Legislative Assembly of Alberta

Title: **Monday, May 13, 2002 8:00 p.m.**
Date: 02/05/13
[Mr. Shariff in the chair]

THE ACTING SPEAKER: Please be seated.

head: Motions Other than Government Motions

Travel Assurance Fund

508. Mr. Amery moved:
Be it resolved that the Legislative Assembly urge the government to introduce legislation to establish a travel assurance fund to compensate airline consumers who do not receive travel services purchased from a registered travel agency due to the agency's bankruptcy or insolvency.

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

MR. AMERY: Thank you, Mr. Speaker. It is with great pleasure that I rise this evening to begin debate on Motion 508. This motion encourages the government to establish a travel assurance fund so that Alberta consumers traveling at leisure would be protected in the event that they do not receive the services that they have purchased from a travel provider. Many Albertans have asked for a travel assurance fund that could help them if they were left stranded at points around the world as the result of a travel provider going out of business. Recent world events have bolstered that request.

As we all know, the events of September 11 changed the mood towards and the methods of travel for people in North America and all around the world. The demand for air travel services dropped drastically due to the fears that resulted from the horrific tragedy that occurred. When the demand for travel services began to decline, planes began taking to the skies with a lot of empty seats and airlines began to lose a lot of money. Financial woes grounded a number of carriers as part of the fallout from September 11, including Swissair, Belgium's Sabena, Canada 3000, and Ansett Australia.

In the month of October, Mr. Speaker, Canada 3000 was facing losses that were too much to overcome. The airline was forced to declare bankruptcy and put a full stop to service on November 11, 2001. This action taken by Canada 3000 was the only option available to the carrier. However, it left thousands of Canadians either stranded at locations across the globe or out of pocket for the cost of a ticket that they could not use or both in some cases. When you consider that Albertans as a population are taking around 12.5 percent of the trips made by Canadians with only 10 percent of the national population, it is safe to assume that a significant number of those stranded by Canada 3000 were Albertans. Unfortunately, many of those Albertans affected were left with no formal financial protection against the failure of a travel provider.

Mr. Speaker, there are several forms of protection that consumers can purchase to protect their investment in the event that the trip that they have planned does not go according to plan or not at all. One option is cancellation insurance, which consumers can purchase directly from the airline. Cancellation insurance allows travelers to recoup their ticket expenses if they are unable to take the trip for a limited number of reasons. While it is a valuable option that many consumers use, this form of ticket insurance cannot be claimed against in the event of airline bankruptcy.

Mr. Speaker, travelers can also expect certain levels of consumer protection from some credit card companies, that would reimburse them if they were unable to receive the goods which they had purchased due to supplier error or bankruptcy. Additionally, there is the Internet sales contract regulation, which sets out to protect Alberta consumers who make purchases over the Internet as well as those abroad who make Internet purchases from Alberta companies. These forms of protection undoubtedly help the consumers in their quest to get a fair deal for their dollar and to receive what is entitled to them after making a purchase.

However, these remedies do not suit or are not available to all Albertans. Despite the general movement towards e-commerce many consumers are still hesitant to make purchases over the Internet. If they do not purchase their holiday tickets over the Internet, then the Internet sales contract regulation cannot apply to the ticket that they purchased. For travelers who pay with cash, in the event that the travel services purchased are not delivered, then there is no form of protection available to them.

Mr. Speaker, that leaves the consumer protection policies offered by credit card companies as the remaining measure of protection. Many young Albertans as well as those with troubled credit histories are unable to obtain a credit card. As well, some card companies don't offer consumer protection. Because they are unable to obtain a credit card or the right kind of card, these people will have no protection available to them in the event of an airline failure.

Despite the convenience and added benefit of consumer protection, not everyone holds a positive view of credit cards and credit card use. There are people who have credit cards but would rather pay for goods and services in cash despite our movement toward a cashless society. Many families from across the province have values and ideas about money that include avoiding the use of credit cards. Many of my constituents use cash for all of their purchases. As a result, I have several constituents who were left facing a significant loss of airline tickets because their trip was canceled when Canada 3000 declared bankruptcy and stopped service. I also had constituents who were left stranded in different countries across the world with no one to turn to.

I believe that it is time that we as a government took a step to protect Albertans from financial loss due to airline failure. Mr. Speaker, Motion 508 would do just that. Its purpose is to urge the government to examine an instrument of protection for airline consumers who have no protection against airline failure in these turbulent times for the travel industry. It is possible to establish a travel assurance fund that is supported, financed, administered, and distributed by the travel industry. A travel assurance fund would make consumer protection available to those Albertans who cannot access it or will not access it by other means. In the event that an airline that Alberta consumers have purchased travel services from through a registered travel agent should declare bankruptcy before they are able to deliver the goods purchased, Albertans would have an avenue to access compensation.

Mr. Speaker, the fund that I envision would be paid into directly by travel agencies without government money. The fund would offer protection to consumers through Alberta travel agents on leisure travel purchases in the event of carrier bankruptcy. Both the liability fund and the administrative costs would be paid for by the industry. The travel agents of Alberta would put a small amount, around half a percent of gross earnings perhaps, towards a general fund. In turn, the travel agents who pay into the fund would be able to offer their clients an assurance that the money they have put into the trip will be refunded to them in the event that their trip does not take place due to bankruptcy or insolvency.

Mr. Speaker, under such a fund new and existing travel agents in Alberta would register with the administrative body of the travel assurance fund and make an initial payment into the fund as well as smaller payments over time based on their total sales. If and when

the assurance fund reaches the predetermined maximum figure necessary for liability claims, the travel agents of Alberta will no longer have to pay into the fund, at which point if a claim is made against the fund and it is drawn upon, then the travel agents would resume their payment schedule until the fund has been replenished to the predetermined level.

Mr. Speaker, currently in British Columbia, Ontario, and Quebec there are programs very similar to the one I have described up and running that offer protection to consumers who do not receive the services that they have purchased from travel services providers or travel agents. The programs are established by government legislation, funded by the travel industry, and then administered and distributed by industry. All three of the provinces have programs that are slightly different. Each has different qualifications and standards regarding who and what should be covered under the liability fund, and each makes an interesting case study. I believe that a lot could be learned from these provinces if we were to implement an Alberta model. I also believe that by taking a closer look at the programs that are already in use, we could provide Albertans with protection against an unstable airline market in a turbulent post-September 11 world and enable Alberta travel agencies to offer a value-added product.

A travel assurance fund would provide an opportunity to create a registered association of Alberta travel agents, who could unite to promote their services and increase their business by presenting a value-added product to consumers of travel agent services. Under the travel assurance fund, Mr. Speaker, the industry would have self-regulated control over the collection of funds and the distribution of settlements. The industry would establish the administration office and hire the personnel to run it. The fund would then provide Albertans with a choice to use travel agents and receive the benefits of the travel assurance fund.

Mr. Speaker, in light of recent world events I believe that this is a reasonable and responsible step that we as government can take to protect our citizens. The travel assurance fund would provide consumers with a choice, not an obligation. It would provide travelers with peace of mind that they can recoup their money in the event that a travel carrier went out of business.

Mr. Speaker, I believe it is time that we as government took this step to provide our citizens with an option for protection against airline failure, and I urge all members of the Assembly to join me in supporting this motion.

Thank you.

8:10

THE ACTING SPEAKER: Before I recognize the next speaker, would all members who have electronic gadgets please turn them off, especially if they're making noise? Laptops are allowed. Thank you.

The hon. Member for Edmonton-Riverview.

DR. TAFT: Thank you, Mr. Speaker. I am pleased to speak to Motion 508. I listened carefully to the comments of the sponsoring member, and they made a lot of sense to me, so that must confirm that it's a good idea. Certainly, as the hon. member indicated, the fallout for the travel and tourism industry after the attack on the World Trade Center was profound. We all heard of the experiences of people caught in airline collapses and travel agent bankruptcies and especially Canada 3000 airlines.

I know of people who had purchased tickets and paid for the tickets and were never able to use them, although I also know of somebody who had actually purchased tickets on a credit card that was registered in Ontario, and they were able to get their money refunded because they hadn't done it in Alberta. They had done it in Ontario, and Ontario had taken steps, as the hon. member indicated, some time ago to protect their travel consumers. So this is maybe an area where we ought to look seriously at catching up to other provinces. In fact, it's not just B.C., Ontario, and Quebec; I think a number of other provinces have one form or another of protection for their traveling public.

The value of tourism in Alberta is enormous. It hasn't grown perhaps in the last few years as much as we would like. There have been changes and cutbacks and turmoil and so on in Travel Alberta. I hope that that's settled down, but I'm not sure that it is. The kinds of wonderful investments that we saw drive tourism in Alberta in earlier years, things like the great museums – the Tyrrell museum and the Remington museum and the Reynolds museum and so on – all those things that are so important to tourism have fallen a bit by the wayside, I might say. Certainly we've not seen very many new initiatives like those, and as a result the tourism industry in this province has slowed and actually in some areas is in a bit of a recession. So I think that this symbolically would indicate that as a Legislature we do recognize the importance of travel and tourism as an economic stimulus.

I think we should also remember how important travel is to people's getting out into the world, to their own personal growth, to their education, formal or informal, to their ability to look at the world from many points of view, understand different cultures, different languages, even different cuisines, which I'm always interested in. So I would certainly argue that travel is very important. Tourism is very important, and steps like this, which seem pretty reasonable, will help those industries and those activities.

Consumer protection is important. Consumer protection I think every civilized country in the world recognizes as vital. Consumer protection goes along with free marketplaces. There are tremendous theories and tremendous theorists who put forward the notion that marketplaces in fact cannot survive without regulation and without things like consumer protection. I'm thinking for example of some other people here – some of you may have heard of a fellow named Joseph Stieglitz, who was until recently the chief economist of the World Bank.

AN HON. MEMBER: Is he a Liberal?

DR. TAFT: One of the members is asking if he was a Liberal. He's I think American and British by heritage, but if he lived here, he might well be a Liberal.

He's actually broken ranks – this is the chief economist of the World Bank until about two years ago – with the so-called Washington consensus, the formal position of the World Bank and the IMF, and has argued that there needs to be more government intervention, more things like consumer protection in marketplaces. This is a fellow who's widely expected to win the Nobel prize in economics. He's already walked away with every other major prize in economics.

So he's arguing for consumer protection, for the need for government intervention in marketplaces, for the idea that unregulated markets are not sustainable. When somebody like that speaks, I think we should all listen, and I think this is the kind of initiative that his arguments, his theories, and he himself personally would probably support. In fact, not only that; he would probably say it is necessary for the healthy survival of the travel business and the tourism industry. Consumer protection of course is something I think that our record as a Legislature is a bit spotty on. This would be a step to erase one of those spots, but I wish we would maybe see other motions here, other activities on things like protection for

electricity consumers, for example, who are feeling right now quite left out to blow in the wind with their concerns, or maybe we should be looking at protection for consumers of family day homes. We've certainly got an angry group of people around family day homes. So there are spots, a number of spots on our record in consumer protection, and we all know that one of those has been around the travel industry. This private member's motion will, if it's acted on by the government, address one of those concerns.

I can't speak for my other caucus colleagues – we have a free system over here – but I think I'll be advocating with them to wholeheartedly support this motion. I can't see any drawbacks to it. The way it's been described to me is that funding will be provided by the industry and the fund itself would be, if I'm correct, administered or managed by the industry. Now, how complex that becomes, I don't know. It may be that it's better to have it administered through a government agency. I'm not sure. I don't know if this would require legislation, a particular act, maybe something like a travel industry protection act or something like that, to establish the rules and to ensure that all the funds are properly accounted for and properly audited, properly distributed to make sure that people actually got the protection that they were expecting.

But those things I think could be sorted out. They have, as the hon. sponsoring member indicated, been sorted out in other provinces, so I have no doubt that we could sort them out ourselves. In fact, I wonder why we haven't done this sooner. Is there a reason that we fell behind other provinces in providing this kind of protection for the traveling public of Alberta? Undoubtedly, hundreds and perhaps thousands of Albertans have lost a substantial amount of money each personally and cumulatively – maybe millions of dollars; I don't know – through travel agencies going bankrupt or for other reasons failing to meet their obligations.

So, Mr. Speaker, I'm a wholehearted supporter of this particular motion. From what I've heard so far, I can see, at least I hope eventually to see, other points of view brought forward. Maybe new information will come along that changes my mind on this, but I'm in favour in general of consumer protection. As I said, I think it's essential for business and commerce to succeed, so I think this is a great step, and I'll be looking for further debate on it.

Thank you, Mr. Speaker.

8:20

THE ACTING SPEAKER: The hon. Member for Highwood.

MR. TANNAS: Thank you, Mr. Speaker. I'm pleased to add a few thoughts on the debate on Motion 508, as proposed by my colleague the hon. Member for Calgary-East. In the mid-70s my wife and I established a travel agency and ran it for approximately 13 years, and then we sold it. Ten years later our son repurchased our old travel agency. Because of this connection with the travel industry and travel agencies both in the past and in more recent years, I spoke to the Ethics Commissioner before agreeing to speak on this private member's motion. I have some anxiety about the wording of the motion, and I'll just read bits of it anyway:

> to establish a travel assurance fund to compensate airline consumers who do not receive travel services purchased from a registered travel agency due to the agency's bankruptcy or insolvency.

The part I like is to "urge the government" to look at it. I have some anxiety, as I said.

I am pleased that the Member for Calgary-East, though, has brought the matter to the Legislature for discussion. The goal of course is a laudable one: protection of the consumer. I think it's a commendable goal, but I think the wording and hopefully the operation of this thing would be made much better.

First of all, Mr. Speaker, I'd like to review for members for a few moments anyway how you acquire an airline ticket, as the motion suggests, "from a registered travel agency." However, that's an interesting one, because the hon. member has suggested that maybe the registered travel agency would contribute to this assurance fund, and of course we all know now since September 11 that most airlines won't pay the travel agency zip. Air Canada, Air New Zealand, Qantas, United, American Airlines, Delta, and on and on and on no longer pay even 1 cent to a commission. Years ago in the good old days it was 8.25 percent on the ticket, so that's interesting that they would pay for something that they don't even receive a benefit from unless they surcharge. A little irony there.

How else can you acquire a ticket? Well, there's the airline's city desk. Most airlines of any import have an airline city desk in the city which they fly into and out of. At the airline's check-in counter at the airport you can also buy them, purchase tickets and so on. You can also phone the airlines and by mail and cite your credit card or whatever, and they'll either mail it to you or you can pick it up. You can also do it on-line, and if you're not dealing with a reputable agency online, then that's another issue. There are travel clubs where you can get them. Many corporations and companies employ in-house travel agents. It's not a travel agency, but it's a travel agent within that company, and they make travel arrangements for company employees and officers. They also will provide sort of as a gratuitous service holiday travel for company employees. There are credit cards and other kinds of promotions that you can get. You know, air miles – you buy at Safeway or at Shell or something like that, and you can get your airline tickets from those rewards from the Royal Bank of Canada, and there are some other methods I'm sure which escape me at the moment except for the ones that buck-a-shops can get.

In the motion we're only going to deal with one source of airline tickets, when I've just outlined nine sources. Okay, given that there's a wide variety of ways to acquire an airline ticket, this motion then deals only with the first source of airline tickets and would not protect consumers who acquire their airline tickets from any of the other sources. So this is where I think the "urge the government" to look at is an important element of this. I would submit that all ticket sources must participate in the proposed travel assurance, because they too themselves may face bankruptcy or insolvency, and that might be either the seller themselves or the customer that would acquire them. We only have to look at the recent example of Canada 3000. It should be noted that Canada 3000 had sales desks in malls all across Canada, and if you get too specific on this one, it would miss all of those kinds of ticket counters. I don't think we've seen the complete fallout of the Canadian event on travel agencies, insurance companies, and credit card users.

Mr. Speaker, there are at least four currently existing situations or opportunities to protect the traveling consumer. First, many travel agencies sell travel insurance policies as well as insurance agencies sell travel insurance policies, and some of these policies include within them bankruptcy protection in addition to the trip cancellation for health reasons or a traveling companion unable to go with you or whatever it is, but many of these policies are limited as to the total amount that can be paid out. So that's one possibility. A few travel agencies actually carry their own protection for their clients. I know of one Alberta group of travel agents that covered all the losses for anyone who traveled on Canada 3000 and refunded their money.

A third method of protection is the method of payment, payment through certain gold or platinum or specific kinds of credit cards that carry within them cancellation, bankruptcy protection as a service to the special card owners. The holder would need only to check with those issuing credit card companies to find out if they're covered or

how they can be covered and change their grade of credit card. A fourth method that I can think of is that if it is a travel agency and they are issuing tickets and they are approved by IATA, the International Air Transport Association, there's a limited form of backup on air tickets, as each registered company has to have a dedicated deposit or a term deposit that covers a big percentage of their monthly amount that they take in. That is held by IATA, and that is to be used to pay for airlines tickets in case of bankruptcy.

But I think we're missing something, and that is: people are doing some other kinds of travel and holidays besides airlines. There are other products sold by travel agencies and other kinds of businesses. Cruises comes to mind, and there you can be into big money. You can, if you want to go around the world, pay up to $125,000. There are other kinds of travel, and they may or may not have an air travel package. So I think that if we're going to really get into this, we have to consider all of the kinds of things that consumers have at risk, and that certainly would be one. Bus tours are a very popular kind of holiday travel, whether it's in Canada, the United States, or Europe. Train travel for many people is an adventure in itself, whether it's through the Rockies or the Orient Express or across the Australian desert. There are a number of holiday tour companies, which in my experience on occasion are subject to bankruptcy. We only have to recall that Sunflight, the largest tour company in Canada, went out of business 20 years ago, so a lot of people got burned on that. I know one travel agency that made sure that all of its clients were not burned.

As one travel agent said: if all points of sale of travel products were required to contribute or collect a premium for the insurance fund, it might be a level playing field, but to single out the registered travel agency is shortsighted and would be unfair. That's why this motion needs to be considered as an invitation to the government to consider all aspects of the travel industry before legislating compulsory insurance to protect the traveling public.

I thank the Member for Calgary-East for bringing this matter before the Assembly for our consideration. Thank you, Mr. Speaker.

8:30

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

MR. MacDONALD: Thank you very much, Mr. Speaker. I have a few comments on Motion 508 as presented by the hon. Member for Calgary-East. It is certainly different for this Assembly to be discussing the issue of consumers and consumer protection. Certainly whenever we look at electricity deregulation, consumers were the last thing on the mind of the government, and it's consumers that are now forced to pay sky-high electricity bills. To see an hon. member of this Assembly come forward with a motion that I think is at least examining a deficiency in our consumer protection laws that was made only too evident to Albertans just this past Christmas with yet another example of an airline that had financial difficulty – I regret that I missed the opportunity to hear the hon. member's speech regarding Motion 508. However, at this time I do have a few questions.

[The Deputy Speaker in the chair]

Is this travel assurance fund to be set up with, say, a 50-cent surcharge on a ticket, or is it going to be some form of tax issued on each ticket that's going to be pooled? Hopefully it would never be needed, but unfortunately with so much deregulation on the go now, certainly there are spectacular failures and consumers are left holding the bag. How is this fund, in the hon. member's view, to be established? Is it going to be the consumers, is it going to be industry, or is it going to be shared by both? Has the hon. member in the drafting of this motion ever considered that perhaps there should be a bond set by the airlines themselves? There should be a performance bond very similar to what an auctioneer or an auction house would have to have so that in case something does go wrong, well, the bond is there, Mr. Speaker. Has that idea ever been discussed when this motion was being drafted?

At some point, I think for the convenience of all hon. members of this Assembly, just precisely what are other jurisdictions doing? I understand that B.C., Quebec, and Ontario have some form of consumer protection. As I understand, their law is different. If during the course of debate I could have those questions answered, Mr. Speaker, I would be very grateful.

Again, in conclusion I would like to commend the hon. member for bringing forward this motion in light of the fact that consumers across this province, not only in the tourism industry or the travel industry but in many other incidents, are left holding the bag.

Thank you very much.

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

MR. CAO: Thank you, Mr. Speaker, for allowing me the opportunity to join in the debate on Motion 508, which asks the government to establish a travel assurance fund. As the Member for Calgary-East pointed out earlier, when we saw airlines like Canada 3000 fold abruptly last year, we also saw many Albertans, indeed many Canadians left in the lurch. I mention Canadians deliberately. This is truly a Canadian problem. However, in the absence of a viable national airline strategy and the virtual national monopoly given to Air Canada, it is obvious that federal legislation designed to clean up this mess will not be forthcoming. This is nothing new. However, it is often the case that we as a province ought to work to ensure a fair and predictable market for Alberta consumers when other levels of government will not do so. Motion 508 provides the key to doing so.

Mr. Speaker, since our two national airline carriers were combined into one, our skies have been governed by a virtual monopoly. Many smaller companies, such as Canada 3000, Royal Airlines, and CanJet, amongst others, have gone out of business. Although CanJet has a plan to re-establish itself in the east, these other companies will remain out of business. However, they don't all go out of business. Some, like our excellent airline from Calgary, WestJet, a good Alberta company, have fought the odds to make very good strides.

The issue raised in Motion 508 is another case of the federal government not knowing when to open up the airline business to real competition for the benefit of consumers. Although I understand that the upcoming federal legislation will severely limit Air Canada's ability to oust smaller carriers from the discount market, it still doesn't end the virtual monopoly, and it still doesn't make me comfortable about the state of the airline industry in Canada. It'll be a long while before I am comfortable with the way the industry operates here in Canada, and I'm sure that many Albertans feel the same. This is why Motion 508 is so important.

Mr. Speaker, I support 508 because for once the consumer is put first in the airline industry. It says that as a government we understand the turmoil that Alberta consumers have been put through, and it says that we are willing to help the travel industry set up an arrangement through which the consumer can be assured that they'll either get their flight or get their money back.

I want to make it clear that the arrangement proposed by the hon. Member for Calgary-East will not cost the government or the public a cent. We will be the legislators of the fund and not its operators or

its financiers. This is very important. Regular Albertans should not have to compensate for the hard luck of put-out travelers. Although if through the use of a registered travel agent consumers willingly pay a slightly higher price to ensure that they receive their flight, then who are we to get in the way?

In the end it is up to each travel agency to enter into the fund or not. If they don't want to enter, they do not have to. This only means that they will not be able to offer to customers the peace of mind that the fund provides. But that's their choice and their business, and it's not our job to tell them how to run their businesses. However, if we can take nonintrusive measures that help them to operate more easily, why wouldn't we do it? Mr. Speaker, Motion 508 suggests such a nonintrusive measure. It provides the consumer with more assurance that they will not be left on the tarmac without a flight or their hard-earned dollars due to the airline going out of business suddenly.

At its roots, Motion 508 can help to ensure that consumers will be more confident in the tourism industry. They'll then spend dollars, which helps our Alberta travel agents. This confidence is a win/win situation for business and consumers alike.

8:40

This model has a precedent, too, Mr. Speaker. Ontario, Quebec, and British Columbia have travel assurance funds which are legislated by the government but not funded by the government. We should not forget that travel assurance protection is something that both travelers and travel agencies alike have called for. Both the Alliance of Canadian Travel Agents as well as the Canadian Association of Tour Operators have called for legislation in this area of passengers' protection as well, so this isn't an idea that has come from the blue, from nowhere. It is a reasoned motion supported by industry and intended to solve an immediate problem that many Albertans have faced or are afraid of facing. Better yet, it is an industry- and consumer-driven solution.

Mr. Speaker, I have real cases in my constituency. A number of my senior constituents had lost their money, quite a sum of hard-earned savings, I should say, during the collapse of the Canada 3000 airline, and in that light I urge all members of this Assembly to support Motion 508.

Thank you very much, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Minister of Government Services.

MR. COUTTS: Thank you, Mr. Speaker. I'm pleased to rise this evening and join the discussion on private member's Motion 508. I'm quick to rise tonight because of some of the things that I had heard during the 45-minute debate we've had on this at this point in time. I really want to applaud the hon. Member for Calgary-East for bringing this particular thing forward, because I'm very confident that the hon. member brought it forward out of a concern for his constituents. I'm sure that after the collapse of Canada 3000, when people had their flights canceled or found themselves stranded somewhere else or were in an airport or maybe even on their way to an airport to take a Canada 3000 flight for that dream holiday that they'd saved a lifetime for, he got some calls from his constituents wondering just what the government could do to help alleviate the particular situation that these folks found themselves in with the airline, who had basically taken the dollars to provide the service and then didn't deliver on that service.

It's his concern, not necessarily to be concerned about electricity and all of those types of things but a concern for his constituents, to see if there were a mechanism by which they could, if they didn't pay by credit card or if they didn't pay by other means that had some kind of security behind it, take advantage of what might be present for the government of the day to help bail them out and to actually see if he could get some action through the airlines. So I applaud the member for that.

Many of these consumers and constituents of the hon. member instantly, when the Canada 3000 situation happened, pointed to Ontario and to Quebec and to British Columbia and asked why there was no such fund in Alberta, and that was a very good question. I think, Mr. Speaker, your comments when you were sitting as the hon. Member for Highwood and your expertise and your background pointed out how complicated the travel business is, and exactly who's responsible for what makes it very, very difficult to administer these kinds of funds.

As a matter of fact, if we go and take a look at the province of Ontario, the Ontario compensation fund basically simply shifts the burden to the travel agent industry, and that carries the responsibility to reimburse the consumers if a provider fails to deliver the service. The lack of provincial jurisdiction over airlines keeps that province from persuading the airlines to support the fund directly, so you know who it goes back to. It goes back to the people that bought that particular package from that particular travel agent, and a portion of those funds would go into an assurance fund. As a result, particularly in Ontario's case, the fund would not apply to consumers who book travel and pay money to travel agents, nor to consumers who book directly with an airline. The fund still only protects a select number of consumers, and the travel agent industry in Ontario has expressed some very deep concern over the responsibility that it must carry for the travel service providers when the particular situation is out of their control.

So it's because of concerns like that and the history of the travel agents' network, which, when consulted about putting in an assurance fund a number of years ago, said: well, maybe it's just not the right thing for Alberta, and how would we do it, particularly when the federal government controls this industry? It's because of these concerns and the many concerns that have been brought forward to our office of consumer protection that my department is going out and reviewing the travel industry. They're not only reviewing it here in Alberta, but they're also reviewing it in other jurisdictions and seeing what does work in Ontario, Quebec, and British Columbia and what doesn't work in those provinces. Therefore, what we want to do is we want to determine a solution that could meet Albertans' needs in an effective way.

Unfortunately, it has become apparent to us that there are many issues which would keep a travel assurance fund from being a fully effective way of protecting consumers. Provincial travel compensation funds have in the past been established to compensate consumers only if a travel agent goes out of business. Attempting to regulate compensation when a travel provider like an airline fails is problematic because many travel providers are beyond provincial control, as I mentioned, the problem they have in the Ontario model. This fact makes it difficult for the province to persuade our providers to help finance such a fund. In fact, the airlines have already voted against Canada's participation in a global passenger protection plan which would have protected Canadian air travelers against airline failure. That was similar to a checkoff type of fund, but the airlines have said that they don't want to have anything to do with that.

Even if airlines were within provincial jurisdiction, there are many other travel providers to consider. The hon. Member for Highwood brought a number of those instances to case, and particularly cruises and prepackaged vacation tours are also fast growing segments of our travel industry. And as we found out, travel clubs and the regulations that we have had to put around them have also changed

the travel industries. Cruise lines are also out of provincial jurisdiction and are often governed outside of Canada.

The travel industry has changed and continues to change, and the solution that we choose in Alberta needs to be flexible enough to respond to those changing conditions. The question of who would pay for a travel assurance fund must be considered. In a day and age when consumers must pay a host of security fees and other charges in order to travel, we would evaluate whether or not Albertans are willing to pay the additional charges needed to maintain an assurance fund, and that will be part of our review. Even when the fees are levied on travel agents, the fees are generally passed on to the consumers, and of course we would have to look in our review at the whole facet. We would talk to the travel industry, we would talk to the motor carriers, we would talk to the airlines, and we would talk to the travel agents, travel clubs, and everyone affiliated with booking an experience.

So, Mr. Speaker, these factors and any possible alternatives to an insurance fund are certainly at this time being examined by my department, and it is only after this particular work is done and completed that I believe we can be in a position to properly address the situation. But I really want to commend the hon. member for bringing this particular motion forward as a solution, as another part of the solution for protecting his constituents. He deserves our just regard for that.

Thank you.

8:50

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

MRS. O'NEILL: Thank you, Mr. Speaker. Thank you for the opportunity to speak to Motion 508. I must admit from the outset that I do have concerns with Motion 508 and the call for the establishment of a travel assurance fund. Having said that, I do understand and appreciate the motives of the hon. Member for Calgary-East for proposing this motion. The instability within the airline industry can be frustrating for both corporate and leisure travelers, especially when that instability results in an airline going bankrupt. Different financial realities have forced the hand of many airlines, including Canadian Airlines and more recently Canada 3000.

All members of this Assembly I am sure have heard from friends or constituents affected by the closure of these airlines. The story of Canada 3000 is especially striking in that over 50,000 Canadians were affected by the bankruptcy of this airline. Several of those lived in my constituency. Many Albertans were not only left stranded around Canada and foreign lands, but many passengers also had to face the tough reality that they had to pay for a trip that they could no longer take and that potentially would not be refunded by the company. In the instance of one my constituents, they had paid for a trip that was not to be taken until the 15th of December. However, they could not be reimbursed by virtue of their credit card until after the trip was to have taken place, so their whole family was out all of the money that they were planning to spend on their Christmas vacation. So it was not a pleasant nor an easy nor a comfortable situation for them.

It is of course in this climate that the hon. Member for Calgary-East brought forth this motion. His consideration and regard for these individuals is commendable, and ultimately something does need to be done to protect passengers from the instability found in the airline industry. I don't know, however, if Motion 508 is the answer.

The motion calls on the government "to establish a travel assurance fund" that would be used "to compensate airline consumers who do not receive travel services purchased from a registered travel agency due to . . . bankruptcy or insolvency." I assume the hon. member would have the government set up a fund similar to those found in our sister provinces of British Columbia and Ontario. In both instances the fund is established legislatively by the government but is administered and funded by provincial travel agencies. While it has been stressed that there would be no direct cost to government, I am concerned that an unforeseeable event that might plunge an airline company into financial problems would leave the government and ultimately the Alberta taxpayer on the hook to cover compensation under this fund. While it is unfortunate that travelers could face problems when an airline goes bankrupt, such as the case of Canada 3000, I do not believe that the taxpayer should be responsible for insuring a service that should be governed by the general principles of buyer beware.

Even at that, Mr. Speaker, protection is already available for consumers today without the assistance or guidance of government. Travel experts have been recommending for years that potential travelers should use their credit cards when booking flights to ensure that the consumer is protected in case the flight does not proceed. This is the advice that the United States Federal Maritime Commission was giving consumers who booked with American Classic Voyages, which filed for bankruptcy in October of 2001. Clients were told by regulatory authorities to get charge-backs from the credit card companies, and in fact they did receive them. I would imagine that the majority of travelers use their credit cards and would be eligible for assistance.

Another concern that I have with respect to this fund is the idea that those eligible for assistance are only those customers that purchased their trips through a travel agent. This is the way that the travel industry compensation fund is governed in Ontario. Media Metrix Canada, which measures Canadian's use of the web, has reported that 16.4 percent, or 2.1 million Canadians, visit travel web sites, and growing levels of comfort for people pursuing financial transactions over the Internet will only see this use increase with time. Travel industry experts have commented that the way the industry is evolving, it appears that more and more airlines are issuing their very best offers on their own web sites, thus encouraging more individuals to comparison shop on their own. These trends all point to a general movement away from the use of travel agents and a general emphasis on the individual to make their own travel plans. One has to wonder, Mr. Speaker, if we would be moving forward on an issue where the people of this province would be moving in a different direction. That is certainly not to say that the many travel agencies that exist and service the residents of St. Albert and beyond are not very scrupulous and diligent in delivering service to their customers.

Another concern that I have has to do with the proposed passenger protection plan. This plan was worked out over the past four years by the International Air Transport Association, representing the world's scheduled airlines, and the Universal Federation of Travel Agents Association, which represents the world's travel agencies. The plan would have an airline passenger pay a mandatory fee of about $1 to $1.20 Canadian. That levy would be considered an insurance premium and would provide for complete refunds the next time a scheduled carrier declares bankruptcy. The plan has been endorsed by France, Spain, Switzerland, Italy, and several countries in the Middle East and Africa. While it has not yet been adopted for Canada, industry officials are hoping for another vote on the plan to proceed sometime this year. Why, Mr. Speaker, would we move ahead on Motion 508 when industry is responding with what seems to be a reasonable plan to protect consumers? Would our plan be significantly different from what is being proposed under the

passenger protection plan? I think we need to answer some of these questions before we establish our own fund.

My final concern, Mr. Speaker, deals with why it would be incumbent upon this government to respond to this situation. It seems to me that the federal government is responsible for regulating and overseeing the airline industry. It is also apparent to me that it has been the federal government's policies that have unnecessarily shackled competition in this nation to prop up and maintain a former Crown corporation, a Crown corporation that now monopolizes an industry to such an extent that it routinely bullies and browbeats competitors.

THE DEPUTY SPEAKER: I hesitate to interrupt the hon. Member for St. Albert, but the time limit for consideration of this item of business on this day has now concluded.

9:00

head: Government Motions

Adjournment of Session

26. Mr. Hancock moved:
Be it resolved that when the Assembly adjourns to recess the spring sitting of the Second Session of the 25th Legislature, it shall stand adjourned until a time and date as determined by the Speaker after consultation with the Lieutenant Governor in Council.

THE DEPUTY SPEAKER: This is not debatable under Standing Order 18(3).

[Government Motion 26 carried]

head: Government Bills and Orders

Third Reading

Bill 27
Appropriation Act, 2002

THE DEPUTY SPEAKER: The hon. Government House Leader on behalf of.

MR. HANCOCK: Thank you, Mr. Speaker. I'd move Bill 27, the Appropriation Act, 2002, for third reading.

We've spent since March 9 in full and complete discussion of the various estimates provided for, and it would be timely to vote the appropriation and allow government to get on with the business.

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

MS BLAKEMAN: Thanks very much, Mr. Speaker. I'm glad that I get the opportunity to speak about the anticipated effect of Bill 27, the Appropriation Act, in third reading. I wanted to make just a couple of points, sort of a cleanup. In the last week or so people that I've chatted with in the community have pointed out that we are debating the third reading of the Appropriation Act tonight: were there any sort of last points they wanted to make sure were raised for the government to think about as this budget is implemented throughout the year? A couple of things have come up again.

One was issues around historical sites and heritage preservation and museums. The issue there that was put to me was around support for this sector. I think that at this point it's a question of infrastructure support to make sure that our facilities are being kept up and maintained. Certainly we've had changes in the way that many of these sites are administered, with it being transferred to the friends-of organizations. That seems to be going fine at this point, although I've never seen any evaluation of the change. We are going into I think our third year under that structure, so I would be interested if the Minister of Community Development can provide us with some sort of evaluation of whether in fact this change in administration has accomplished what they said it would at the time. I think that we went into that structure in '98, so we're four years into it at this point.

In particular I was speaking to someone that had been active for a long time with historical preservation, and her concern was simply just around the resources that are available for that sector to keep the museums up and to keep collections going and I think to keep up the expertise of the people working in that sector as well. You know, there are always new possibilities around that. I'm thinking in my constituency of what's going on around the Rossdale power plant, which was the site I think of the second Fort Augustus, and the First Nations burial grounds that are located there. We're starting to find in Edmonton that in fact we do have much more of a history than we thought we had, and we need to start actively working with that. So I was asked to raise that issue, and I'm happy to do that for her.

I also spoke briefly with a neighbour who works in the medical sector, and his point was that there were not enough doctors. I think that we've all been seeing in the paper responses from people working in the health care sector that they're feeling overworked and have just run out of steam, that they can't cover off the cracks that people are falling through anymore. There are a couple of different approaches to that. I don't know that it's automatically about: there should be more doctors. I think that there are ways of restructuring the health care system that we still have not done that could make the delivery of health care services more effective and more interesting. One of those is around changing roles, the roles that we have the doctor in and also the support staff. Nurse practitioners and midwives for example are one way of changing and updating our health sector that we haven't really looked at with any kind of dedication, and I think that there are both savings and efficiencies there but also a better delivery of health care for many people. Certainly there's been a demand for midwifery services.

The third issue that I wanted to just cover off before I move on is the additional comments that were made by the Premier and the minister and some others around the community lottery boards during question period last week. One of these that has really come home to me is around the fact that the government has been saying that groups that were applying to the community lottery boards in fact were eligible to apply under the CFEP grant, which is the community facility enhancement program. In fact, that's probably true for those groups that were looking for money for renovations of buildings – in other words, bricks and mortar – or for equipment, the purchase of particular items that are going to be used in the location: tables, chairs, lighting instruments in a theatre, that sort of thing. I think that's true, but what needs to be remembered here is that these grants are structured differently.

I've just been asked to write a reference for one group. They were applying or were going to apply or had applied to the community lottery board for money for lighting and sound equipment for a theatre space. I believe they needed $40,000 to do this, and under the community lottery boards they could have applied for the $40,000. Now, I know that they've already raised other funds to support this. The $40,000 isn't the total bill by any means, but there's no community lottery board left for them to apply to, so they're having to apply to CFEP. Well, with CFEP they can't apply for the $40,000. They're going to have to apply for $20,000 and come up with another $20,000 through their own fund-raising endeavours. They are already raising additional money there. So the 50-50 matching from CFEP puts additional onus on the groups

to go out and do even more fund-raising than they were already doing, and that's a significant difference from what was being offered by the community lottery boards.

So it's disingenuous of the minister and the Premier to indicate: oh, well, they could just go and apply under CFEP. It's not the same thing at all. I've actually been surprised at some of the statements coming from the government's side about how these different programs did work, because I think there's a level of knowledge that is lacking there.

Finally, the attitude that seems to have been brought forward around the community lottery boards from questions in question period last week that somehow a number of these groups are nefarious. They're bad. They're double-dipping. They're nasty little groups, and they shouldn't be eligible to apply. This was part of the reasoning why the community lottery boards were taken away. This really surprises me, because most of these grants, as was pointed out, were in fact under $50,000 an application, or they were applying for less than $50,000 or less than $25,000. These are small community groups. So I'd be interested in hearing more from the minister or from others or individuals as to what dirty dealings were afoot here. What's the accusation that this money was somehow being misspent or wasn't being accounted for or that these groups were somehow double-dipping and weren't accounting properly for the use of these funds?

My experience has been that they were generally very small organizations, and the money was very valuable to what they were doing. Just because they can't afford a chartered accountant to do their audit, I don't know that that makes them somehow unscrupulous or that they have nefarious dealings. So I think it's only fair that if there are going to be those kinds of accusations made or innuendoes made, we hear a little bit more about that just for the sake of those groups.

So Bill 27, the Appropriation Act: passing the budget that's been proposed. It's been an interesting budget. Well, I think it's been a budget of broken promises. We had the promises to the seniors in 1997 that there would be no increases in health care premiums for them, that there would be no increases ever again. Well, that promise was certainly broken, because seniors are all paying the higher health care premiums along with everyone else. So there was a broken promise.

9:10

MR. MacDONALD: I heard that some people campaigned on that.

MS BLAKEMAN: Oh, yes. A lot of people campaigned on that.

Another thing that was widely publicized and talked about prior to the election was how teachers would be rewarded and could believe that they were going to be rewarded along the same lines and with the same percentages as those that were granted to the doctors and nurses. That certainly didn't happen, and many teachers and others feel that that is a broken promise. There were promises from the children's summit about early prevention programs for kids. There are broken promises, as most of those were in fact reduced or cut. So I don't think it's a budget to be proud of by any means. I think it is a budget of broken promises, and certainly a number of citizens feel that way.

I think that there are some other philosophical agendas that are being put forward under the economics of this budget, and one of the things that I'm noticing is that this is a budget that was removing local decision-making from areas like municipalities or the community lottery boards and putting that decision-making behind closed doors.

A number of examples of that – we've got the community lottery board program being canceled, and we don't know what's being anticipated to replace it, but it's been made pretty clear that it won't be local decision-making that will be involved. The decision will be made by the government behind closed doors or perhaps through one of the existing lottery foundations. We've had decision-making taken away from the RHAs as we look at consolidating the RHAs down to five or six of them from the 17 that we've got. We had the closure of the Agricorp and the consolidation there, going from a number of locations in almost any town of any size down to a phone line, a call centre, just a couple of them that are actually still open for a walk-in. So, again, taking it away from the local vicinity – the municipality, the grass roots, the community – and centralizing the service or the decision-making behind closed doors.

We've got the children's authority, same thing: no, no, no, the children's authority isn't really allowed to make those decisions; they'll be made behind closed doors with cabinet approval. We've got the school boards who've lost some of their ability to make their own decisions in negotiating with teachers, taken right away from them with Bill 12, another example of government pulling all the reins into their little hands and going behind closed doors to make those decisions. It's much more difficult for citizens to know why the decision is made or even what decision is made. It's certainly more difficult to view the decision-making process and to hold people accountable.

I also see as sort of an offshoot to this that decision-making or at least research functions are being handed to sort of handpicked friends, and this concerns me when I see friends of the government from the corporate sector being chosen to head up things like the delisting of medical services. So there we have someone who has spent their life in the corporate sector, in the business sector, in the energy sector who is now going to head up a committee that's supposed to be deciding how a public service is going to be administered or distributed.

DR. TAFT: These companies lobbied for electricity deregulation.

MS BLAKEMAN: Yeah.

You know, it's just a small thing, but it sure makes me curious about the direction that things are going in. So we have decision-making being pulled into tight little fists that then go behind closed doors and make decisions. Then their friends are sent very carefully out to manage this information-gathering, decision-making process, and their expertise is coming from the private sector when we're talking about delivery of public-sector programs like health care.

I don't think that this has been a happy budget, particularly, for the government. There have certainly been some hot moments for them, and I don't think it's been a happy experience for Albertans.

DR. TAFT: Not the ones I've spoken to.

MS BLAKEMAN: No. Not the ones that have been in touch with us. Certainly not.

I think those local communities, again, like the municipalities, the school boards, the child welfare authorities, the Agricorp offices, community lottery boards – it's a power grab by the government. They're taking all of the decision-making away from the grass roots, from the people that can look around and know exactly where the money is going or who needs it or who's got a good reputation, and it's all being centralized.

I think that another part of the big broken promise is around the VLTs. It's important that we remember what the history is there before it gets erased and rewritten on us. Essentially the community lottery boards were put in place as a response to the municipalities'

vote in the '98 municipal elections. There was a plebiscite that would allow communities to vote to have VLTs removed from their community. Now, let's not forget how much money this means to this government. This government doesn't get the DTs; they get the GTs. They've got those gambling tremens. [interjection] There it is. The Minister of Economic Development is demonstrating it for us all. Boy, they've got to get that fix. They've got to have that gambling money, especially from the VLTs. That's where most of it comes from. I mean, the vote was very close. It was almost 50 percent either way, and the government response was: "Okay. Fine. We'll put some of this money back into your community."

Now, you've got to remember that there are hundreds of thousands and in some cases millions of dollars being vacuumed, being sucked, being snorted out of Alberta communities. [interjections] My goodness, they're all getting excited at that one. Well, it gets a strong response. That money was leaving those communities, and those people didn't like it. They wanted some of that money back into their communities, and they wanted to be able to control what it was used for. Thus we have the community lottery boards put in place, which were distributing back a minuscule portion, a tiny, tiny percentage of the money that was being vacuumed out of these communities. Now that promise has been broken. That money has been taken away. That money is no longer going back into those communities. They no longer have the local decision-making to decide where that money is going to go, which group is going to get it, and what are the activities, programs, and services that are going to benefit from lottery dollars in their particular community.

This was a budget of a couple of flip-flops, and I was really hoping that the government was going to go for a hat trick. They had the gas tax distribution. They flipped on that one, flipped on the transportation. They flipped on the credits for grade 10. They were going to put a cap on how many credits a grade 10 student could take, which was essentially capping how much class they could take. The government was only going to pay the school for X number of credits. Thereby every school would now have to reduce what they were doing.

MR. MacDONALD: Those were the flips.

MS BLAKEMAN: Well, those were the flips. So those were two. I was hoping they were going to go for a hat trick, which would have restored the community lottery boards, but no hat trick.

MR. MacDONALD: Is the flop their credibility?

MS BLAKEMAN: Oh, yeah. I can see that my colleague is getting really excited by this debate. He's likely to jump up and talk about it.

I think what we've got on the one side are these flip-flops, this indecision, this sort of bad planning, and on the other side we have the broken promises, so I'm not surprised that the government is looking to have this third reading hustled through for Bill 27, this Appropriation Act. I think that in the end run the groups that have paid the highest for this – it is really balancing this budget on the backs of children: the cuts to children's services and the cuts to the schools. That's what I'm going to remember this budget of 2002-2003 for. It's balancing on the backs of Alberta's children.

Thanks, Mr. Speaker.

9:20

THE DEPUTY SPEAKER: Before we go further, I wonder if we might have unanimous consent to briefly revert to Introduction of Guests?

[Unanimous consent granted]

head: Introduction of Guests

THE DEPUTY SPEAKER: The hon. Minister of Community Development.

MR. ZWOZDESKY: Thank you, Mr. Speaker. It's indeed a pleasure to rise and introduce to you and through you to all members of the House this evening two very special constituents of mine who have popped by to take in a few of the proceedings this evening in the House. I believe it's likely their first visit to the Chamber, so I do want to welcome them. They are here for a meeting with myself and the hon. Minister of Transportation surrounding some very important issues out in the Hurstwood area. They are two advocates for the constituents who live there, and they're wonderful gentlemen. I would ask now that Kevin Nero and Bill Bock please rise and receive the warm welcome of all members.

head: Government Bills and Orders

Third Reading

Bill 27
Appropriation Act, 2002
(continued)

THE DEPUTY SPEAKER: Are you ready for the question?

[Motion carried; Bill 27 read a third time]

head: Government Motions

(continued)

Time Allocation on Bill 26

27. Mr. Hancock moved:
Be it resolved that when further consideration of Bill 26, Workers' Compensation Amendment Act, 2002, is resumed, not more than two hours shall be allotted to any further consideration of the bill at Committee of the Whole, at which time every question necessary for the disposal of this stage of the bill shall be put forthwith.

THE DEPUTY SPEAKER: The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Speaker. We have now been in discussion of Bill 26 for some five hours. It is a very important bill. With the passage of this particular motion it would provide for another two hours, and then there would of course be the opportunity for further discussion at third reading, which I would anticipate would take at least another two hours. With the five hours that have been in debate so far and the four hours additional, at least that I anticipate, that'll be nine hours. With nine hours of debate Bill 26 will be in the top 10 of bills debated in this House over the last 10 years, and that puts it into very good company.

AN HON. MEMBER: That's shameful.

MR. HANCOCK: Now, Mr. Speaker, the other matter. The member opposite yells "shameful," but in the process of this House in the time that I've been House leader, I've discovered one truism, and that is that if the opposition really wants to bring forward an amendment which they think is purposeful and has merit, they share it with the government in order that we can consider it and see whether we can pass it. If they're simply bringing forward amendments for posturing purposes, they don't do it, and we just spend time debating in the House. In seeing the debate that's proceeded so far in Committee of the Whole, it appears to me that the latter is extant, so I would commend the House.

THE DEPUTY SPEAKER: Hon. Member for Edmonton-Riverview, you have up to five minutes to debate the motion.

DR. TAFT: Okay. Thank you, Mr. Speaker. I respond, I'm sure, on behalf of all members of the opposition and even members of the third party if they were here to respond. The concern we have is that what's happening here, for everybody to understand, is that closure is being invoked. We have, on the basis that we've already debated one of the largest and most important bills of this session for a total of five hours, the government now arguing that that's enough and it's time to restrict the time that's left. So they will allow us a further four hours to finish up in committee and third reading, and I think that's an affront to democracy. I see a number of people in the gallery. I would imagine that they would agree. Nine hours of debate, grand total, for a bill that is going to affect every significant business – small, medium, and large – in this province and beyond that every single worker who's covered by WCB or who was once covered by WCB. It deserves more than nine hours of consideration.

As MLAs every one of us here has any number of files in our offices, tragic files of people with broken lives and broken bodies because of the WCB or because of their work, and the WCB they feel has not attended to their concerns. We can deal with all of that in this Legislature, the one place that's really where debate is on the public record. Can we deal with all of that in a total of nine hours? The government feels that after a mere five hours it's time to shut it down and limit us to only two more hours at each remaining stage of the bill. I am standing to object on behalf of democracy. This is no way to run a democratic society. This is no way for this government to earn the respect of its citizens. [interjection] The hon. Economic Development minister is yelling at me to stop it. The WCB is crucial to the economy of this province. If you think it's so important for us to shut it down, you stand up and justify why you believe that after five hours your government has a duty and an obligation to shut us down.

Mr. Speaker, I don't have confidence but I hope that tomorrow this government at least suffers some repercussions in the media for this sort of closure, and I hope that as this habit gets stronger and stronger – I think this is the government that has the record in Alberta history for invoking closure the most often.

MS BLAKEMAN: Oh, by far.

DR. TAFT: By far, I'm told. Sooner or later this will catch up to this government because the people will recognize this arrogance for what it is.

Thank you.

THE DEPUTY SPEAKER: Hon. minister, there are no further discussions on this.

[Government Motion 27 carried]

head: Government Bills and Orders
Committee of the Whole

[Mr. Tannas in the chair]

THE CHAIR: I'll call the committee to order.

Bill 26
Workers' Compensation Amendment Act, 2002

THE CHAIR: We have anticipated this moment. We ask for further comments, questions with respect to amendment A3, which is currently the topic that we're on. That amendment was proposed by the hon. Member for Edmonton-Gold Bar.

The hon. Member for Edmonton-Gold Bar on A3.

MR. MacDONALD: Yes. Thank you very much, Mr. Chairman. It's different with this amendment A3 now that we have closure on this bill. The government can put whatever spin they want on this, but certainly the closure motion that was discussed a little earlier is just a silk glove over an iron fist, because to describe this as being in the top 10 in bills that are going to be discussed in this Assembly in the time requirements is totally wrong.

9:30

The hon. Member for Edmonton-Riverview talked earlier about how important this is to Albertans. We need to have increased accountability not only in this Legislative Assembly but of the WCB. That's why I proposed amendment A3, to move that Bill 26 be amended in section 5 in the proposed section 7(1) by striking out "3 months" and substituting "1 month." This does not mean that because an amendment is suggested by a member of the opposition, it is somehow frivolous, that we have to run to the hon. minister's office like delinquent children to the principal's office. That is not what democracy is all about. An Assembly is a place to exchange ideas.

Whenever you have, Mr. Chairman, a bill such as this, an extensive overhaul of the WCB where you had public consultation after public consultation and now you're going to have more public consultation, are you going to tell me that you're going to limit this committee to nine hours so that they can only have nine hours to discuss the outstanding contentious claims? Talk about not understanding the spirit of democracy and the function of a Legislative Assembly. For the hon. House Leader to propose Motion 27 and then I believe it's going to be Motion 28 later on tonight is wrong. That is why we have to increase the accountability of the WCB, and to think that we are going to increase their accountability by reducing the number of times that they meet in a year is wrong again.

Now, the possibility of the WCB meeting every three months indicates to this member a hands-off approach by the board of directors. I think we need more meeting times of the WCB, not less, particularly if this bill is going to be rammed through this Assembly without any public scrutiny at all. [interjection] No, there is no public scrutiny when you have closure.

What exactly are we going to be doing here, and what message are we sending to the board of directors? This amendment relates to how often the WCB must meet. The current legislation requires the board to meet every two months. In the interest of openness, transparency, and accountability, all needed for the WCB and welcomed by the Minister of Human Resources and Employment, the minister will now be extending the requirement for meetings to quarterly, or every three months. It is my view that the board should meet more often, not less.

Let's have a look at some of the reasons why the board perhaps should meet. The hon. Minister of Economic Development is talking always about how unique the situation is in Alberta. Well, this is one of the unique situations that employers are having to deal with, and that's double-digit increases in their premiums. Many employers are not in favour of this Bill 26, and I don't have to go to the hon. minister's office to explain this to him. We've had a 27.4 percent increase in premiums this year. We're going to have another double-digit increase in the near future. In the last five years we've had the number of workers covered by the WCB increase from roughly 1 million to 1.3 million, and the entire workforce has not expanded at the same rate, Mr. Chairman.

The number of new claims reported has gone from 118,000 to 146,000, the number of new lost-time claims has gone from roughly 37,000 to 41,000, and the number of fatalities accepted is unfortunately roughly over two Albertans a week. Yet we are going to have closure on this bill. We have no respect for democracy, and with this closure motion I'm told that we have less respect for those who have lost their lives on Alberta work sites. We have the opportune time in this Assembly now to try to work and improve this. But what are we doing? We're going to have four hours of debate on this.

Now, when you see the problems that the board of directors has to deal with whenever you see the percentage of new lost-time claims and you look at two of the major issues that the WCB board of directors is going to have to deal with, the first one is certainly the growth of claims and claim costs. It's skyrocketing. The number one problem is the direction the WCB is going in its health care procurement. They're increasing their delivery through the private operators, and that is driving up costs. Whenever we think of the increase in claims and claim costs witnessed recently – and it is expected to continue – we've got to recognize, Mr. Chairman, that there's certainly sustained growth of the economy and the workforce, as I said earlier, but employers are paying these costs. We need to ensure that the board of directors is doing everything possible to ensure that this is a very well-managed corporation, I'll call it. When you consider the growth of claims and claim costs, I would urge all members of this Assembly to support this amendment A3.

One of the next most important policy issues for the WCB in the future in this member's view is the challenge to the workers' compensation monopoly, and if the compensation board is going to be meeting quarterly, perhaps that's not often enough to discuss this issue. There are certainly issues for them to discuss, but one of the issues is going to be how we deal with the workers' compensation system as it comes under increasing pressure from groups urging the introduction of competition. Now, we all know that whenever you introduce competition to health care, it doesn't work. We all know that it doesn't work with electricity deregulation. Perhaps it's going to work with compensation, and this is why we're so cavalier in this legislation and so cavalier with our use of closure. If this pressure is to grow and is to be felt by all the stakeholders and the government, the WCB should be meeting more often, not less, to analyze the current system and to be accountable to those that are paying the premiums, the employers.

It's fine to have an annual meeting and to have it open to the public, but I'm curious as to how long that public meeting is going to last. Is it only one hour? Is it going to be two hours? Is it going to be three hours with a lunch provided for all the public who come? It is my understanding that historically the WCB chairperson used to travel the province and rent a meeting room in a local hotel and hear firsthand the experience of Albertans in their dealings with the WCB.

9:40

In conclusion, Mr. Chairman, I would urge all members of this Assembly to support this amendment and think before you vote on this that we need to have an openness, a transparency, and a WCB that's accountable to both employers and employees. Reducing the dates in the year on which the board of directors is to meet I think is unwise, and I would urge all members at this time to vote in support of amendment A3.

Thank you.

THE CHAIR: The hon. Member for Edmonton-Riverview on A3.

DR. TAFT: Yes. Directly on the amendment, Mr. Chair. Thank you very much. I think we have said from time to time that there are things in this bill undoubtedly to support. One of the things, however, that jumped out at me right away as a concern is the idea that the board should meet less often rather than more often. The fact that they were only meeting six times a year as it was for a very major organization struck me immediately as a question, and reducing that to only four times a year seems like an even bigger concern. So when I look at this amendment and I see that it is to require the board of directors of the Workers' Compensation Board to meet monthly, I think it's a good idea.

I think that if there were time, if there were provisions, we could perhaps have an amendment to the amendment and maybe allow 10 meetings a year or something like that, but there's no question at all that there is a need to have the board of the WCB meet more often, not less often. That's exactly what this amendment is driving at. If we allow this bill to pass unamended on this particular point, we'll have the board of directors of – what's the budget of the WCB? – a multibillion dollar organization meeting four times a year, and each one of those meetings is a few hours long. It just seems like a real breakdown in accountability, an abdication of this government's expectation that the WCB board will even pretend to be accountable.

So it is vital. It is vital for both the workers benefiting from the WCB and the employers paying for the coverage through the WCB that they see that their organization is meeting more often. The board of directors is there to hold the organization accountable. That's why a board of directors exists. Indeed, I find myself wondering if there are not legal concerns at some point for members of the board of directors if they don't meet often enough, because there is, as I'm sure we're all aware, becoming a well-established body of law that directors of major corporations can be held personally accountable for the activities of that corporation. Well, at what point does a member of a board of directors fail to meet reasonable standards of accountability by not attending or not holding enough directors' meetings? So I think we may be getting to that point soon if we continue in this trend.

I also wonder – and maybe the minister could fill me in on this – if the proposed quarterly meetings, four meetings a year, for the board of directors includes the annual general meeting or if that is a separate, special meeting on its own, because that could become even more of a concern. If we have one AGM and three other board of directors' meetings, then that's simply woefully inadequate.

MR. MacDONALD: Does the Tory caucus meet that often?

DR. TAFT: Certainly they meet more often than that. They meet weekly during session, and so they should. So they should. They have a lot to be accountable for, as does the WCB.

I hear frequently not just from workers covered by the WCB but from employers, especially small business employers, in my constituency who have issues with the WCB. They might in fact like to have the opportunity to present to the board of directors of the WCB directly. Now, wouldn't that be a refreshing idea, if maybe four or five times a year the WCB held public meetings, half of them for workers and half of them for employers? Were you suggesting this, Hugh? They could be open to the public, and they could listen directly, face to face, to their supporters, who pay their premiums, and to their workers, who are covered, and hear their concerns. But they will certainly not have time to do that if this amendment is not passed.

So I would encourage government members – I can see they're paying attention here – to support amendment A3 and require not less accountability and less frequent meetings of the board of directors of the Workers' Compensation Board but more

accountability and more frequent meetings so that the people of Alberta, the employers of Alberta, and the workers of Alberta can see that a job is being done the way it should be done.

Thank you, Mr. Chairman.

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

MR. HERARD: Thank you, Mr. Chairman. I wasn't going to get up, but we've been listening to the hon. members chastise us for not spending enough time to try to make this bill better, yet we get amendments like this one. Essentially this particular clause states that they can meet at any time, but at no time shall more than three months elapse, so that means they could meet every week if they have to. I don't know why it is that we're not spending the time of this House, now that the hon. member knows that he's got a limited amount of time, to deal with important issues within this bill.

I know that the hon. member probably has, you know, the goodwill to try and improve this bill, and I would certainly listen to amendments that make sense to make this bill better, but to spend this kind of time on this kind of a clause to me means that it's not a very serious thing. Yet there's a family in the city of Calgary tonight, you know, who have a father in the hospital and two sons and a wife in a vigil for an injured worker who couldn't take it anymore. So let's get serious.

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

MR. MacDONALD: Thank you very much, Mr. Chairman. Amendment A3 is certainly a serious issue. This is a billion dollar organization. When we give in Bill 26, as it's been presented to this Assembly, flexibility for the board of directors if they wish to reduce the amount of meeting times, then that is wrong and that is not considering the needs of any injured worker or any employer in this province. Sorry.

Thank you.

THE CHAIR: The hon. Member for Edmonton-Centre on amendment A3.

MS BLAKEMAN: Thanks very much, Mr. Chairman. I'd like to speak on amendment A3, which is proposing that section 7(1) strike out "3 months" and substitute "1 month." As the Member for Calgary-Egmont has noted, that is in fact the minimum period of time that can elapse between meetings. So what's been changed here and what the government is proposing as part of the changes under Bill 26 is that instead of having to meet at least every two months, it would have to meet at least every three months. And the Member for Calgary-Egmont is correct; they could in fact meet more frequently. They could meet every week or every day or every hour if they wanted to. It's not precluding that, but what tends to happen in these cases is that people look at what the legislation says. It says three months, and that minimum becomes the norm. It becomes the ceiling. It becomes the benchmark that everybody shoots for. So if it says three months in the act, that's when everybody is going to meet, once every three months.

Okay. Well, is that a problem, to have the board of directors for the Workers' Compensation Board only meet every three months, four times a year, potentially having the AGM as one of those four times? Yes, I think that is a problem. So we have an amendment brought forward by the Member for Edmonton-Gold Bar, who is proposing that the minimum be every month, that the board of directors for the Workers' Compensation Board would have to meet at a minimum every month. I think that's reasonable for the amount of money that the Workers' Compensation Board is dealing with, for the number of people's lives that it affects, both the employers and the workers, for the number of regulations that have to be adhered to, and for the programs and services that are being offered by the Workers' Compensation Board. I don't find that a monthly meeting, at a minimum, of the Workers' Compensation Board is unreasonable to expect, coming from this institution.

9:50

Part of what's involved here is the responsibility, what we would call the duty of care in the nonprofit sector, the duty of care of a director. The director is under an obligation to be informed about what's going on, and a director should, then, be using that information to make good decisions. Ideally, that's what is being set out here. As the Member for Edmonton-Riverview pointed out, particularly in the States, which always tends to be more litigious, we are seeing an increasing number of court cases where people are being held individually responsible for those decisions that they're making in the context of sitting on a board of directors, whether that's a corporate board or a nonprofit board. It's happening in both places.

I think there is an onus on directors to be meeting often enough to be kept up to speed on what's happening. Okay? With an organization as big as the Workers' Compensation Board, how often would they need to meet to stay on top of what's happening in the programs, how many new cases are being opened, how much money is flowing out, any changes that are being anticipated, pressure from the community? Is it unreasonable to say that they should meet at least every month to stay on top of that information and to be able to make good decisions? Let's face it; without good information you don't make good decisions. So how do we try and set up legislation so that the board of directors of the Workers' Compensation Board can meet frequently enough to have a good exchange of information and, further to that, make good decisions?

So I'm more than willing to support amendment A3, brought forward by the Member for Edmonton-Gold Bar. Is there a good reason not to do this? Is there some reason why it would be a bad thing to have these directors meet, at a minimum, every month? I don't know. Is there not enough money to pay the directors for their time spent at meetings? Is that too large a figure? Well, given the controversy we've been following in the newspaper recently about the pay scale for the CEO of the Workers' Compensation Board, it seems to be felt that the six-figure income is fine; that's to be expected working in that kind of sector. I'm assuming that directors are paid for their appearances or at least reimbursed for their travel expenses, but I don't think the amount of money that it's costing them to bring these directors together should be a deterrent to having them meet at least every month.

I was also intrigued by the suggestion from the Member for Edmonton-Riverview that perhaps with that many meetings they could open some of these to the public. That I find very interesting. I don't know if it's opening it to the public so much as opening it to its own stakeholders; that would be the employers, who are paying the premiums, and the workers themselves. It can often be very instructive to come and watch how people get information, what kinds of reports they're given, what kind of briefing they're given by the administrative staff, the surroundings they meet in even, how long they meet, what time of day they meet. It can be very interesting.

We've got a number of people joining us in the gallery tonight, and I'm sure they're finding it a very interesting experience to see how a time guillotine is used in place of closure in Alberta. I'm sure they're learning a lot about how decision-making happens here, what kind of information is provided to people and the level of discourse that takes place in the Assembly.

I understand that members of the government caucus are

frustrated. I understand that they've already decided this behind closed doors and they know what they're going to do. They've had their five-minute briefing on it, and they're frustrated. They don't want to be in here. They don't see this as contributing to democracy at all.

MR. SNELGROVE: Speak for yourself. We're having a great time.

MS BLAKEMAN: I'm so sorry. Evidently they're having a great time talking and chatting with one another. Fine. If that's how they want to spend their time in the House, fine.

I understand that government members are frustrated with this process of being in the Legislative Assembly, with having members of the public come in and listen to what's happening.

MR. NORRIS: It's an honour to be here. We like being here.

MS BLAKEMAN: Oh, I'm glad to hear that. That's the most positive thing I've ever . . .

THE CHAIR: Hon. members, hon. minister, if you wish to speak to this amendment, I would be happy to recognize you when the next occasion arises. Right now we have the hon. Member for Edmonton-Centre, and then after that I will recognize you if you so desire.

Edmonton-Centre.

MS BLAKEMAN: Thank you. That's excellent. I'm glad that we're able to engage the minister.

I was talking about how willing people were to spend the time in this House debating this and the importance of having an open process where people can come and watch how you make decisions and what kind of information you have when you make those decisions. I think that's a good process, an important one that needs to be upheld in a democracy. So I'm certainly in favour of the additional suggestion from Edmonton-Riverview that some of those meetings happening at a minimum of once a month would in fact be open, as I said, not necessarily to the public but certainly to the stakeholders that have an intimate concern with how the WCB operates and how it makes its decisions. That seems perfectly reasonable to me. In a day and age where money counts and there's a lot of it around, accountability is very important, especially when you're taking hard-earned money from employers. Of course, I'm always more concerned about the effect that government programs and services have on small- and medium-sized employers. That's hard-earned money for them. They need to know that the decisions that are being made and the programs that are being put in place are going to serve them well too.

So I'm glad I had this opportunity to get up and speak in favour of this amendment. I think it's a good idea to set up the legislation so the board has the discretion or the leeway to call meetings at least every month and more frequently if they so wish. I think that at least a monthly meeting is very reasonable and is probably prudent in light of the complexity of the affairs of the WCB and the amount of money that is being distributed and contemplated in their decision-making process.

Thank you very much.

10:00

THE CHAIR: The hon. Minister of Economic Development.

MR. NORRIS: Thank you, Mr. Chairman. I would like to speak on the amendment and would just like to remind the hon. member that when she casts aspersions about our intentions, there's not one member in this government that doesn't want to make things better. We're trying to make it right, and we're doing the best we can. For you to sit there and say that we aren't here for the honour of the people that put us here is absolutely false and malicious, and I'm not going to take it.

MR. DUNFORD: Well, Mr. Chairman, I think it'd be important to put on the record just what's happening here tonight. I think it'd be important, and I think members of the opposition would almost hope that my words show up on a page other than one their speech is on. The rhetoric that has been involved in this amendment tonight is worthy of sending to your constituents. There's no question about it. But the thing that disturbs me in this House tonight, based a little bit on what the Member for Calgary-Egmont talked about, is that there are serious situations out there regarding injured workers and their relationship with the appeals system of WCB. What Bill 26 is there for is to provide for a more open and accountable WCB system.

[Mr. Shariff in the chair]

Now, in order for that to happen, I took the unprecedented move of meeting in my office with the hon. Member for Edmonton-Gold Bar, the hon. Member for Edmonton-Glengarry, and the hon. Member for Edmonton-Highlands, and I did the unprecedented thing of working with a document that normally is not seen by opposition members, but this was how important in my view it was to move this legislation forward so that we could start to see the policy change, the legislative change, and the regulation change that's required in order to make the WCB system in Alberta one that is even better.

What is apparent to me now is that the hon. Member for Edmonton-Gold Bar has not talked to his caucus about the situation that happened. I listened to the Member for Edmonton-Gold Bar, and I've listened to him now for a number of years. I understand the way that he approaches topics, and that is fine. But for him to allow the Member for Edmonton-Riverview and the Member for Edmonton-Centre to then stand up and talk about an amendment from a focus that this was a government amendment – and of course it is, because it's in our bill. But not to have explained to them that this was a WCB amendment that was forwarded for us to consider – WCB said: look; if you're opening the act because you want to do something for injured workers, we have some housekeeping things that we would like to have looked after at the same time. I said: "You know, that'll be fine, but it'll have to be routine. I am not prepared to accept an amendment from WCB that is controversial in any way. I'm going to have enough controversy with what I'm trying to do for injured workers in this province without getting into some of the particular battles that they might have." It was explained to the Member for Edmonton-Gold Bar and it was explained to the Member for Edmonton-Highlands and the Member for Edmonton-Glengarry that there are two sets of amendments here that you need to be looking at: again, one that is initiated by WCB and the other that is initiated by this government and what we're trying to do with the injured workers.

We have now spent – I don't know. Is it 45 minutes? There must be a timer. We have spent 45 minutes listening to the rhetoric about the concern they have for injured workers, the concern they have about democracy on an item that has come to us as a routine matter from WCB, accepted by the stakeholders of WCB. We were assured as a government caucus that the amendments initiated by WCB had been fully explained and fully agreed to by their stakeholders. So what have we here tonight then? We have a bill that is to bring a more open and accountable WCB system on behalf of injured

workers, and we're spending 45 minutes wondering how often the board of directors should meet. Not only that, but other than these three esteemed members there's nobody else opposed to it. The employees group from WCB, the employers group from WCB, all of their stakeholders said: this is a routine amendment, and we're bringing it forward for you while you have the bill open for this to move forward.

So rhetoric and posturing tonight – I don't know if we've ever seen this kind of stuff before. We've got injured workers in the gallery that have to sit and listen to a discussion about when the board of directors should have to meet. Ladies and gentlemen, members, we are here to provide an open and accountable system for the WCB, not to worry about when directors have to meet.

DR. TAFT: I appreciate the passion with which the minister raised his comments, but this Assembly needs to understand that this is where the ultimate public debate on bills occurs. This is where accountability for the government and its agencies, including the WCB, rests, and this is where it is absolutely reasonable to discuss how often the board of directors of the WCB is required to meet. So it is well within our rights, indeed it is within our responsibilities as representatives in a democratic society and members of the Legislature of Alberta to raise these kinds of issues and to debate them. I see absolutely nothing wrong with that. Where else am I to hold this debate?

Thank you.

[Motion on amendment A3 lost]

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

MR. MacDONALD: Thank you very much, Mr. Chairman. Now, we're going to continue with debate on this bill, and certainly there are many amendments which will improve this bill. First, in discussion of this bill I have to wonder: if the government is so sincere about the health and welfare of injured workers and about employer premiums and openness and accountability of the WCB, why did it wait so long after it had all those reports, whether it was the Friedman report or whether it was the report from the hon. Member for Red Deer-South, before doing anything, before any actions were taken?

Again, good legislation has everyone involved. It is true that there was a meeting in the hon. minister's office regarding this. But I am like the Industry Task Force Association; not everything that was in the three-column document was discussed. Just because an individual has a chance to have a consultation process with the minister does not necessarily mean that there's going to be concurrence. That is a notion that this hon. member, as it was discussed by the Minister of Human Resources and Employment – perhaps there is a lack of understanding of what a democratic process is.

Mr. Chairman, I have another amendment that I certainly would like to discuss this evening, and at this time I would ask one of the pages, please, to distribute it to all members.

Now, the Member for Calgary-Egmont . . .

10:10

THE DEPUTY CHAIR: Hon. member, just one minute while we at least get a copy at the table. Hon. member, we require an amendment that has an original signature of yourself.

MR. MacDONALD: Okay. I inadvertently left it off.

THE DEPUTY CHAIR: We have this amendment before us, and we shall refer to this amendment as amendment A4. The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Yes. Thank you very much, Mr. Chairman. Amendment A4 on Bill 26, Workers' Compensation Amendment Act, 2002, would read that Bill 26 be amended in section 6 in the proposed section 7.1(4) by adding the following after clause (b):

(b.1) a report outlining the termination benefits payable to the President;

(b.2) a report outlining bonuses exceeding $500 paid to a member of the board of directors and any employee of the Board.

There have been many issues put forward this evening about improving the accountability and the openness of the board of directors of the WCB, and this is another one, Mr. Chairman.

Now, the Premier expressed some concern – and I don't have the exact quote from the Premier. But when the Premier was informed that the last termination benefit paid to a retiring president of the WCB – and this is going back to I believe the spring of 1998. It was $580,294. That was the retirement allowance paid to the president, and this was in accordance with the contract of employment. When the Premier of the province was made aware of this by reporters, he was astonished. I forget again, Mr. Chairman, what the exact words were, but the Premier thought it was excessive.

We think of compensation and how many of the injured workers feel so frustrated. They have a great deal of difficulty understanding how we can have a rich compensation package or a termination package for the president, yet injured workers have to go through hoops, and some of them are unsuccessful when they deal with the WCB in getting compensation for their injuries.

Again, I think it would be in the interests of having a better WCB. Certainly the recruitment process is going on for a new president. It may be over for all this member knows; certainly the hon. Minister of Human Resources and Employment would know better than I. But I believe that the termination contract should be a public document. I believe that whenever this bill was drafted, it was simply overlooked, and I at this time would like with this amendment A4 to ensure that it is not and ensure that that information will be public information. The next time that employers across this province have a double-digit premium increase, whether it be 11 percent or 27.4 percent or perhaps 10 percent, they will be able to consider this rather lucrative secret contract. That's one reason why I think everyone should support amendment A4.

Of course, the next issue is the whole issue of bonuses. There are those in this province that say that there is a system of achievement bonuses in the WCB that is based on the number of files. Certainly this member doesn't know that to be fact or fiction, but to think that there would be bonuses paid to WCB employees based on whether or not an injured worker were to receive benefits would be wrong in my view. This amendment would again allow public scrutiny of this whole issue of bonuses – why they are given, who they are given to, and when – and it certainly would increase in my view the trust factor between workers, their employers, and the WCB. Certainly I think it would reduce the anxiety and the frustration of all injured workers across this province. I would urge all members to accept this amendment. Even though it wasn't cleared with the Human Resources and Employment minister's office before it was presented to this Assembly, don't let that stop you. Support amendment A4 to Bill 26.

I think that in the little bit of time that we have, we can take a bad bill, discuss it publicly, where it should be discussed, and try our best to improve it. The first thing that has to be done – the entire

board has to be accountable to the citizens, and this would increase that level of accountability, Mr. Chairman.

Thank you.

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

MR. HERARD: Thank you, Mr. Chairman. I'm going to try again. I know that the hon. member must have some serious amendments that would make an improvement to this bill, but to look at this amendment, "a report outlining the termination benefits payable to the President" – the hon. member knows that the Auditor General will be looking and overseeing the WCB as a result of this bill. The same thing with the second one: "bonuses exceeding $500 paid to a member of the board of directors and any employee of the Board." Again, the Auditor General will be able to report on those things. I would really urge the hon. member to call the question on this and get on to some serious amendments.

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

MR. MASON: Thank you very much, Mr. Chairman. I'm pleased to speak to amendment A4, presented by the hon. Member for Edmonton-Gold Bar. I'm inclined to support this particular amendment because I think it's generally trying to inject a little more accountability in terms of the functioning of the board, but it doesn't really get to the basic matter. The basic problem with the WCB in my view in terms of the structure of the board and matters related to that is the model that's being used. Instead of a normal public board that is accountable, we've established some sort of private-sector model of a board in which it operates, in my view at least, too far at arm's length from the Legislature, too far from the minister, and not under the normal rules that apply to public boards.

10:20

We've seen for example a dramatic escalation in salaries that are paid. It doesn't meet the normal tests of openness. This whole idea that it's spun off as a corporation I don't think has served either the workers well or served the Legislature well. I think that the hon. member is trying to get at this, but I certainly don't understand why we have to pay $300,000-and-up salaries to the president of the WCB when civil servants, senior officials of the government, deputy ministers, and so on, get a fraction of that money and have more responsibility. I don't understand it.

I know that members opposite have criticized the president of EPCOR for making all the money that he's making and probably rightly so, yet here's a board directly under our control, under the government's control, which can be controlled. That is a choice. The fact that it's an independent board is a choice made by the government and by the Legislature. That is exactly my point: you don't have to make that choice. In my view, you should not make that choice. You should not make it completely independent, and you should not let them irresponsibly waste employers' money, that's supposed to pay for workers' benefits, on things like excessive salaries, excessive separation benefits, and things like funding international sporting events with money that should belong to the workers. Obviously, the independent model is not appropriate, at least in our view, and it should be replaced with a model that existed before, where you have a public board with higher degrees of accountability, higher degrees of transparency, and lower levels of pay for the senior officials.

I think that the hon. member is trying to get at that with this amendment, so in this case I will support it.

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

DR. TAFT: Thank you, Mr. Chairman. Again this is an issue of accountability. It's being dismissed in some comments as unimportant, but I think that if we went to the taxpayers of Alberta and to the employers paying benefits, we would find that indeed they would be very interested in this amendment, which after all is a small amendment but it is significant. I know and I think we all know that the public and workers and employers were all very concerned about the termination settlement for the previous president or two presidents ago now. They're very concerned about the settlement package that was provided to the president who recently left, and they will want to know what that information was. There's no reason in the world that I can think of that this can't be put through.

Similarly, we hear rumours – certainly the very good report by the hon. Member for Red Deer-South admitted that there were rumours or stories going about – that employees of WCB were being paid bonuses to deny requests. Well, if we can clear that sort of thing up, why don't we do it? If we can have a record that spells out exactly why and when bonuses are paid, why not do that? Why not take away some of the suspicion and some of the mystery that surrounds the WCB? That's all this amendment is about. It's simply about better accountability and better transparency. So I think it's well worth considering, and I hope some other members of this Assembly would agree in that.

All of us hear concerns about the mysterious operations of the WCB. Some of that undoubtedly is myth. Some of it is rumour. Some of it is false. Maybe some of it is true. Whatever we can do to shine light on it we ought to be doing, and this amendment here, amendment A4, would help do that. It would achieve that. So it serves everybody. I don't see a downside to this. It serves the workers. It serves the employers, who pay their premiums. It serves the public. It serves the board of directors, and I think it would serve this Legislature, because it would show that we are concerned about open, transparent, accountable government agencies like the Workers' Compensation Board.

So I will be supporting this amendment. I heard the hon. Member for Edmonton-Highlands say I believe that he would support the amendment, so I hope some of the government MLAs look at that as well.

Thank you, Mr. Chairman.

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

DR. MASSEY: Thank you, Mr. Chairman. I'm pleased to support the amendment. I'm a little disappointed in the government member taking the opportunity to comment on the quality of the amendments. I think the substance of the amendments is what's under debate. To indicate that the salaries of the president and the chief executive officer are not a significant issue I think is to ignore the very actions of this government, which has said that the salaries of board employees and those organizations dealing with the public are very important and in fact made a number of moves to make public the salaries of public board members, the superintendents of schools, and a whole host of salaries that in the past had not been part of the public domain this government worked very hard to have declared. So I think it's unfortunate that the government member decided to ignore the amendment and make comments about the validity of it, at least in that member's eyes.

[Mr. Tannas in the chair]

This particular motion is one that has been the subject of public debate. There was a great deal of outrage when the salaries of the president and the chief executive officer of the WCB were made public. We had calls to our constituency office about it, and I'm sure that most members of the Assembly had similar communications from a public that was really quite outraged at the magnitude of the salaries. It cast a rather striking dichotomy. Here were injured workers who claimed that they were being denied in many cases rather modest claims by an organization that had this very, very rich, to say the least, salary grid in place for executive members. So I think that that public outcry was not lost on government members or members of the WCB.

[Mr. Tannis in the chair]

If we look at the kinds of arrangements that have been made with the previous CEO, I think the fact is quite evident that that information needs to be made public, and that's what this amendment will allow to happen, Mr. Chairman. It outlines the termination benefits payable to the president and the bonuses exceeding $500. When you look at the provision in the last CEO's contract, termination benefits of $580,294, being the retirement allowance paid to the president and chief executive officer in accordance with the contract. That's a huge amount of money, Mr. Chairman, and one that I believe the public in the public interest has the right to have reported on an annual basis, should that change.

So with those comments I urge members of the Assembly to support A4. Thank you, Mr. Chairman.

10:30

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

MR. BONNER: Thank you very much, Mr. Chairman. I welcome the opportunity to rise this evening to speak to Bill 26, the Workers' Compensation Amendment Act, 2002, and specifically to the amendment proposed by the hon. Member for Edmonton-Gold Bar. His proposal is to section 7.1(4), adding the following after clause (b): "(b.1) a report outlining the termination benefits payable to the President." I think this is an exceptionally good amendment. It is an amendment that is welcomed not only by employers but by injured workers. In light as well, Mr. Chairman, of the comments made in Judge Friedman's report, where he says that "each Committee member has expressed concern about what seems to be a well-entrenched culture of denial within the WCB," I think this is just one other area where that culture of denial takes place.

When we look at the annual reports of the WCB – and we're using their figures totally here – and we look in 1996, the termination benefits were $704,000. Now, in 1997 these rose to $925,566, and in 1998 $1,166,372. As we continue along, in 1999 we had termination benefits of $1,304,452. Probably the one that's most upsetting is when we look at termination benefits for the year 2000. Those have now risen to $2,344,044. I don't know how any hon. member in this House could say that this is a frivolous amendment and one that shouldn't be considered not only by the members of this House but for the good of all Albertans. If we are truly going to make the WCB a transparent and accountable organization, then this is certainly a first step. When I see that in 1996 we had termination benefits of only seven hundred and some odd thousand dollars and now we look at the year 2000, which is the last we have recorded, where we have termination benefits of over $2.3 million, what an incredible rise in termination benefits over that short period of time. So this is an exceptionally good amendment.

Now, as well I have other concerns that I think this amendment will address. I see again the amendment put forward by the hon. Member for Edmonton-Gold Bar: "(b.1) a report outlining the termination benefits payable to the President." Of course, when we look at the previous CEO to the one that just retired earlier this year, the termination benefits were absolutely outrageous. In fact, they were so outrageous that the *Reader's Digest* even featured the type of termination that this particular individual was granted. Again we had a situation here this year, in early 2002, when we had the president and CEO of the board resigning, terminating her contract one year before she had to. Yet with the way our reports come out, Albertans won't have any idea what her termination was until the 2002 report comes out, which I believe is June 1, 2003. So this person will not have been an employee of the board for somewhere in the neighbourhood of 14 to 15 months, yet Albertans won't know what type of separation package she got. This is totally unacceptable to injured workers, who at this particular point are the focus of the Workers' Compensation Amendment Act, 2002, Bill 26. It's totally unacceptable when they have benefits that have been denied them, and we are having a tribunal system set up in order to deal with these cases. As well, it's totally unacceptable to employers, who see the premiums continue to rise and rise, yet they don't get an opportunity to look at termination benefits to the president.

So definitely I am in full support of amendment A4. I know that employers in this province are in support of this, and I know that injured workers in this province are in support of it. I cannot understand why members in this House would not support this exceptional amendment.

Now, then, as well the second part of the amendment, "a report outlining bonuses exceeding $500 paid to a member of the board of directors and any employee of the Board." Again, Mr. Chairman, we have had numerous complaints, and I must commend the minister on listening to those complaints and certainly taking the action first of all of having two reports done, one by Justice Friedman and one done by the MLAs. Both reports focused on a particular group of injured workers. These are the 15 percent of injured workers who are not satisfied with the WCB. This is the 15 percent of injured workers who have been denied, cut off, had their benefits limited over this time. With one fell swoop of the pen they've had benefits terminated, reduced. They don't know how they're going to pay rent, buy food, and get medication. They certainly realize that they're never going to go back to the type of employment they had before. This can be done to them, yet they don't have any way of checking out the very bonuses that those people that did that to them have. As well, these injured workers are subjected to surveillance if there's even the slightest question . . .

MR. MacDONALD: Not surveillance.

10:40

MR. BONNER: Surveillance.

. . . that perhaps we could use surveillance to limit their benefits. Here we have injured workers who are subjected to surveillance, and they are put into a position where they are having to scrape by. In many of these cases, Mr. Chairman, these people end up losing their wives, losing their families, losing all their possessions, losing any savings that they've had just to try and eke out a living. We have people who work as case managers, as adjudicators, as supervisors, as managers, and we have people working in surveillance that get bonuses, yet injured workers are not afforded this basic human right of the Meredith principle, and that is that because they're injured at work, they should not become a burden to themselves, to their families or friends, or to society. They cannot get the basic requirements from WCB to exist from month to month, yet we cannot provide a detailed list here of bonuses exceeding $500, which I think is quite reasonable.

So I'm in full support of this very worthwhile amendment A4, and

I would certainly hope that all members in the Assembly will support this amendment. Thank you very much.

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

MS CARLSON: Thank you, Mr. Chairman. I'm happy to speak to this amendment A4, that's before us on the floor. This has been something that we've asked for for a long time. We waited and waited and waited for a very long five hours of debate that we've seen so far on this bill prior to this evening's work – and five hours doesn't seem like very much to us, but I know that other people feel that it's been a very long time – but lo and behold there's been no good amendment come forward. Of course, the best thing would have been if we had seen this as a change proposed in the legislation, Mr. Chairman, but perhaps that was too much to expect. We have seen instances where the government has supported amendments, and this would certainly be an act of good faith not only to all the injured workers out there but to the employers, who are paying the premiums and are therefore paying the bonuses of these people in this organization.

I have a fundamental problem with people working for an insurance company, which this in essence is, being paid bonuses to kick people out of the program. It seems obvious the kinds of problems that can be within an organization that pays bonuses to people to kick those very people that they're supposed to be supplying a service to out of the system. Definitely the incentive for the workers is to get people out and off the system. Definitely that is not what the program was intended for, and I don't think that that was the intention of the employers either, who are paying the fees. They are paying an insurance premium to take care of injured workers. They expect, therefore, administrative costs to be as low as possible. They do not expect, I believe, that their premiums go to pay bonuses to employees within the system.

So I have a real problem with the way that this whole system has been operating over the past years. From a philosophical perspective I am completely opposed to the bonuses. If they must exist, then at the very least what we can do is have openness and accountability and transparency throughout the entire process. That would do exactly what this amendment says, and that is "a report outlining bonuses exceeding $500 paid to a member of the board of directors and any employee of the Board." When? Not after the fact, as we see it appearing in schedules of salaries and benefits, but as they're occurring. That's exactly what this amendment is asking for, to amend in section 6 the proposed section 7.1(4) by adding the following after clause (b): "(b.1) a report outlining the termination benefits payable to the President." Not way after the fact once that person's long gone and likely long gone out of this province. Also "(b.2) a report outlining bonuses exceeding $500 paid to a member of the board of directors and any employee of the Board."

Openness and transparency: that's all we're asking for. That's what this government campaigns on. That's what this government says it does all the time. So put your money where your mouth is and just be open and accountable. Support the amendment, and we will see that happening. I will be the first person in this Assembly to stand up and applaud the government for having taken that direction every single time that we see that information tabled in this Legislature. I would like the minister to tell us what would be wrong with that kind of a system. I can't see anything with it, and I see it as a much better system.

I imagine at some point in the near future, when we see premiums rising again on WCB premiums to businesses, businesses are going to start to demand that kind of transparency because they want to know where their money goes and they want to know that they're getting good value for the dollar. I believe that knowing what those bonuses are is part of that good value. So I would urge all members in the Assembly to support this particular amendment, a very good and worthwhile amendment.

MR. DUNFORD: Mr. Chairman, I think we could be somewhat sympathetic toward the amendment if there was taxpayers' money involved here, but the opposition knows full well that WCB is a system entirely funded through assessments to employers. So all of this heartbreak and angst that they have over openness and transparency is already there. Now, maybe none of them are employers. Maybe none of them have ever had employees. I don't know that, but certainly they have employers within their constituency that they could be working with to access this information.

I obviously was feeling some frustration and perhaps even anger over the length of debate on A3, but now that we're into A4, Mr. Chairman, I'm gaining a great amount of confidence. What I realize now is that amongst the group across the way, they seem to be almost in full, entire agreement with what we as a government are trying to do to make a more open and accountable system as it relates to the appeal process, as it relates to something that would really help injured workers.

On the two amendments that we've been dealing with tonight, in the fact that they're based on the operations of WCB, if they want to use their two hours this way – and clearly they do – then that's fine. The Member for Calgary-Egmont and certainly myself have spoken. I know the frustration that other members on the government side are feeling about how we're not progressing toward hearing what should be done for injured workers. They're spending all of their time concerning themselves about the board and now about the CEO. I think, hon. members, that we should take this as a good sign. This is a good sign that the opposition doesn't have much by way of constructive amendments to what we are already trying to do. I think we should accept that as an endorsement of what it is.

Of course, in defeating A4, I mean, that's a matter of perhaps some concern to the member that brought it forward, but I'd like to thank the member for continuing to bring these kinds of amendments forward, because then it shows the support that he's providing us in trying to deal with injured workers.

[The voice vote indicated that the motion on amendment A4 lost]

[Several members rose calling for a division. The division bell was rung at 10:48 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Blakeman	MacDonald	Nicol
Bonner	Mason	Taft
Carlson	Massey	

11:00

Against the motion:

Ady	Horner	Masyk
Broda	Hutton	McClelland
Cao	Jablonski	Norris
Cenaiko	Jonson	O'Neill
Coutts	Kryczka	Renner
Ducharme	Lord	Stelmach
Dunford	Lougheed	Stevens

Evans	Lukaszuk	Strang
Friedel	Lund	Taylor
Graham	Marz	Vandermeer
Hancock	Maskell	Zwozdesky
Herard		
Totals:	For – 8	Against – 34

[Motion on amendment A4 lost]

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

MR. MASON: Mr. Chairman, I would like to propose an amendment to Bill 26, and I'm always pleased to stand up to the hon. minister of industrial development.

I move that Bill 26, the Workers' Compensation Amendment Act, 2002, be amended in section 19 in the proposed section 46.1 as follows: (a) by adding the following under subsection (2):

> (2.1) a claimant may request the Board or the Appeals Commission to refer his or her medical issue to a medical panel, and such a request must be supported in writing by the claimant's physician.

And (b), in the proposed subsection (4) by striking out "The Board may make rules governing" and substituting "The Board and the Appeals Commission shall jointly make rules governing."

THE CHAIR: Hon. member, are you prepared to share these with the rest of the committee? This will be called amendment A5.

MR. MASON: Thank you, Mr. Chairman.

THE CHAIR: Hon. member, please proceed.

MR. MASON: Ready to rock and roll there, Mr. Chairman? Okay.

Mr. Chairman, I am proposing this amendment because I think not just me but people who follow this on the workers' side as well have made the suggestion that while the medical panels are a good idea and constitute a real improvement, the way they function is still too much under the control of the WCB. This amendment is an attempt to strengthen the independence of the medical panels, to give the workers more equality in the functioning of the medical panels, and to as well make sure that the Appeals Commission has the same authority with respect to medical panels as the WCB itself.

What we have right now is that the WCB is the gatekeeper of the medical panel. It's the WCB that calls the panel together if it doesn't agree with a medical assessment. If a client's physician has a bona fide medical opinion, the panel will be called, but it's the WCB that determines what a bona fide opinion is. As well, as I've mentioned earlier in debate, the panel is composed of a physician appointed by the worker, one by the employer, and one a physician appointed by the WCB, so that can lead to a medical panel which is stacked against the worker.

I know that the minister has talked in the past about, you know, the professional ethics of the physicians involved and how this provides protection for the worker because everybody's just going to be entirely objective. I think that if this were the case, Mr. Chairman, we would not have seen the physicians employed by the WCB in such conflict and such consistent conflict on one side of the question, in favour of denying workers' claims, which has led to other problems that we're still grappling with. So I think there's a principle, and it needs to be taken into account. That is that he who pays the piper calls the tune, and that is only partly offset by professional responsibility. I think the evidence is clear that physicians who are appointed by the WCB have taken positions which are consistent with the policy of the WCB at that time, so I'm not convinced.

But to come back to the amendment, specifically it says:

> A claimant may request the Board or the Appeals Commission to refer his or her medical issue to a medical panel, and such a request must be supported in writing by the claimant's physician.

That means, on the principle the minister has outlined of professional ethics and responsibility of the physician, if that physician puts forward a position that there's a certain cause of an injury and it's work related, that needs to be taken into account, and they can then make a request in writing for a medical panel. That's both at the WCB and at the appeals level.

The second clause of the amendment says simply that "the Board and the Appeals Commission shall jointly make rules governing" the operation of medical panels. That again balances the power of the WCB, which is still unfettered in this act with respect to medical panels. It gets to make all the rules and forces a situation where the Appeals Commission can also be involved in setting the rules.

So I think those two pieces together would strengthen the act, Mr. Chairman. I would urge members on both sides of the House to support this because I believe that it is in the best interests of workers in Alberta and would strengthen the legislation and provide a fairer and more level playing field with respect to the operation of the WCB and its Appeals Commission. Thank you, Mr. Chairman.

THE CHAIR: The hon. Member for Edmonton-Centre and then the hon. Member for Calgary-Egmont.

MS BLAKEMAN: Thank you, Mr. Chair. I'm glad to see this amendment and have the opportunity to speak to it because this may answer some of the questions and concerns I had around medical panels, but then again it may not. So I have a couple of questions, and maybe the mover of the amendment, the Member for Edmonton-Highlands, can answer that.

When I look at section 19 of Bill 26, which is amending section 46, I'm not seeing the specifics that I was expecting to see. It doesn't talk about the three members that were going to be on the medical panel. It doesn't talk about them not – sorry. Let me start over. The situation we have now with the medical panels seems to be one that causes a lot of problems; I think that can be agreed upon. This needs to be changed. But when I look at what's being put forward under this section for medical panels, it isn't as thorough as I was expecting to see. So I started looking through the information that has been produced by the government in support of this act and generally in discussion, going through news releases and things.

11:10

In a news release from April 22 under a bullet it says, "Create a medical panel process to resolve differences in medical opinion that affect a worker's claim." Okay. Yes, indeed, that is what we need. I think the situation that's of most concern is where we have a medical panel, a WCB medical panel, which contradicts the medical opinion of the worker's physician or specialist, and in many cases this medical panel does it by paper. It doesn't actually interview or examine the worker. So that's what we wanted fixed. Certainly the recommendations that came out of the Review Committee of the Workers' Compensation Board Appeal Systems, chaired by Judge Samuel Friedman, was talking about a much more careful setup for this medical panel.

When I look at a backgrounder on Bill 26, on page 2 now it starts giving the sort of information that I was looking for. It says:

> Where there are conflicting medical opinions, it is intended that a

> medical panel can be initiated by the WCB, by the Appeals Commission, or by the physician of an injured worker to get an independent, expert, consensus-based medical opinion.

Aha. Where is that in the legislation? I don't see it. It is in a backgrounder and I appreciate that, but is someone supposed to be 10 years from now waving around this backgrounder to say that this is what the government really meant, or is it intended that the specifics of this come out in regulations?

There is a pilot project running. There are performance measurements that are being submitted to the minister, and the "medical panels will be established from a list of physicians prepared and approved by the College of Physicians and Surgeons of Alberta." So this is all in the backgrounder to Bill 26, but it's not included in what's in there. Now we have an amendment. I don't see that the amendment is giving us this information or the specifics of it either.

There is an issue in here that I'm a little concerned about. When it's looking for a request that "must be supported in writing by the claimant's physician," one of the problems we've had in trying to assist constituents is that they can't get their doctor to co-operate, for whatever reason. I know that it could possibly be because the physicians are not paid to prepare letters and requests and things like this, so that tends to get put on the back burner of any physician, with all the work they have to do. I'm just wondering if by including this, had the mover anticipated that it can be difficult to get a written response from a physician? And if we're making this that the request "must be supported in writing by the claimant's physician," that could be putting a worker in a very difficult position trying to get that information. I'm a little concerned about that, so maybe the member can answer me there.

I understand the impetus behind having the Appeals Commission and the board jointly making rules, but I'm a little concerned about how cumbersome that would be and if that in fact is going to resolve where the problems are here. I'm asking this because I'm just thinking of the kinds of cases that I get in my office. I've got one case running now – I'll call him W – which is ongoing. I mean, it's a file that's an inch and a half thick of continued conflict between what his own feelings are about his condition, what his physician is saying, what specialists are saying, and what the medical panel then says in denial of benefits. There have been reinjuries in this case, which are also very difficult to track, and at times it seems like you've got battling medical opinions.

Okay. Medicine is not an exact science. Sometimes it's an art. Nonetheless, for these workers trying to get this sorted out, it can be very onerous. I think there's an underlying concern that the medical panel supplied by the WCB needs to be actually examining the worker but without putting the worker into a position where they become a ping-pong ball. They just go to this office and get examined by this person and then this person and then this person, and then everybody argues about what the correct medical diagnosis is or who should be held responsible for it.

So I guess I'm looking for a bit of an expansion of what was intended, if I could get the mover to speak to that. Having explained what I'm looking for, I don't know that this is in fact answering that. There are some things I'm interested in supporting in this amendment, but I am concerned about the request in writing, and I am also concerned about it not addressing the other problems that we're seeing with these medical panels.

Thanks, Mr. Chairman.

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

MR. HERARD: Thank you very much, Mr. Chairman. Just a few comments with regard to this. I think that (2.1) is essentially already there, and it could be that the hon. member has not had the opportunity to look at the background documents that the Member for Edmonton-Centre quite correctly identified. Just for the record – and this is, you know, being put together by Dr. Ohlhauser, whose job it is to bring all of the rules under which this will operate – the initiation of medical panels can be at WCB request, appeals body request, or when a medical opinion is provided by a physician that the WCB disagrees with. In your case, when you've got a physician that has an opinion and the WCB disagrees with it, well, that's a conflict of medical opinion automatically, so the physician can initiate it, the board can initiate it, or the appeal body can initiate it.

I think the hon. Member for Edmonton-Centre was quite right by saying that there is essentially a pilot project going on to establish all of these processes.

The second part of the amendment is talking about the board and the Appeals Commission jointly making rules governing – I haven't been able to think through that, but the Appeals Commission is a quasi-judicial body, and I'm not sure that I can find any examples where a court gets involved with the service provider in making rules. We call that judicial activism, I think. I'm not sure that would work, but I do have a concern with respect to part 4(b), where it says: "the determination of what constitutes a difference of medical opinion for the purposes of subsection (2)."

I understand from having had a discussion with Dr. Ohlhauser that essentially how they contemplate doing this is that whenever there is a contention that there is conflict of medical opinion, it won't be decided there. It'll go to Dr. Ohlhauser's operation, and that's where it's going to be decided. So I have a feeling that this pilot project is going to work very well. I understand the hon. member's concern, but I don't think we need these amendments because they're redundant.

11:20

THE CHAIR: The hon. Member for Edmonton-Gold Bar on amendment A5.

MR. MacDONALD: Thank you very much. Yes, on amendment A5. Mr. Chairman, this is an interesting amendment. It astonishes me how whenever this legislation was drafted – I consider this a correction of an oversight, and I would commend the Member for Edmonton-Highlands for bringing it forward this evening. Certainly in the Friedman report and also in the report from the hon. Member for Red Deer-South there was considerable attention paid to the role of the general practitioner, the family physician, or the attending physician in regard to an accident. In the time that I have had to look at this amendment, I think this would increase the role or hopefully increase the influence of the attending physician or the claimant's physician.

Also, I'm encouraged by the fact that since the Appeals Commission is going to be bound by the medical panel and its findings, they are going to have more of a role in outlining

> (a) the appointment of the members of a medical panel,
> (b) the determination of what constitutes a difference of medical opinion for the purposes of subsection (2), and
> (c) the practice and procedure applicable to proceedings before a medical panel.

I would at this time remind all members of this Assembly who are currently present that the Appeals Commission is bound by the medical panel. There are those who thought – and I certainly am one of them – that the medical panel is usurping the authority of the Appeals Commission, but this goes in some way to correcting that, and I would encourage all members of this Assembly to support this legislation.

We need to consider the difference of a medical opinion arising in

the course of the board's evaluation of a claim for compensation under this act and where a difference of medical opinion occurs when a specialist medical opinion is refuted by a board's consultant that does not have equal medical qualifications or expertise related to the area of injury as the Appeals Commission case law requires. Now, in the course of the debate on amendment A5 if that question could be answered perhaps by the Minister of Human Resources and Employment in the time that we have left unfortunately, I would be very grateful.

However, Mr. Chairman, at this time I would encourage all members to please vote for amendment A5, as proposed by the Member for Edmonton-Highlands. Thank you.

MR. DUNFORD: Just a couple of things on amendment A5, Mr. Chairman. First of all, to congratulate the Member for Edmonton-Highlands again for the thought that has been put into the amendment and, of course, for the prenotice of the amendment. I've had this amendment in my possession now for quite a number of days, and we've been able to examine it. I want to provide the hon. member some time to speak, to perhaps close the debate on A5, so I'll be quick.

The Member for Calgary-Egmont said it I think as good as I possibly can, and that is the fact that a conflict that is in existence creates the need for the medical panel. It's quite appropriate that that would come, then, from the attending physician of the claimant or in this case of course an injured worker.

The way in which (2.1) is written is really striking at the heart of the idea, but I recognize that it perhaps wasn't as clear in my opening statements when we got into this particular area. It's the medical panel that's one of the key ingredients of course of Bill 26. As we all know, it's a difference of a medical opinion that has led to a lot of the injured worker files that we as MLAs all have on our desks. So I'm encouraging members of the Assembly that (2.1) is not necessary and that it be defeated.

On the second one the reason that we wouldn't want the Appeals Commission making the rules is again as the Member for Calgary-Egmont had indicated, but also, hon. member, we're trying to get the conflicting medical opinion done with before it even goes to the appeal. Now, we have to provide provisions, as we're doing in the pilot project, for the Appeals Commission to call a panel, but if we can be successful in having an operation where the conflicting medical evidence is handled before the claimant moves on to the Appeals Commission, we in fact then, I think by definition will have negated the need for many appeal hearings that we currently are involved in.

So I'd encourage all hon. members to defeat A5.

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

MR. MASON: Thank you very much, Mr. Chairman, and thanks to the hon. minister and the hon. members who have raised issues with respect to this. I just want to indicate, first of all, to Calgary-Egmont that it's not the background documents or the administration or the policies outside the act that we're debating, because those can change very easily. We need to look at the legislation specifically, and it's the wording of the legislation that we need to be concerned with. So I appreciate what he is saying, but I don't think it affects the amendment particularly.

To reiterate, I guess, or just to conclude on the reasons for this, section (2.1) – and I don't believe it is redundant – makes it clear that the claimant has the right to "request the Board or the Appeals Commission" – and that's an important piece – "to refer his or her medical issue to a medical panel," and then that has to be supported by the claimant's physician.

THE CHAIR: I hesitate to interrupt the hon. Member for Edmonton-Highlands, but pursuant to Government Motion 27, agreed to May 13, 2002, after two hours of debate all questions must be decided to conclude debate on Bill 26, Workers' Compensation Amendment Act, 2002.

[Motion on amendment A5 lost]

[The clauses of Bill 26 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIR: Opposed?

SOME HON. MEMBERS: No.

THE CHAIR: Carried.

[The voice vote indicated that the request to report Bill 26 carried]

[Several members rose calling for a division. The division bell was rung at 11:30 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:		
Ady	Hutton	McClelland
Broda	Jablonski	Norris
Cenaiko	Jonson	O'Neill
Coutts	Kryczka	Rathgeber
Ducharme	Lord	Renner
Dunford	Lougheed	Shariff
Forsyth	Lukaszuk	Snelgrove
Friedel	Lund	Stelmach
Graham	Marz	Stevens
Hancock	Maskell	Strang
Herard	Mason	Taylor
Horner	Masyk	Vandermeer
Against the motion:		
Blakeman	Carlson	Massey
Bonner	MacDonald	Nicol
Totals	For – 36	Against – 6

[Motion carried]

THE CHAIR: The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Chairman. I'd move that the committee now rise and report Bill 26.

[Motion carried]

[The Deputy Speaker in the chair]

MR. LOUGHEED: Mr. Speaker, the Committee of the Whole has

had under consideration and reports 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.

head: Government Bills and Orders
Third Reading
(continued)

Bill 26
Workers' Compensation Amendment Act, 2002

MR. DUNFORD: Mr. Speaker, I'd like to thank everyone for the participation up to this point, and I'd like to move third reading of Bill 26.

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

DR. NICOL: Thank you, Mr. Speaker. I rise tonight to speak to Bill 26, the Workers' Compensation Amendment Act. You know, in conclusion as we get into third, we have to talk now about what this bill is going to do as it gets implemented, whether or not it's going to work, whether or not it's going to do what we set out to achieve with it. I think the big issues that we see in it still have to do with how the medical panels get struck, how they operate, whether or not they truly are independent as true mechanisms to deal with kind of a consensus-building process so that both the injured worker and the employer and the process work. I think that there's still really some question in the bill about whether or not the injured workers will have a fair hearing through the process of the medical panel, whether or not they will be able to bring out fully all of the issues that are appropriate as they seek to have a solution.

I guess the main thing here is that we have to make sure that the opinions that are brought in are intended to build a consensus and that they don't even have a perception if nothing else of being biased one way or the other in the context of how the material that is presented can be heard. I think there seems to be a sense right now that we're going to have to see how this works, because in the context of whether or not the injured worker's family physician or primary physician is going to have the input that's appropriate still needs to be looked at.

I guess the thing that was expected a lot in Bill 26, as we worked up to its introduction and process through the House, was whether or not there was going to be a resolution process in it for the long-standing claims. What we see is that there's no really easy solution to those that's going to be proposed by this. We still get to wait to see how they're going to be dealt with, yet this was one of the most critical issues that precipitated the whole review of the WCB, to see whether or not it was working. I think you would expect that with the amount of review that they went through and the amount of input that was there to look at what happened and how these cases came to be long-standing, unresolved cases, there should have been a real mechanism that could have been developed to really look at these cases.

If the issue was one about who pays and who doesn't, I think it's quite appropriate that we should be looking at the fact that in the process something fell through so that it didn't actually work. Maybe instead of having these long-standing claims fall back to the current employers as a financial penalty, we should be looking possibly at the idea, because it was a process that was put in place, because it was the process that was bad and not the judgment of either the employer or the employee, of relieving the employers from that and maybe dealing with a taxpayer support for that long-standing part of it. You know, these are the kind of things that would look at it from the point of view: when everybody works to the best of their ability with the rules that are in place, how do you go back and review those processes when you find out that the process was at fault, not necessarily any of the participants in it?

I think that this is something that we should really make an effort to move quickly on so that the injured workers that are still facing uncertainty, still facing more time before they find out where their case is going can actually get a sense that something is being done for them. We want to make sure that, you know, we can move on. If the new processes that we're putting in place here are going to be given a chance to work, they can't be biased or in any way influenced or kind of given a bad environment to work in if these other claims are still going on, because what we'll have is the public perceiving some of the long-standing claims – they'll think of it as being a new claim. They'll think of it as being something different. We need to work that out so that we can get that out of the way and see if this new process actually does work.

I think that we really need to review critically and monitor critically whether or not the new medical panels will really provide that degree of objectivity and impartiality that's intended. We don't want the WCB to have the kind of absolute power that it had under the old processes, where they can just in effect continue through until their solution is the one that comes to the front. That's not a fair hearing for anybody involved, neither the injured worker nor the employers. So we need to make sure that that works out okay.

11:50

I guess one of the other things that we have to look at is basically whether or not the decision-making processes in the WCB are going to be in a sense improved. That was another one of the objectives that we were setting out to achieve here. If that is going to work, if this is going to develop and grow and be monitored, then we'll have to make sure that the decision-making processes through the board, through the Appeals Commission, that the independence there really works to facilitate quick resolution of the cases and resolution that can be accepted on both sides.

When I spoke the other day, Mr. Speaker, I made a comment to the fact that we have to start looking at some of the issues that come up as we go through these and deal especially with the medical opinion part about how we deal with the tendency that we've seen with the WCB lately to have every injury blamed on a pre-existing condition. If that's the case, then how are we going to deal with that in the context of employment offers and employment options? If we hire an employee in good faith, then we have to assume that that employee is acting in good faith and believing that they are able to carry out that activity. It's not appropriate for us then to go back through a WCB process and say: well, you shouldn't have taken the job in the first place. That doesn't appear to be an appropriate response. If we actually take someone on, we take them on in the condition they take the employment. We shouldn't be falling back on pre-existing conditions as a means of getting out in effect of giving them coverage under an injury. I guess as we move through the whole process, we have to make sure that it does work.

The annual meetings now are going to have to be held in the open on a regular basis. We'll see whether or not that does give the WCB a more open perception. I guess, Mr. Speaker, we've all seen

meetings where you can come and have good debate. Other meetings you can go to and it's in effect a presentation. In other words, the board or the CEO stands at the front, gives you a report, and the meeting's over. There's no debate, no feedback, no interaction. So it's going to be a matter of time until we see how interactive and how informative those annual meetings can be.

The other part of the accountability that we were seeking here was the role of the Auditor General. I think this will bring out some really good aspects of a review and an accountability practice within the WCB, because the Auditor General is effectively the watchdog over all government agencies. So, you know, it would in effect create some consistency in measuring process and in measuring accountability so that we can look at it relative to other agencies or other departments within the government and see whether or not this kind of action and activity that goes on under the WCB really gives a sense of any kind of improved accountability.

The final area that I had on my notes that we were trying to talk about in terms of getting some improvement here in the context of the material was how we develop performance measures for the WCB and whether or not that in effect is going to be useful in measuring how they deal with injured workers. I guess to the minister I would suggest that some of the things we need to look at here are, you know, the degree to which we get people back to work, the speed with which we get them back to work, and the completeness with which we get them back to work. It doesn't do a worker much good to go back to work and two days later have a relapse or a supplementary injury resulting from a weakness that was still there from the previous injury. So it is important that we look at that kind of performance measure and that we have some benchmarks in terms of both the effectiveness from the employers' point of view in terms of getting their employees back with minimal disruption, but also the most important one has to be the complete recovery of that injured worker in the sense that they're back into a productive employment situation. If it isn't the job that they were injured in, then there had better be performance measures in there that include looking at retraining options, alternative employment options, light-duty options, all of the different aspects that come about with trying to make sure that the injured workers do get back into a sense of contribution and self-control over their life.

That's the whole purpose of employment. Out of all the WCB claimants that I've had in my office in the last nine years, Mr. Speaker, I don't recall one of them being in there not wanting fair treatment, not wanting to be an active participant, not wanting to be able to go back to work. That's just the nature of the people in this province: they want to feel part of it. So we've got to make sure that they do get a chance to get back into some kind of a productive activity. In the individual and the infrequent cases when disability is permanent, when disability is to the extent that re-employment or retraining is not possible, then we have to make sure that the workers are treated with the dignity that they need to have and that they deserve to have in the context of having contributed and having been injured in that contribution, because they still have been an important part of our province and an important part of what we are as a society. So, you know, we don't want to just kind of shuffle them off to a back room and forget about them. They have to be able to live with a degree of dignity and sense of contribution. That's part of what we want to make sure these processes provide to them. So as we go through that, we need to look at it for all of these kinds of issues.

I guess the other aspect of the accountability is where we're looking at the increased role for the monitors, the review agents, the investigators, to see whether or not any fraud is occurring on either side. You know, it's an unfortunate part of any kind of an operation, but I think it's something that we need to look at and make sure that there is a relationship between the effort and the dollars spent on that and the incidents of real abuse of the WCB system. It would be interesting to see if there was any information out there that shows the extent to which abuse of the system is ongoing and whether or not additional resources as suggested by the bill will really contribute to a better system. You know, when I asked for it earlier, there was nothing provided that said that this is the degree to which we need to have additional investigative services because this is the number of cases that we know are going on out there or that we suspect are going on out there that don't have proper monitoring and where there could be abuse. If that's the case, then what we've got to do is make sure that there are, I guess, good judgments made as to whether or not those resources are being used properly or being used wisely.

12:00

I think the idea that we're out there looking over the shoulder of everybody just to make sure that they're following the rules is a little bit severe in the context of the perception of the trust that's implied between this kind of a self-insurance type of system, where it's put in place supposedly for the well-being of everybody, the cost reduction of everybody. To assume that individuals are going to be taking advantage of it would not, I think, be appropriate. So I guess it boils over to where we're going to go with the trust that we build up in this whole process. As we move through and look at some of the other issues that come up, we need to make sure that we end up not pushing people into a paranoia in the context of, you know, somebody always going to be looking over their shoulders.

But if we follow through, the main thing that we have to look at is that the medical appeal panels have to be there. I think we're always going to have trouble with conflicting information. Mr. Speaker, our basic assumption in our health care system is that the individual and their family physician and associated specialists have played the central role in our health care systems. We have to make sure that that same trust and same health delivery model is kept in place as we move through the process of trying to resolve both the long-standing claims and any new claims that go through to the medical review, because what we want to do is make sure that in effect there's no sense of one side having more power than the other, especially not for the board.

We had amendments in committee that looked at how the bonus structure applies and whether or not it should apply and how it should be reported. I think this is something that we still need to look more seriously at because the idea of the objective of the WCB should be in the context of fair treatment of the employee, the injured worker, getting them back to work and not having an excessive cost for the employer. But if we're going to be creating bonuses based on the quickness or the speed with which a case is resolved or the number of cases that are cleared, what we're doing is that that whole bonus structure is predicated on the idea that we can basically short-circuit or shorten the process time to get somebody back healthy, get them back to productive work. That should be the basis of measuring any kind of a bonus system instead of just the number of cases that you close or the number of cases that you're operating.

I think this is the kind of system that if there has to be one, that's where we should be going with it instead of this process that's out there right now. It's hard to imagine how a bonus system to get people off, get them out of the active file group is consistent with the idea that somebody should be back to work in a productive way, in a quick way. I guess the only way you could do that is in a long-after-the-fact process: make sure that if there are going to be

bonuses, they're based on if that person is back to work and still working, say, a year after. Is that person back to work in a relative time span compared to other individuals with similar kinds of injuries?

I'm not so sure that with the basic self-insurance or co-insurance process that we had in place for the WCB, bonus systems really are functional. They don't work in that kind of a competitive model because we're not dealing here with looking at what are competitive economic processes; we're looking at a service model. We need to have the bonuses built around the delivery of that service, again if we really have to have those bonuses in the first place.

As we look through it, I think the main thing is to make sure that as we move into the next phase of the WCB under this new act, the processes are going to work, that we end up making sure that we carry through with the promises of ongoing solution that have been made to both the people of the province and the injured workers that, you know, this process doesn't stop with the passage of this bill and the implementation of this bill. This process has to be a continual dialogue between the employers, the workers, the injured workers, and the board, because they are the administrative unit that overlooks it.

I guess if we see anything in the bill that really doesn't move in the right direction with the WCB, it's that unless you can interpret it into some things that I haven't been able to see, there doesn't appear to be any new mandate for the WCB that's associated with facilitation. It still is a closed shop. It still is a top-down process. They still have the option to make sure that the appeals panel effectively gets their opinion, the process of requiring that the appeal panel hears the medical evidence from the WCB, yet the bill doesn't have the same requirement that they have to hear the medical information from the injured worker's panel of doctors. We've got to make sure there's a perceived balance in it and that it works out so that there are some processes that can come together.

Mr. Speaker, I think that kind of covers the points that I wanted to bring up at the end of this bill. We need to make sure that, as I said, we don't let it stop here. There are still a lot of things that are outstanding. There are still a lot of things that the minister has promised us are in development or will be improved, so we've got to make sure that we have a kind of commitment from the minister that these processes and this progress will be actively reported to this Legislature, the people of Alberta, the injured workers of Alberta, and the employees of Alberta. That's how this system will continue to grow and continue to actually carry through the intent that was expected to be covered by this bill, which in effect wasn't covered by the bill in a lot of cases because there were a lot of areas where people were expecting to see something in the bill and it didn't end up being fully or evenly partially covered in it.

12:10

This kind of ongoing dialogue needs to be kept in place, some kind of monitoring that goes beyond just an internal review by the WCB. The minister needs to continue to do that kind of review so that Albertans, especially injured workers, have a chance to get their input to the minister so that they can feel that if there are still processes that haven't been fully resolved, they can be worked on. You know, I hope that we don't have to wait as long for another amendment act as we did for this one, because it just builds up both a caseload and a frustration level. I don't think that any of us want that at this point, when we're trying to make a system here that works.

With that, Mr. Speaker, I'll take my seat and let someone else comment.

THE DEPUTY SPEAKER: The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Speaker. I'd move that we adjourn debate on Bill 26.

[Motion to adjourn debate carried]

head: Government Motions

(continued)

Time Allocation on Bill 26

28. Mr. Hancock moved:
Be it resolved that when an adjourned debate on third reading of Bill 26, Workers' Compensation Amendment Act, 2002, is resumed, not more than two hours shall be allotted to any further consideration at this stage of the bill, at which time every question necessary for the disposal of this stage of the bill shall be put forthwith.

THE DEPUTY SPEAKER: The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Speaker. In the brief time that's allotted to speak to the motion, I would just indicate, as I did earlier today, that up until the time we commenced discussion in Committee of the Whole, we had spent five hours on the bill. We've now spent another two hours and 45 minutes on the bill. It is an important bill. We've heard a lot of comment in the House. But it's clear, and it's been made clear to me as House leader that if the bill was to be passed in a reasonable time frame without further delay, time allocation would be necessary.

Time allocation is an appropriate methodology. In discussion on the moving of time allocation in Committee of the Whole I might say that members of the opposition, either in speaking to it or yelling about it – I don't remember which – had indicated that this government has a reputation for using time allocation, or closure as they put it inappropriately, more than any other government. The fact of the matter is that time allocation and closure both are used far more frequently in the federal House by their Liberal cousins than ever has been done here. Time allocation, however, does have its place, and its place is in order to deal with a matter which is clearly not going to come out of committee because the opposition, in doing their job, brings forward amendment after amendment and clearly with the indication of delaying or not allowing the debate to close. That was clearly the case in committee.

Now we're in third reading. Two hours in third reading is more than enough time to allow every member of the opposition to speak, but it does not allow for amendments such as a hoist amendment or a deferral or referral to committee, which would be only delay tactics in any event. Therefore, to prevent those sorts of tactics taking place, I'm taking the opportunity to move the motion now.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Gold Bar in the five minutes.

MR. MacDONALD: Yes, Mr. Speaker. Again I have to express my disappointment and my dismay. This closure motion – there are so many issues left that have not been discussed regarding Bill 26, and this is the forum where they should be discussed. There are so many outstanding questions.

When we think of what is not going to be discussed, it certainly would come to this member's mind that the definition of a material change, which is very important whenever one considers that the special investigative unit of the WCB can issue a penalty because

someone, an injured worker perhaps, failed to inform the board of a material change – we're not going to have an opportunity to discuss that with this closure motion. We're certainly not going to have the opportunity to discuss how much discretionary power we are now giving the board of directors of the WCB. We are not going to be able to discuss in detail the termination of the rate benefit stabilization fund and allow the WCB to plead poverty in relation to the issues put forward for and on behalf of injured workers.

There are so many issues that we're not going to have the opportunity to discuss. Meanwhile, WCB premiums are going through the roof. There is no one – and the hon. minister spoke earlier about people not consulting with the office of the Human Resources and Employment minister. However, all the questions that were asked in second reading have not been answered by this minister. Some of those questions are relating to the premiums and the increases in premiums. How is Alberta business to operate with ever increasing WCB premiums?

The definition of a worker: who is going to clarify that? There were questions expressed, but there were certainly no answers. There is no chance now of getting any answers.

There's the issue of the subsidization of Alberta companies that are going abroad. Who is to pay for those WCB premiums? Are they going to be paid for by the small businesses of this province, or how is it going to work?

All these questions were asked, but there are no answers from this government. All this government can do is invoke closure and try to pretend again that it is a silk glove, and in reality it's a silk glove over an iron fist. There is a large majority in this Assembly. This debate on this bill allows the opposition an expression, and in a democracy they are entitled to that expression. All members are. There were a lot of stakeholder meetings. Certainly this hon. member was not invited. But this forum, this Assembly, is where every member can express their view on this bill.

To put a time limit on this bill when there is so much currently wrong with the WCB and to allow the special investigative unit sweeping powers, powers to fine – there is no guarantee that due process will or can be followed. It's wrong to suggest that the administrative penalties are just for employers, because in section 147 and in section 151 they're also for employees. I don't think it is reflective of Alberta or the intentions of its people for an outfit such as the WCB to have this wide, sweeping discretionary power, and that's to set their own laws and set their own penalties. I will be very surprised if this over the course of time stands up in court.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The time is up.

MR. MASON: I would request unanimous consent to have five minutes as well.

THE DEPUTY SPEAKER: All right. The hon. Member for Edmonton-Highlands is requesting five minutes on the motion. This requires unanimous consent.

[Unanimous consent granted]

THE DEPUTY SPEAKER: You have it, hon. member. [some applause]

MR. MASON: Well, thank you very much, Mr. Speaker, but I don't think they're going to be thumping when I'm finished.

12:20

AN HON. MEMBER: We'll all be sleeping.

MR. MASON: I don't think they'll be sleeping either.

Mr. Speaker, there is clearly a difference of approach here between the New Democrat opposition and the Liberal opposition about how to deal with this bill. I happen to think that there is some merit to this bill, although I'm not going to be supporting it in third reading because I think it fails to deliver the goods. The Liberal opposition has taken a different approach and is using a different set of tactics. The fact of the matter remains that this motion by the Government House Leader is completely uncalled for. If the Liberal opposition, if the New Democrat opposition, if, heaven forbid, some members of the government caucus wish to make amendments and wish to talk on this bill, there is no reason – we were told at the outset by the Government House Leader that he expected this session to last until the first week of June. Now, some of us are not quite that naive, but the fact remains that there is a great deal of time left in the anticipated schedule of this session of the Legislature to hear every single amendment and to hear every word, even if some of those amendments might be frivolous and vexatious. What is that? In a democracy what is that? Is that such a terrible thing to have to suffer for democracy?

This government double-shifts its Legislature so that it can push things through faster than many, many Legislatures in this country. We sit fewer days than all but a few Legislatures in this country, and I can't believe that in a province as vigorous as Alberta, as strong and as developing – thanks more to oil and gas than to the policies of this government, I might say – we have a Legislative Assembly that uses closure so often, that uses time allocation, that has to be out so that everybody can be back to their constituencies and out to the cottage for the weekend instead of debating what needs to happen in this House.

I think it's a shame that the government is using closure. We were afraid of this when these new rules were brought in. We were afraid that it would be altogether too easy for the government to make use of these elements of legislation, and it's coming to pass. It's so easy for them to put in time allocation. Oh, you've got two hours. We spent five hours debating this bill. Well, you know, the workers had to camp out. The workers had to go on hunger strikes. They had to force the government to deal with it. We have a bill that would take some steps in the right direction but clearly is not going to address all of those concerns that those workers fought for years for, and this government wants to deal with it in seven or eight or nine hours. Well, I'm sorry. It's not enough. If opposition members want to introduce amendments – there's no excuse for this. There's no excuse.

I would like to close, Mr. Speaker, by thanking the Assembly for giving me unanimous consent to say what I had to say. Thank you.

THE DEPUTY SPEAKER: Hon. members, having heard the motion as proposed by the hon. Government House Leader, does the Assembly agree with Motion 28?

[The voice vote indicated that Government Motion 28 carried]

[Several members rose calling for a division. The division bell was rung at 12:24 a.m.]

[Ten minutes having elapsed, the Assembly divided]

[The Deputy Speaker in the chair]

For the motion:

Ady	Hutton	McClelland
Broda	Jablonski	Norris

Cenaiko	Jonson	O'Neill
Coutts	Kryczka	Rathgeber
Ducharme	Lord	Renner
Dunford	Lougheed	Snelgrove
Evans	Lukaszuk	Stelmach
Forsyth	Lund	Stevens
Friedel	Marz	Strang
Graham	Maskell	Taylor
Hancock	Masyk	Vandermeer
Horner		

Against the motion:

Bonner	Mason	Nicol
Carlson	Massey	Taft
MacDonald		

Totals: For – 34 Against – 7

[Government Motion 28 carried]

head: Government Bills and Orders
Third Reading

Bill 26
Workers' Compensation Amendment Act, 2002
(continued)

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

DR. TAFT: Thank you, Mr. Speaker. Well, this is inevitably on its path to becoming law, and I genuinely believe that the minister has the best interests of workers and of employers at heart. I think what we're looking at is a bill that is a result of compromise and debate and give-and-take, and unfortunately it's pretty obvious that some of us aren't fully satisfied with the results here, but it is what it is. It's going to be law, and we're going to have to live with it, and the person who has to make it work ultimately is the minister.

Tonight I was visited by an injured worker, a man whose life for 25 years has been profoundly damaged and permanently derailed by a fall during some construction work. This is a man who feels that justice has not been done under the Workers' Compensation Board to this point. He's had a long, long string of frustrations and failures, of denied medical appeals, of tests and tests and tests, of lawyers helping him out, and he is desperate. He is desperate, and there are dozens, probably hundreds of people like him in this province. Ultimately, they are now looking to the minister to help them as they struggle to survive, and in some cases I worry they actually lose the will to survive.

So when we look for example at part 8.1, "long-standing contentious matters," and I see so much of that section, as I understand it, under regulations and therefore so much directly in the hands and the decisions of the minister, then I have to do nothing less, I guess, than plead with the minister to take these cases seriously, to consider what he holds in his hands as he weighs out what goes into these regulations. It is literally people's lives. It is families, it is bank accounts, it is dreams, and those are his to hold, to make, or to destroy.

As I go through this file, there is test after test at the Misericordia community hospital and health centre, lawyers' letters, Alberta Mental Health Board, all kinds of testament to how this man has suffered and how he deserves another break.

So I leave it with the minister. Take these issues to heart. Stand up to the people who do not want these workers treated the way they should be treated. Justice should be done, and it lies in your hands.

Thank you.

12:40

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

MR. MASON: Thank you very much, Mr. Speaker. I want to rise to speak to Bill 26 on third reading and indicate that I'm disappointed. Much was promised with this bill; somewhat less has actually been delivered. There are some things that it does that are very positive. It creates I think an independent Appeals Commission. It sets it apart. It will not be subject, as it was in the past, to the dictate of the WCB. It will report to the minister. So it will be structurally independent, and I think that's a positive thing. There are going to be public meetings of the WCB and the Appeals Commission, and I think that's positive as far as it goes. It does allow people who have a concern or a grievance with the WCB to come and at least watch the WCB and listen to them and hopefully raise some concerns.

It creates medical panels that create the opportunity at least of resolving some of the issues that have arisen repeatedly over and over again where there are disputes between an injured worker's physician and the paid physicians of the WCB who found, in my view as a matter of policy, pre-existing conditions and injuries as a way of reducing the financial drain on the WCB in order to protect employers' premiums. I think this is one of the major mechanisms, one of the most important ways in which the serious issue of long-standing appeals has arisen.

The bill also provides for the oversight of the Auditor General, and I think that is a positive thing and may well give the Legislature at least some additional insight into the operations and some increased accountability.

The bill is deficient as well. The bill fails to give enough teeth and true independence to the Appeals Commission. In some ways it remains subordinate to or at least lesser than the WCB in key areas. It doesn't have the same authority with respect to the rules under which the medical panels operate, for one thing. The public meetings are fine, Mr. Speaker, but in lots of ways they're window dressing too, because obviously they're just an opportunity to provide some exchange between the WCB and people that may have an interest in it. Obviously the board will continue to meet however often and will be able to make decisions in private, and that's where the decision-making of the WCB lies, not in the public meetings, which are simply a reporting mechanism. So they're good as far as they go, but we shouldn't assume that they really mean that the WCB is going to be accountable to the public unless the WCB wants to be accountable.

I think the problem remains of the model that's been chosen, not chosen by this minister but chosen some time ago, of a fairly independent body in which the accountability is as much to the people who pay the bills as it is to the government. We have seen what I consider to be abuses of that power, and it's not good enough to say that it also occurs in other provinces where they have similar structures. The problems arise because of the structure that's chosen, and they'll arise in any political jurisdiction if you pick a particular model or structure that removes public accountability for the WCB. Because it's not taxpayers' money supposedly, you will get the same kind of thing as we've seen: inflated salaries, inflated severance, and not enough attention to the worker.

The medical panels that have been set up are still dominated in many respects by the board of the WCB, which remains the gatekeeper and sets the rules under which they operate and under which they are called, and we have not leveled the playing field in that area, as much as it is a step forward, Mr. Speaker.

The biggest disappointment of all with the act and the area where

it has most clearly failed to deliver the goods is on the question of the onetime tribunals which were proposed and endorsed as well by the minister. I guess the minister ran out of time in attempting to get stakeholder consensus on this issue. I don't know if he's ever going to get full consensus from the stakeholders. But the fact remains that these injuries occurred, and if in fact the tribunals find that they were work-related injuries and that people didn't receive what they were entitled to or received less than they were entitled to, then it is the responsibility of the employers to pay that. The government must simply express that position clearly, without naively expecting that businesses are automatically going to buy into it. There needs to be the political will to enforce that solution. Particularly this last issue, the failure to deal in the legislation with a solution to the onetime issues of the contentious and long-term cases, is the reason that I can't support the bill. That is the deal breaker, I think, as far as we are concerned.

I want to say, though, that in terms of working on this bill with the minister, I do recognize when someone is trying to do the right thing, and I believe that this minister is trying to do the right thing. I hope that ultimately when the cabinet deals with the onetime cases, the onetime tribunals in the last section of the act, that delegates the authority to resolve it to the cabinet, in fact a good solution is found, but I think it's going to require that the government simply must work out the best possible solution and bring it forward. I wish that they had done it before the bill came before the Assembly. I wish the minister luck in resolving that issue. I'm sorry that I cannot support the legislation, because I think a considerable amount of effort went into it, and most of that effort has been in the right direction, as far as I'm concerned, Mr. Speaker. I hope that it does provide at least a significant step forward for workers in this province and hope that that does come to pass.

Thank you.

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

MS CARLSON: Thank you, Mr. Speaker. Unfortunately we are already at third reading of Bill 26, and even more unfortunate than that, we are now under the hammer of time allocation. It's very unfortunate that this government felt that they had to take the heavy-handed tactics of time allocation. If we work out the numbers, what does it look like is the maximum amount of time that we could have spoken to this bill? If everybody took their full 15 minutes, which second speakers get, and everybody had the full five minutes of questions and answers like they could have had at third reading, the very maximum amount of time that we could have been on this bill in third reading is another five hours. That's one more day, afternoon, evening sitting, and it's over with. Then within the legislative process, according to the Standing Orders that we have in this Assembly, it would have been done. Would that even have occurred, Mr. Speaker? That would have meant that everybody took their turn to speak. A hoist amendment was brought in. We all spoke again. Five hours maximum time.

12:50

What have we seen so far? We've seen two speakers now in third reading who haven't used the maximum amount of time available to them and no questions and answers. So would it be going the full five hours? No. Absolutely not. For sure not with this government in charge, because now we're limited to the 120 minutes plus the approximately 27 minutes that our leader spoke to this bill. That is absolutely shameful when we talk about a bill that affects so many people's lives, that so many people have a legitimate interest in seeing being the best possible bill to deal with workers' compensation issues.

When we take a look at this legislation now really in the final moments before it becomes law, can we really answer the basic questions, the concerns, and the problems that people have brought forward to us? I would say no, that the outstanding issues haven't been resolved. There have been cases in this Legislature where the government has brought in legislation that could be improved with amendments, and they've accepted them and gone forward. Some of the amendments that we've seen brought forward in this Legislature have been legitimate amendments that have dealt with concerns, particularly of injured workers. Injured workers have brought forward concerns and organizations who work on behalf of injured workers have brought forward those concerns to us. Yet the government dismissed them as being not substantive and is not going forward on any of them to make the legislation that is still flawed – it could have made it better, but that's not the choice that the government makes.

I have to give full credit to the minister. He has worked very hard on this, and he's done some good work on this bill. There are no two ways about it. I really respect the fact that he's been in this Assembly, that he's been up answering questions and trying to explain his perspective on the issues. Sometimes I've agreed with what he's said, sometimes I haven't, but he has put in a big effort on this particular bill and I think needs to be recognized for that. [some applause] Well, it's true. You can clap for that, because he has worked hard on this legislation.

Unfortunately, it's not going to be as good as we could have hoped. Does it actually address the ultimate concern that I have with all of those injured workers that I see in my office who expected the system to protect them once they got injured and who for a variety of reasons were virtually abandoned by the system in most cases, with the people who come in who are so frustrated, who are absolutely at the end of their rope, often who are financially destitute or certainly in a much less stable financial situation than they expected to find themselves in even after being injured? Will this solve those problems, those long-standing files of people who have been seriously injured? Are they going to get the treatment now that they deserve to get from the WCB? The answer is still, I believe, unfortunately no.

I'm not satisfied with the way the appeal panels will be run. We have all kinds of documentation coming in to us from a variety of sources that the medical panels and the way that they're going to be implemented is still significantly flawed.

We have more information on the secret police, Mr. Speaker. It's unfortunate that the memo that was sent to my colleague from Edmonton-Gold Bar and CCed to the minister wasn't also sent to the Government House Leader, because it clearly outlines that there is a secret police force within the WCB, as we had talked about. [interjection] Yes. Absolutely. He and I got into some debate on this bill on a previous night when he said to prove it, and now the proof is here. They in fact sent the memo to all of us.

Am I satisfied that this legislation ensures that those people that work in this department are working in the best interests of injured workers? The answer to that is still an unqualified no. When we even see the information that they sent forward here, Mr. Speaker, and which we haven't really had, I don't believe, adequate debate in this Assembly on, they state that "there is no doubt that most claimants and employers are honest and forthcoming, with only a small number of people that engage in fraudulent activity." That statement is true. My colleague from Edmonton-Gold Bar tells me that less than one-tenth of 1 percent of the WCB claims are fraudulent, yet I know in my own constituency from workers who

have come into my office that more than that percentage just in my own constituency have been subject to investigation by this particular unit.

They go on to say that all SIU members, special investigations unit members, "are duly registered peace officers under the Police Act and subject to its requirements." Secret police, Mr. Speaker. They do a public relations aspect to their work. They investigate the employers as well as the employees. They say, "There is nothing secret about this unit, although we do try to protect the privacy of everyone and to not unduly embarrass people caught in fraudulent behaviour."

Then they do go on to say that they do perform surveillance activities, so I think that's the part of the secret police that we were talking about. They say that their investigations that are commenced "must pass the legal test of 'reasonable and probable grounds' first and the members of the unit have access to legal advice and the Crown Prosecutor's office if any issue is in doubt." What qualifies, then, Mr. Speaker, as reasonable and probable grounds? They talk about: "All persons who have the opportunity to defraud the Accident Fund are subject to investigation by the SIU and this includes workers, employers and service-providers such as medical practitioners." So in fact every single person that has anything to do with WCB meets the test of reasonable and probable grounds. I think it's very important that Albertans know that this is part of the mandate and that in fact you have a high likelihood, not a low likelihood, of being followed by private investigators and surveilled by this particular department if you place a WCB claim or if you in fact are registered as an employer that pays WCB funds. I don't think people know that, and I think it's important that that be brought out here.

AN HON. MEMBER: The secret is out now.

MS CARLSON: Yes. It certainly is.

They say that they saved the fund $11 million last year, and that's very good. I'd like to see a breakdown of that, Mr. Speaker. We haven't had the time in this Assembly to get that kind of information. They say that they've saved it, but what did they cost the system? We don't see that breakdown either, so I think that that information should be available. I think employers and workers need to know the costs of running this surveillance team and other aspects of the SIU's job description as they lay it out here. That's an issue that's unresolved as we come to the vote on this particular legislation that I think hasn't been fully or adequately discussed.

We have a number of questions that are still outstanding at this time, and I would like to just address a few of those. Most of these questions that I will be addressing come from information provided by Kevin Becker of Lethbridge. He sent the information to the minister and to members of the Assembly, telling in his opening comments here a review of when he first asked for information and when he received information back from the department. He states here:

> Although we expressed our concerns to you in detailed correspondence dated January 29, 2002 it was not until today, April 24, 2002 that I received a response from your office beyond your cursory correspondence acknowledging the receipt of said document and the referral of this document to your department.

So we have February, March, and most of April just to get some responses back.

The department clearly feels that that's a reasonable time line, yet the government does not feel that spending 10 hours in debate on this particular bill is reasonable to do. So, Mr. Speaker, there is something wrong with that particular kind of time allocation as we see it being imposed here in this Legislature. If it's okay to spend nearly three months to respond to correspondence, then it should be okay to spend at least 10 hours of debate on a bill that is substantive and does in fact affect many people's lives.

1:00

One of the questions still outstanding is:

> Will the Government of Alberta amend this draft legislation removing the 46.1(5) which stipulates that medical panel findings are binding on all parties and therefore not open to appeal?

This, as I have heard in debate, is probably the biggest outstanding issue that hasn't been adequately addressed.

Another one.

> Will the Alberta Government ensure that the claimant's treating physicians will have the right to provide input to and appear before the WCB medical panels and that this right will not be subject to the medical panel chair's sole discretion?

A very good question, one that we've often had to deal with in our office in dealing with these claims.

> Will the Government of Alberta ensure that the claimant's health-care providers who agree to participate in or provide input to WCB medical panels will be afforded appropriate remuneration?

Also a very good question.

There are many more questions here that are still outstanding. My time is running short. I'll just go through a couple more of them.

> If a claimant is wrongfully denied tomorrow and they appear before the tribunal and are successful in a further appeal a year later, are they any less entitled to the retroactive benefits they would have received the year prior having received a fair and impartial hearing at the onset?

A lot of it is the money in this case because these people often are unable to find reasonable or gainful employment after being hurt. This appeal process is onerous. Getting the settlements is an onerous task and puts a great deal of hardship on families.

> Will the Government of Alberta consider legislation that allows claimants the choice to request a review by the WCB Board of Directors under section 8(7) as well as the right to proceed to the Alberta Court of Appeal?

It's been touched on by the minister, as I hear it, but hasn't been adequately addressed, as I can see.

"Who will be responsible for hiring WCB appeals advisors?" A very good question and one that's been talked about here by my colleague from Edmonton-Gold Bar extensively.

Fully another four pages of questions and information and another two pages of recommendations reported as being implemented that this person has concerns about, stating that they're not evidenced as being practised at this particular time.

At the end of the day, Mr. Speaker, can I go back to my constituency office and look these injured workers in the eye, not fraudulent injured workers but legitimate injured workers, and say that this bill is going to substantially improve how injured workers in this province are treated? Unfortunately, I can't, and that is really, really unfortunate in this particular case. In some cases I'll be able to tell them that things will have improved. Overall do I believe that injured workers in this province are going to be better off tomorrow than they were today? The answer to that is: not substantially.

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

DR. MASSEY: Thank you, Mr. Speaker. I'm pleased to have the opportunity in third reading of Bill 26, the Workers' Compensation Amendment Act, 2002, to review the bill in its final form after the kind of shaping that's gone on in previous stages. Of course, unfortunately there hasn't been much formal shaping of the bill with

the rejection of the amendments, but there has been I think much public shaping of the bill, just as there was a public perception of the WCB that extended far beyond those who had direct involvement with the organization. There is a shaping of the bill, and I think that if we at third reading go back and look at some of the principles and what that shaping seems to have done with respect to those principles, it will give us a better idea of how the bill may actually operate in practice.

There are a number of principles embedded in the bill. I think one of the paramount ones was that the WCB had to be made more accountable. That has dominated the activity of government, the two committees that reported, and the kinds of presentations that were made to them was this whole notion that the board had to be more accountable both to employers and to injured workers. There are a number of provisions in the bill that have actively worked to try to support that principle. The involvement of the Auditor General in overseeing the work of the board and the Appeals Commission is part of this accountability. Much of it has yet to be developed, and we heard the minister comment on this in Committee of the Whole.

One of the basic concerns in terms of the accountability is some assurance of fairness. Fairness I guess has been at the heart of most of the controversy surrounding the board, and it is certainly for workers who appear at our office an overriding major concern. The charge has been that they weren't dealt with fairly and their claims weren't dealt with fairly. There are going to be performance measures developed, and the ones developed surrounding fairness I think are going to be some of the most important.

There is a concern about the timeliness of decisions, and the bill tries to in part address that, but again there are going to be some more measures developed, and they'll add to the kind of accountability that I think people expect.

There's a concern about the financial stability. Again, there'll be some performance measures developed in that area that will help the accountability concerns.

The concerns about returning injured workers to their jobs and how that can be tracked and how that can be expedited I think sets up another set of performance objectives. One of the major concerns is this whole business of communication. The myths that surround WCB and its operations have to be almost as numerous as the complaints, so the kind of communication that's developed and the kind of standards that are set for those communications I think are going to be important. So a major thrust to the bill and a major concern is making the WCB more accountable. If we're asking how the debate has shaped that principle, I think for a good part in many ways there is more accountability under Bill 26 than what there was previous and I think that in some sections it has satisfied concerns about accountability, but it is a work in progress, as I indicated and as the minister has indicated.

1:10

A second principle that seems to be very important in the bill is balancing. There must be a balance between the interests of workers and the interests of employers, and that's really a very, very difficult balance to achieve. In many ways their interests are diametrically opposed to one another, although at some point they do converge in terms of putting in processes and mechanisms to have disputes resolved, but getting that balance between their interests is an extremely important part of the bill. There have been a number of injured workers who have been in the gallery night after night watching the bill proceed through the Legislature, and certainly their perspective is that the bill does not reflect their interests. Now, how widespread that perception of the bill is remains to be seen, but at least there is a core of injured workers who believe that the employers are the big winners in terms of this particular bill. I think that's balanced by the fact that there was no agreement on how the costs for contentious claims could be resolved. I think that in large part we won't know how well that principle has been imbedded in the bill until we actually see the bill in operation for some time.

A third principle that guided the bill is that the WCB had to be more open, and there are some mechanisms built into the bill, some specific mechanisms. We're promised that there are going to be newspaper ads and some attempt to publicize the annual meetings of the board and the Appeals Commission, and there will also be an annual report that will contain information that will supposedly shed more light on the operation of those two bodies. As I already indicated, the Auditor General is going to be involved in reviewing the financial operations of the two bodies. So there have been some specific moves to make it more open, obviously not enough in terms of the operation of the investigative unit. There's real concern over how that unit operates, and the kind of openness and in fact even the legality of some of the things that are undertaken remain questions to many people. In terms of that principle, I think the judgment is mixed in terms of the shape of the bill.

A fourth principle that the bill supports is that the Appeals Commission must be more independent of the board. Again, we've achieved this in part, maybe in large part, through having the commission report to the minister and also by taking away the WCB's ability to direct the Appeals Commission. I think those are two moves that go a long ways to establish the independence of the board. How that will actually work in practice remains to be seen.

A fifth principle is that more definitive time lines must be followed when the Appeal Commission's decisions are implemented. Again, it's been a contentious area. Injured workers in our offices complain constantly about time lines that are missed or time lines that are never established. I think the bill has taken some moves in the right direction to make sure that the appeals are handled in a timely manner and decisions announced in the same timely manner. If you're an injured worker, those time lines become extremely important, and I think it's positive to see the couple of provisions in the bill that deal with those time lines, although I suspect there are still some concerns that need to be addressed.

A sixth principle that seems to be embedded in the bill is that medical differences should be resolved by a medical panel, and that that's an independent panel. Again, there are some concerns about that. The panel seems to be a good way to go about trying to resolve those, but there are concerns that those panels will usurp the power of the appeal panel itself, ending up with a situation which may not be the most satisfactory. Again, I think it's one of those things that is only going to be played out when the bill is passed and becomes legislation and we see the whole business in operation.

There are many more principles that could be identified, Mr. Speaker, but the last principle is the one that long-standing, contentious claims must be resolved. I guess this is one of the major concerns about the bill. In fact, I guess it's a significant failure that this really, really very difficult issue hasn't been resolved, or there isn't a process. I guess there's a process in place to try to resolve it, but it's really very unfortunate that the kind of work that is now under way was not done so that it could have been a part of the bill.

So going back to just that limited number of principles, Mr. Speaker, I think the report card on them is uneven. I think the reporting in the media about the bill has certainly shaped public perception. I would suspect that for many people it's: let's bide our time and give the bill an opportunity to work. They'll reserve their judgments until they actually see it in operation.

I think for injured workers there's been so much distrust of the WCB over the years that almost anything that is done is going to be

judged very, very suspiciously. I think that that suspicion is out there still, and it's only going to be the successful operation of these changes that will help to eventually dispel that. But it's a long history of workers being dissatisfied and in recent time employers being dissatisfied that has to be overcome, and it's a large order for a bill.

So with those comments, I conclude. Thank you, Mr. Speaker.

MR. STEVENS: Mr. Speaker, I move that we adjourn debate on Bill 26.

[Motion to adjourn debate carried]

THE DEPUTY SPEAKER: The hon. Government House Leader.

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

[Motion carried; at 1:20 a.m. on Tuesday the Assembly adjourned to 1:30 p.m.]