Legislative Assembly of Alberta

Title: Monday, April 3, 2006 8:00 p.m.
Date: 06/04/03
[The Deputy Speaker in the chair]

The Deputy Speaker: Please be seated.

head: Motions Other than Government Motions

Access to Grandchildren by Grandparents

505. Mr. Webber moved:
Be it resolved that the Legislative Assembly urge the government to recognize the positive and critical role that grandparents play in the lives of their grandchildren and to encourage access when it is in the best interest of the child.

The Deputy Speaker: The hon. Member for Calgary-Foothills.

Mr. Webber: Thank you, Mr. Speaker. In today's society where violence is prevalent on television, where dangerous drugs are hurting our children, and where life is becoming more complex and is changing at an ever-growing pace, the positive role that grandparents can play in the lives of their grandchildren cannot be overstated. This is why I brought forth Motion 505.

Now, Mr. Speaker, as a society I believe that we must encourage grandparents in this role and that we must ensure that grandparents have the opportunity to take part in the lives of their grandchildren when it is in their grandchildren's best interest. However, as a society we are also obligated to follow the law, which is largely based on historical precedents and the balancing of rights. This balance is often a very delicate one that has to be re-examined and reconsidered routinely. The examination of this balance is what compelled me to bring forth this motion. This balance is very delicate, and any changes to it must be made only after very carefully exploring the options.

Unfortunately, I don't have the answers. Instead I will put forward the issues and hope that we can have a productive discussion on the matter. Now, apparently, Mr. Speaker, we have a very long list of members who wish to speak on this motion, so I will attempt to keep my remarks brief so that others do have an opportunity to share their thoughts on the role grandparents should play in the lives of their grandchildren.

Mr. Speaker, legal precedent tells us that in the absence of evidence that demonstrates a parent's inability to act in the best interests of his or her child, a parent's right to make decisions on his or her children's behalf should be respected. Alberta's Family Law Act seems to agree with this notion. The legislation includes provisions that allow for grandparents to apply to the courts to obtain a contact order to see their grandchildren.

It is more difficult for grandparents who want to gain access to their grandchildren when the family is intact. To clarify, an intact family is one where the parents are not separated or divorced but rather are together but don't allow their children to see their grandparent or grandparents. In these cases grandparents must go through an additional hoop: they must first obtain leave from the court, which means that they must obtain the court's permission to apply for access to their grandchildren. The reason for this provision is that allowing grandparents to apply for access to grandchildren in cases of intact families may be disruptive to those families.

Mr. Speaker, according to Marilyn Marks of the Alberta Grandparents Association this provision is unfair to grandparents in intact families. This organization believes that parents should be charged with the responsibility of proving that grandparents are unfit to have access to their grandchildren. Currently the onus is on the grandparents to prove that they are worthy. This group also believes that the right of access and visitation is the right of the child, not the parents. Finally, the group complains that Alberta's intact family children are discriminated against and that nonintact family children are seen as needing their grandparents more.

Mr. Speaker, these are clearly two very different positions, and finding a resolution is no simple task. However, the Alberta Grandparents Association has some suggestions. One of these suggestions is to include mandatory mediation as a means of bringing all parties to the table to find some kind of resolution for everyone involved. This may be a valid solution; however, we cannot simply make mediation mandatory and call that the end of it. There may be many considerations to discuss. We may be limited in the number of mediators that we have in the province. It may take a substantial amount of time and money to make mandatory mediation a possibility.

Mr. Speaker, these are some of the issues surrounding grandparents' rights to see their grandchildren, and mandatory mediation may be one of the possible solutions. As our Premier often says, "For every action there is an opposite and often negative reaction," and with this issue there is a very careful balance to strike between the rights of parents, grandparents, and, most importantly, children.

In the meantime, however, I would like to stress that I believe that in most situations grandparents do play a very positive and critical role in the lives of their grandchildren and that they should be encouraged to play a role when it is in the best interests of the child. This is why I brought this motion forward and why I want it discussed here tonight. As for the more difficult question of whether our laws find the appropriate balance or whether mandatory mediation may be a reasonable solution, I look forward to hearing the rest of the debate.

Thank you.

The Deputy Speaker: The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you very much. In speaking to Motion 505, I am a grandparent. It's a role I cherish, which brings me great joy, fulfillment, and pride. Accessing grandchildren, fortunately, is not a problem for many families. There are definitely unfortunate situations where it may not be in the best interest of the child to spend time with their grandparents, and parents have legitimate concerns about gaining access. There are, however, times in which the situation is not clear-cut, and grandparents have unfairly been denied access.

Once they have to use it, the Family Law Act is difficult for grandparents to understand and navigate. The onus is placed on grandparents to bring an application before the courts in order to be granted the right of access in single-parent families. The process is even more restrictive in intact families, as the member opposite mentioned, for grandparents are required to obtain the leave of the court prior to bringing application for access before the court.

Grandparents face extra hurdles that are not in their best interests and certainly not in the best interests of the child. This onus on grandparents is counter to what we know intuitively and what research supports in terms of the benefits of a grandparent's access to the child, the parents, the grandparents, and society as a whole.

In the past two throne speeches the government recognized that it doesn't take a single parent to raise a child; it takes a community, and grandparents are an important part of that community. The Family Law Act doesn't appear to include the assumption that the child has the right to have a relationship with grandparents. An

application must be made in order for the child to obtain contact with a grandparent. When parents or guardians deny access to grandchildren, they should be required to provide valid reasons for denying access. Legal fees are financially prohibitive, especially as many grandparents are retired and on fixed incomes. At this point grandparents are assumed guilty and then have to prove themselves innocent. That is the reverse of the process of law.

In Alberta the family law system is fragmented, sometimes resulting in two to three different levels of courts, which can be confusing and exhausting. An alternative which has been put forward is the notion of mandatory mediation as an amendment to existing legislation, thereby facilitating a conflict resolution process where all parties involved could come out winners. This is a suggested alternative. I'm not suggesting that the government take this particular approach, but it would be one of the tools in potential resolution of the problem.

In 2000 the unified family court system was suggested to help facilitate resolution of family disputes, but this concept, unfortunately, was dropped. We need this type of unified family court system in which to deal with grandparent/grandchild access denial issues. This unified family court concept makes sense, with specialized judges and services that will enable Albertans to resolve their disputes with the least possible damage for those involved.

Access decisions must be in the best interests of the child. This important concept can and should be processed in a more simplified manner with less financial and emotional burden. Burden of proof that the grandparents' access to grandchildren would be detrimental should fall on the court, a mediator, or the Children's Aid Society or its equivalent. Decisions must be evidence based, not hearsay based.

8:10

I support the arguments of organizations such as the Alberta Grandparents Association, which the hon. member noted, who are calling on this province to make family law more child friendly as it pertains to grandchild/grandparent access. It is with this in mind that I have put forward a notice of amendment. I have gone over my intentions and the amendment's intentions with the hon. Member for Calgary-Foothills.

The intent of the amendment – it's being circulated as we speak. My intent in the amendment is to restore the original wording of the motion as it was first conceived. It was conceived in partnership with Marilyn Marks of, I believe, the Grandparents Association.

I want to provide a very brief history of this. I doubt very much that there's a member in this Assembly who has not had some form of correspondence from Marilyn over the last number of years. Marilyn has presented to a number of individuals and to the rural caucus as recently as last week. She was very appreciative of that offer and felt that she was heard out. I'm very pleased that people took the time to listen to Marilyn's concerns.

Marilyn approached me about a year and a half ago. I had just fairly recently become a grandparent, so I was extremely receptive to what Marilyn was saying. I worked with Marilyn over the past year and a half. This past summer I spoke to a number of grandparents who were in a similar position as Marilyn found herself, who did not have access to their grandchildren. I believe that just about everybody has received the amendment. My intention is to move this amendment and if I could seek explanation from the Speaker as to how he would like to number the amendment.

The Deputy Speaker: Are you moving the amendment now?

Mr. Chase: Yes. That is my intent.

Mr. Chase moved that Motion Other Than Government Motion 505 be amended by striking out "recognize the positive and critical role that grandparents play in the lives of their grandchildren and to encourage access when it is in the best interest of the child" and substituting "protect the rights of grandparents by introducing legislation to make it less onerous and burdensome for them to gain access to their grandchildren."

The Deputy Speaker: Okay. We will circulate the amendment. I believe it's circulated now. We will refer to it as amendment A1.

When you're finished, we'll proceed with debate on the amendment.

Mr. Chase: Thank you very much. Speaking to the amendment, continuing the background history, there are hundreds of grandparents who, unfortunately, find themselves denied access for a variety of reasons, many of which are unjustified. When Marilyn approached me and asked for my advice – as I say, I worked with her – I consulted a number of grandparents over the summer and heard their very sad stories. I advised Marilyn based on the reality that private member's bills or motions that are put forward do not succeed very well, especially, unfortunately, if they're brought forward by opposition members. Marilyn asked me, "Can you think of an individual who was elected as a representative of the government who might take on such a task?" and I will indicate that the hon. Member for Calgary-Foothills came very quickly to mind.

He's a member of the Calgary-Varsity constituency. We share concerns about a wide variety of things, including not wanting to see Nose Hill park paved over. We worked together and supported Brentwood mural initiatives. So it seemed to me that this would be the individual to approach. I believe he's sincere. I believe he's passionate. I believe he's compassionate. I don't give you permission to use that in your next election brochure, but recognizing the wisdom.

What has happened is that I believe the member has been persuaded to change the original wording which was, as noted in this amendment which recalls and calls for the original wording to be reinstated, to "protect the rights of grandparents by introducing legislation to make it less onerous and burdensome for them to gain access to their grandchildren." Now, in both his original motion and the somewhat watered-down motion, well, tremendously watered-down motion, the word "urge" is there. There is still no compulsion on the government's part to undertake any of the suggestions that have been provided. Both motions urge the government; however, in the original motion it was much stronger. It said, "protect the rights." It recognized that grandparents had rights, and that's extremely important.

By introducing legislation to make it less onerous, the introduction, the type of legislation is completely up to the government. I'm not trying to suggest how that legislation should occur. I recognize the government's role in creating that legislation. In order to protect grandparents and recognize their rights and improve their accessibility to their grandchildren, just talking in terms of recognizing the positive and critical role, you know, do we send them a card: "Dear Grandparent, I recognize that you have a positive and critical role to fulfill"? I believe we need to go further and not just recognize but protect. That is the key point of my amendment.

Thank you very much.

The Deputy Speaker: The hon. Minister of Justice and Attorney General on the amendment.

Mr. Stevens: Thanks very much, Mr. Speaker. It's my pleasure to rise and make some comments with respect to Motion 505 and the

proposed amendment A1. The motion as originally drafted recognizes "the positive and critical role that grandparents play in the lives of their grandchildren and [encourages] access when it is in the best interest of the child." I think it's fair to say that when you hear those words, you almost assuredly would say: of course. Alberta Justice recognizes the positive role that grandparents play in the lives of their grandchildren. Fortunately, in the vast number of cases grandparents are able to access their grandchildren without any difficulty whatsoever.

However, in those situations where there is conflict between the parents and the grandparents on the issue of access, the new Family Law Act applies. So the remarks that I'm going to make this evening are to enlighten those who are listening and the members of the Assembly who might not have been here before the last election as to how we got to where we are today. There is a history to that, and I think it's important that we revisit it.

The Family Law Act applies where there is a conflict with respect to access for grandparents to their grandchildren. The Family Law Act changed grandparents' access provisions to strike a balance between the rights of grandparents and the rights of parents. It did this by establishing conditions that must be met by grandparents before an access application can be made to the courts. The nature of the conditions that must be met differs depending on the reason for the interruption of the grandparents' access.

To explain that, I'd like to outline how these cases were addressed before the Family Law Act. Before the Family Law Act the Provincial Court Act allowed a grandparent to apply for an access order any time access to their grandchild was refused. Although this appears to be a broad provision, the courts were reluctant to grant access orders where there was an intact family and both parents were opposed to the access. The courts generally found that it was not in the best interests of the grandchildren to order access in an intact family when it would continue the conflict between parents and grandparents.

Additionally, parents often incurred significant cost to defend these applications, leaving the family impoverished after the court process. This also was not in the best interests of the grandchildren. Because of this practice, under the Family Law Act grandparents now need to seek leave or permission from the court to apply for contact. The addition of this first step gives the court a chance to assess the merits of the grandparents' case and decide if it should proceed to the next phase, the actual application for access per se. This helps prevent unnecessary litigation, hardship, and cost.

8:20

As I noted earlier, the courts are very reluctant to interfere with parental decisions in an intact family, and the legislation now reflects that fact. Grandparents do not require leave from the court when one of the parents is deceased or where the parents are living separate and apart and as a result the grandparents' contact with the child has been interrupted. This reflects the fact that denial of access in a nonintact family may be a reflection of a changed family circumstance that may be unfair to both grandparents and grandchildren.

Mr. Speaker, before the court makes a contact order, it must be satisfied of the following: the contact is in the best interests of the child; the child's physical, psychological, or emotional health may be jeopardized if the contact is denied; and the denial of contact between the child and the grandparent is unreasonable. They consider these things because sometimes there are valid reasons for parents to deny access to grandparents. So we can see that the Family Law Act has provided a good balance between the rights of parents and the rights of grandparents, depending on the individual family situation.

Before it was passed, the Family Law Act went through a rigorous public consultation process, where this very issue was debated extensively. I believe we reached a reasonable solution at that time, especially for children who stand in the middle of the debate. Throughout the consultation the interests of children were of paramount concern for everyone involved, and it is those interests that the Family Law Act protects first and foremost.

Given that the new act was just passed into law last spring and came into force only last October, it would be premature to look at amending the legislation just yet. We need to take some time to determine if the policy objectives of the legislation are being met. This will not only give the legislation time to work in practice, but it also recognizes the efforts of the many Albertans who took part in the stakeholder consultation process.

I can also tell the members of the Assembly that the Alberta Grandparents Association participated in the Family Law Act public consultation process in 2002. They've also corresponded on many occasions with Alberta Justice, met with the previous minister, met with myself, and made a presentation on grandparents' access to the Justice standing policy committee prior to the passage of the Family Law Act. Mr. Speaker, we've heard their concerns, and as a result the previous minister identified grandparents' access as an issue requiring special attention in the legislative process. All sides of the grandparents' access issue were heard from during discussion of the Family Law Act when it was before the Legislature, and the Legislature made an informed decision to proceed with some restrictions on grandparents' access.

For these reasons, Mr. Speaker, the government does not propose to reopen grandparents' access provisions until we have had some significant experience with the existing provisions of the act and have determined if the policy objectives of the legislation are being met.

As to the amendment A1 put forward by the hon. Member for Calgary-Varsity, that would call for change to legislation which, quite frankly, is premature and for which there is no basis, this matter having been gone through extensively in the very recent past, just before he came to this Assembly.

I want to emphasize, Mr. Speaker, that the Alberta government recognizes that grandparents often have a special relationship with their grandchildren, and wherever possible we want to see those relationships remain intact. However, the interests of grandparents sometimes conflict with the interests of parents, who may find that grandparents interfere with their ability to raise their children or to manage their family life. We are certainly aware of the concerns raised by grandparents who want access, but our first consideration must be what is in the best interests of the children. Quite frankly, we believe that the Family Law Act at this point is structured in such a fashion and allows the courts to balance the rights of grandparents and parents, considering that contact will be in the best interests of the child if, in fact, it is awarded to the grandparents.

It is always a tragic situation when access is denied to someone who loves the child in question. But the fact is that whether you're talking about grandparent access or whether you're talking about access of separated parents, these kinds of conflicts almost assuredly become intractable. I can assure you that it would be much better if we did not have the parties going before the courts and bringing forward experts to give evidence and having incredible sums of money spent on the process, but that is unfortunately an aspect of our society. This particular process that we have here is in large measure similar to the type of process that is available for parents. It would be better to not need any of it, but it is necessary to have some method of this nature.

As I've indicated, it is early days. We need more time to assess

it. We will assess it in the future, and it may be that the system will require some change at that time. At that time we can consider some of the proposals that will be discussed here this evening.

Thank you, Mr. Speaker.

The Deputy Speaker: On the amendment, the hon. Member for Edmonton-Mill Woods.

Mrs. Mather: Thank you, Mr. Speaker. I would like to thank the hon. Member for Calgary-Foothills for bringing the motion forward and special thanks to my colleague from Calgary-Varsity for introducing amendment A1 to make the motion more aligned with the original intent of the motion, I believe; that is, to recognize the critical roles that grandparents play in the lives of their grandchildren. I, too, have communicated with the Grandparents Association, and as a new grandparent myself I empathize with the concerns of this group and of grandparents who do not share the joy of raising a grandchild.

It is unfortunate that this bill, the Family Law Act, has the effect of placing such a unique burden on grandparents wanting to have access to their grandchildren. This has the effect of robbing children of the positive influences that grandparents can have on the development of children. Does the new Motion 505 really recognize the positive and critical role that grandparents play in the lives of their grandchildren? According to the Family Law Act as it pertains to grandchild/grandparent access where the parents are together, grandparents are required to jump two additional hurdles and must obtain the leave of the court on notice to the parents or guardian prior to perhaps being permitted to bring an application for access before the courts.

This legislation makes the process for grandparents in this position so burdensome that it becomes extremely difficult for them to be successful in the process. This is systemic discrimination by virtue of being a grandparent involved in this legislation. This discriminatory treatment contravenes grandparents' constitutional right of equality before and under law and equal protection and benefit of law.

The Family Law Act as it pertains to grandchild/grandparent access makes it extremely difficult for grandparents to play a positive and critical role in the lives of the grandchildren. This is not in the best interests of the child. When I look at division 3, Contact Orders, section 35(4) of the Family Law Act, this section does not inherently support the child developing a relationship with grandparents. Instead, this section places obstacles in the way of such a relationship developing. This is not in the best interests of the child as research suggests that children will benefit emotionally, physically, relationally, and socially from a healthy relationship with grandparents.

There are many benefits that I think we can talk about. Certainly, grandparents provide a stabilizing force in times of family crisis. Sometimes a grandparent may be the only stable element in a chaotic family situation. This suggests less reliance on public resources, such as social services, children's hospitals, and community counselling centres. Research also indicates that grandparents contribute to child development by socializing with grandchildren, giving financial and emotional support, passing history, values, and traditions to the grandchildren. Relationships with grandparents add qualitative and quantitative dimensions to the pool of adult role models available to children, and children's relationships with their own grandparents affect their relationships with their own grandchildren down the road.

In terms of developmental issues researchers have found that the unconditional love that grandparents bestow upon grandchildren aids in their self-esteem and in their confidence. It gives them a belief that they are important and that they matter and that they can be successful. During adolescence grandchildren find it beneficial sometimes to tap the wisdom and ancestry of grandparents as they're trying to figure out their own identity. This positive psychosocial role that grandparents play suggests that the family unit as a whole may rely less on public social resources to aid with developmental tasks. From a long-term developmental perspective, continuity in relationships is helpful. In our current society, with high divorce rates, economic hardship, and drug/alcohol abuse, grandparents may be a long-term stabilizing force in a young person's life. Again, this suggests less reliance on public resources to assist with filling emotional needs.

8:30

The overriding principle of the Family Law Act in terms of access to children by grandparents if the parents do not want to provide access is the philosophy that the parental rights come first. Therefore, the test that has been placed in the act is against the grandparents. They have to prove that they have valid reasons to have access to their grandchildren or contact with their grandchildren rather than the parent having to prove that the contact should be denied. This test is too onerous on grandparents. It is too hard. It should be the goal of the Family Law Act to promote positive relationships in a young person's life, to have positive role models and loving individuals to look out for children as much as possible. However, this act has placed a barrier to grandparents wanting to provide that unconditional love and support. The test is too harsh and, in fact, presumes that grandparents are guilty of being incapable of providing a positive influence.

This reverse onus is contrary to the fundamental principles of justice that state that an individual is innocent until proven guilty. The onus should be on the parent who wants to deny access to prove that the grandparent is unfit, not for the grandparent to prove their worth to have contact with the grandchild. In essence, when parents want to deny access to grandchildren, the onus should be on them to provide valid reasons for denial of access.

I support this amended bill because it is the right thing to do, I believe, for Alberta's children and grandparents. I realize that the bill is new, that it needs time, and that we may be looking at revisions down the road, but I believe that this bill right now does not do anything close to what should be done for the grandparents of this province.

Thank you.

The Deputy Speaker: The hon. Member for Cypress-Medicine Hat.

Mr. Mitzel: Thank you, Mr. Speaker. I'm pleased to rise today in order to speak to the amendment on Motion 505. I believe that this is an important issue, that grandchildren are very near and dear to the hearts of those of us who are fortunate enough to have grandkids. Grandparents are often an important part of the children's lives. Many grandparents look after their grandkids on a regular basis and have a positive influence on them.

When I was very young and growing up as a farm boy, I lived with my mom and dad two miles from my grandparents. Two miles where I'm from is like two blocks in the city. They not only babysat my sisters and me; they were also teachers of the things my mom and dad didn't have time for. They taught me the basics of the German language, the appreciation of history both in Alberta as homesteaders and of the way of life in the old country. They also taught me the appreciation of our environment and of our way of life in southern Alberta. From the age of about seven or eight I rode my

bicycle two miles to my grandparents' house to visit, to enjoy my grandmother's cookies, to help them with the yard work, and just to be around them. These are times that I will cherish forever.

I myself, Mr. Speaker, have 10 wonderful grandchildren. Spending time with them is something I enjoy and I look forward to. I can't imagine how badly I would feel were I unable to see all 10 of them on a regular basis or at all.

Mr. Speaker, if grandparents are not abusive or violent toward the children or their parents, I believe they should be allowed access to their grandchildren. Children can benefit from grandparents in their lives. Therefore, such relationships should be encouraged whenever possible. If grandparents do not pose a threat to their children or grandchildren, I see no reason why they should not have access to their grandkids.

When parents deny access to the grandchild because they're upset with their own parents, whatever the reason may be, it's not fair to the child. Children should not be used by parents as bargaining chips. It's the children who lose out when their parents or guardians deny access between them and their grandparents.

I believe the problem of access, Mr. Speaker, is especially worrisome in a case where two parents separate or divorce. These are difficult times for all parties involved. However, I believe that the grandparents' access to the children is often left as an afterthought. This is very unfortunate. These are difficult times, no doubt, but a child's relationship with their grandparents is a special one and one that should not be ignored regardless of what is occurring between the child's parents.

I do recognize that we have in Alberta an established process to address grandparents' access to their grandchildren under the Family Law Act. The Family Law Act includes a process by which grandparents can apply to the court for a contact order with their grandchild. In granting a contact order or in refusing one, the court must consider what is in the best interests of the child. I think this concept of the best interests of the child is vitally important. Therefore, if the court feels that contact with the grandparent is in the best interests of the child, then the contact order will be granted.

I also recognize that there's a different process for families that are still intact versus families that have broken up. In cases where families are still whole, grandparents are required to ask leave from the court first before they can apply to the court for a hearing regarding a contact order with the grandchild. I understand the reason for this procedure is that going to court is seen as disruptive to the family, and it may not be in line with the desires of the parents or guardians of the children. However, as Motion 505 indicates, the fact that the Family Law Act places the burden on grandparents to essentially prove that they have a legitimate right to see their grandchildren may sometimes be requiring a bit too much.

Mr. Speaker, I can understand the basis for the process as established in the Family Law Act regarding grandparents trying to obtain an access order to their grandchildren. However, I also believe that we should try to ensure that the relationships between grandparents and their grandkids are not inhibited unnecessarily. As I previously mentioned, grandparents can be a very positive role model for their grandchildren, and their involvement in the lives of their grandkids can have a very positive influence as children grow and develop.

As a grandparent I can't imagine what it must be like to have your own child deny you access to your grandchildren. Sincerely, Mr. Speaker, I hope that I never have to experience that situation. Yes, parents are by far the most influential people in the lives of their children, but grandparents often play an integral role as well. In this day and age I think it's important that all children have as many good role models surrounding them as they possibly can.

Mr. Speaker, because I'm a grandparent and feel that this role is an important one and one that should be taken very seriously, I stand today to offer my support for Motion 505 as originally written. I cannot support the amendment. I look forward to hearing from the other hon. members on this subject.

Thank you.

The Deputy Speaker: The hon. Member for Lethbridge-East on the amendment.

Ms Pastoor: Thank you, Mr. Speaker. I'd like to see this go back to the original intent. I understand that the law is new and perhaps should be given a chance for evaluation, but I'm not sure that this is something we should be waiting on. The divorce rate is almost 2 to 1, and that certainly doesn't constitute the intact family. How many of our children are falling through the cracks because grandparents can't step into that void and help?

The power and the influence that grandparents have has been alluded to, and certainly in many cultures grandparents actually do raise that second generation while the parents go out and work. I'm thinking that the native community and certainly many of the Asian communities have that skip, where the grandparents are actually doing the raising. Yes, it does take a community, but more importantly it often takes that community that is drawn together and connected by blood.

I heard the expression "babysitting," and I probably would take exception to that because I like the term "grandparenting." I don't babysit; I grandparent. I think it's very important that if we start using that kind of language, people will start thinking and recognizing that importance.

It has been mentioned that children should never be used in a situation where adults are acting more like the children that they're supposedly looking after. I just think that at this point in time it's very important to go back to the original intent and the original motion as it was presented. This amendment A1 would then take us back to the beginning. I think it's very important that this be done at this point in time. We can actually work very hard for those kids that are falling through the cracks as we speak.

Thank you.

8:40

The Deputy Speaker: The hon. Member for West Yellowhead.

Mr. Strang: Thank you, Mr. Speaker. It's a pleasure to rise today to speak against amendment A1. Most of the members of this Assembly who are present this evening can likely recall fond memories of the times spent with their grandparents. They may recall the anticipation that they felt on those family car trips to visit their grandparents, trips that felt so long, or the special candy their grandmother would keep in a bowl on the coffee table in her living room. They may remember the special fishing trip with their grandfather or the summer they spent an entire week at their grandparents' all by themselves.

Many of the members here now have grandchildren of their own and are making new memories. They now realize that their grandparents enjoyed the time spent together just as much as they did. Grandparents play a virtual role in the lives of their grandchildren. The interaction between children and their grandparents is extremely valuable. The time spent with the grandparents is an important way for children to learn how to interact with older people. Often the first significant contact that children have with seniors or older individuals in general is with their grandparents. Children learn how to better relate to people of different age groups. They learn from

the visits with their grandparents that they should interact differently with older people than they would with playmates of their own age or even with their parents or teachers.

Grandchildren are forever learning from their grandparents. This may sound like a cliché, but grandparents are a link to the past. Through their grandparents children have learned more about their family's history, their heritage, and their communities. Grandparents teach their grandchildren about different times. Times pass so quickly now, and change is greater from generation to generation. We've become so caught up in the present that it's easy to forget about the past, even the recent past. It is important to maintain and celebrate those links and remember where we came from.

Mr. Speaker, I do realize that the issues of access to children by grandparents can be a touchy subject at times. It is important to strike the right balance in this matter. It is necessary to be fair to the grandparents who wish to visit the grandchildren. The process of visitation should not become too onerous. Grandparents often play a critical and positive role in the lives of grandchildren, and access should be encouraged when it is in the best interests of their grandchildren. Children can never have too many loving, supportive family members in their lives.

Nonetheless, it is necessary to recognize that at the end of the day parents are parents, and parents must have the right to raise their children as they see fit. It is also imperative to acknowledge the rights and well-being of the children. It is sometimes easy to get caught up in the debate of the rights of the parents versus the grandparents and lose sight of the children. Decisions regarding access should always be made with the best interests of the child in mind.

Mr. Speaker, this is why I can't support amendment A1. I strongly support Motion 505. I'm pleased to recognize the positive influence of grandparents in the lives of their grandchildren, and I feel it's important to encourage access where it is in the best interests of the child.

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Red Deer-North.

Mrs. Jablonski: Thank you, Mr. Speaker. I'm pleased to speak to the amendment to Motion 505 regarding grandparents' access to grandchildren. I'd like to thank the Member for Calgary-Foothills for bringing this motion forward for this discussion. It's a very sensitive and complex issue.

In a perfect world legislation would not be required to allow grandparents to visit their grandchildren. I believe that children, parents, grandparents, and all of society benefit from having access to those who love them most. We all have memories of our grandparents and the joy we felt in our hearts whenever we went to visit them, or perhaps we might remember the fear as well. I remember the love and consideration that my grandmother bestowed on all her grandchildren, and I also remember the fear I felt when my grandfather discovered us in the peach orchards eating his profits.

I did not, however, realize the impact and the sacredness of the relationship between grandparents and grandchildren until after I had become a parent and was visiting my parents in their snowbird home in Florida. They lived in a retirement park along with many other seniors. While visiting with my parents and their neighbours and listening to their conversations, I began to realize the importance of grandchildren in their lives. They talked about each other's families. The greatest news in the park was that Jane and Leo's two grandchildren were coming to visit and that Nick and Bernice's grandchildren were staying for another three days and that Bea and Harry's daughter was having her first baby. Their greatest joy was sharing stories of their children and grandchildren, looking forward to visits with their grandchildren, and sharing their time with these little shining stars.

It was an incredible revelation to me because as a parent of three small children at the time, I had no idea why snotty noses, dirty faces, and stinky diapers could bring such joy. Now as a grandparent of five of those wonders of the world I understand. It's those tiny arms wrapped around your neck or your leg, whichever they can reach at the time, and those butterfly kisses that say without words that you are the most important person in the world and the most loved that make every moment together with them a piece of paradise.

Sadly, however, this is not a perfect world, and legislation is required to assist some grandparents in gaining access to grandchildren, and we need to ask ourselves: does the current Family Law Act protect the rights of all parties involved? This is a straightforward question that may have a much more complicated answer. This is especially true because every situation is different. For example, there is no doubt that the involvement of another positive personal influence aside from a parent can have a profound impact on a child. Grandparents are often seen as role models for children, acting as a means of support in good and difficult times, able to share advice, or simply willing to share their time.

In most situations, Mr. Speaker, it can certainly be argued that it is in the best interests of children to have grandparents involved in their lives. It is for these reasons that grandparents should have access to their grandchildren. They have the ability to make such an enormous contribution to their upbringing, but this is not always the case.

Even though the grandparents' relationship with the child can be strong, their relations can still become strained with the parents. Sometimes disputes between parents and grandparents can lead to the parents blocking the grandparents from contacting the child. It is subjective situations like this that make it difficult to determine if such an obstruction is justified.

To the contrary, there are situations where grandparents can have a negative influence on a child. Physical abuse at the hand of a grandparent can be just as damaging or more damaging to the spirit of a child than abuse from a parent. Similarly, mental abuse or neglect can have an equally damaging effect on a child. Ultimately, it is up to parents or legal guardians to use their judgment in who they decide to expose their children to. Even so, it is important that laws are in place to formally protect the child from this sort of abuse and to minimize the potential for people to have a negative influence on their lives while at the same time assisting those who have a positive influence.

However, Mr. Speaker, I do not believe that this is a question of governance alone. The Family Law Act exists for this very reason. It is a mechanism that aims to protect the best interests of everyone involved but most importantly those of children. Under this legislation parents have the right to deny grandparents access to their children. I believe this debate to be more about efficient governance. More specifically, does the law go too far in making it difficult for grandparents to see their grandchildren with no substantiated reason? The difficulty lies in determining whether grandparents should have to prove that they are fit to have access to the grandchildren or whether parents should have to prove that they are not.

8:50

Mr. Speaker, this is an issue that seems to have no easy answers. There appears to be a dichotomy between how far the law should go to protect children and the risk of alienating important people from

their lives in the process. One thing is for certain: whether it is determined that current legislation should be modified or not, the best interests of the child must remain the first priority.

As the debate goes on, I look forward to hearing from my other colleagues on the subject. I would not support this amendment as I believe that it fails to recognize that it is a natural law that two parents intact should make decisions that are in the best interests of their children.

The Deputy Speaker: The hon. Member for Foothills-Rocky View.

Dr. Morton: Thank you, Mr. Speaker. I am pleased to join the debate on the amendment to Motion 505 as sponsored by the hon. Member for Calgary-Foothills. In contemporary society it is vital to recognize the importance of strong and supportive families. It is crucial to the well-being of all Albertans to create and foster a social environment that encourages such families. We cannot stress enough the value of the family as the family is the cornerstone of our democratic society, the human and social link between the past, the present, and the future. We should recall the adage that civilization may be a thousand years old, but it's only a generation deep.

It is the experience of the family that socializes children into a contemporary society and that transforms the "me" into the "we." Today we see the corruption and erosion of the traditional family. Deterioration of the family experience is becoming all too common a reality in our society as divorce rates continue to rise. The decline of the family has resulted in the weakening of civil society and brought about negative social and economic consequences. According to the philosopher Rousseau it is the experience of the family that attaches children first to their relatives and then to their fellow citizens. If family ties are weakened, the larger social ties are also weakened.

While the core of the family, the mother/father/child triad, must be protected, it is important to recognize the positive influence of members of the extended family in the lives of children and particularly the role of grandparents. Children need the love and support of family members, and grandparents often play a substantial and positive role in the lives of their grandchildren. Grandparents contribute to the well-being of a child. The positive interaction between a child and her grandparents is an important method of social development.

Grandparents are important sources of knowledge. Their infinite reserves of patience make them excellent teachers. Grandchildren have an opportunity to learn about respect, tradition, and history from their grandparents. They can learn more about their families and their heritage. They can also learn more about what life was like during their grandparents' generation. Let's be frank: grandparents are a lot more fun than parents.

Mr. Speaker, it is important to promote the well-being of our children and ensure that families are provided with tools to that end. If it's in the child's best interest for her grandparents to be granted regular access, then such access should be encouraged. Access should be fair and not overly burdensome to the grandparents. However, the right of the grandparents to visit the grandchildren must be balanced with the rights of parents to raise their children in the manner they think best and make decisions on behalf of their children. I strongly believe that as a society we must do all we can to promote strong, nurturing families. We must protect the societal values that are based on the family.

By recognizing the social importance of family relationships and encouraging family relationships that are in the best interests of the children, Motion 505 speaks to that end. I oppose the amendment to 505 for the reasons given by previous speakers.

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Stony Plain.

Mr. Lindsay: Thank you, Mr. Speaker. It's my pleasure to rise today and speak against amendment A1. Children are our precious resource, but for children to reach their full potential, they must have positive influences in their lives. We were all children once, and we can all remember the degree to which our opinions and values were shaped by those around us.

Those children who are fortunate enough to have known their grandparents benefit from a truly unique opportunity. The relationship between a child and a grandparent is a truly special one, a relationship that is built on a lifetime of caring and giving. When we speak of giving, Mr. Speaker, I think we should all consider the magnitude of what grandparents have to give. They have an unbelievable amount of experience and wisdom to share. These are things that can instill in children a sense of historical connection and understanding that can't be found anywhere else.

Many adults today – and I'm sure there are many of my colleagues among them – look back with great fondness on the time with their grandparents. They were a link to a different time, a simpler time when the values of community and family were paramount, a time when people helped each other without question and worked together to overcome adversity.

To approach the future, it is necessary to have an understanding of the past. Grandparents have a lifetime of knowledge and experience. They have a living connection to a past that would otherwise exist only in history books and television documentaries. Experience and wisdom aside, Mr. Speaker, I also think that each inclusion of a loving and caring individual into the life of a child is in that child's best interest. Every positive influence, every happy experience: these things will all become part of that child's foundation as he or she grows older.

This relationship works the other way as well. I don't think that there's anything that brings more joy to the heart of a grandparent than time spent with a grandchild, unless it's the opportunity to spoil grandchildren rotten and send them home again. That is something which I'm sure some of us have enjoyed and the rest of us look forward to.

Unfortunately and increasingly so, the lives of children are not always happy. It is a sad fact but a fact nonetheless that more and more couples are getting divorced. Often children become caught in the middle, especially in cases where parents are involved in a dispute with each other. This process can be terribly hard on children, but sometimes the pain is compounded when grandparents are denied access to their grandchildren because of a dispute between parents. This is awful and tragic, but it does happen. On other occasions a dispute may occur between a child's grandparents and parents with the same result of access being denied. This is also tragic. It is another example of conflict affecting an innocent third party.

Now, I realize, Mr. Speaker, that there are certain cases where grandparents shouldn't have access to their grandchildren just as there are cases where parents shouldn't either. As much as we would like it to be otherwise, there are bad people who do bad things. These people, whether they are abusive, violent, or otherwise potentially harmful to a child, have no business being around children. We have laws in place to deal with these situations, laws which I believe provide a good degree of protection for those who need it.

Current family law legislation is centred around the premise of the best interests of the child. This is an admirable goal, but it is perhaps a test that is more suited to resolving conflict between parents and between a parent and a third party, such as a grandpar-

ent. My main concern is that children are sometimes used as pawns in a war between adults. The specifics of family law are a discussion topic for another day, Mr. Speaker, but I think the debate here tonight has brought forth a very important and worthwhile point that may resurface if and when the time comes to re-examine those laws.

The point that I and many of my colleagues have made here tonight is that the relationship between grandparents and grandchildren is special, special enough that, in my opinion, we should recognize it and encourage it not only on a personal level but with our affirmation of Motion 505 as it stands without the amendment. Grandparents are special people with a great deal of love to give to their grandchildren, who in turn have a great deal to give back. From such a relationship we all benefit.

So I would urge my colleagues to join me in not supporting the amendment A1 as I believe that Motion 505 in its current form addresses the concerns raised. Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Calgary-Lougheed.

Mr. Rodney: Mr. Speaker, I was actually hoping to speak to the motion rather than the amendment.

The Deputy Speaker: I hesitate to interrupt the hon. member, but the time under Standing Order 8(4), which provides up to five minutes for the sponsor of a motion other than a government motion to close debate – I would invite the hon. member to do so at this time.

Did you want to speak on the amendment in your time allotted?

Mr. Rodney: I'll speak on the motion, sir.

The Deputy Speaker: Okay.

[Motion on amendment A1 lost]

9:00

The Deputy Speaker: Does the hon. member wish to close?

Mr. Webber: Yes, Mr. Speaker. Thank you. In my opening remarks I spoke about the Family Law Act, legal precedents, and the need to find an appropriate balance between the right of a parent, a grandparent, and a child. These are very important issues that are difficult to balance. On the one hand, parents have a right to raise their children in the manner they see fit. On the other hand, grandparents can play a very important role in the lives of their grandchildren, and as a society we should be encouraging positive and nurturing relationships.

Alberta's Family Law Act is based on the concept of best interests of a child, and all decisions made by the courts must be made according to this concept. However, according to the Alberta Grandparents Association, the right of access and visitation is the right of the child, not the parents. To resolve these differences, the association suggests creating a unified family court system where prosecutors and judges are specially trained in family law matters.

Another possible solution that is supported by the association is mandatory mediation as a means of bringing all parties to the table to find a resolution that is good for everyone involved. Mr. Speaker, I think it's fair to say that most people in this Assembly place a great deal of value on the positive role that grandparents can play in the lives of their grandchildren, and as the population ages, this issue is likely to become more prevalent. As I stated in my opening comments, a possible solution to this may be mandatory mediation. However, making mediation mandatory may take some time. They may need to train more mediators, and to set up such a system takes time and money. The courts are currently very busy. The population is growing. All of these factors are causing strains on the system, which complicates things even more.

These are some of the issues that need to be resolved. For now I will agree with many of my colleagues and would therefore like to recognize the importance of the relationship between grandparents and their grandchildren. I believe that such relationships should be encouraged when they are in the best interests of the child.

I'd like to conclude by thanking everybody for participating in this important discussion. Thank you, Mr. Speaker.

[Motion Other than Government Motion 505 carried]

head: Government Bills and Orders
Committee of the Whole

[Mr. Marz in the chair]

The Chair: I'd like to call the committee to order.

Bill 16
Peace Officer Act

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

Dr. B. Miller: Thank you, Mr. Chairman. I rise to speak to Bill 16, Peace Officer Act. I compliment the hon. member who is bringing this bill for all the work that has gone into this particular bill. It brings a lot of clarity to the whole structuring of the peace officer program.

I think that we have already said in second reading that much of the substance of this bill is left for the regulations, so when it comes to trying to anticipate what we're looking at when we would look at the peace officers in terms of the categories, appropriate training, and ability to bear arms and so on, it's really difficult to pinpoint where we're going. It seems that a lot is left for the regulations in the future.

Well, there are different sections of this bill, and hopefully my colleagues will address some of these sections. I'm going to focus on part 2. Part 1 deals with the employer's authorizations and peace officer's appointments. Part 2 deals with complaints and discipline, and in this section, the beginning of section 14, it says that any person may "make a complaint in writing regarding a peace officer to the peace officer's authorized employer," and then in section 15 about the investigation it focuses on the authorized employer. If the authorized employer receives a complaint and if "the complaint is frivolous, vexatious or made in bad faith," then the authorized employer can set it aside.

Now, I think that there are some problems with that in terms of discerning what is frivolous and vexatious. Who is making that decision? The act seems to imply that it's the authorized employer who is making the decision, but there's no independent examination, no independent witnessing or investigation or decision about what is frivolous or vexatious. So this again raises the issue, which we've discussed before in this House, namely with Bill 36, the Police Amendment Act, the whole issue concerning the necessity of independent investigation by some public body. Unless there is that independence in examining complaints, then the public won't necessarily have the kind of confidence that it needs to have in policing. I mean, what would apply to police should also apply, I think, to peace officers. There should be some kind of parallelism

between the complaint process here and the complaint process outlined in Bill 36.

Continuing on, I could make the same comments about 15(4), (5), and (6), which focus on the director. When the director receives a complaint through the authorized employer, then the director must review the complaint and make a report, a decision. Again, all the authority is focused on, first, the authorized employer and then on the director without any kind of independent investigation. I think that that is not in the interest of public confidence.

You know, I could refer to the same issues that we raised with Bill 36. For example, when we talked about the need for independence and impartiality and presented a proposal for a public oversight mechanism to look at complaints against the police, we made all kinds of points; like, we need an independent and impartial judge. Also, the need is to preserve the appearance of impartiality and objectivity so that members of the public maintain confidence in the system.

I think that the government is underestimating the whole element of public confidence. Even in cases coming before the courts, whether bail is to be accepted or revoked, there's a primary ground: will the person flee? There's a secondary ground: will the person be a danger to the community? Then there's a tertiary ground, namely public confidence. What is the public confidence in the criminal justice system? I think that there's a big issue here with public confidence if we don't have some sort of public oversight mechanism present in this act.

9:10

Continuing on, Mr. Chairman, to section 19, that's the section that I'd like to focus on and bring an amendment. Again, the issue here is some sort of public oversight mechanism. In section 19(1) "an authorized employer must provide a report to the Director, as soon as the authorized employer becomes aware" of the following incidents: for example, if a peace officer "used excessive force" or "used a weapon" contrary to the regulations; "an incident involving a weapon used by another person"; "an incident involving serious injury to or the death of any person"; or "any matter of a serious or sensitive nature related to the actions of a peace officer." If any of these incidents occur, then the director must investigate the matter. That's section 19(2).

Then subsection (3): "The Director may request a police service or other person to conduct an investigation into an incident or matter, or to take over an investigation." I don't know who this "other person" is. I think it is commendable – and this is consistent with Bill 36 – that there's a request for a police service to be involved in an investigation. That's taking it outside of the circle of peace officers and the relationship between the authorized employer and the director and so on. The RCMP would be a good example of a police service that could bring some sort of objectivity. I don't know what the reference to the "other person" is, but I think that the problem here is the lack of a public oversight mechanism.

Mr. Chairman, I would like to make an amendment to 19(3) to make sure that there is some reference to a public oversight mechanism in here, so here is my signed copy and all the other copies.

The Chair: We will call this amendment A1.

Dr. B. Miller: Thank you, Mr. Chairman. I move that Bill 16 be amended in section 19 by adding the following after subsection (3):

> (3.1) If an investigation is conducted under this section, the Director shall appoint one or more members of the public as overseers to observe, monitor or review an investigation to ensure the integrity of the process of the investigation.

I think that with an expanded role for peace officers, including traffic enforcement and other duties that sort of move into the traditional role of policing, it is really important that there be some form of public oversight of peace officers. This is in the public's interest and would ensure public confidence in any investigations against peace officers that are really serious. Now, this is the same public oversight mechanism that the Solicitor General used in Bill 36, the Police Amendment Act, 2005.

Now, it's a puzzle to me. It's not clear why a similar oversight mechanism is not included in this bill, given the expanded roles and responsibilities of peace officers. They must have confidence that all investigations of a serious nature have a public oversight component. That is why we're bringing forth this amendment. This is not particularly an onerous amendment, Mr. Chairman. This is the exact language that was used in Bill 36 to provide public oversight for serious incidents and complaints involving police officers. It seems logical to use the same language so that we can have this same element present. I can't emphasize enough the importance of some kind of public oversight mechanism, which is in place in other police acts. Why can't we also apply it here to special constables if we're going to really be serious about the proper accounting of the work of special constables and peace officers?

That is my amendment, Mr. Chairman.

The Chair: Anyone wish to speak on amendment A1? The hon. Member for Edmonton-Mill Woods.

Mrs. Mather: Thank you, Mr. Chairman. As I look at this amendment A1, it brings me to think about the actual bill, where I think a great deal of the concern, from the constituents I have spoken with, is a lack of confidence. There are many questions that they have about how these peace officers will be utilized, what training they will have, how long that will be, and there are just not enough answers in the bill as it's being proposed. Another question that comes up often is: who are these peace officers going to be accountable to?

As I look at amendment A1, the rationale is to address that lack of public confidence with an expanded role for peace officers including traffic enforcement and other duties that may encroach into traditional police roles. It is imperative that there be some form of public oversight for peace officers. This is in the public's interest and would ensure public confidence in any investigation of a serious nature against peace officers.

One of the questions that has been brought up to me, probably because of my background in high schools, is the concern that peace officers may take over the role of school resource officers. Again, these questions aren't answered in this bill. If that role is given to peace officers, I'm concerned because, with my high school experience, I believe that those students would see these new officers as much the same as shopping mall security guards, and there would be little respect or credibility for them. Again going back to the amendment, we need to ensure public confidence.

This is the same public oversight mechanism that the Solicitor General used in Bill 36, the Police Amendment Act, 2005, and to me it's not clear why this was not included in Bill 16. I don't think it should be onerous. The exact language was used in Bill 36 to provide a public oversight for serious incidents and complaints involving police officers. It seems logical that the same rules should apply to this level of law enforcement that may be performing the same duties in some cases.

So I'm saying that we need a truly public, transparent process so that the public can be sure of being free from undue political influence. The rationale here is to ensure the integrity of the process

and to ensure that there is no appearance of police investigating their own. Let's be realistic. Peace officers will work closely with police officers, and there will be a common bond between them. We must have a public monitor of these investigations. This was the rationale the government used in Bill 36, and it is the same rationale that we are using now.

I support this amendment. Thank you.

The Chair: The hon. Member for Calgary-Varsity.

9:20

Mr. Chase: Thank you. To the amendment. Much reference has been made to the Solicitor General and Bill 36 and the independent investigation citizen oversight committee. Last year especially residents of Edmonton can remember all the controversy with regard to the former chief of police, the basic entrapment, the use of police computers to get private information on individuals. There was a great deal of kerfuffle, confusion.

Fortunately for the city of Edmonton the new police chief is a wonderful individual. This gentleman has done a lot of the repertory work in establishing himself as a very credible officer. His training in Toronto has stood him very well in terms of understanding big city concerns, difficulties with ethnic violence that Edmonton, unfortunately, is now experiencing. But even with his wonderful abilities and his openness and transparency and his very quick off the mark comments with regard to disappointment with the police reaction to the beating death of the individual on the Mill Woods bus and the response time, even with these admissions and recognitions, we need an external oversight citizen component in order for citizens to have faith in the larger process. Again, with reference to Bill 36, this component was a part of the bill.

When we're talking about law enforcement, and particularly at a level where there has not been the degree of training provided for the individuals, I would suggest that more oversight rather than less is needed in terms of establishing both professional and ethical conduct. Without this citizen oversight committee the public gets a sense that it's a closed shop, the report cards are being prepared by the individuals evaluating themselves, and the public would lose faith in their ability to self-regulate.

There is also concern with regard to how well they integrate with existing police forces and to what extent their process will be evaluated, by whom, and over what period of time, and what the standards are by which this evaluation process will take place. It appears that we're getting somewhat more of a definition of what a peace officer does, clarification of roles, the equipment they can carry, and so on, but in terms of their evaluation and supervision, that is missing from Bill 16. That is why I support this amendment, which calls for greater citizen oversight, input, and clarification of role as well as evaluation.

The Chair: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Chairman. I rise to join debate on Bill 16, the amendment to section 19(3). We all know that the job of peace officers is a very demanding one and that the peace officers, in fact, have to use force, sometimes lethal force, and that the incidents in which force is used lead people who feel that they are victims of excessive use of force to lay complaints. It is, in my view, very much in the interests of all of us, including police officers, to see that we have procedures and processes in place which increase public support for the work that peace officers do. The measures that we give authority to in this Legislature to increase that public confidence and support should be clearly designed to enhance public trust in the legislation that governs this.

I think that the amendment and the hon. Member for Edmonton-Glenora, who has proposed this amendment, are right in drawing attention to the fact that there is a flaw here in the legislation in that it doesn't provide for effective public oversight with respect to the process proposed here for the manner in which the director may request a police service or other person to conduct an investigation. First of all, I think it's important that the investigations be independent and not only be independent but be seen by the public to be independent of the peace officers and police services themselves. But even when a police officer and service is involved in the investigation, if that has to be the case, it's even more important that there be public presence in the form of legislated ability to oversee the investigation so that there's a transparency and the public knows that the investigation has taken place in a manner that meets the standards of transparency and independence and impartiality.

So I think the amendment proposed here, as (3.1) to section 19(3), is a very appropriate one, and I certainly indicate my support for the amendment. I hope the House will find doing so a reasonable thing to do as well.

Thank you, Mr. Chairman.

The Chair: Anyone else wish to speak on amendment A1? The hon Member for Calgary-Hays.

Mr. Johnston: Thank you, Mr. Chair. I wish to speak to this. I could not support this. In response to the comments from the members opposite the information given and the example given by the Member for Calgary-Varsity is relating to police in Edmonton. I wish to reiterate that this is a peace officer act. This is not police. This, once again, is a peace officer.

The various sections in the complaint process: while there are stops, the first stop is the employer. That is the first level. The second level is the director of law enforcement for the more serious complaints. So that's a level. The amendment for an independent body as in Bill 36 – and I have to admit I haven't seen Bill 36, that part of it – is not required as, again, this is not the police.

I cannot support this amendment.

[Motion on amendment A1 lost]

The Chair: On the bill, the hon. Member for Edmonton-Glenora.

Dr. B. Miller: Thank you, Mr. Chairman. A couple other points, and perhaps my colleagues can direct their attention to other parts of this bill. In terms of the same section, part 2, towards the end, when we get into the issues around the Law Enforcement Review Board. It just is curious that the language used in reference to the Law Enforcement Review Board is the language of recommending "to the Minister that the decision that was the subject of the appeal be confirmed, reversed or varied." That's section 21(4). The same in subsection (5)(a) in terms of the recommendations that are put in writing. So I guess the ultimate authority is the minister.

I don't know whether this is an undermining of the authority of the Law Enforcement Review Board, but does the minister consider that he is more informed than the members of the LERB? Surely, the LERB are capable and can decide on this issue without the reference to the minister.

9:30

This section I think is problematic. It allows the minister to vary or overturn the decisions of the LERB without really stating why. I think that that should be reviewed, and I wondered if the minister can explain why he wants to have this authority to reverse or vary the decisions of the LERB and kind of undermine their authority.

The Chair: The hon. Solicitor General and Minister of Public Security.

Mr. Cenaiko: Thank you very much, Mr. Chairman. Regarding the hon. Member for Edmonton-Glenora regarding the Law Enforcement Review Board in this Peace Officer Act the Law Enforcement Review Board conducts an appeal, as it states, in the case of the cancellation of an employer's authorization. This would be, for example, the town of Rocky Mountain House or the city of Camrose. That's the employer. It's not a police service. The employer is the municipality. So if there's an investigation regarding an individual, a peace officer that is employed by the municipality, it's the municipality that actually has the authorization to receive the peace officer classification. It's the officer himself who gets the designation, but the authorization actually goes to the municipality.

Therefore, the Law Enforcement Review Board has that ability to make recommendations to the minister whether the authorization for that municipality should be gone or upheld. As it says in section (5)(b), "in the case of the cancellation of a peace officer's appointment, the Law Enforcement Review Board must provide its recommendation in writing to the appellant, the peace officer's authorized employer and the Minister." So all three are provided with their written recommendation.

The Chair: The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you very much. We ran out of time when we were talking about special constables, and some of the confusion still remains with me that I would like to apply to peace officers in Bill 16, and that has to do with the titles and the ranking and the various levels of authority. I'm talking specifically about section 11, use of titles, under Bill 16. The negative aspect of this is that the public may find the different designations of peace officers confusing, and they may not understand the difference between a level 1 APO and a level 1 CPO. Everyone knows what a police officer is in terms of RCMP or city police and what authority that title carries, but the different levels of peace officers will cause confusion.

Does the Solicitor General have a plan to deal with this confusion? Is there a public awareness component to the implementation of this act so that Albertans are aware of the different levels of peace officers? If so, how much is that public information, which is absolutely necessary, potentially going to cost, and if that's not going to take place, why has the department not considered the public's perception of the peace officers and the inevitable confusion surrounding the different levels?

The comments I made with regard to the hierarchy of police officers and how they relate to the other levels of policing come to mind as well. I talked earlier with regard to special constables about uniforms, equipment, insignia. The minister must ensure that the difference between the various levels and their roles is made clear to the public so that they can understand the different levels of law enforcement.

I'd also like to reference section 23, inspection and investigation. This entire section gives the director of law enforcement the ability to enter an authorized employer's premises, at will it appears, and inspect anything he wants to, including records, vehicles, weapons, equipment, to ensure compliance with the act. I'm just wondering about that degree of authority. To what extent is it justified, and how can it be substantiated?

In section 29 of Bill 16 it says that information must be provided and conditions must be met by a person to be appointed as a peace officer or a person applying for the employer's authorization. Where are the prerequirements, the education, the expectations? Shouldn't this information already be determined? There must already be criteria that define this process, but where are these criteria? Why is this left to regulations? We should know what type of information needs to be obtained in order to become a peace officer or an authorized employer. Can the minister explain what these requirements are? What are the physical requirements for all levels of peace officers? What are the necessary academic requirements and experience necessary to be a level 1 APO? What are the conditions that must be met? Is there a psychiatric evaluation for these officers that will be required to carry side arms or shotguns? I can't imagine that there isn't, but if there isn't, why wouldn't there be given the level of armament?

There are many questions to be asked here. Clarification of what these requirements are is needed. I can't imagine that the minister is just going to make them up as he goes along, but it doesn't appear that within Bill 16, at least within section 29, these clarifications are provided.

With regard to training regulations, what type of training are these officers going to receive? Can the minister provide these levels of training so that we can understand what types of individuals will be carrying weapons, conducting traffic, enforcement, and so on? How will we know that they have had sufficient training that they're qualified to be out there in the public protecting the public interest?

With regard to standards of conduct, practices, procedures, protocol, once again, a lot of the regulation-making authority does not seem to have substance. What information sharing will police officers have? What is the intercommunication process? Will they have access to CPIC, the Canadian police intelligence centre? Will they be connected with MOVES, the registered car owner database, and OSCAR, Edmonton's Police Service database? If so, what controls will be placed upon these to ensure that the access is not abused, as I referred to earlier with the Edmonton police force?

Respecting the time within which an authorized employer must provide to the director the information required under section 18, notification to the director of complaints of investigation of police officers, why is this in regulations? Why is the time frame not spelled out in the act itself? For instance, why isn't there a clause that stipulates that when a peace officer is being investigated, the director must be notified within 30 days? Why is the time left for regulations? We have debated the difference between legislation and regulation and the manoeuvrability and the room that does not clearly spell out what the intent is. This information should be up front so that the public understands what's going on.

With regard to more of the time frame and the colour of the uniforms, the insignia and so on, which I brought up earlier, how is the peace officer badge going to be distinguished from a police badge? It should be clear in the act that upon termination of employment as a peace officer the badge obviously has to be returned forthwith to the Solicitor General, and failure to do so should result in penalties. The last thing we want to be doing is going into Value Village and being able to purchase peace officer uniforms. There's a difference between justice and a Halloween costume, and the opportunity for abuse is out there.

If the minister could address many of these concerns and questions, it would be much appreciated. Thank you.

9:40

The Chair: The hon. Solicitor General.

Mr. Cenaiko: Thank you very much, Mr. Chairman. Let me begin by going back to section 11, use of titles. Again, really, this allows the minister to "authorize the use of titles for peace officers or classes of peace officers in accordance with the regulations."

Obviously, the regulations will be coming forward, but it does provide the governing for titles of peace officers. The community of Rocky Mountain House may want to call their officers enforcement officers. The community of Wetaskiwin may want to call theirs community peace officers. Those titles are up to the municipality but as well have to be approved by the minister.

When it goes to the next section, 12(1), we talk about the uniform and the restriction regarding uniforms, what the uniform will look like. The problem that we have right now is that special constables and police officers run around with a red stripe on their pants, and no one knows who they are. The issue is that by removing the special constable title, by moving the red stripe from peace officers to blue for provincial and to grey or another colour for peace officers, that will provide a clear distinction right across the province that we have four levels of peace officers: one being yellow for federal police officers, those being the RCMP; red for municipal officers, being police officers; blue for our provincial peace officers; and grey for municipal peace officers. That will provide an obvious clarification to the public when they do see that versus the assortment of striping that we have out there today.

The hon. Member for Calgary-Varsity also mentioned articles regarding 23(1), inspection and investigation, and the ability of the director to enter an authorized employer's premises. We're not talking about some employer in a shopping mall somewhere; we're talking about the city of Camrose or the town of Hinton, where we're going to be going into the city to look and inspect the practices, the training procedures for any internal training, again, their records management, their vehicle signage. These are requests from the Auditor General. If the hon. member would like a copy of the original review that we did to consult with Albertans, I have additional copies I can provide to him that show the consultation that we had out in all of Alberta with peace officers, with municipalities, with the Alberta associations of both police officers and peace officers. So we have that information for him if he'd like to do some additional reading on that. I can get copies for all of you. Actually, you can get one on the Internet. I believe it's still up on our website.

The prerequirement in the regulations, Mr. Chairman: we don't go to adding prerequirements for police officers, nor do I believe that in any other profession we put those requirements in an act because those can change. Those can change any time throughout the year. If an organization wanted to change the level of training that they want to do, then you would have to make a complete change to an act, which is deemed to be a little redundant. Therefore, the regulations will be in place regarding the prerequirements, the prerequirements of physical fitness testing. Again, this is covered in the document, the review that was done, and those issues will be addressed further in the regulations as they come forward.

Lastly, the hon. member spoke about the relationship between the peace officers and the police officers that they're working with in a community. Whether those are RCMP or whether those are municipal police services, obviously, there will be an memorandum of understanding developed between the two. We have some tremendous models in the province right now in a number of municipalities. I don't want to say one municipality is better than another. We saw two of the models, one in Grande Prairie and one in Strathcona, two tremendous models where the memorandum of understanding clearly describes the role and responsibility of the officers that work in that community, how they're tied into the RCMP, how the supervision is provided between the two, and the relationship that is formed between them as well. So that's going to be done in the MOU, again, covered in the regulations to detail how they're going to work together, what level of service the municipality may want them to do. That changes from municipality to municipality, Mr. Chairman, as one municipality may want them to enforce various different acts versus all provincial acts. That's up to a municipality to make that decision. They are given the authority to respond to any provincial act or write summonses under any provincial act if they have the qualifications, if they have the training, if they have that ability, and if the municipality has deemed that that's what they want them to do within their municipality.

So I think I have outlined a number of the responses to the hon. member, but if he'd like a copy of the review, we'd be more than happy to get one to him tomorrow.

The Chair: The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you very, very much. Within Bill 16 is there a clarification of the supervisory roles of the higher levels of the police service? In other words, what I'm saying is: if you look at the RCMP or the city police forces as being at the highest levels of training, is there a clearly spelled-out evaluatory chain of command? From an education point of view what I would compare it to is a student teacher and their practicum adviser or an established teacher. If you have a good student teacher, the benefits to both yourself and to your class are tremendous. If you have a weak student teacher, then the extra evaluatory roles and the extra responsibilities that are placed upon you are increased. I'm wondering if there is any kind of recognition of the extra workload that training these individuals has with the regular police forces, whether it be municipal or through the RCMP.

Another example would be in terms of the, sort of, chain of command. You've got registered nurses. You've got licensed practical nurses. The registered nurses are given a supervisory role over the licensed practical nurses. Then you have the orderlies. Again, if these people are working together in sync, you have a wonderful system, but if they're not, it places a strain rather than a support for the people in charge at the highest levels, in the case of RCMP, city police; teacher, student teacher; registered nurse, LPN, orderly; and so on. I would like to ask the minister: are these roles clearly defined? Who evaluates the roles? Who evaluates the interconnectedness? How do we know that the existing forces are going to be supported and not spend a lot of time on the job trying to correct mistakes or bringing the people up to the level that they've received given their limited training?

Thank you, Mr. Chair.

The Chair: The hon. Solicitor General.

Mr. Cenaiko: Thank you, Mr. Chairman. I just want to remind the hon. member that this isn't new. This function has been in place for 30 years. The relationship with the RCMP and throughout rural Alberta has been in place for about 30 years. The functions that are taking place right now in our communities throughout Alberta have been in place, but what we're doing here is we took out the various sections from various acts regarding peace officers and built it into Bill 16, the Peace Officer Act.

There's no hidden agenda here. There's nothing of subsequence other than this new act is going to provide them the foundation of what we need to move forward in the future regarding peace officers. They didn't have that in the past. So now when we talk about the memorandum of understanding, that's already in place. That's done. They've done that already. All we want to do is cement it into the regulations and ensure that that relationship is there so that we can build stronger relationships because there are municipalities, there are areas in the province where they don't have a good working relationship. Those are the areas that we want to

concentrate on and work on to ensure that the county, special constables right now, and the RCMP can form that relationship, can work together in a better relationship such as we've seen in some tremendous locations throughout the province.

So this really is there to build on what's in place right now. The function of what's in Bill 16 isn't new. This has been going on for some 30 years already. So I think the regulations obviously will clarify that. This, again, will provide a stronger sense of security for the public but as well have those checks and balances in there, working with the Auditor General because he's the one that told us we have to have standards out there. Whether it's standards for policing or whether it's standards for peace officers, those standards will be in place. We need them. We need those checks and balances, and I'm sure that's what the hon. members want as well. So this will provide us with that foundation to move into the future.

9:50

Mr. Chase: At this point I would like to adjourn debate.

[Motion to adjourn debate carried]

The Chair: Shall progress on Bill 16, Peace Officer Act, be reported when the committee rises? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? It's carried.

Bill 23
Provincial Parks Amendment Act, 2006

The Chair: The hon. Deputy Government House Leader.

Mr. Stevens: Thank you, Mr. Chairman. I wish to make a few comments on Bill 23 in committee on behalf of the hon. Minister of Community Development. There were a couple of points which were raised during second reading that I have answers to.

There are 70 permanent conservation officers, and an additional 88 will be added in May for the summer season. This is the same number of permanent officers as last year, and the seasonal number is slightly higher.

While the Provincial Parks Act does not contain provisions to address vehicle use, including off-highway, it does allow for specific regulations to be used to govern vehicles, which continues to be addressed in general regulations. I feel that these regulations are sufficient to deal with all types of vehicle use in the parks.

Thank you.

The Chair: The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you very much. As I noted earlier, I was much in support of the intent of Bill 23. Can the minister provide me some type of assurance that the part-time seasonal officers, who are so frequently discouraged by their lack of opportunity to achieve permanent status – is there any recognition that these seasonals based on previous years' evaluations will be added to the regular staff and have some degree of job security?

What happens is that a number of these very qualified individuals who work season after season fail to receive part-time, and as a result they're forced to look for work in other areas. These people have gone through the process, a number of them at the wonderful University of Lethbridge, and receive tremendous training. But instead of being out in the wilderness, which ideally is their first choice, they end up being recruited by a variety of other police forces, and their training allows them to make these switches, but their heart is truly in the wilderness.

The other concern I have is that in order for the regulations to be in place, we don't just need a few extra full-time employed conservation officers; we need to go back to the full allotment that we had prior to the cutbacks in the early 1990s. Currently we have almost half as many officers trying to patrol a vast area, and they're handicapped in trying to provide that kind of coverage. They can't provide the regulation that is absolutely necessary, which is a large part of Bill 23, if they don't have sufficient manpower, womanpower, human resources to carry out their job. So back to the original question: is there any hope in sight that more full-time officers will be hired and that part-time officers who have demonstrated their previous abilities will be first considered for those full-time jobs? If the minister could respond, please.

The Chair: Does anyone else wish to speak on Bill 23?

Are you ready for the question on Bill 23, the Provincial Parks Amendment Act, 2006?

[The clauses of Bill 23 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

The hon. Deputy Government House Leader.

Mr. Stevens: Thanks, Mr. Chairman. It would be appropriate at this time to rise and report progress with respect to Bill 16 and to report Bill 23.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Johnson: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bill: Bill 23. The committee reports progress on the following bill: Bill 16. 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 the report?

Hon. Members: Concur.

The Deputy Speaker: Opposed? So ordered.

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

Bill 15
International Interests in Mobile Aircraft Equipment Act

[Adjourned debate March 9: Mr. Stelmach]

Mr. Stelmach: I believe we extended all the information on the bill. It's a very worthy bill.

Thank you.

The Deputy Speaker: The hon. Member for Lethbridge-East.

Ms Pastoor: Thank you, Mr. Speaker. I have spent a little bit of time with the past minister, and he was kind enough to keep me informed of exactly what is going on. I'm really not that familiar with airplane parts. I didn't think that I would hear myself saying this, but basically this is housekeeping, and it is to keep the province in line with, actually, what would appear to be global conventions that need to be signed. Canada has signed but not ratified the convention on international interests in mobile equipment, and because a convention affects an area of provincial constituent jurisdictions, it's necessary for us to pass this through the House.

One of the things that is expected when this convention is ratified, not only by Canada but all the other signing partners, is it would lower the cost of financing high-value mobile equipment such as aircraft, which is mainly what this is geared toward. I guess at that point I'm wondering if I'm going to be lucky enough to have my airline tickets lowered. Certainly, WestJet airline, which is Alberta-based, would be supporting this.

10:00

One thing in the three-column document is an exceedingly interesting way of using the word "accountable." What they say is that the act will establish remedies in the event of a default. I must remember to use that language when I try to get accountability again in this House.

The actual international registry will be in Ireland. The operational registry will no longer be required by multiple countries and, in turn, multiple provinces. It will be pretty straightforward once it gets going. I think that everybody could recognize that if you need a part for an aircraft and it's not flying, you need it now. You need to be able to get it through all the different customs.

I just would have one question that I'm sure the hon. Member for Fort Saskatchewan-Vegreville could answer. It says that a legal review will be undertaken to determine whether these elements from the convention protocol need to be included in the Alberta legislation. Obviously, that's what we're trying to do, but I'm just wondering what the time frame on that was and if, in fact, this legal review has been done prior to this discussion.

The Deputy Speaker: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Speaker. I rise to speak on Bill 15, International Interests in Mobile Aircraft Equipment Act. I want to indicate our support for this bill at the very outset. The minister's introductory remarks on it make it very clear what the purpose of the bill is. It really is a bill that is prompted by two international agreements signed by the federal government, the first one being the convention on international interests in mobile equipment, also known as the Cape Town convention, and the second is a protocol on aircraft equipment. I think eight countries have already ratified the convention as well as the protocol. The U.S., of course, and Ireland are included in these eight. Canada and 24 other countries have signed the convention and protocol but haven't yet ratified them. Ratification requires, where necessary, the provincial assemblies to pass legislation that will then enable the federal government to ratify the agreements that are already signed.

Both of these agreements, Mr. Speaker, I understand from the minister's comments and from reading quickly through the bill – lots of words there – touch on an area of provincial jurisdiction having to do with the registering of interests in personal property. The minister also tells us that the government of Canada has assured us that it will not proceed with ratification unless it's got a substantial number of provincial jurisdictions that have passed the necessary legislation. Of course, Quebec, Ontario, B.C., Alberta have all indicated their support. Ontario and Nova Scotia have already passed but not yet proclaimed the legislation.

Mr. Speaker, it's a bill that deserves the support of the House. It certainly has the support of our caucus. My question to the minister is: are there any costs involved in passing this legislation, and if so, what's the scale of the costs that the province will incur having passed this piece of legislation? That's my main question. I'm sure that the minister will respond to it either now or perhaps later.

Thank you.

The Deputy Speaker: The hon. Acting Minister of International and Intergovernmental Relations to close the debate?

Ms Calahasen: Question.

[Motion carried; Bill 15 read a second time]

Bill 20
Freedom of Information and Protection of Privacy Amendment Act, 2006

[Adjourned debate March 23: Mr. Lund]

The Deputy Speaker: The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you. A former Prime Minister, who was fond of using middle digits and some questionable language, when confronted about the language he used, said: oh, I just said fuddle duddle. I've heard members of the media basically spell out the meaning of FOIP. I'll substitute fuddle duddle, and IP stands for: it's personal. That is the feeling that members of the media have expressed and, for that reason, awarded the government the title of most secret all across Canada based on their lack of willingness to share information.

Without going into great depth, we are hampered from carrying out our roles as equally elected Members of the Legislative Assembly by the government's use of FOIP to withhold information. It causes the taxpayer unnecessary draining of resources for us to put forward a FOIP request. Maybe it's just a peculiarity, but when we finally get that information, it usually arrives on the day when the House is about to adjourn, so opportunities to discuss the information that has finally been retrieved are extremely limited.

In order for us to carry out our job in what I would like to think would be a more collaborative fashion, we have to have equal access to information. The information has been paid for out of the public purse. In order to carry on the joint responsibility that we have, regardless of whether we're government or opposition, we cannot be hindered and hampered by the inability to access the information that is required.

My first FOIP request last year was to determine what had happened prior to the young gentleman finding himself down at the base of the elevator chute. I had asked for very simple things such as when the elevator was last inspected, when the door was last inspected, what the physical circumstances were that led to this door being so faulty that this young individual was unfortunately killed by a fall to the bottom of the shaft. That was a clarification question.

We also put out FOIP requests for flight logs. Fortunately, we received the answer prior to the recess that those flight logs would be tabled, but given the change of affairs that's happened in the last couple of weeks, I have no sense that we'll finally get that information, that we requested some time ago.

This should not be a game of hide-and-seek. It should not be:

"We've got the information; tough on you. It's our right because we're the government, and you have no rights as the opposition." Imagine the Alberta that could be, where we were hon. members of policy committees.

10:10

Mr. Snelgrove: Oh, I can only imagine.

Mr. Chase: Well, given the recent state of affairs and the lack of confidence within the party itself, you won't have to imagine much longer because Albertans are demanding greater transparency. They're demanding greater accountability. They're not accepting, basically, a funeral procession in the form of a leadership race that is going to take over two years. They want accountability. They want transparency now. [interjections]

Well, these are all very clever comments, but they don't address the need for sharing information. Until this government can demonstrate to the people of Alberta that it is transparent and accountable, why should the people of Alberta want to prolong 35 years of hide and seek?

Thank you.

The Deputy Speaker: The hon. Member for Lethbridge-East.

Ms Pastoor: Thank you, Mr. Speaker. I'd just like to make a couple of comments. Four of the amendments are aimed at further restricting the information that can be made available. I think part of my big problem with a lot of this is probably based on my personality. I'm not afraid to stand up and be counted, I'm not afraid to be responsible for what I say, and I sure as hell – I'm not afraid to be responsible for my behaviour. Whoops. I'm responsible for that.

I really have a problem with people who do a whole pile of hiding. I absolutely admit that there have to be some areas where people must make decisions. But once those decisions are made, I think there has to be an accountability of how that was arrived at. I don't think you need to go through all the nitty-gritty of every piece of information that was discussed, but I think that if you are responsible for making the decision, then you should be responsible for standing up and saying why you made that decision. I think that's part of the integrity of the people that are making these decisions.

Also, there are pretty powerful timelines: 15 years, I believe I read, for one of them. That's actually a long time and will certainly make for excellent bedtime reading 20 years from now, when all of this stuff definitely will be coming out. Certainly, there will be some young, bright masters student that'll just be salivating, waiting for all of this to come out. So why not just get it up front, say what you're doing, stand up for what you believe in, stand up for the decisions that you've made, and quit trying to hide behind FOIP so much?

Thank you.

The Deputy Speaker: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Speaker. I rise to speak on Bill 20, the Freedom of Information and Protection of Privacy Amendment Act, 2006, in its second reading. The bill is a sort of mixed bag. It has some, I think, promising initiatives in it. For example, it includes a response to the recommendation made to the government by the Information and Privacy Commissioner of the province; specifically, legislative measures that need to be taken in order to protect information pertaining to the personal and private records of Albertans.

In view of the requirements of some foreign pieces of legislation – for example, the USA PATRIOT Act, which requires all companies or persons in possession of information that the law enforcement or investigation agencies of the U.S. state may require to be made available to them as a legal requirement. All records in possession of or collected by or handled by any agency and organizations that may have any connection with U.S. parent firms or businesses are under the PATRIOT Act obliged to surrender that information to U.S. authorities. Since lots of government data, information is handled through contracting out to either U.S. agencies and corporations or their subsidiaries in Canada, the information that's provided to the government and held by government agencies in confidence, in trust, provided by Albertans, then becomes subject to access by the agencies of a foreign government. So the Information and Privacy Commissioner recommended some changes. This bill responds to the recommendations made by the Information and Privacy Commissioner that will protect the information related to Albertans' health records or financial records or private records under the U.S. PATRIOT Act to American courts. That's well and good, Mr. Speaker. Certainly, that part of the bill is something that I support.

The question with regard to the penalties, whether or not the penalties proposed if the provisions of the proposed act related to the protection of privacy are violated, is another issue. We can certainly deal with that in the debate during the committee, but in principle I think I am supportive of the attempt made in this bill to respond to the Information and Privacy Commissioner's recommendations.

However, there are other parts of the bill, Mr. Speaker, which are highly objectionable; for example, that the ministerial briefing notes now will become inaccessible through FOIP requests. I think there's absolutely no justification to remove ability to access those briefing notes because they are of substantive significance to the debates that happen here, to the ability of this House and certainly of this side of the House to be able to scrutinize government policy and the background information on which that policy is based. That background information is contained in those very notes that the bill will put beyond the reach of members of the Assembly. We certainly take a very serious view of the provision that will in fact make access to information related to public policy impossible to get. How do you get public debate and public scrutiny and public examination of vital issues associated with the public policy if you don't have access to those background materials the briefing notes contain? So that's something that we will not be able to support, Mr. Speaker.

Also, some questions about some information that may be now deemed in this act as non-FOIPable and some published works, you know, that may be available in libraries and other places. I'm curious about it. Why is this proposed legislation specifically attempting to include under what is called non-FOIPable materials published works that may be available in other places? Maybe the minister can respond to that. If the materials are already available in the public domain – and self-published works as such are available in libraries; they are all catalogued and may be taken out – why should they be excluded from FOIP access? Just because they're available, there's no need for them? I don't understand exactly what the concern is here and how that concern is being addressed by that particular provision in this bill.

10:20

Secondly and again importantly, Mr. Speaker, the five-year FOIP exclusion on ministerial briefing material is something that is very, in my view, undemocratic in nature. Why this is being done is beyond my understanding at least. Maybe the minister will respond to that. For a government that really is already plagued by lack of

accountability and transparency, it's striking to note that such amendments are being in fact proposed. The very spirit of a sort of democratic debate and discussion on public policy rests on the fact that the government is obliged by law to make available to the general public and certainly to the members of this House the information that the ministers and the executive use to make their policy.

The argument that allowing access to briefing notes will be considered as revealing the substance of deliberations of Executive Council is a kind of novel argument. That's an interesting invention, but I don't think it justifies making access to information of public interest more difficult than is already the case any more acceptable.

The 15-year exclusion of documents belonging to the chief internal auditor of Alberta is another provision of the bill that makes no sense and is equally unacceptable. Again, the question is: why the 15-year provision to exclude documents belonging to the chief internal auditor? The chief internal auditor deals with the expenditures of budgeted public money and how departments and different branches of the department spend those public dollars. Why such documents should be put beyond the reach of the members of the Assembly and the public at large for at least 15 years requires some explanation and serious addressing by the minister responsible for bringing forward this legislation.

Another provision of Bill 20, section 7, allows for the unlimited suspension of a FOIP request while the Information and Privacy Commissioner considers whether it should be FOIPed or not. While there may perhaps be a reason to stop the clock, so to speak, on the 30-day limit for processing FOIP requests while such consideration takes places, the specific amendment proposed in fact makes the 30-day time limit simply useless, meaningless. There's no assurance in the bill that a request will be handled expeditiously and that the 30-day limit, if not exactly to the letter, at least in spirit would be respected. When FOIP requests are made, I think the justified expectation is that such requests must be responded to within an appropriate time, and a 30-day limit seems to be fine, but now with the suspension of the 30-day limit the government could take perhaps as long as it wishes and thereby frustrate the very purpose of seeking the information through a FOIP request that may be before it. So that's another part of the bill that's highly objectionable. I think it's a serious flaw in the bill and will need to be addressed.

With that said, Mr. Speaker, I only want to just conclude by saying that the manner in which FOIP requests are presently handled – and I speak on the basis of the experience certainly of my own caucus. When we have put in these requests for information, there is an undue delay, and there are various ways available to the government to postpone and to prolong the duration for which the government can find ways to deny access to the information. That shouldn't be the case, and the amendments as proposed in this bill will simply make that bad situation far worse. Therefore, the bill in whole is one that I'm afraid will not receive our support unless we can amend it to address the flawed parts of the bill that I've just drawn briefly some attention to as we move to the next stage of the debate.

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Red Deer-North to close.

Mrs. Jablonski: Mr. Speaker, I'd just like to call the question, please.

[Motion carried; Bill 20 read a second time]

The Deputy Speaker: The hon. Deputy Government House Leader.

Mr. Stevens: Thanks, Mr. Speaker. I move that we adjourn until 1:30 tomorrow afternoon.

[Motion carried; at 10:28 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]