being the one designated to do that. I think that's probably as good a relationship as we could ask for, because it's the Auditor General's function to basically deal with both the financial audits and the performance indicator audits of the government, and given that the WCB has that relationship through the minister, we might as well have the same consistency and process. So I think that will probably improve the operation, at least the perception of accountability.

Now, an issue comes up here, Mr. Chairman, in terms of all of the same issues that we run into every time we have a report come from the Auditor General in the sense that they go through and say that they find the operation of the agency or the ministry being consistent with the guidelines and with the performance indicators, but in other cases you'll see where there'll be a series of recommendations, and what you end up with is those recommendations coming back year after year after year because the minister or the agency doesn't respond. So I think that if we're going to make a commitment to even having the Auditor General expend the resources that are associated with the kinds of audits that they do, where they look at the broad perspective of both the financial and the performance indicator aspects of the agency, we'll have to make sure that there's a commitment both from the board and from the minister that some degree of legitimacy is going to be given to those recommendations, that Albertans can feel confident that those recommendations from the Auditor General will be given a good hearing and a good possible review as to whether or not they will improve the operation of the WCB.

This goes in, too, to the sections that talk about – and I guess this is more in the minister's promises than it is in the wordings of the bill – the performance measures that are going to come out through regulation, and this is going to be an interesting exercise to watch as we go through this. You know, the minister keeps promising that this kind of accountability will be there, but we see that in a lot of the other agencies and ministries there are performance indicators that are not based on a causal effect, you know, in the sense that the

*see page 1224, left col., para. 6

performance indicator measures a broad spectrum of the activity but they don't really deal with it in the context of the response to initiatives by the agency.

So what we're going to have to deal with here in terms of performance measures is making sure that we're dealing with the degree to which workers get back to work in a reasonable, specified period of time in a healthy way whether or not there are secondary effects caused by the primary injury. These are the kinds of things that we have to look at, because the main objective under those performance indicators has to be: is the worker properly looked after and does the worker get back to work in a healthy condition? All of that has to be done in the context of the premiums that are charged to the employers, but the primary part of that performance measure has to deal with the productivity of our employer/employee relationship, and that's making sure that employees stay healthy and, if they are injured, return to work in a healthy condition quickly. That should be the objective. So those have to be kind of the grass roots of the performance measures that come out of here.

9:40

Just talking about whether or not Alberta's premiums charged to an employer class compared to another province – Mr. Chairman, to me that wouldn't be a good performance indicator, and we've got a lot of the ministries that use those kinds of sounds good, feels good but doesn't mean anything type of indicators. I would hope that the minister takes some real initiatives here to make sure that these indicators that will be put in place do develop a true relationship with what the mandate of the WCB is; that is, making sure that any Alberta worker that is injured gets back to work, gets proper care, and doesn't have any secondary issues coming out of the injury that they suffered in the workplace. We have to make sure that we do that. You know, talking about performance indicators and having an auditor look at the relationship between performance indicators doesn't really mean very much, because all you're dealing with is a transitory change in something that may not really reflect the mandate of the WCB. So we'll be watching very closely to see whether or not those indicators or the performance measures that they put in place do really reflect what we perceive as the mandate of the WCB.

We're also looking at sections of the bill that deal with improvements in decision-making of the board, and some of the other members have dealt with those a little bit.

One of the big issues that comes up a lot when we deal with WCB cases in our offices, when an injured worker comes in, is the relationship between what their doctor is telling them, what the WCB medical staff are diagnosing, and how that works into both a treatment program or in the case of a denial into an appeal process. I would suggest that some of the changes we're seeing here, where the employee's medical team, if you want to call it that, will potentially have a more active role in determining the outcome – I think this has a lot of opportunities to really build confidence with the injured worker and build confidence in the medical community that right now is very frustrated with the way the WCB is handling their patients.

If we look at some of the options that are being proposed, the fact that the medical opinions of the workers will have more significant input I think is going to have to be tested with time, and we'll see how that really does come out, especially when we get to the appeal processes where these kinds of situations that we've heard on a number of occasions in the past have really raised a lot of concerns by the injured workers about whether or not there is a fairness there in the context of their medical team saying that this kind of injury is there, that it resulted from this kind of an accident, and that this is the treatment process or the treatment regime that should be put in place to help the worker, yet we have the WCB saying no. I would ask here – and I don't see it quite there, but again it's one of these things that we'll have to find by practice – what the role is going to be between the infamous pre-existing condition that has come up so many times when we've had cases come to our office.

I guess here, Mr. Chairman, if we're going to continue to rely on this kind of an out, I guess, for the WCB, what we then have to make sure is that in effect if we're going to say that pre-existing conditions do have a role to play in whether or not complete treatment is provided, then we better be looking at the possibility of dealing with an ongoing physical for employees and do it under the umbrella of the WCB. If we're going to say that a pre-existing condition is relevant, then some degree of awareness of that condition must be a precondition to an employee knowing that they are putting their health at risk by accepting the job.

I see some real tough issues when we have to start talking about how we deal with that. I think that as we see this new relationship in terms of both medical opinions and the findings that are possible developing out of an injury, we have to make sure that we're looking at these from the point of view of how we make sure that employees who go in in good faith and take a job don't end up being the ones who bear the brunt of any kind of finding that may relate to what has so commonly now been called a pre-existing condition, when in effect the injured worker didn't even have any kind of chance of knowing that they were putting their health in jeopardy.

The other issue that I think comes up is the independence of the appeal process and moving the Appeals Commission away from the WCB. I just listened to the minister talk about how this relationship was going to really improve the independence of that commission. Again, I'll accept the comments that the minister made and make sure that as we go through watching how that part of it unfolds, we see how it does work. We really have to make sure that when an appeal process is put in place, there is the independence that we expect. We end up basing a lot of our concept of appeals on what is normally a concept that comes out of the judiciary section of our governments. In there, there is an absolute set of rules and guidelines about the relationship of a hearing, and we haven't had that in the WCB. So I'm really pleased to see this section come in and the minister talk about how that ability of the WCB to influence the Appeals Commission is going to be removed. We'll be watching to make sure that that happens, because we really don't want these kinds of interactions to continue where there is basically an administrative interference in a fair hearing process through this appeal.

I guess when we get right down to the bill and we look at what many people were expecting in this bill as we led up to it, it was some kind of a resolution of the long-standing claims. Now, this it seems is going to be just a commitment there that something's going to be happening. There's a committee struck to look at how it can work out, but it's basically delayed again. I guess if there's a real disappointment in here, it's the fact that the consultations that have gone on already haven't provided the minister with enough information to really be able to recognize the fact that these long-standing claims are in many cases a result of the very things that he's correcting in the act, both in terms of medical opinions and in terms of the independence of the appeal process. That should be enough to recognize that these claims need to have a final resolution and a final process. The longer we put them off, the longer we're going to end up with the complications.

So as we go through, I know that both of the opposition caucuses are going to have some amendments that will help make the bill even better. We have to address those in terms of how they work through.

9:50

Mr. Chairman, just as I conclude, I think I've got a couple of other comments that I want to raise, and one of them has to deal with the administrative review or the administrative supervision that's going to be there and the fact that there will be more ability by the WCB to go out and in effect make sure that there isn't any abuse in the system. When he's putting in this new section, especially when he's increasing the penalties in it, I would ask the minister: does he have information that kind of justifies the degree to which there is any misuse of the WCB, and would more resources put in there trying to apprehend abusers really justify that additional cost? You know, the information that I've had from talking both to some of the WCB administrators and to the people involved in doing reviews of it is that the issues of misuse of the WCB to the extent that you might expect, given the changes that are coming forth in this act, don't seem to be there.

So why is it that we're trying to make sure that more resources are there, to increase premiums to do that, so that we then end up with in effect a group out there who are running around trying to make sure there's no fraud in the WCB? Is it a problem now? Why do we have to increase the number of agents or the number of staff out there chasing down abusers? I don't think that's the kind of thing that sends a good message, especially if the information that we've had in the past is reasonably accurate, that there doesn't seem to be really a preponderance of any abuse. Some of the other changes that we've talked about in terms of this act, in terms of giving employees better hearings and better support from their own medical professions, would tend to reduce that.

I end on those comments, Mr. Chairman, and we'll look forward to some of the amendments that are coming up.

MR. DUNFORD: Well, I'd like to thank the hon. Leader of the Opposition for his comments this evening.

I just want to make sure that every member here in the Assembly is aware that the first annual general meeting open to the public by the WCB is going to be held here in Edmonton on May 30. Of course, I encourage those of us who are not only interested but also available that it might be an interesting meeting to put on your schedules. I'm sure that it being the first, it will probably be crude, but it will be I think similar to any other organization: as you do it more often, then of course you evolve a better system. Certainly we would anticipate that there would be some energy and some controversy that would be surrounding the actual carryings-on in that meeting. It will be interesting to see how it all works out.

At some point in time this bill will be passed, and at some point in time the items that are contemplated will be put into place and we'll start to have some feedback and some way to analyze how it is that we're doing. One of the main things that we have to accomplish – I was going to say "if nothing else," but there's more than just this that we have to accomplish. Everyone – injured workers, employees, employer groups, individual employers – has pleaded at one time or another that we have a more open and a more accountable system. That's what we're trying to deliver here. Of course, the inclusion of the Auditor General immediately gives at least the perception of the accountability that we've been looking for. KPMG, who do my taxes, by the way, and seem to treat me very well, I'm not sure would resonate throughout the province as much as the Auditor General will. I hope my friends at KPMG forgive me for using them here tonight.

You know, in terms of his audit, again I have to agree with the comments of the hon. member. The performance measures are going to be critical. A previous speaker tonight talked about: what gets measured gets done. That's the good news. The bad news is that what gets measured gets done. So you want to make sure that you're measuring the right things obviously, but certainly that is going to be a key test. That reminds me, then, to pick up on a comment that was made by the Member for Calgary-Egmont. Yes, we need to get a monitoring system in place and get it under way.

Back to the performance measures. One that I agree with is getting the worker back to work in a healthy condition. This is extremely important, because it won't matter whether the severance from the workplace is through unemployment or through disability; the longer the person is severed from that workforce, the harder it is and the longer it takes to ever get them back into meaningful employment again. So I would accept almost as an automatic that that would be one of the things we'll be looking at. Again, I agree that we need to have more than just some sort of comparison with other jurisdictions.

If I could plead my case at this particular moment in time as to why I could be trusted in this particular matter, it's because we have just recently changed a performance measure in our own business plan. At one time and as recently as last year we were measuring ourselves in terms of workplace health and safety that as long as we were in the bottom third in terms of workplace statistics as it related to injury, then we were satisfied that we in Alberta were doing the right thing. We have completely thrown that out. We are no longer content, we are no longer complacent to be even ranked with other jurisdictions in Canada, because we've now come to understand and to learn that Canada is a very dangerous place in which to work. So we're no longer going to be complacent with that kind of measurement.

As a matter of fact – and I think some of you have registered – tomorrow morning at the Westin hotel here in Edmonton we're going to be talking about Workplace Safety 2.0. We're going to be talking about what we – "we" meaning government and "we" meaning industry, which is made up of both the employers and employees – are going to do about reducing injury incidence in this province by 40 percent. I think it's reasonable to expect that if we get into any kind of performance measurement in terms of assessment rates or anything like that, I won't be content with just the fact that we might measure up well against another jurisdiction.

10:00

The medical opinion, medical panels. Again this is key in order for us to be seen as doing something significant, but it is uncharted water as we speak here tonight, and that is why we are proceeding with the legislation that's enabling, so that a pilot project can get under way and it can be seen, then, whether or not it's workable with what has been suggested. The Member for Calgary-Egmont talked about that a little earlier. Before we enshrine something in legislation, we want to make sure that we have something that's workable.

Pre-existing conditions, I agree, are a tough issue; there's no way to get around it. But hopefully with the medical panel we'd be able to have not only expert eyes within that field of medical specialty, but we'd also have more medical eyes looking at it and coming to an agreement.

Long-standing claims. Yes, it is delayed. The government decision on this is that we want higher stakeholder agreement as to how we move forward with this.

The final concluding comment on the administrative penalties. I don't have it in front of me as to the degree, but any degree of fraud or offence is considered too much, so because of the stakeholder approval that the WCB had, we agreed to include this amendment.

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

MR. MASON: Thank you very much, Mr. Chairman. I'm pleased to rise again and make some comments with respect to some of the specific clauses of Bill 26, and what I'd like to deal with now is the appeals committee and the medical panels in particular. I just want to indicate that I think that the major and significant change to the structure of the Appeals Commission is that it will be independent of the WCB and will be reporting to the department. Now, originally one of the recommendations was that it should be responding to and responsible to the Ministry of Justice, I believe, but I think that having it respond to this department is probably acceptable. It creates the condition I think that is necessary towards rebuilding some trust in the whole appeals process of the WCB. In this case justice not only needs to be done; it must be seen to be done. I think the minister has taken the appropriate general step to get things going in that direction, so I commend him for that particular change.

The question really is whether or not the Appeals Commission is going to be actually independent and function in a way that actually ensures fairness for workers. Section 13 of this act indicates that the Appeals Commission needs to buy in to the policy as set by the WCB. That seems to us a reasonable thing. You can't have two bodies competing, dueling establishing policies and so on, but there are some problems relative to that. Section 13.2(6)(c) permits the board to go to hearings. It says that the Appeals Commission

> shall permit the Board to make representations, in the form and manner that the Appeals Commission directs, as to the proper application of policy determined by the board of directors or of the provisions of this Act or the regulations that are applicable to the matter under appeal.

Now, it's fair to say that the Appeals Commission has the power to determine the form and the manner of these representations, but what really happens here, Mr. Chairman, is that the board gets a second kick at the cat. They not only set the policy in the first place and apply it in the first place and the Appeals Commission is not just required to adhere to that policy in its decisions, but the board, the WCB, gets another kick at the cat and is allowed to come before the Appeals Commission to not only tell them what the policy is but how they should apply it. Now, this is I think a case of the WCB having too much control, wanting too much control, and not being willing to give it up. Of course, we know that the situation that exists now, before this act was introduced and even today, gives the WCB an enormous amount of latitude, forcing the Appeals Commission, which it appoints and so on, to revisit its decisions if it doesn't agree with it.

This is one of the fundamental conflicts of interest, I would say, that exists in the present legislation. So this particular section is a step forward in that respect, but it still has that vestige of the paternal control of the WCB over the Appeals Commission, and I think that the Appeals Commission ought to be able to make its decisions without the WCB always poking its nose in and trying to tell them how to do that. So I'm going to come back to that, Mr. Chairman. I have an amendment with respect to this particular section which I would like to introduce.

I've got some other things I want to deal with, and one is the question of time lines for appeals. There doesn't seem to be a fixed time line for the processing of an appeal, and there should be a guarantee, in our view, to workers that their appeal will be heard and decisions rendered within a reasonable period of time. We believe that that should be included in the act.

I want to talk about the appeal to the courts. In section 13(4) the Court of Queen's Bench may be appealed to "on a question of law or jurisdiction." Now, that's good and it's bad. It's good because claimants can actually go, if there's an error in law, to the court, and I think that that's a positive thing. But it also allows the WCB easier access to the courts, which I don't think that they need, and the WCB, if it wants to act in a way that is spiteful or unco-operative or just mean-spirited – and I think that there have been times when that has been the case in recent years, so it's not just some paranoid fantasy that I'm dredging up. If they wanted to be unreasonable and if they really wanted to prevent a particular worker from getting what the worker wanted, they could use their superior resources to tie these things up in court, and what's the guarantee against that happening?

Injured workers – and this will be no surprise – cannot possibly match the financial resources or even the amount of time available to deal with a court case as the WCB. So there need to be some guarantees that the WCB is going to operate in good faith if we're going to lower the judicial bar, and I think that that's important. I think that there should be some provision, if the WCB makes an appeal, for assistance to the injured worker, financial assistance in order for them to deal with their case in the courts. In general we believe that unless there's a point of law specifically that's been violated, the Appeals Commission should be final.

10:10

Now, I want to talk a little bit about medical panels, and I know that there are some injured workers who want the medical panels to make the final decision and make them in a binding fashion; in other words, they want the medical panel to resolve the claim. But we think that it's important that medical panels be limited to medical questions. Their decisions should be binding, but quite frankly their area of competence is on the medical issues which are a key component but not the entire content of a decision by the WCB or by the Appeals Commission. So I think it's probably headed in the right direction on this particular point.

The question is how medical panels are set up and who really controls the way they operate, and it looks to us like the WCB is going to be the gatekeeper of the medical panel. It calls the panel together if it doesn't agree with the medical assessment. If the client's physician has a bona fide medical opinion, the panel can be called, but it's the WCB which determines what constitutes a bona fide opinion. The panel of course is composed of a physician appointed by the worker, a physician appointed by the employer, and a physician appointed by the WCB. So we'd make the same criticism of this that we made about the arbitration panels that were set up around the teachers' dispute, that it's potentially stacked against the workers.

So you've got a committee and it's got three members. One is appointed by the worker, one is appointed by the WCB, which presumably has already got medical opinions indicating that the worker's claim should be denied or reduced, and then the employer gets in on the act and appoints somebody. So what would we normally expect somebody appointed by the employer to do? If it was a question of judgment, which side would they err on in a lot of cases? I think common sense indicates that a lot of these medical panels might find 2 to 1 against the worker. So I would really prefer if we just had a medical panel in which the WCB's medical person and the medical appointment of the worker could jointly determine another physician from a list of people, much as is done in arbitrations normally. I think that there are better ways to do this to ensure that medical panels in fact operate in an objective way.

Now, of course, the first level of appeal, just jumping back to the appeal for a minute – the claim review committee is being eliminated, and we certainly welcome that provision. That was a fairly useless stage, which only served in many cases to delay workers getting their fair day in court. We understand that there's going to be a WCB pilot project around alternative dispute resolution, and we

look forward to hearing a little bit more about that and certainly think that that approach would be considerably preferable to the claim review committee process.

Mr. Chairman, I don't know how you want to proceed or how the minister wants to proceed. I do have an amendment that I'd like to make, and I can make it now, or the minister, if he wishes, can respond before I introduce the amendment. What is your preference?

THE CHAIR: Just so we understand, once the amendment is on and not yet voted on, then we have to deal with the issues of the amendment.

MR. MASON: If the minister would prefer, I'll stand up and make the amendment when he's done.

THE CHAIR: Okay. The hon. Minister of Human Resources and Employment.

MR. DUNFORD: All right. Thank you very much. I appreciate the comments on the Appeals Commission, and I agree. I think it will clarify roles. As I understand things to be, the amendment might have something to do with 13.2, that he talked about, so I won't spend any time right now on that other than to correct an earlier remark that I made. I was talking of section 8(7). For clarification and to correct myself, it's actually section 13(7).*

Just quickly on the medical panels I want to, as best I can, talk about: how do panels in any kind of a situation get selected? It's similar to – and perhaps I would fall back on something I have experience with. That would be under the Labour Relations Code and under a grievance arbitration where the grieved party, through their collective bargaining agent, selects an arbiter. The employer who's grieved against selects an arbiter, and the two of them come up with the chairman. It is not unusual, hon. member, to have unanimous decisions. It's not unusual at all. When you put together an expert panel, they are there to deal with the facts that are in front of them, and I see no reason to expect that medical doctors of a particular specialty that's being looked at under a conflicting medical opinion would be any different than professional arbitration people.

The system can't work if all that happens is that because somebody is picked by somebody, they have to toe that somebody's line. It wouldn't work in workers' compensation boards. If that was to be the way that people were to administer themselves, I'd put my foot down on appeals commissions and say: to hell with it then; I'm not going to have employer and employee reps. I mean, the whole idea is that employer groups and employee groups have somebody that they trust, somebody that they select and that they would put forward, then, to a position on a tribunal, on a board, or on a medical panel that are going to deal with the facts. These people would be professional enough in order to do that.

Now, I don't want to take away anybody's fire in their belly on this type of thing, but really it is a matter of professionalism. If I am selected because of my expertise in that area, you would not lose your integrity, then, by just toeing some line of somebody that picked you. I have, because of my experience as an arbitration member, great confidence in that institution, and I see the medical panel following along with that. So I would encourage all members to know and to understand that as a pilot and as a pilot proceeding, this is worthy of support.

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

10:20

MR. MASON: Thank you very much, Mr. Chairman. I am going to move an amendment: that Bill 26, the Workers' Compensation Amendment Act, 2002, be amended in section 7 by striking out the proposed section 13.2(6)(c).

THE CHAIR: Do you want to just move the amendment? We'll call it amendment A1, and we'll ask the pages to please hand it out first to people who are actually sitting at a desk.

MR. MASON: So I move amendment A1. Mr. Chairman, while it's being distributed, I'll just indicate that it would delete section (c) of subsection (6), which would say:

> In the hearing of an appeal under this section, the Appeals Commission . . .
>
> (c) shall permit the Board to make representations, in the form and manner that the Appeals Commission directs, as to the proper application of policy determined by the board of directors or of the provisions of this Act or the regulations that are applicable to the matter under appeal.

It would delete that section altogether.

I indicated in my earlier comments, Mr. Chairman, that I think that this particular section is inappropriate, that it continues the paternalistic relationship that exists with the WCB, and it allows. . . .

THE CHAIR: Hon. member, in your haste to get this ready for us, I think you forgot to sign it.

MR. MASON: Do you want to come back to it tomorrow night then, Mr. Chairman?

THE CHAIR: Hon. member, do you have an original somewhere?

MR. MASON: I don't think it came back from the photocopying, Mr. Chairman.

With the advice of the Government House Leader, I'd be prepared to come back to this tomorrow night. My apologies for the confusion, Mr. Chairman.

THE CHAIR: Hon. member, perhaps we'll assume that since we've seen that you've already signed it now and that it is being replicated as we speak, maybe we could continue with the debate and get this nicety finished after the debate has gotten under way.

So we'll invite the hon. member to speak further on his amendment A1.

MR. MASON: Thanks very much, Mr. Chairman. This particular clause which I'm proposing to delete allows the board to make representation to the Appeals Commission as to the proper application of policy determined by the board of directors or the provisions of this act or the regulations that are applicable to the matter under appeal. You are still retaining a relationship between the Appeals Commission and the WCB of subordination, where you have an Appeals Commission that gets told how to apply the policy by the body whose decisions it's appealing. So the commission is not fully equal or fully independent of the WCB, and it should be. This is I think a weakness in the otherwise laudable direction that's been established in this legislation for a completely independent Appeals Commission. So it is on that basis that I'm making an amendment and would urge all hon. members to support it.

Thank you, Mr. Chairman.

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

MR. MacDONALD: Thank you very much, Mr. Chairman. In regard to this amendment A1 as proposed by the hon. Member for Edmonton-Highlands, in respect to my comments earlier this evening in debate on Bill 26, this certainly allows intervenor status by the

*see page 1220, left col., para. 2

WCB in regard to matters before the Appeals Commission. I would urge all members to consider this amendment. I think it is very reasonable. I would urge all members to support this amendment. Certainly this must have been an oversight. I cannot see the rationale. I think we should let the Appeals Commission do their work, and we have to live by that.

In the past there have been cases that have been documented regarding the board, and I don't think that we should be giving the board any more discretionary power. This "shall permit the Board to make representations." Now, regardless of whether it's "in the form and manner that the Appeals Commission directs," it is about policy. Let the Appeals Commission make the decision. It would be my view that they would be capable of this and they will do it. This is just allowing another chance, another opportunity for the board to be even more adversarial. I would congratulate the member at this time for proposing this amendment.

Again, Mr. Chairman, I don't think that there is any need to provide intervenor status specifically here for the WCB in matters before the Appeals Commission. I would urge all hon. members to please, in conclusion, support this amendment. I will cede the floor to the hon. Member for Calgary-Egmont.

Thank you.

THE CHAIR: The hon. Member for Calgary-Egmont.

MR. HERARD: Thank you very much, Mr. Chairman. Although I'm getting older, this is one thing I remember quite vividly in terms of the discussion, this particular part. You know, as a concept, having the WCB with intervenor status certainly is not what is intended here. I think that if you read it very carefully, you'll see: "shall permit the Board to make representations, in the form and manner that the Appeals Commission directs." What was essentially intended was that if an issue arose in the course of an appeal that dealt specifically with a policy matter, the board should have the opportunity to explain its policy. That doesn't mean to say that the WCB can sit there in the room and attend the hearing, because "in the form and manner that the Appeals Commission directs" means that they would be invited at the appropriate time to make their presentation that deals with a policy matter but would not be allowed the normal intervenor status of being in the room for the entire thing. So I think it's only fair that if an issue arises that deals with policy, they have an opportunity to explain themselves, not to take part in any other part of that hearing but simply to make the clarification on policy.

10:30

MR. DUNFORD: First off, I think it is understood and must be understood by all members that the Appeals Commission cannot make policy as it relates to the mandate of the Workers' Compensation Board under the Workers' Compensation Act. So we must defeat this amendment not only because of the reasons just stated by the Member for Calgary-Egmont but because the amendment calls for a deletion with no replacement and therefore would leave in the new act a current 13(7), that says:

> In the hearing of appeals under this section, the Appeals Commission is bound by policy determined by the board of directors that relates to the matter under appeal.

That's fine. Nothing wrong yet. But here:

> And where the board of directors considers that the Appeals Commission has not properly applied that policy or the provisions of this Act and the regulations that are applicable to the matter under appeal, the board of directors may in writing direct the Appeals Commission to rehear the matter and to give fair and reasonable consideration to that policy or those provisions.

I would submit to all members that the amendments that are in front of us under Bill 26 are immeasurably better than the proposed deletion of 13(7).

With that, I would ask, when it's time to vote, that we vote against this amendment.

MR. MASON: To close, Mr. Chairman, I certainly do not accept the minister's contention that deleting this part of the bill before us leaves in place the section of the old bill which he has quoted. If that were the case, I would vote against it too. That is not what's going to happen because those sections are gone by the passing of this bill. It's just this particular section of the bill that would be deleted.

I guess I take the hon. Member for Calgary-Egmont's points on this, but I would just point out that the wording of this clause which I propose to delete doesn't talk about the WCB explaining what the policy is, and the legislation certainly would bind the Appeals Commission to follow WCB policy. We have nothing against that at all. What it says is that the board may make representations as to the proper application of the policy – in other words, that their application of the policy is in fact the only correct one – and also the provisions of the act or the regulations that are applicable.

The only thing that speaks in favour of it, as Calgary-Egmont has pointed out, is that the representations need to be in the form and manner directed by the Appeals Commission. Still, the wording of it implies that the Appeals Commission must not only follow WCB policy but must follow the application of the policy as set out in the representations by the board, and that is the problem.

Thank you.

[Motion on amendment A1 lost]

THE CHAIR: The hon. Government House Leader.

MR. HANCOCK: Yes, Mr. Chairman. In light of the good work that we've done this evening, I would move that we adjourn debate, and if I may, in the same motion I would move that we rise and report progress.

[Motions to adjourn debate and to report progress carried]

[The Deputy Speaker in the chair]

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

MS GRAHAM: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports progress on the following: Bill 26. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

THE DEPUTY SPEAKER: The hon. Government House Leader.

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

[Motion carried; at 10:39 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]