

Legislative Assembly of Alberta

Title: Monday, May 1, 2006

8:00 p.m.

Date: 06/05/01

[Mr. Shariff in the chair]

The Acting Speaker: Please be seated.

head: **Motions Other than Government Motions**

Fixed Election Dates

508. Dr. Morton moved:

Be it resolved that the Legislative Assembly urge the government to introduce legislation requiring fixed election dates every four years or whenever the government loses the confidence of the Assembly.

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

Dr. Morton: Thank you, Mr. Speaker. I'm honoured this evening to open debate on Motion 508, fixed election dates. A healthy democracy is a vital source of our national well-being. The accountability of the government to the people directly contributes to both our prosperity and our freedom. Democratic elections and responsible government are tools of the people and for the people. It is of paramount importance that our citizens have confidence in and participate in these institutions.

While our current parliamentary system has served us well, we must recognize that the signs of democracy in Canada and Alberta are ailing. Voter apathy and cynicism are becoming more common. Each election seems to bring about further decreases in voter turnout and greater disinterest in the political process. Voters are becoming frustrated with our democratic process and more and more cynical towards politics and politicians. While there is no single cause of this negative trend, a significant factor is the absolute discretion of the government of the day and specifically the Prime Minister or Premier to call elections whenever they judge it to be in the best interest not of the province or the country but of their own government.

Currently in Alberta provincial elections are triggered when the Lieutenant Governor dissolves the Legislative Assembly at the instruction of the Premier. Section 3(1) of the Legislative Assembly Act directs that "no Legislative Assembly shall continue for [more] than 5 years from the date" of the last election. However, the exact timing of an election is at the discretion of the Premier. Essentially, the current practice allows the government to call an election whenever it believes it has the best chance of winning based on economic and political considerations. Considerations of fairness and the public interest have no place in this calculus. The decisive factor and indeed the only factor is the naked partisan self-interest of the government of the day.

In just the past decade at the federal level Canadians have been forced to put up with this contempt for democracy on three different occasions. The recent Liberal government of Jean Chretien twice called elections only three and a half years into five-year mandates, the second one only months after the creation of the new Canadian Alliance party. The Liberal government of Paul Martin did the same thing in 2004, calling an election only months after the merger of the Canadian Alliance and the Progressive Conservative parties and before the new party could have its first convention. No wonder Canadians have become cynical about this process.

So it comes as no great surprise that one of the first acts of the newly elected Conservative government of Prime Minister Stephen

Harper has been to propose legislation that would establish fixed election dates for federal elections and put an end once and for all to this sort of partisan trickery.

Mr. Speaker, Motion 508 proposes a similar solution for Alberta. Motion 508 urges the government to implement fixed election dates. A fixed election date can be defined as a recurring set date or time frame in which general elections are held. This motion proposes that general provincial elections be held "every four years or whenever the government loses the confidence of the Assembly." This is what's called a flexible fixed system, and it would allow us to protect our parliamentary tradition while still realizing the advantages of fixed election dates.

Mr. Speaker, there are many recognized benefits that would accompany the implementation of fixed election dates. First and foremost, it would promote fairness. All parties and all candidates would be on an equal footing as far as prior knowledge of election dates is concerned. All political parties and all candidates would have the same opportunity and the same time to develop better considered and stronger policies to present to the voters.

Set, stable election dates would also contribute to administrative efficiency. Elections Alberta would be able to prepare in advance if it were to have prior knowledge of the precise date or time frame when a general election would take place. This increased administrative efficiency could extend to the government as a whole and contribute to more effective, efficient, and open governance. Set time frames would facilitate a predictable planning and budgeting process and thus a better use of government resources and thus taxpayer dollars.

Mr. Speaker, a less obvious but, in my opinion, highly important benefit of fixed election dates would be to facilitate the recruitment of a more qualified and more diverse set of candidates for public office. The current system deters successful mid-career men and women from considering public service as an elected candidate. With unpredictable elections and candidate nominations often taking place in mid-summer with only several weeks' notice, potential candidates have no opportunity to discuss possible career changes with their spouses or business associates. Fixed election dates would change all of this. Everyone would know in advance and could plan accordingly.

Fixed election dates would also facilitate greater civic engagement in our province. Voters, teachers, educators, and the media would benefit from the extended preparation time that would accompany fixed election dates. This could contribute to more informed debate and also to increased volunteerism. By consulting with Albertans and selecting a specified, consistent time frame that minimizes seasonal constraints, voters could be better able to plan in advance for provincial elections, thus resulting in increased voter turnout as well.

Mr. Speaker, the introduction of fixed election dates into our system of parliamentary democracy is not a new concept. In fact, it has become increasingly popular across our great country. It is a democratic reform that has been discussed and even implemented in several other Canadian jurisdictions. British Columbia was the first province to pass legislation mandating fixed election dates, in 2002, and last May, of 2005, B.C. voters took part in Canada's first ever provincial election occurring on a date set by law. Newfoundland and Ontario have also passed legislation mandating fixed election dates, and the first such elections for both jurisdictions are set to be held in October of 2007. As I noted earlier, Prime Minister Stephen Harper and his newly elected Conservative government in Ottawa have also committed to implementing this reform at the federal level.

One need look no further than Alberta's own history to see the benefits of fixed election dates. Since 1983 municipalities in Alberta have held fixed-term elections. Mr. Speaker, I would suggest that now is the time for members of this Assembly to engage in democratic reform and democratic renewal. Voter cynicism is at an all-time high, and voter turnout is at an all-time low. At a time when demands for democratic reform and enhanced accountability are growing across Canada, the government of Alberta could and should consider ways to address the democratic deficit. Indeed, Alberta should be a leader.

As we begin our second century now as one of the most important members of the Canadian Confederation, we should put partisanship aside for a moment. Who knows which party will govern Alberta 50 years from now? Indeed, who knows what political parties will even exist in 50 years? Here is an opportunity to do not just what is good for the party but what is good for the province and not just what is good for the next election but what is good for the next century.

After the Liberal sponsorship scandal in Quebec and the sordid backroom dealings uncovered by the Gomery commission, Canadians and Albertans want more accountability and more honesty in government, in all governments. Albertans have a right to expect a best-practices regime, and we in this Assembly have the duty to deliver it. Mr. Speaker, fixed election dates would be one important step in this direction, and I ask all members of the Assembly this evening to support Motion 508.

Thank you, Mr. Speaker.

The Acting Speaker: The hon. Member for Vermilion-Lloydminster.

Mr. Snelgrove: Thank you, Mr. Speaker. I would like to propose an amendment to Motion 508, and I have the required number of copies here. Can I read it now? I want to amend Motion 508 by striking out "to introduce legislation requiring fixed election dates every four years or whenever the government loses the confidence of the Assembly" and substituting "to initiate a process to study the benefits and disadvantages of implementing fixed election dates with the intention of introducing legislation based on the recommendations arising from that study."

Mr. Speaker, I think I heard the hon. Member for Foothills-Rocky View talk about consulting with Albertans, and that, in fact, is what this amendment would do. Not only do I not disagree with the hon. member's premise that it is a timely topic and, I think, one with much interest, but I agree with nearly everything he said. I especially agree with the part that says that we need to consult with Albertans and understand how they want to approach this.

8:10

Mr. Speaker, P.E.I. just went through a referendum of sorts with their voters talking not only about maybe fixed dates but a blended proportional representation system. I think the government felt very strongly that this was good, but the people turned it down very strongly, so we aren't always in touch with how they want us to approach this. I believe that when British Columbia talked about the idea of fixed dates, they had a coalition of citizens set up to debate it and talk about it and take it around the province. I think that people felt involved then, and I think it worked very well, but I'm not exactly sure that term limits may be the answer to voter apathy. As the hon. member mentioned, municipal governments have been on fixed election dates for quite some time, and I would suggest that voter apathy in our municipalities is even worse than in the provincial government elections or federal elections. So I'm not sure that's the answer to voter apathy. I think that maybe getting in touch with

the voters and engaging them will probably bring back their participation.

I'm also concerned, Mr. Speaker, that if we set our dates too restrictively, when we coincide with municipal election years or when we happen upon the same time as a federal election, we may, you know, kind of upset the apple cart from an unplanned thing, so we need to talk about that. Maybe a four-year term, a four-year term, and then a five-year term to get away from the municipal government. I don't know, but I think the citizens will tell us.

Mr. Speaker, I know it's not the case with the hon. member now, but it normally seems that opposition parties or parties that have lost an election often try to scramble for excuses about why they didn't get more seats. Quite honestly, everybody runs under the same rules. First past the post might not be perfect, but it is the same for all parties.

Mr. Speaker, I hope the Assembly will give kind consideration to the amendment because I think it is important to get out and talk with Albertans. I know that many American states have gone to term limits, which seems to be the next flavour of the day around election changes, and I can tell you from many people down there that they feel that term limits have handcuffed electors. They may get elected in their first two years and be dealt out the second term. They may even get a committee chair. In their third term they may become quite influential, but in the fourth term the administration knows that their time is nearly done and they can ignore them without regard for having to face them in the future. So sometimes we do things in what we consider are the best interests, and the results are not only not what we wanted there, but they're negatively affected.

With that, Mr. Speaker, I would encourage all people to give consideration to the amendment. Thank you.

The Acting Speaker: The hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Well, thank you very much, Mr. Speaker. Speaking simply to the amendment, I would like to point out – and the hon. Member for Vermilion-Lloydminster knows this – that there's really no need for this amendment because the motion, as it were, if it were to be passed, simply urges the government to take action. It doesn't bind the government to take any action whatsoever. If it were to pass, the government then can decide whatever course they wish to choose. If they wish to choose some sort of a consultative process with Albertans, which would probably be recommended, then they can do so, but certainly there's no need in particular to change the wording of the motion as it now sits. In fact, all it really does is take away from valuable time that we could better spend debating the actual motion itself.

I would certainly suggest that we vote against the amendment, and I would urge all hon. members to do the same. Thank you.

The Acting Speaker: On the amendment, the hon. Member for Edmonton-Beverly-Clareview.

Mr. Martin: It's interesting, Mr. Speaker. When we get to a serious matter here on fixed election dates, all of a sudden we're getting an amendment that we're going to consult. Well, you know, where have we been? We've been advocating consulting for a long period of time. I have no objection. I think we should do very much what British Columbia did with their citizens' coalition. They looked at all sorts of things beyond the four-year process. When I look at this – we're near the end of the session – it says, "To initiate a process to study." Well, to initiate a process: how long will that take? Then we'll look at the advantage and disadvantage. I mean, frankly, to the

hon. member, I see this as putting it off rather than dealing with the specific issue.

All we're saying here is that we would take a look. The member is suggesting that we take a look at the four-year mandates. It doesn't have to be November 17. It could be May 17 or whatever so that they wouldn't counteract the municipal. Again, that doesn't preclude, as the hon. member previous said, having a study in all sorts of situations that we should look at. But if we take this now and just vote this out, then this is gone down the tubes for another – well, we're told that we may not have a fall session, and the earliest we'd be looking at to initiate a process is probably next year.

The member previous, the Member for Foothills-Rocky View, is right. There is that cynicism out there. I'm not suggesting that fixed election dates will solve all that, but surely it's at least a start, to take a look at some of these things that other provinces are taking a look at. Then if we want, if we pass this and should we begin to look at it, there's nothing to say that we can't broaden and take a look at some other things. I'd like to take a look at proportional rep and some of the others. But I think this puts the whole process off for another period of time, and I would much rather, say, take a stand on one thing here and move on in that direction.

So for that reason I think Motion 508 is not needed, and I think it slows down and hampers the process of looking at democratic renewal at this particular time. I would suggest that we defeat the motion, look at the election dates, and then if we want to from this Legislature – I certainly don't disagree with going out to the public and asking what they think about democratic renewal. As all members have said, we certainly have some work to do out there with the public, but it shouldn't have to be an either/or at this stage. Let's deal with at least one concrete proposal that's being brought forward here by a government member without initiating a process that may come sometime, who knows when, Mr. Speaker.

Thank you.

The Acting Speaker: The hon. Member for Edmonton-Castle Downs.

Mr. Lukaszuk: Thank you, Mr. Speaker. It would be difficult to speak to the amendment without speaking to the motion at the same time. The Member for Foothills-Rocky View has brought a matter before this Legislature, a motion, that is very timely, and it seems to be a matter that's quite widely discussed not only in this country but in many other jurisdictions. The matter of democratic renewal is something that's very trendy at this time and perhaps sought after by Albertans.

The amendment that's brought forward by the Member for Vermilion-Lloydminster is not counterproductive. As a matter of fact, I would even argue that it further enhances the motion brought forward by the Member for Foothills-Rocky View. It gives us now a manner in which we can introduce the motion to the Alberta population and how we are going to discuss it and debate it and what process it will take.

Indeed, I agree with the Member for Foothills-Rocky View. There is a great deal of cynicism out there in the public, and it's quite palpable, and that leads to a lack of participation during our elections, both provincial and federal and perhaps even municipal. So anything we can do in this House to enhance participation, to diminish the cynicism that exists out there in the public would be laudable and would be required of us and also probably, one could argue, allow all parties to draw a high quality of candidates to run in elections, which again would benefit Albertans from all perspectives and on a nonpartisan basis.

But, Mr. Speaker, there are some issues that will have to be

considered, and those are the issues that will be addressed by the amendment by way of consultation. For example, the Member for Vermilion-Lloydminster addressed a very serious issue of collusion between both municipal and provincial elections. You know, one could argue that in Alberta we already have preset election dates because when one looks historically, at least over a couple of decades, we have them every four years almost without exception. But we know that it's counterproductive both on a municipal level and a provincial level to have two elections running simultaneously or nearly simultaneously. That perhaps would even further deteriorate participation in elections.

So what we may have to do by way of consultation is examine whether there is a requirement to amend the municipal act now and somehow offset by way of a formula or mechanism the municipal elections from the provincial, and those are things that I would like to hear about.

8:20

I think that it's an enhancement to amend the motion and to require public consultation because I don't think we have a monopoly on knowledge in this particular House. I don't think we have a monopoly on understanding the system. There are many other jurisdictions out there in the Commonwealth that have been experimenting with such renewals, with such initiatives, some to their success, some to their detriment. I think that those are experiences on which we should be drawing. Most importantly, we should be asking Albertans how they feel about it, what their ideas are, and if we are to go ahead with this – I personally think that we ought to – how they would like to see it entrenched into Alberta legislation.

So I will support the amendment most definitely because it gives us a process. I think that we should have a committee of experts out there consulting with Albertans, asking Albertans, asking experts, academia and others, within our province to tell us how we should proceed with it, but at the same time, notwithstanding the amendment to the motion, I will also support the motion in principle because I think it's very timely.

The partisanship of our politics very often makes for good theatre, Mr. Speaker, and makes for good columns in newspapers, and that is good because at least it gets Albertans involved on that level. They read about it. But we also have to give Albertans some predictability and let them know that even though historically we have partisanship, this province is run in a very methodical manner and that elections can be depended on and happen always at the same time and that Albertans can prepare for them.

So I support both the amendment, Mr. Speaker, and the motion in principle. Thank you.

The Acting Speaker: On the amendment, the hon. Member for Drayton Valley-Calmar.

Rev. Abbott: Well, thank you, Mr. Speaker. I am pleased to have the opportunity to rise this evening and address the Assembly on Motion 508, fixed election dates. I understand that the Oilers just tied the game, so it's 2-all.

The mechanics of any political system must out of necessity operate in a way which best engages and reflects the wishes of the people it governs. In Alberta I think that we've done a fine job . . .

The Acting Speaker: Hon. member, we are on the amendment.

Rev. Abbott: I'm speaking on the amendment, yeah. Like the hon.

Member for Edmonton-Castle Downs you first must talk about the motion before you can talk about the amendment.

In Alberta I think that we've done a fine job in fulfilling the second part of this obligation. Of course, the results more than speak for themselves. The wishes of Albertans are reflected very well indeed in this Assembly, but the engagement of our citizens in the political process seems to be in a downward spiral. Voter turnout continues to decrease, and political apathy is becoming more and more common. A pollster phoned a house one day and asked the resident: what is the biggest barrier to political involvement today, ignorance or apathy? The resident angrily replied as he hung up the phone: I don't know, and I don't care. With Motion 508 as amended, I believe that we are being presented with an opportunity to take positive steps towards resolving this problem.

Obviously, studying the creation of fixed election dates will not be the only solution. Like any other problem, there are several factors which must be considered. Like most of the issues we deal with in this Assembly, the matter of electoral reform is extremely complex and doesn't lend itself to generalizations or quick fixes. I do believe, however, that fixed-term elections would be a step in the right direction or, as the amendment says, at least something worth considering.

Encouraging a specific and legislated electoral timeline would not only go a long way toward restoring public faith in the political system; it might also serve to increase the productivity of government as well. How so? Well, one of the biggest factors would be the removal of the election cycle uncertainty with the establishment of a set date. In the business world deadlines serve to set a definitive framework in which stated tasks must be accomplished. They provide motivation, and they allow employees to more effectively manage and distribute their time. That's not to say that our current electoral system breeds inefficiency. Quite the opposite. Whether an election is called in the next day or the next two years, I myself and each one of my colleagues will still be working as hard as we possibly can to represent the wishes of our constituents. We will continue to achieve great things on behalf of Albertans, but I think a fixed election date would help us to work more effectively and achieve even more.

The Alberta government was the first in Canada to adopt the practice of producing three-year business plans for each ministry. This was an innovative idea in 1993 and remains an excellent idea today, Mr. Speaker. These plans serve to not only showcase the clear and definitive direction of ministries; they also provide an organizational performance framework that increases both productivity and public confidence. Now, this is only one example of the Alberta government's long-standing dedication to political accountability and results-based improvement, a tradition that we can and must continue to build upon.

To guarantee that the people of Alberta will continue to benefit from a transparent and accountable government, we must continue to find new ways to adapt to changing demands and perceptions. Thus, the organizational framework imposed by fixed election dates as stated in the amended motion could serve in much the same fashion as government business plans. The establishment of a set time frame in which to work could enable the government to more aggressively develop and pursue its stated objectives. This drive could inspire voters to become more involved, which in turn could inspire more action. The cycle, once begun, would be self-perpetuating, the end result being . . .

The Acting Speaker: Hon. member, Edmonton-Rutherford is rising on a point of order.

Point of Order Relevance

Mr. R. Miller: Thank you very much, Mr. Speaker. In our Standing Orders where we're talking about debate on an amendment, 20(2) reads, "A member, other than the mover, speaking to the amendment must confine debate to the subject of the amendment." I would submit that the amendment specifically talks about removing the clause that says "introduce legislation" and then refers to "initiate a process to study the benefits." I would expect that the Speaker would ask all members to do as the Standing Orders ask, and that is to speak directly to what the amendment is asking us to do so that then we can vote on the amendment, yea or nay, and proceed with debate on the main motion.

Thank you.

The Acting Speaker: On the point of order, the hon. Member for Drayton Valley-Calmar.

Rev. Abbott: Yeah, on the point of order, Mr. Speaker. I've mentioned the amended motion several times. I'm trying to put some argument in for why I agree with the amended motion. I gave the hon. member the courtesy of speaking without interrupting him on a point of order, and I would hope that he would do the same for me. I'm simply speaking to the motion as amended because I believe that the amendment should be supported. I've made that case several times. I've made it very clear that I'm talking about the amended motion, and I would like to proceed with my speech.

The Acting Speaker: Anybody else on the point of order?

Mr. Snelgrove: Mr. Speaker, on the motion that we amended, as the hon. member across said – he didn't finish the amended part, that said that we would continue to introduce legislation. I think his point of order about this deleting legislation is incorrect. In fact, the amended motion still says, "With the intention of introducing legislation based on the recommendations arising from that study."

Quite simply, Mr. Speaker, I'm saying to consult Albertans and then introduce legislation, like the hon. member is talking about, as opposed to simply going ahead and introducing legislation without consulting.

The Acting Speaker: Anybody else on the point of order?

Hon. members, today we were dealing with a motion, and an amendment was brought forward by the hon. Member for Vermilion-Lloydminster. We are governed by the Standing Orders, that each one of us has subscribed to. As the hon. Member for Edmonton-Rutherford pointed out, Standing Order 20(2) states, "A member, other than the mover, speaking to the amendment must confine debate to the subject of the amendment."

Those are the Standing Orders. I am a servant of this Assembly, and it's my job to enforce the Standing Orders, that each one of you has approved. I agree that there is a point of order, and I'll caution everybody who is speaking. I have a list of people who wanted to speak on the motion that was before us, and then an amendment came forward, and anybody can speak. Technically we have 10 minutes at a time for a person to speak, and once the clock runs out at 9 o'clock, debate stops, we call for a vote, and that's how it will happen. I would caution everybody else who wants to speak on the amendment to stick to the amendment that's before us.

The hon. Member for Drayton Valley-Calmar.

Rev. Abbott: Well, thank you, Mr. Speaker. Had that point of order

not happened, my speech would have long been over by now, but I will finish it anyway.

8:30

Debate Continued

Rev. Abbott: While I enthusiastically support in principle the concept of fixed-term elections as proposed by the amended Motion 508, I think we must also give any future legislation to this end a great deal of careful consideration. That's why I agree with this amendment, Mr. Speaker.

I've touched on some of the potential benefits, but we also must be acutely aware of the very real negative consequences that could accompany any hasty or ill-conceived changes to the Election Act. The objective of electoral reforms is the improvement of the democratic process. As such, they must only be legislated after careful consideration and an objective consideration of all possible implications. That's why I agree with the amendments to Motion 508.

This evening's debate on this motion has been vital in this regard, and I certainly look forward to hearing the remainder of it. Thank you, Mr. Speaker.

The Acting Speaker: Anybody else on the amendment?

The hon. Minister of Municipal Affairs.

Mr. Renner: Well, thank you very much, Mr. Speaker. It's a pleasure for me to rise and speak in favour of the amendment. I want to talk specifically about what the public consultation as suggested by this amendment would deal with. I think that in order to do so, it's important to put this issue into context and to understand that while I certainly am sympathetic to the original motion in that there are some pros involved with fixed election dates, there are also some cons. I think it's important that we put this into context. I'd like to talk a little bit about the pros and cons and then at that point, I think, elucidate to all of the members why it's important that we consider the amendment's proposal; that is, to initiate a process to discuss and in one way or another study the benefits and disadvantages of implementing the fixed election dates.

It's important for all members to understand that a number of other provinces, including British Columbia, Ontario, and Newfoundland, have each passed legislation setting fixed election dates. The federal government has also commented on it and is in favour of fixed election dates for federal elections although no amending legislation has been introduced. New Brunswick, Manitoba, P.E.I., Quebec, and Saskatchewan have all mused to various degrees but have not set out any specifics to the best of my knowledge. Finally, of course, municipal elections, which I'm extremely familiar with, here in Alberta are held on fixed dates.

There are a number of factors weighing in favour of the opposition to or the implementation of fixed election dates in Alberta. On the positive side, planning for elections would be easier, particularly for the Chief Electoral Officer, who'd also be able to conduct enumeration, hire and train staff, and produce election materials all based on a preset schedule. Citizens may be better able to plan and to participate or involve themselves in the election process, not just as voters but also as possible candidates or, certainly, as volunteers. It would also prevent a scenario in which existing governments can manipulate the process to either extend their time in office or find a more strategic time for an election depending upon the issues of the day. Political parties may be better able to attract qualified candidates willing to serve knowing that they could better plan their career and personal lives around the certainty of when an election is coming. There are some very positive aspects to this that I think

could improve accountability to the public. In fact, in 2004 Environics Research Group reported that 81 per cent of Canadians preferred that federal elections be held on a fixed date every four years.

There are, Mr. Speaker, also some factors that can be seen as negative to the holding of elections on set dates. Primarily, there is some thought that setting fixed election dates might have the effect of extending the campaign season. Rather than a concerted campaign focus from the moment the writ is dropped, there's a fear that electioneering could begin by some eager candidates months before the set date. The worry is that some candidates, and in particular incumbent candidates, could lose focus on the issues of governance and instead put all their energies into getting elected or, in the case of incumbents, re-elected. It may also increase the risk that an Alberta election could be scheduled at the same time as the federal election although this year I think we had an opportunity to see that that can be worked around.

So there are a number of initiatives, I think, that we should give pause for thought that complement the amendment that's before us, suggesting that we should implement a study to have a look at the benefits and disadvantages of implementing the system.

Now, Mr. Speaker, if the determination is made that the election dates are appropriate for provincial elections in Alberta, consideration ought also to be given to the question of whether the dates should be completely fixed or whether more flexibility is appropriate. The more flexible date, perhaps specifying a one-month or two-month period in which an election must be held, provides flexibility to deal with unforeseen circumstances in a way that the completely fixed date, such as a third Monday in November, does not.

Secondly, we would also want to give consideration as to what would happen if the Legislature is dissolved in a period between one fixed election date and the next. Is the election date unchangeable and unaffected, or would it simply renew itself on a four-year basis? In that case, Mr. Speaker, there may be some issues around the inflexibility of that fixed date, so my earlier comment would apply.

Again, these are the kinds of issues that I think this study would have to take into account. Any kind of legislation that would be introduced would have to take all of these kinds of issues into account.

Mr. Speaker, on final thought, I think we should give some real good thought as to whether or not fixed election dates should be considered as part of a more comprehensive package of electoral reform. Currently, as members know, the Chief Electoral Officer has brought electoral reform issues to the attention of our all-party Committee on Legislative Offices. I might suggest that this committee or a committee similar to this committee may well be the process that members might want to consider should this amendment be approved tonight.

I encourage members to support the amendment and give some of my ideas, my thoughts a little bit of thought of their own when they make their decision on how they should feel towards this amendment.

The Acting Speaker: The hon. Member for Edmonton-Mill Woods.

Mrs. Mather: Thank you, Mr. Speaker. I, too, will look at the amendment to a motion that I consider to be very important. I want to thank the hon. Member for Foothills-Rocky View for bringing the motion forward and for this opportunity now to discuss the amendment. The motion is to establish fixed election dates for general elections in Alberta. The impact of that would be to make the timing of elections nonpartisan, thereby increasing accountability of government to the electorate and to provide certainty to the elector-

ate as to when elections will be during a relatively convenient time of year. Now, this amendment, which I oppose, is stating that there's uncertainty and we need to find out more about what our electorate are thinking.

I believe that Alberta has a democratic deficit. This is something that's discussed quite openly in our province. The causes are complex and require multiple changes. This change that was suggested in the motion before the amendment of course won't fix everything, and it certainly won't do it overnight, but it's a good way to begin the process of increasing accountability and reducing voter cynicism.

I know that a national poll in May 2004 found that 81 per cent of Canadians want fixed election dates. There are all kinds of examples in this country of provinces addressing the question of fixed election dates. B.C. and Ontario have already implemented fixed election dates. B.C. already had its first fixed election on May 17, 2005. New Brunswick's Commission on Legislative Democracy has recommended fixed election dates on the third Monday in October. The P.E.I. government and the opposition leaders have also indicated support. Fixed election dates were part of the Conservative Party of Canada platform. Saskatchewan and Quebec have also engaged in significant discussions about electoral reform.

We know already that fixed election dates exist at the municipal level and that that works very well. I think that this amendment, which would delay something that's very important and, to me, clearly needed, is unnecessary.

Leaving the calling of elections entirely at the discretion of the sitting government means that elections can be called when it's politically convenient. Elections should be about the regular process of holding governments accountable. They should be held on the electorate's timetable, not the government's, and I believe that that's what this motion is all about. I don't think that we need to delay it by accepting this amendment.

8:40

Considering the four-year timeline that is suggested in the motion, in practice the average maximum in most jurisdictions has tended to be approximately four years. Therefore, I think that in practice this will not make elections more frequent. This is about certainty, predictability, and accountability, greater certainty to the voting process for parties, candidates, and voters.

I believe women's groups in particular have indicated that this would help more women candidates plan to run for office. Greater ability to plan and certainty about the term could well attract greater quality of candidates and perhaps reduce cynicism related to partisan timing of elections. Fixed dates are part of a broader attack on voter apathy and declining voter turnout. Fixed dates could be coordinated with greater nonpartisan public information campaigns, particularly for first-time voters. There are many more pros that I can see, and I still want to reiterate that in terms of this amendment I believe it is unnecessary.

When you look at this idea of having fixed election dates as a breakthrough in Canada, it's actually quite commonplace elsewhere in the world. In looking at Fixing Canada's Unfixed Election Dates, Henry Milner assembled pertinent information on the rules regarding election dates in some 40 democracies world-wide. Only a quarter have unfixed election dates, another reason why I oppose this amendment, which would delay something that I think is urgently needed to begin to address our democratic deficit.

Would Canadian democracy be better served if Parliament and the other provinces adopted fixed voting dates, following the lead of BC? After examining the standard arguments, Milner finds that on

balance the fairness and administrative efficiency of fixed elections outweigh the added cost due to longer campaigns. More importantly, he argues, fixed election dates can be an important element in a comprehensive strategy to address the democratic deficit. They can help remove seasonal obstacles to voting, reduce voter cynicism at the manipulation of election dates for partisan ends, and attract more representative candidates – especially women – by allowing them to plan well in advance.

Beyond this, fixed election dates could enhance the effectiveness of a variety of measures designed to actively boost voter turnout. The planning and staging of public events, such as seminars, adult education activities, and public information campaigns, [forums] to raise interest and involvement in public affairs can only benefit from having the date of the next election in view.

I know from the high school aspect that knowing when an election would come would help plan curriculum that would provoke some interest and some participation in the election process, whereas now there is always uncertainty, and then they get a very little bit of time to start planning forums and that sort of thing.

With young people voting less, civics education is a key measure.

With fixed voting days [I believe that] teaching civics could be more effective. In planning the content of civics courses targeting the young people who are about to become citizens and voters, educators would know the dates of the upcoming federal and provincial elections . . . so they could better incorporate these elements and line up knowledgeable resource people for their classes.

Milner recommends that a precise election date be adopted. He argues in favour of early fall for the date, explaining that formal campaigning would thus begin in mid-August, which marks the end of the vacation period and the beginning of the political season. Third, in case of a premature election he recommends

an arrangement like the one chosen by BC and Ontario, under which the calendar resumes with the next regular election, in the fourth calendar year following the unscheduled election.

So, again, we already have people in this country moving forward, taking steps to address this deficit. I don't think there's any question that the appetite is there from the electorate. So, again, I am not supporting this amendment.

A number of arguments have been advanced in favour of change, and the most common critique of unfixed voting dates has to do with fairness. Why should the party in power have a special advantage in planning electoral strategy due to its inside knowledge of when the next election will take place? Why should its leaders be permitted to time an election to exploit conditions favourable to their re-election? Governments without fixed elections can manipulate economic policy and election dates so as to face voters at a time most conducive to attaining their electoral objectives.

As I conclude, I think Canadians are demanding changes in ethics and in accountability. They want a strong Canada resting on ethically based democratic institutions. They want honesty, fairness, and transparency to be the rule, not the exception in political life. Wherever we can, we must put an end to backroom opportunism in politics. I believe that this motion is a worthy one, that it answers a need. I do not support the amendment because I think this motion is important. We should support it now as an important step to address our democratic deficit.

Thank you.

The Acting Speaker: On the amendment. The hon. Member for Cypress-Medicine Hat, followed by Edmonton-Ellerslie.

Mr. Mittel: Thank you, Mr. Speaker. I'd like to thank the hon.

Member for Vermilion-Lloydminster for proposing an amendment to Motion 508 as proposed by the hon. Member for Foothills-Rocky View. An amendment to initiate a process to study the benefits and disadvantages of having fixed election dates is very important, I think. There are comments from Albertans that we have not consulted with Albertans, and it is the process this government has put forward that we will consult with Albertans on issues as important as this. I don't believe we have consulted with Albertans on this.

Take, for instance, Mr. Speaker, municipal governments, urban and rural. They have not been consulted, and I know that they have fixed elections. By looking ahead, I think they would like to see what effect this would have on their particular elections because their elections are in three-year cycles. If ours were perhaps in four-year cycles, there certainly are times when they're going to overlap each other and perhaps happen in the same year. Depending on the time it may happen in the same time of year. People certainly have spoken to me when I've met with them about having a fixed election date so that they knew what would happen ahead, but at the same time I don't think that they've been given the pros and cons for this. I think they want to know what would happen if, in fact, there were fixed elections, both pros and cons.

I think that people are not necessarily happy with elections. Take 2004, for example. There were three elections in 2004. By the time the provincial election came around, people were very tired of elections, and I think that we have to probably believe that the poor voter turnout had something to do with the fact that this was the third election that they had gone to in that year.

So, Mr. Speaker, I think that we have to consult with Albertans. We have to listen to what they have to say and listen to the pros and cons on this before we go ahead with something that could be very detrimental.

The Acting Speaker: The hon. Member for Edmonton-Ellerslie.

Mr. Agnihotri: Thank you, Mr. Speaker. It's my great pleasure to rise and speak against the amendment urging the government "to initiate a process to study the benefits and disadvantages of implementing fixed election dates with the intention of introducing legislation based on the recommendations arising from that study." There are lots of reasons.

First of all, as my colleague already mentioned, this is not a bill; this is a motion. A motion is always urging the government to consider. Okay. So the member from Lloydminster in this amendment is urging the government. This is not a bill, but this is a motion.

8:50

The second point I want to raise is that 81 per cent of the poll is in favour of the reforms. This is the CBC. I mean, I read it in the paper a long time ago. As one of the speakers already mentioned, there are at least six or seven provinces considering adopting this reform. I commend the hon. Member for Foothills-Rocky View for introducing this motion. I think we need sweeping reforms in Canada as well as Alberta, and this is a good motion. I think instead of just introducing amendments which are according to me not needed at this time – anyway, we are dealing with this amendment.

This particular issue, this particular motion is a nonpartisan issue, and we should all consider it very seriously because, as I said, 81 per cent of the people all over Canada – 41 countries throughout the world, their lower parliaments, Legislatures, have adopted this reform, and I don't know why we need to study the benefits and disadvantages. I mean, this is not the right step. I think that this motion, this idea is badly needed at this moment. If we pass this

motion, I'm urging the government to consider these fixed dates for general elections. If there's a minority government, then it's an exceptional case.

As the member has already said, most of the civic governments have already adopted this reform. I don't know of any reason why we need a study. I mean, the government studies so many other issues, and we spend lots of money. After that, if you see the record, even after spending lots of money, we still couldn't implement those studies.

I request that the member withdraw this amendment. I think it's not a good idea because 40 countries in the world have this system, and we badly need the sweeping reforms not only in election dates but electoral reforms. There are so many other things we can introduce at a later stage.

Other things I want to discuss are some pros and cons about this motion. The greater certainty in the voting process for the parties, candidates, all the voters. Women's groups in particular have indicated that this could help more women candidates plan to run for office. I think this is an excellent idea. If we have a fixed date, it will solve so many problems, especially in the electoral system. A greater ability to plan. Certainty about the term could well attract a greater quality of candidates – I think one of the other speakers already mentioned this – and reduce cynicism related to the partisan timing of the election.

Fixed dates are part of the broader attack on voter apathy and declining voter turnout. We see that not in this election but in the 2000 federal election there was only an 18 per cent turnout between the ages of 18 to 20, so if it helps the the young generation to come out and participate in the election system, I think it's a good idea. Fixed dates can be co-ordinated with the greater nonpartisan public information campaigns, particularly for first-time voters. It also improves accountability, transparency, and judgment of the voters based strictly on the record over a set period, not after economic upturn or politically motivated spending. The voting process is more accessible to certain voters based on the seasonal case availability.

Mr. Speaker, if we stick with this motion, we will have better electoral planning by election authorities, including ensuring an up-to-date voters list for each election. Fixed election dates can provide for co-ordination with the otherwise costly by-election. A certain set deadline to achieve things would focus the minds of a sitting government.

As we all know, the present government here in Alberta is not choosing the fall election date sometimes for the sake of voters but for their own political purposes. It's time to stop playing politics with the election dates. I think that's the idea, that we have a fixed election date. Calling an election less than four years into their mandate sends voters to the polls unnecessarily. I think it's ridiculous. I mean, we should look at it very seriously. The Alberta Liberal plan for democratic reform seeks to end the era of a closed-door government. Our first move would be to establish fixed dates for elections as the hon. member – I mean, I commend him for introducing this motion and asking the government to look into it. Elections should be held on fixed dates that suit the democratic wishes of Albertans, not the government. At this moment the government always sees which way they benefit. They call the election whenever it is suitable for them. This is not right. We are elected by the people, and we should always listen to the wishes of Albertans.

The Alberta Liberal plan for the fixed election dates calls for elections to be held on the same day every four years. The day would be determined by an all-party committee. Under this plan Albertans could count on being able to hold the government to account at regular, consistent intervals. The government wants an

early election for all the wrong reasons. Suppose auto insurance prices are going up. The government sometimes delays the election. Sometimes they call the election early. I mean, they are playing political games.

The Acting Speaker: On the amendment, the hon. Member for Foothills-Rocky View.

Dr. Morton: Thank you, Mr. Speaker. I agree with Lloyd from Lloydminster that a fuller public consultation would be appropriate. It would enhance my motion, so I consider that a friendly amendment and would encourage people to support it.

I'd like to respond to one criticism brought by the hon. Minister of Municipal Affairs that fixed election dates might lead to longer campaigns, and I draw the Assembly's attention to a recent comment by Peter Dobell, who is the founding director of the Parliamentary Centre, an organization that studies parliamentary reform projects. He rejects the argument that fixed election dates will lead to longer campaigns. He says that the longer American campaigns are driven by the need to raise large sums of money, which doesn't apply at the federal level because of public financing and applies with not much force at the provincial level because of the smaller amounts required.

9:00

To conclude, I'd like to thank the other members of the Assembly and especially members of the opposition parties for their contributions to this debate and urge all members to support the motion as amended.

Thank you.

[Motion on amendment carried]

The Acting Speaker: Anybody else on the motion as amended? The hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Thank you very much, Mr. Speaker. I've chosen to do things in the correct order tonight.

I know that I don't have very much time left, but I would like to speak to the motion itself, Motion 508, as recently amended by this House. I find myself by and large agreeing with the Member for Foothills-Rocky View, which doesn't happen very often. It wouldn't have happened this afternoon, but certainly most of his comments tonight I can agree with. I would only suggest that we should extend the debate to include the entire openness and accountability package which has been tabled in the federal Parliament by his Conservative cousins.

A lot of the points have been touched on already tonight, Mr. Speaker, but I would like to point out just a couple of them. I really do believe that this is an idea whose time has come. As somebody mentioned earlier – I believe it was a minister from the other side, talking about the Environics poll in May 2004 that showed that 81 per cent of Canadians favour moving towards fixed election dates. Certainly, that would coincide with what I hear on the doorstep.

There was a lot of discussion about encouraging voter participation. One of the things that we saw most recently in Alberta in the 2004 election was some voter confusion over the fact that we'd had three elections so close, in fact within a period of six months. You throw the U.S. federal presidential election into that mix, and there was a lot of confusion. One of the comments I heard time and time again was: "Why are we having an election right now? It's only three and a half years since the last one."

I think, clearly, that if you look at the example of municipal elections, it's been shown for many years that fixed election dates

work. People know when to expect an election. In fact, Mr. Speaker, I'm not going to suggest that they build their lives around an election date, but certainly it's not uncommon to hear instances where people accommodate an election date by deferring their leaving on holidays or making sure that they participate in an advance poll before an election, that sort of thing. Often if an election is sort of sprung on us by surprise, those sorts of accommodations aren't even necessarily possible or, at least, the task may become too onerous. I'm thinking of snowbirds, for example. When they're spending the winters away in the south, there is an opportunity for them to vote in an election, but the process is such that often they choose not to be bothered with it because it takes a little too much time and effort. So anything we can do that would encourage people to be involved and give them the opportunity to be involved more readily, certainly I would support that, and indeed the entire opposition caucus would support that.

There was some talk about extending . . .

The Acting Speaker: I hesitate to interrupt the hon. Member for Edmonton-Rutherford, but pursuant to Standing Order 8(4), which provides for up to five minutes for the sponsor of a motion other than a government motion to close debate, I would invite the hon. Member for Foothills-Rocky View to close debate on Motion 508 as amended.

Dr. Morton: Thank you, Mr. Speaker. As I mentioned earlier, one of the great virtues of our parliamentary system is its ability to adapt to changing circumstances. The experiences in British Columbia, Ontario, and Newfoundland show that in response to voter cynicism and a declining interest in political elections, fixed election dates offer not a complete but a partial remedy to that problem and a step forward in addressing the democratic deficit. I think that these concerns apply with just as much force in Alberta as they do at the national level, and I think that the motion as amended tonight addresses that concern and deserves the support of the members.

Again, I'll just thank all members for their remarks and urge them to support the motion as amended. Thank you.

[Motion Other than Government Motion 508 as amended carried]

The Acting Speaker: Hon. members, a number of you were looking at me when the clock struck 9. Just for your information, according to our Standing Orders we have 60 minutes for debate on the motion itself. We had a point of order that took about four or five minutes away from the debate, and that's why we went beyond the 9 o'clock mark, to complete the 60 minutes.

head:

Government Motions

Address to the Legislative Assembly by the Governor General

18. Mr. Renner moved on behalf of Mr. Zwozdesky:

Be it resolved that the Assembly invite Her Excellency the Right Honourable Michaëlle Jean, CC, CMM, COM, CD, Governor General of Canada, to the floor of this Chamber to address the Legislative Assembly on Thursday, May 4, 2006, and that this address be the first order of business after Prayers and that the ordinary business of the Assembly will resume upon the conclusion of Her Excellency's address. Be it further resolved that Her Excellency's address become part of the permanent record of the Assembly.

[Government Motion 18 carried]

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

Bill 29
Environmental Protection and
Enhancement Amendment Act, 2006

[Adjourned debate April 25: Mr. Mitzel]

The Acting Speaker: The hon. Member for Calgary-Mountain View.

Dr. Swann: Well, thank you, Mr. Speaker. It's my pleasure to stand and speak to Bill 29, Environmental Protection and Enhancement Amendment Act, 2006. I welcome the opportunity to encourage enhancements to our environmental protection in Alberta. I believe a good deal of this bill provides meaningful strengthening of existing legislation, particularly in relation to emission controls, trading, codes of practice for low-risk activities, accessibility to sound environmental information.

However, I do have some real concerns about one area of legislation, that of contaminated sites and their management. The Environmental Protection and Enhancement Act requires the reporting and immediate cleanup of spills and accidental contamination when it occurs. The principle of polluter responsibility and polluter accountability for costs of cleanup is fundamental and must be strengthened, not weakened. I will therefore be bringing forward several suggestions to try to ensure that such is the case, to strengthen already good legislation under the Environmental Protection and Enhancement Act and the amendments proposed there.

Mr. Speaker, Albertans are increasingly anxious about the accelerating rate of industrial development in Alberta, particularly in this time of booming oil and gas prices and the headlong rush for profits. We already have over 350,000 oil and gas installations here and over 370,000 kilometres of pipelines in various states of aging and corrosion. Our air, water, and soil are under threat, and we must take this threat very seriously now. Monitoring is showing progressive degradation of water, both surface and groundwater, and soil loss and contamination in relation to industrial activity. Virtually every section of this province has now got signs of human activity.

9:10

Albertans have placed their trust in Alberta Environment as the regulatory authority to establish science-based standards beyond which contamination will not be allowed and to which industry will be held accountable. New bills must move the protection and enhancement agenda forward and ensure that our children and grandchildren have access to wildlands in perpetuity, species protected rather than diminished, and the natural capital of our landscapes, which are valued for both monetary and quality of life purposes.

An integrated land-use plan and framework is absolutely essential for us to establish the kinds of priorities and protection that our environment and our human interests and values need. The natural history of human incursion across the land both here and elsewhere is consistently and progressively damaging. For us not to move forward with stronger legislation to ensure sustainable development measured in economic, social, and environmental terms would be a travesty of our role as regulators and managers and custodians of this infinitely valuable legacy that we inherited and must pass on to our offspring. Therefore, we must, in amending the Environmental Protection and Enhancement Act and other legislation on the environment, ensure that we do not in any way weaken our capacity to monitor, analyze, and hold accountable those people, companies, and organizations that allow release of contaminating substances.

Let me take the opportunity at this time, though not directly

related to this bill, to applaud the minister for proposing the environment endowment fund, a fund which is long overdue and would be much supported by this caucus, fully funded by industry, and again in keeping with the responsibility of industry to clean up adverse effects.

The Environmental Protection and Enhancement Act, 1994, deals with the release of substances into the environment and sets out requirements for the reporting of such releases to Alberta Environment related to air, water, and soil. These have to be addressed and even more consistently enforced. Further on in one of the sections under the Environmental Protection and Enhancement Act, and I quote: The director, in an approval, may specify more stringent limits than are in the substance release regulation but may not relax the limits. It is expected that substance releases to the environment will be minimized by applying pollution prevention practices and the best use of available demonstrated pollution technology.

Several elements, then, are missing from this Bill 29, and I would seek over the next couple of days to work with the minister, to talk about some possible amendments which have to do with the following issues.

Number one, to ensure that all spills are reported promptly and cleaned as soon as possible, not postponing them for years without orders or prosecution and cleaned up at the whim of the business or industry.

Secondly, more and more contaminated sites are deemed too expensive to clean up to equivalent land use, to be free of contamination, and are therefore allowed to follow what is termed a risk management approach, which means covering the contaminated soil in many cases – and this is being suggested for the old Hub Oil site in Calgary – and then monitoring the groundwater around the site to see whether any leakage actually occurs off site or into the groundwater. This is not responsible cleanup, and it's not holding responsible parties accountable for equivalent land-use reclamation.

Thirdly, under the amendments companies will be able to transfer a contaminated site to a municipality in lieu of back taxes or as a gift or where the site is orphaned; that is, has lost its owner. Albertans expect that where those lands are contaminated, they be properly reclaimed and the soil remediated before any such transfer. This is consistent with the principles of polluter paying and polluter accountability.

Fourthly, under the amendments inspectors would be given the responsibility of assessing contaminated sites. It's not clear that there would be at least a minimum basic set of guidelines for them to follow, beyond which they would have some discretion, but that minimum baseline set of criteria must be there. If this is the case, there could clearly be inconsistent reclamation and inadequate reclamation in some cases. I would want to ensure that that was not part of the intention of this amendment.

Finally, the passing of authority for site assessment and certification to appointed inspectors as opposed to staff within the department would raise the question of potential political conflict of interest and political appointments. I think all of us would agree that we must avoid this as much as possible.

Mr. Speaker, I think those summarize my main concerns, and I would welcome some opportunity for further discussion on those points. Thank you.

The Acting Speaker: The hon. Member for Edmonton-Beverly-Clareview.

Mr. Martin: Thank you, Mr. Speaker. There are certainly some good parts to the bill, but there are some things that are a little disconcerting. Perhaps it's because we need more information.

The bill is a major bill bringing forth six amendments, and as I say, most of it would probably be good, but there are some concerns that we have. I would like to put them out, Mr. Speaker, perhaps for some more debate or amendments in the committee stage.

The proposed amendment relating to the minister's right to delegate to any person a great many of the minister's duties and obligations is somewhat disconcerting. I know that the intention is that it may give Alberta Environment the flexibility to work closely with environmental experts of great renown such as Dr. Schindler, for example, but what is to prevent this partnering from occurring with so-called environmental experts tied to the oil industry? In other words, what oversight is available and guaranteed to prevent conflict of interest in such partnering?

I would point out, Mr. Speaker, that the Environmental Law Centre has contacted the Minister of Environment's office, I'm told, to discuss its concerns with Bill 29. I believe that they have recommended – and it seems to me to make some sense – a public registry of all delegations and transfers of power as well as guaranteed access to all accompanying documentation: contracts, agreements, et cetera. Such an amendment would recognize that it may be beneficial for Alberta Environment to partner with various groups and individuals in certain situations yet recognize that public accountability, guaranteed by such a registry, would help to ensure not only the judicious use of delegation but proper completion of statutory obligations as delegated.

I guess my question would be: that has gone, my understanding is, to the Minister of Environment, and I wonder if the hon. member would be discussing such amendments relating to the public accountability of delegated powers. I think that if they did that, they could follow the purpose of having more flexibility of dealing with known experts in the area, but also there would be some recognition to the public that this was not being abused. So I wonder if at some point he would at least comment if they're taking a look at that.

The government press release announces that "another proposed change will improve programs for reclamation of coal and oil sands mines, and ensure progressive and ongoing reclamation of these sites is promoted and acknowledged." Well, nobody is going to argue with that, but I guess the question that would flow from that is: how exactly is this promotion of reclaimed sites accomplished by the bill? For instance, how does the minister propose to promote past reclamation when, according to the Auditor General, the ministry does not obtain sufficient financial security from current sites to ensure reclamation? So the point is that if the Auditor General is concerned about what we're doing now, how do we go back in this bill and promote the reclaimed sites? It's going to take some money, I would think.

9:20

I probably know the answer to this, but I'll throw it out: why is so much emissions trading relegated to regulation? I understand that you need some flexibility from time to time, but is there nothing we can do in legislation to ensure proper emissions thresholds? If this section's purpose, as I say, is to strengthen emission controls, it seems to me that there should at least be some part of the legislation that we can look at rather than regulation. Again, the member is well aware that with regulations, the public, you know, and the Legislature for that matter, have no control over that. At least could the hon. member clarify what some of these regulations might look like? How would they be determined? What is to prevent industry from setting its own thresholds given that the minister may choose to delegate to industry its own regulation? So I think it's clear that we have to have some more knowledge of this, Mr. Speaker.

Given the extension of reporting and remediation responsibilities

backwards to before the EPEA was enacted, section 12, and given that the Auditor General's 1998-99 report found that Alberta Environment was not collecting sufficient security to adequately cover costs of remediation – in 2004-2005 this program still had not been addressed – we have a serious problem here going into the present. My question would be: what does this new backwards extension of remediation responsibility actually amount to, and again how does the hon. member respond to the Environmental Law Centre's concerns regarding reporting of historical releases?

Without making failure to report such releases an offence, it can easily be argued that this amendment has no teeth. You know, there has to be a stick there too because, otherwise, you're not going to know. I guess the question would be: would the hon. member consider the amendments proposed by the Environmental Law Centre, those relating to sections 227 and 228 of the original act, making failure to report historical releases an offence? It seems to me that we have to do that if we're serious about the reclamation, Mr. Speaker.

Now, I guess the question that also has to be asked is: what about companies that are now defunct? I think the Member for Calgary-Mountain View was alluding to that. I guess the only answer to that is the Alberta taxpayer left holding the bag in these cases. How do you go after defunct companies? It's very difficult. But is there a process there, or is that just going to be something that we have to bite the bullet on?

The hon. Minister of Environment mused a while ago, and we wondered if the member knows or the minister can relate to this, about an environmental royalty initiative for covering the costs of reclamation projects. That might be some way, at least, to begin to look at it, Mr. Speaker.

There's just one other area, Mr. Speaker, that I want to talk about, and that's a change where previously section 112 read:

- (a) take all reasonable measures to . . .
- (ii) remove or otherwise dispose of the substance in such a manner as to effect maximum protection to human life, health and the environment.

Now the proposed amendment to section 12 would read:

- (ii) remediate, manage, remove or otherwise dispose of the substance in such a manner as to prevent an adverse effect or further adverse effect.

It seems to me that that's almost a step backwards. The original measure seemed to me to be stronger in terms of what it was saying. While we, of course, recognize that there was a wide variety of techniques and technologies resulting in both immediate and progressing reclamation of polluted sites, as I say, the original section seems to be much more demanding than the proposed amendment. We're suggesting to the member: why not continue to require "maximum protection to human life, health and the environment" as well as "remediate, manage, remove or otherwise dispose of the substance in such a manner as to prevent an adverse effect or further adverse effect"? Read this way, the amendment would actually strengthen remediation responsibilities rather than water them down. So I would hope that they might take a look at that.

Mr. Speaker, those are the major concerns I have. I may have to look at, in committee stage, amendments and others, but we'll wait and see what the hon. member has to say.

Thank you for the time, Mr. Speaker.

The Acting Speaker: The hon. Member for Edmonton-Mill Woods.

Mrs. Mather: Thank you, Mr. Speaker. The object of Bill 29 is to amend the Environmental Protection and Enhancement Act to strengthen emission controls, clarify clean-up requirements for

contaminated sites, establish codes of practice for low-intensity and low-risk activities, enhance the ability of Alberta Environment to partner with a broad range of individuals or groups, and make environmental information more accessible to the public.

I find that there is a series of amendments in Bill 29 that are designed to improve the government's response to the cleanup and remediation of historical contaminated sites. While this is a positive move in regard to the fact that some of the amendments are consistent with the recommendations of the Contaminated Site Stakeholder Advisory Committee, including stakeholders such as the Environmental Law Centre and Toxics Watch, these amendments fail to fully implement the CSSAC recommendations in a singular and integrated effort.

There are too many problems with other aspects of this bill to support without significant amendments. My concerns come from communication with the Environmental Law Centre. The Environmental Law Centre, ELC, is a registered charity incorporated in 1982 to provide an objective source of information on environmental law and policy in Alberta and Canada. The ELC's mission is "to ensure that laws, policies and legal processes protect the environment." In pursuit of this mission the ELC seeks to achieve the following: "enactment and effective enforcement of sound environmental law and policies; and [effective and] informed public participation in environmental regulatory, law-making and decision-making processes."

They are pleased to see the expansion of protection for municipalities from liability for contamination. This provision is consistent with the recommendations of the Contaminated Site Stakeholder Advisory Committee, and it supports the enabling of creation of a broader range of documents by the minister as set out in section 3 of the bill. They see this as positive, but we suggest that section 3 be amended to include a requirement to undertake public consultation as an initial step in the development of such documents.

They are less supportive of section 9, which expands the range of documents that can be incorporated by reference into regulations under the Environmental Protection and Enhancement Act. Such a step has the potential to make it much more difficult for Albertans to determine and understand regulatory requirements. Alberta Environment must be strongly committed to broad public access to these documents and to clearly and explicitly incorporating such documents, where merited, into the regulations.

Another concern stated by the Environmental Law Centre is regarding sections 4 to 6 of the bill, which expand the scope of delegation and transfer of administration of powers and duties under the act from government employees to "any person." They understand that such a change will facilitate the implementation of programs such as third-party reclamation or remediation certification. But the extensive scope of these amendments without clear checks and accountability requirements is the basis of the concern. These sections, without amendment to include such requirements, are inconsistent with basic principles of public accountability in relation to regulatory responsibilities. It will prove very difficult for the public to assess whether statutory responsibilities delegated or transferred under these provisions are properly carried out.

So the suggestion is that sections 4 to 6 be amended to provide for a publicly accessible register of all delegations and transfers of administration made under the act, which would include access to the relevant agreements or other documents. These provisions should also require annual public reporting by parties to whom powers have been delegated or transferred.

9:30

The CSSAC recommendations are the result of in-depth, commit-

ted work and negotiations by a wide range of stakeholders on complex issues. They recognize that there are still outstanding issues, resolution of which are key to the successful implementation of an improved regulatory system for contaminated sites. It is essential that CSSAC complete its work on the outstanding issues identified in its June 2005 report. Alberta Environment should refrain from further implementation activity until such time as those issues have been resolved and changes can be made in a complete and integrated fashion.

Another concern is section 12 of the bill, which replaces section 112 of the act and recognizes a wider range of steps for dealing with contamination, effectively downgrading the level of remediation required. Currently section 112 provides that a substance causing an adverse effect must be dealt with "in such a manner as to effect maximum protection to human life, health and the environment." The proposed amendment would change this to require action "in such a manner as to prevent an adverse effect or further adverse effect." This reduction is neither justified nor warranted in relation to expanding the measures that can be taken to respond to the effects of substance releases. The suggestion is that section 12 should be amended to retain the level of protection currently imposed in section 112 of the act.

Section 13 of the bill seeks to provide clarification regarding environmental protection orders and historical releases of substances. The ELC is concerned that this section contains no preventive element, which would effectively limit the director to taking action only when adverse effects have occurred and are obvious even if he or she is aware of the potential for such effect before it occurs. Section 13 should be amended to enable the director to issue an environmental protection order if he or she is of the opinion that an adverse effect may imminently occur.

I guess that when I'm looking at all of this, my conclusion is that I cannot support this because I hear cynicism and anger from many Albertans as they observe industry run roughshod over the environment. It is clear that this government is reluctant to in any way ruffle the feathers of industry and, therefore, allows contaminated sites to go on for years. There's no regulation for timelines, so we continue to have our earth contaminated by toxins, and the potential damage spreads. We need a department with teeth to prosecute and demand action to protect our environment. However, with only .05 per cent of the provincial government budget Alberta Environment does not have the manpower to monitor industry and our environment. The power of industry and the weakness of the Department of Environment have led to a lack of confidence that this government truly values the protection of the environment and truly understands the impact of failed action on the future of this province.

We are blessed with a wonderful environment. It is our responsibility to protect and preserve it. This bill does not do enough. Thank you.

The Acting Speaker: The hon. Member for Edmonton-Ellerslie.

Mr. Agnihotri: Thank you, Mr. Speaker. It's my great pleasure to rise again and speak to . . .

The Acting Speaker: Just one second.

Hon. Member for West Yellowhead, were you wanting to rise on Standing Order 29(2)(a) to ask a question or comment?

Mr. Strang: No. I want up next.

The Acting Speaker: Okay.

Hon. Member for Edmonton-Ellerslie, you may proceed.

Mr. Agnihotri: Thank you, Mr. Speaker. Once again, it's my great pleasure to rise and speak to Bill 29, the Environmental Protection and Enhancement Amendment Act, 2006. There are six amendments to the Environmental Protection and Enhancement Act. The electricity sector will be allowed to conduct emissions trading in nitrogen oxide and sulphur dioxide. There is a clarification of industry's obligation to report and remediate contaminated sites closed before Alberta's current legislation was enacted on September 1, 1993. The goal is to ensure that any closed sites which have an adverse effect on the environment are reported and cleaned up.

An amendment is made to address the reclamation of coal and oil sands mines, to improve programs. It ensures that progressive and ongoing reclamation of these sites is promoted and acknowledged. The amendment supports the continued use of codes of practice for activities with low environmental impact. Another amendment is supposed to allow Alberta Environment the flexibility to partner with a broad range of organizations and individuals. There's an amendment to increase the amount of environmental information publicly available to Albertans without having to go through a formal Freedom of Information and Protection of Privacy Act process.

Mr. Speaker, the main object of Bill 29 is to amend the Environmental Protection and Enhancement Act to strengthen emissions control, clarify cleanup requirements for contaminated sites, establish codes of practice for low-intensity and low-risk activities, enhance the ability of AENV to partner with a broad range of individuals or groups, and make environmental information more accessible to the public.

AENV is implementing the recommendation of the Clean Air Strategic Alliance, CASA, electricity project team, the EPT, for the management of air emissions from the electricity-generating sector in Alberta. The EPT recommended new annual limits for nitrous oxide and sulphur dioxide, SO₂, emissions and an emissions trading program for those two substances. The amendments to the EPEA allow unit operators some flexibility in meeting their new targets and also create an incentive for operators to make emissions reductions before units must meet new annual emission limits.

Alberta Environment is now implementing new annual nitrous oxide and SO₂ emission limits for electricity generation units. Mr. Speaker, these limits are based on an intensity rate. This is a problem because focusing on emissions intensity, emissions per dollar of GDP, means that emissions intensity can decrease while absolute emissions and environmental impacts continue to rise. The focus on emissions intensity as a target for reduction is the same as the Alberta government plan for reducing greenhouse gas emissions as opposed to using Kyoto absolute emissions reduction targets.

Here is a clear example. Between 1990 and 1998 Alberta's greenhouse gas emissions intensity fell by 14.5 per cent while absolute emissions rose by 19 per cent. In this bill, by relying on emissions intensity instead of absolute reductions, electricity generation will still be allowed to increase their absolute emissions, but they will have to control and decrease the level of emission intensity for SO₂.

9:40

The recommendations of CASA must be supported as a positive move. Even though we would like to see a reduction in absolute emissions, the creation of the emissions trading program creates an incentive to make emissions reductions before the new annual emissions limit must be met. The system works as follows. The emissions credit system will help electricity producers reach their reduction target by offering them another option. They can install the best available pollution control technology to reduce emissions,

or they can shut down power units that produce a high proportion of their emissions. However, if neither of these options is considered viable and a company is producing more nitrogen oxide and sulphur dioxide than the new regulation allows, the unit can then buy emissions credits from a company that has done better than its regulated targets. This system applies only for Alberta producers within Alberta.

Mr. Speaker, the system has been used in the United States for over 10 years now in response to trying to control emissions that were causing a severe acid rain problem over very large areas of the country. Legislation was passed in 1990, and the first compliance period was 1995. This system of cap and trade is also being used extensively in California to control SO₂ and nitrous oxide. This program, the Regional Clean Air Incentive Market program, RECLAIM, began in 1994. There has been success in reducing the amount of SO₂ and nitrous oxide emissions in the U.S. since the inception of these programs.

Once again, Mr. Speaker, the establishment of the emissions trading program and baseline emission limits is a positive move to address air quality and environmental concerns. This represents the implementation of the Clean Air Strategic Alliance, CASA, who have publicly stated that they are very pleased with this move. Martha Kostuch, a strong advocate of the environment who represented the Prairie Acid Rain Coalition and the Bert Riggall Environmental Foundation on the electricity project team, supports this move fully. Also, the Pembina Institute's Mary Griffiths supports this move as it came as a recommendation of CASA.

This part of Bill 29 should then be supported as our stakeholders unanimously supported this part of Bill 29. However, the only concern we should have is whether reliance on emissions intensity reduction instead of absolute emissions reduction is the correct standard to be applied. Remember that the made-in-Alberta plan for greenhouse gas emissions instead of adherence to Kyoto protocol reductions was largely determined to be ineffectual because it also relied on emissions intensity reductions. Put it this way: emissions in Alberta would still increase but at a lower rate than business as usual. It seems ineffectual to allow the sector to continue to pollute but just slow that level of pollution. Metaphorically, this is the same as letting a car go off a cliff at 50 kilometres per hour instead of 100 kilometres per hour. Either way the car will still be destroyed. The real solution is to stop the car, not just slow it down.

There are a series of amendments in Bill 29, Mr. Chairman, that are designed to improve the government response to the cleanup and the remediation of historically contaminated sites. While it is a positive move in regard to the fact that some of the amendments are consistent with the recommendations of the Contaminated Sites Stakeholder Advisory Committee, including stakeholders such as the Environmental Law Centre and Toxics Watch, these amendments fail to fully implement the CSSAC recommendations in a singular and integrated effort.

The section 2 amendment is to repeal a section of the EPEA. This is a positive amendment as it protects municipalities from liabilities for contamination and should aid in the redevelopment of brownfield sites within Alberta. This is consistent with the recommendations of the CSSAC. However, even with the positive elements of this amendment it allows municipalities who acquire contaminated land after the previous owner abandons it or declares bankruptcy or land that is acquired by dedication or gift to be absolved of any duty to remediate the land if it is contaminated.

This government, Mr. Speaker, continually states that the polluter will pay. However, in this instance municipalities are protected from liability for the contamination of the sites they acquire. It then becomes unclear after the municipality acquires the land who is

responsible for the cleanup of contaminated sites. If both the municipality and the previous owner are not held liable, then the environmental contamination will not be cleaned up adequately. Even though this amendment will allow for the redevelopment of brownfield sites, it lets the polluter off the hook if the site is orphaned.

The next one I move to is section 11, Mr. Speaker, which amends section 110 of the EPEA. This is a clarification of an existing revision of the EPEA in relation to the reporting of an historical release. However, the new duty to report that an adverse effect has occurred and is occurring in respect to that release lacks a mechanism necessary to ensure that failures to report under the new provisions are an offence and to establish a penalty for such an offence. Without a compliance and enforcement provision, which could be accomplished by amendments of sections 227, 228 of the EPEA, the new duty to report will be ineffective.

Now I move to section 14. This section provides an enabling function to allow for inspectors to issue remediation certificates. The main problem here is that there are not many inspectors in the Department of Environment, and those who are not qualified enough to make decisions about remediation efforts will be implementing complex decisions about the level of information needed on substances and affected areas. It is obvious that current staffing levels are insufficient to make these assessments. In addition, by allowing two levels to issue remediation certificates, the director and an inspector, the government is proposing an amendment that could easily result in broad variation in the application of requirements.

Now, Mr. Speaker, I would like to adjourn this debate, please.

The Acting Speaker: You made a motion to adjourn debate?

Mr. Agnihotri: I make a motion to adjourn this.

[Motion to adjourn debate carried]

9:50

Bill 37
Miscellaneous (Provincial Treasurer)
Statutes Amendment Act, 2006

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

Mr. Renner: Thank you, Mr. Speaker. I'm pleased to rise on behalf of the Minister of Finance and move second reading of Bill 37, the Miscellaneous (Provincial Treasurer) Statutes Amendment Act, 2006.

Let me say at the outset, Mr. Speaker, that this bill, being miscellaneous statutes, contains absolutely no new policy, organizational, or other substantive changes. It is strictly a housekeeping bill. Let me give members some examples of the kinds of changes that it includes. Some 300 consequential changes are being made to align 83 individual acts with the current titles and responsibilities of the Minister of Finance and program ministers as defined by the Government Organization Act, its regulations, and various orders in council. For example, in approximately 25 acts references to the Provincial Treasurer are being replaced with the Minister of Finance where it is appropriate to change only the title.

In approximately 45 acts references to the Provincial Treasurer are being replaced with minister where significant responsibilities for financial administration were transferred in the mid-1990s from the Provincial Treasurer to individual program ministers, such as the minister designated by the Government Organization Act.

Approximately 10 acts refer to outdated titles, such as minister of revenue, Deputy Provincial Treasurer, department of Treasury.

Consequential changes need to be made and applied to these acts to reflect current titles appropriate to the individual act.

Another 10 acts refer to outdated responsibilities for financial administration. As noted above, significant responsibilities for financial administration were transferred in the mid-1990s from the Provincial Treasurer to the appropriate program minister. Outdated responsibilities of the Provincial Treasurer for financial administration are replaced with current responsibilities of the Minister of Finance and of individual ministers. Amendments address the detailed provisions of some acts which describe how certain financial transactions are to be handled.

Mr. Speaker, I ask on behalf of the Minister of Finance for the support of the House on this piece of housekeeping legislation.

The Acting Speaker: The hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Well, thank you very much, Mr. Speaker. Before I begin debate on Bill 37, let me just say that my wife is not going to be happy. Apparently, I have to keep my playoff beard for another two weeks or so. Go, Oilers, go. For those members who are not aware, the Edmonton Oilers scored in the last minute of play and won the game 4 to 3 tonight.

Now, Mr. Speaker, it is indeed my pleasure to rise this evening and speak in second reading to Bill 37, the Miscellaneous (Provincial Treasurer) Statutes Amendment Act, 2006. As pointed out by the hon. Minister of Municipal Affairs, this bill is substituting Provincial Treasurer and other incorrect language with Minister of Finance and the correct language in some 80 different acts and updates the appropriate responsibilities to the appropriate ministers. It is my recommendation to my caucus colleagues that we support this bill.

A little bit of historical information. If we go back to the year 2001, Mr. Speaker, the Government Organization Act consolidated the departments of the Provincial Treasurer and the revenue minister into one ministry, the Minister of Finance. As a result, as has already been pointed out, some 80 acts require updating.

Now, I'm just going to go through some of these – and the minister has already outlined, you know, the number of consequential changes that are being made, the fact that there's no new policy. He referred to 45 acts where references to the Provincial Treasurer are being replaced with minister and where significant responsibilities for financial administration were transferred in the mid-1990s, Mr. Speaker. That certainly brought to mind for me at least and, I would think, for others the question as to why it took 10 years for us to reach the point where we recognized that perhaps there was a need to update the legislation. Further on, we understand that there are 10 acts that refer to outdated responsibilities for financial administration. Again, these go back to the mid-1990s. I'm not sure if we're finally seeing the benefits of the Restructuring and Government Efficiency ministry or not, but 10 years later we're updating some things that, clearly, are long overdue in being addressed.

Now, I would like to once again thank the Finance minister for making her staff available to provide a briefing on this bill. I do have one question, and I'm not sure if I'll get an answer on it tonight or not, but I am curious. When the staff came over to my office to provide the briefing, they also touched on the telecommunications act and left me, at least, with the understanding that this act may also be addressed in this statutes amendment act. Specifically, it was dealing with repealing a section that dealt with the AGT Commission and the merger between AGT and Edmonton Telephones, and that's clearly not in the act now. So I'm not sure if maybe the staff are misunderstanding or perhaps it's been decided that it's going to come forward in a different fashion or maybe they just left this with

us by mistake. I'm not sure. It was discussed at that time, and it's not here today, so I'm curious about that. If there's an explanation, I would be interested to hear it.

Also, Mr. Speaker, then we talked about the fact that this goes back to 2001 when those two ministries were combined. I guess the very first question that jumps into my mind is: what took so long? Why did we wait, you know, five years or thereabouts to take this action? Have there been any consequences, negative perhaps, to the government or to Albertans for having waited so long? I doubt it. I would hope not. But it does cause one to question, I suppose.

Mr. Speaker, at times governments rearrange themselves, some would argue, to make themselves look busy. Often, particularly after an election but also quite often after a cabinet shuffle, you'll see a number of ministries being switched around in terms of their responsibilities, often including a name change. I have to be honest with you; as a small businessman who was involved in the printing industry for many years, this was always a boon to our business and I'm sure to many others when governments took that step. So sometimes when you have these combinations or splitting of ministries, there is, I suppose you could say, a positive economic spinoff for business in this province, but I'm not so sure that it's always necessarily the best use of taxpayers' money. I do recall at the time when those ministries were split from the Finance minister questions about whether or not it was the most effective thing to do, and then, of course, some years later we saw them being recombined. Again, I suppose that maybe it's an indication of some good work being done by the Minister of Restructuring and Government Efficiency. I'm not sure.

Just a couple of other quick comments, Mr. Speaker, and then I'll take my seat. In particular, I mentioned that there are 80 different acts that are being amended, and one of the ones that jumped out at me that we're amending is the Freedom of Information and Protection of Privacy Act. Hon. members will know that we currently have an amending act to the FOIP legislation in front of the House today, so I'm not sure which is more effective or efficient to deal with: the Freedom of Information and Protection of Privacy Act in this fashion or if it should have been included in the amending bill that's before the House already. It was a question that crossed my mind.

We have a reference in here to amending the Members of the Legislative Assembly Pension Plan Act. Mr. Speaker, certainly as a member of this Assembly I'm aware of the fact that that act is still in place, dealing with some former members, I think, probably in most cases long past former members of this Assembly. But I would submit to you that most Albertans probably are not aware of the fact that there's still a Members of the Legislative Assembly Pension Plan Act in place and active. Most Albertans understand that pensions for MLAs were done away with in 1993, and I think most Albertans would be surprised to learn that 13 years later we're still dealing with that act.

10:00

Finally, Mr. Speaker, the one that causes me the most consternation, I suppose, is making the amendments, as the minister described in this case, to the Fuel Tax Act. We have already had a completely rewritten Fuel Tax Act introduced in this Legislature just last week, I believe, and it's being debated in the next few days. I find it interesting that we're amending a Fuel Tax Act which has been completely rewritten, and we'll have an entirely new Fuel Tax Act because it will be passed in a matter of days or weeks. I wonder why, and here I'm going to suggest that either the Finance minister or the Minister of Restructuring and Government Efficiency, perhaps, wasn't so terribly efficient. I don't know why we're taking

the time to amend an act which is currently being completely rewritten and, as I say, undoubtedly will be passed by this Assembly in short order.

So those are my comments, Mr. Speaker, on Bill 37. As I say, I certainly do concur with the minister and the Finance ministry staff that there is no policy change in here. It is strictly housekeeping, although as I've pointed out, it does cause one to ponder at times as to some of the rationale that is being used. Certainly, on the whole it seems to accomplish what is being set out and ultimately, I suppose, will be good legislation for Albertans.

Thank you.

[Motion carried; Bill 37 read a second time]

Bill 36 Securities Transfer Act

The Acting Speaker: The hon. Member for Grande Prairie-Smoky.

Mr. Knight: Well, thank you, Mr. Speaker. It's a pleasure tonight to rise and move second reading of Bill 36, the Securities Transfer Act.

As I explained in first reading, the purpose of this legislation is to provide a single, uniform source of rules for the transfer and holding of all corporate and noncorporate securities traded in Canada. I'm going to use this opportunity to speak a bit about how this legislation came to be and why it is so significant. The act is modelled on a consultative draft of the Uniform Securities Transfer Act, USTA, which was prepared several years ago by the Canadian Securities Administrators' Uniform Securities Transfer Act Task Force. The task force conducted extensive public consultation in 2003-04 on successive drafts of the Uniform Securities Transfer Act. The USTA has received strong and favourable support. In 2004 the Uniform Law Conference of Canada approved the consultative draft, the English version, of the USTA.

Mr. Speaker, stakeholders, including the Bank of Canada, have expressed strong support for prompt, uniform implementation of securities transfer legislation within Canada. The enactment of a uniform statute within Canada represents an important example of interprovincial co-operation in responding to the needs of Canada's capital markets. The legislation provides a modernized, uniform set of rules for the transfer and holding of securities and interests in investment property that harmonizes Canada's laws as much as possible with the new, uniform commercial code in the United States, in force in 50 states.

On December 1, 2005, Ontario introduced a Securities Transfer Act in the Ontario Legislature which is practically uniform with Alberta's legislation. Most other provinces and territories have also done the same or plan to. It's clear that both the provinces and the industry recognize the importance of this initiative.

Mr. Speaker, implementation of the proposed act will require consequential amendments to other provincial acts: the Business Corporations Act, the Personal Property Security Act, and the Civil Enforcement Act. By placing securities transfer provisions in the Securities Transfer Act, securities transfer laws will apply to all types of issuers, including corporations, income funds, and the Crown. The Securities Transfer Act also amends Alberta's Personal Property Security Act to ensure that it is harmonized with the proposed Securities Transfer Act. Establishing a codified set of rules for the transfer and holding of securities and investment properties removes uncertainty about which laws apply to market transactions.

With the advent of electronic trading it provides legal clarity to

modern security transfers. This is essential to ensure that Canada remains competitive not only with the United States but in an expanding global marketplace.

Mr. Speaker, I urge all members of the Legislature to give their support to Bill 36. Thank you.

The Acting Speaker: The hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Well, thank you very much, Mr. Speaker. It's my pleasure to rise this evening and speak to Bill 36, the Securities Transfer Act, 2006. You know, my mother always told me that I should be a securities lawyer. Well, actually she didn't tell me that, but when I look at a bill like Bill 36, I sure wish that she had pushed me in that direction. Nevertheless, here we are, and I'm learning an awful lot about securities.

Mr. Speaker, I appreciate the comments by the Member for Grande Prairie-Smoky. Forgive me if I reiterate some of them. Again, I can say right up front that I will be recommending to my caucus colleagues that we support this bill. There's some good work in here but, again, some questions and some good comments that came out of the debate in Ontario that I will be sharing with you in a few minutes.

As has already been outlined, Bill 36 is designed to update the securities legislation to accommodate advancements in stock purchasing. The evolution from paper stock certificates to electronic security transactions is expected to reduce administration and cut costs and make us more competitive on both a national and an international basis. I think it's no secret to anybody who has ever dealt in stocks and securities that very few of us actually hold the paper certificates anymore. That's a rare thing, indeed. So, clearly, there's a need to do this.

Bill 36 modernizes the legal framework for securities transactions, and certainly one result of this will be to reduce investor risk. Bill 36, in fact, would harmonize our legislation with other jurisdictions, including the United States. A large percentage of securities transactions, we know, are now cross-border between Canada and the United States, so certainly that would make sense. The one thing that it does not do – and this was identified as a concern in Ontario as well, Mr. Speaker – is that it does not improve the Alberta Securities Commission enforcement branch. That's something that certainly the Official Opposition would have seen included in here, but we'll talk a little bit more about that later.

Now, historically, Mr. Speaker, as I said, securities transactions involved a paper certificate. As the number of transactions increased over the years, paper clearly became impractical and the movement of such paper probably even more so. This created a logical environment for electronic securities transactions. The financial evolution means that investors would not require a paper certificate anymore to demonstrate that they had purchased or owned securities. Today this process is known as an indirect holding system.

10:10

While security transactions became electronic, security legislation did not necessarily modify at the same rate. As a consequence, a number of problems are surfacing. First, investors are having difficulty using electronic securities as collateral because security legislation is not providing legal certainty. Secondly, without clear legislative rules to detail the electronic security transfers, this area remains ambiguous, adding risk to the investor. Thirdly, the United States has updated its securities laws to accommodate the indirect holding system, but Canadian regulators are lagging somewhat behind.

Now, as the Member for Grande Prairie-Smoky pointed out,

Ontario has more or less taken the lead in terms of updating their policy. It's interesting to point out that in Ontario that legislation was vetted by an all-party committee, Mr. Speaker, something that doesn't happen in Alberta. Certainly, in Ontario in the case of that all-party committee all parties supported the legislation unanimously. So I think that's a good indication that, in fact, all-party committees can work, and when the legislation is good, they can work very well and, in fact, agree completely.

Now, I'd just like to go through a number of the pros and cons, I suppose, Mr. Speaker, of Bill 36. Security legislation needs to reflect progress in the marketplace. Most people would agree that issuing paper certificates, as I alluded to earlier, would be unrealistic by today's standards, and I don't think that there's any expectation on the part of the investor that that would happen. Bill 36 attempts to adopt these changes; that is, to move from paper to electronic. In Ontario Minister Phillips indicated that the administrative burden that could be saved is anywhere from \$100 million to \$140 million. So, clearly, there are some cost savings to be realized as well for the industry.

Secondly, Mr. Speaker, without updating current industry practices into legislation, the current system will continue to remain somewhat ambiguous in a legal sense. Again, that can lead to investor risk, and investor risk leads to reduced investment. Bill 36, as I've already pointed out as well, attempts to harmonize our legislation with other jurisdictions, including the United States. Ultimately, that should make trading more efficient.

Now, I mentioned that the bill doesn't do anything to improve enforcement practices at the Alberta Securities Commission. I think that we also want to watch closely the ramifications of this bill, should it pass, once it's passed, particularly as to the potential for cost savings, whether or not it does in fact benefit industry in that regard and makes us more competitive on a global basis, which is part of what it's intended to do.

I have some questions, I suppose. Again, as I mentioned when we were discussing Bill 37, why has it taken so long for this bill to come forward? I would like to thank the minister once again for providing her staff, including a securities lawyer who has spent a large part of his life working on this. Clearly, you know, it's a complicated piece of legislation. It's not something that could happen overnight, but I think that when we look at the advent of computers and day trading and, you know, do-it-yourself investors, it seems, at least to my uneducated mind, somewhat odd that it's taken this long for us to bring forward legislation that would allow us to catch up to the electronic age.

I'm wondering, from either the Member for Grande Prairie-Smoky or the minister, if Alberta gave any consideration to watching Ontario's situation once they've put their legislation into place and just sort of seen how well it works or if we decided to move ahead without waiting for that to happen. Clearly, it would seem to me that we've decided to move ahead without waiting for some actual experience from Ontario.

I mentioned that there are some concerns out of Ontario about the regulator side and the fact that the Ontario Securities Commission – at least, some that are fairly close to it would say that it's no further at arm's length from their government than our Securities Commission is here. Certainly, that's been an issue in the Alberta Legislature for at least the 18 months that I've been a member of this Assembly.

The Official Opposition is hopeful that Bill 36 will increase Alberta companies' opportunities to raise capital. I'm wondering if maybe the Member for Grande Prairie-Smoky would like to address that aspect of the bill in more detail, perhaps when we get to the committee stage, and I'm curious whether or not Alberta Finance has

done any calculations as to what that savings might be administratively, if it's anywhere near the number that has been mentioned in Ontario.

Now, Mr. Speaker, I would like to just touch on some of the debate that came out of the Ontario Legislature, and the reason for that is because the government has talked an awful lot about how this bill pretty much parallels exactly the legislation that was introduced in Ontario. So I thought to myself: well, if the bill is almost exactly the same as the legislation in Ontario, then some of the debate might be similar as well. I was quite pleasantly surprised to see that some of the concerns raised by – oh, I guess that they would probably be Conservative opposition members in Ontario. Some of those concerns are pretty much in line with some of the concerns that I have with the bill here in Alberta.

So, as the Member for Grande Prairie-Smoky mentioned, the bill was first introduced in the Ontario Legislature on December 1 of last year, and then on April 26 of this year, so only last week, the bill was in second reading in Ontario. Gerry Phillips, the Minister of Government Services, acknowledged that one of the reasons that they introduced the bill back in December was to give other provinces an opportunity to examine the bill. He notes in his comments on the 26th of April that Alberta has “introduced a very similar piece of legislation,” and in fact we know that to be true.

Then, Mr. Speaker – I believe this is another government member – Mrs. Liz Sandals from Guelph-Wellington indicates that she's surprised that it took so long for Ontario to update its corporate laws, “especially those relating to securities transfer,” very much like my thoughts when we were briefed by the minister's staff here. Even a government member in Ontario is a little surprised that it's taking so long for them to enact this legislation. The same member from Ontario, Mrs. Sandals, comments on the fact that, in fact, they do use an all-party standing committee system in Ontario and that all three parties involved voted unanimously to support the bill that was being dealt with in Ontario. So, again, if it can work in Ontario, I don't see why it couldn't work here.

An opposition member, Mr. Joseph Tascona from Barrie-Simcoe-Bradford, spoke that afternoon. He commented, as I suggested, that the opposition in Ontario had concerns about the Ontario Securities Commission not necessarily being more than arm's length removed from the government and wanting to “make sure that everybody feels that the rule of law has been respected and that there's fairness in the process that goes on in the investigation and also in the prosecution.” You will know, Mr. Speaker, that those are concerns very much similar to concerns that the Official Opposition has raised here in Alberta.

Another member, Mr. John O'Toole from Durham, in speaking to the bill in Ontario, which, again, Mr. Speaker, is by all accounts almost identical to the bill here, asks: “I mean, who's checking the checker? Isn't that an age-old question? Who checks the checker?” Then he goes on to describe the fact that in Ontario, very much like in Alberta, the Ontario Securities Commission sets the regulations and they do the investigations and they basically do the prosecuting as well. So it's the age-old question of the fox guarding the henhouse, I suppose, and that was a very serious concern that the opposition in Ontario raised when this very similar bill was dealt with there just last week.

The same Mr. O'Toole says: “Minister, there's a lot of work to be done on this, and I commend you on the little that has been done on the securities transfer issue. It seems like a rather long bill that hasn't got a lot in it.” I'm not so sure that that's exactly the case with this, but as I alluded to in my opening remarks, it's certainly a very, very long bill. While I do believe that it goes some measure in terms of addressing some of the issues facing investors in Alberta,

I'm not so sure that it necessarily does all that we would have hoped that it would do.

10:20

So with those comments, Mr. Speaker, I think I've pretty much said what I needed to say in second reading. I look forward to the committee stage of debate on Bill 36. There may be an opportunity for some amendments although I must concede that in speaking to the stakeholders that I've spoken to, they seem to be genuinely pleased with the direction that this act would take us. As I suggest, it would appear that, in fact, it's perhaps long overdue if anything. So, certainly, it's something that will be supported by the Official Opposition.

I thank you for having given me the opportunity to speak to it.

The Acting Speaker: The hon. Member for Edmonton-Beverly Clareview.

Mr. Martin: Thank you, Mr. Speaker. It's a long bill, so I'll make a short speech. I always like to help out and make the people over there happy.

Mr. Speaker, it seems to me that this bill has to come. I'm trying to remember. I think it was 1967 when the paper blizzard shut down the New York Stock Exchange, and we're still dealing with paper. I take it that the major purpose of this bill is to recognize that we're in a very different situation in that securities can't remain paper based as they have in the past, and we have to move on with this. So I don't think you'll have any argument on this side about the necessity for doing this.

I'm pleased that all the provinces are trying to get their act together. But, Mr. Speaker, it begs the question, again, that I asked when we dealing with the regulatory part of it. If this makes sense that we have to do this together as the member was talking about, the global society and that, why can't the provinces get together and have a national securities regulator? It seems to me that rather than dealing with all these different bills all over the provinces, we could be working together in a much better way. Certainly, we've had our problems here with the regulation and that. I don't expect that we'd have the problems once we do this. But it just seems to me to be unnecessary duplication, and I think the minister, on the previous bill dealing with the regulatory agent, said that maybe we should be looking at that. I would like us to go in that direction because it seems to me that that would solve some of these problems.

It's not a federal act. It would be the provinces working together under one national securities regulatory body. Maybe it could be in Calgary or wherever. But all the things that we're doing, this bill and the previous bill, Mr. Speaker, seem to me to indicate that we have to work together, all the provinces certainly. As the member talked about, this will make us more competitive with the Americans on commercial transactions. I guess that I don't understand the reluctance, in doing what we're doing here with these bills, trying to make it so that there's some reasonable movement between the provinces, why we don't look at that regulator.

I think that in the introduction the previous member said: maybe that's a way to look at it. I would hope that if there was some influence that they would look at this down the way. We'll pass this. Certainly, we have no objections. I think that this is an absolute necessity in this modern day and age. But I would hope that we would take a look down the way at the national securities regulator.

Thank you.

The Acting Speaker: Any others?

The hon. Member for Grande Prairie-Smoky to close debate.

Mr. Knight: Question.

[Motion carried; Bill 36 read a second time]

Bill 38

Livestock Identification and Commerce Act

The Acting Speaker: The hon. Minister of Agriculture, Food and Rural Development.

Mr. Horner: Thank you, Mr. Speaker. It's a pleasure for me to rise this evening and move second reading of Bill 38, the Livestock Identification and Commerce Act.

This legislation is primarily a consolidation and revision of three existing acts: the Brand Act, the Livestock Identification and Brand Inspection Act, and the Livestock and Livestock Products Act. It will be jointly administered by the Ministry of Agriculture, Food and Rural Development and Livestock Identification Services Ltd., which serves the ministry as a delegated authority.

Mr. Speaker, we needed to develop this legislation because it is evident that the livestock industry has changed significantly over the past few decades. Not only do livestock transactions occur more frequently; they occur across a larger region and may involve numerous sales agents, dealers, and owners. It's no longer a case of one owner raising an animal from birth to slaughter. It's become a much more complex system than that. The industry has certainly changed, and so must the way we regulate it.

Working with the industry, we've put together legislation that should be much more effective in addressing the realities of today's livestock industry. The proposed legislation will enhance and streamline the identification and sales transactions related to livestock. We started working with stakeholders in 2003, and through three years of close consultation with the industry we've put together legislation that reflects the goals of both government and industry.

I'd like to provide the members with a brief overview of the proposed legislation, how it revises the current legislation. The current Brand Act serves to establish a system of identifying livestock. The allotment of brands is used to identify who has an ownership interest in the livestock. The proposed legislation maintains these primary provisions but clarifies the legal effect of branding and livestock inspection and confirms that placing a brand on livestock creates a presumption of ownership. The inspection process is in place to assist in ownership determination. It broadens the types of identifiers that livestock inspectors can use to identify livestock such as the national Canadian Cattle Identification Agency tag program. It also provides flexibility in defining livestock as cattle, horses, and other species designated as livestock in the regulations.

The current Livestock Identification and Brand Inspection Act serves to facilitate fair commerce by providing a set of industry-wide rules and forms associated with livestock transactions. It requires the inspection of livestock as well as the use of bills of sale and the completion of manifests. Currently, the security interest declaration on the manifest is voluntary. The proposed legislation will maintain these primary provisions but will make the security interest declaration mandatory. It will set out a mandatory requirement that sellers disclose security interests in the livestock they are selling. It clarifies that the purpose of livestock inspection is to confirm that the person possessing the livestock is indeed the owner or the owner's agent and that the sale proceeds are flowing to the correct party. It also confirms that inspections are required prior to transporting livestock out of Alberta and on arrival at inspection sites. It also standardizes the use of manifests and bills of sale.

The regulations will address the operational details relating to where and when livestock inspection is required and operational details relating to inspection fees. The provision for inspection fees and associated commission results in Bill 38 being classified as a money bill.

Additionally, the legislation will extend a provision called the statutory bar to conversion. This is a practice that protects buyers from being sued by the seller's lenders. This legislation addresses the anomaly that the first buyer is protected but in theory subsequent buyers could be sued. I say theoretically because it has not been used in practice. Lenders rarely attach security interests to specific livestock, and unlike with cars there's no way for a buyer to check for liens and no ways for lenders to identify a specific asset. This provision is conditional upon meeting the requirements of the legislation. It will bar conversion lawsuits against buyers who follow the requirements of the act, pay in accordance with the manifest, and otherwise engage in a bona fide transaction.

The legislation is intended to improve the efficiency and certainty of commerce in livestock. It reflects the commitment of both government and industry to improve industry's due diligence practices, including those that relate to better recognition of the security interests of lenders. The statutory bar is designed to enhance market certainty to avoid any lingering uncertainty that might affect the market when people not engaged in a transaction nonetheless acquire the risk of liability.

10:30

The current Livestock and Livestock Products Act serves to promote the integrity of marketing by increasing the confidence in livestock transactions through dealer licensing, dealer bonding, prompt payment to deemed trust accounts, and other appropriate business rules. The proposed legislation maintains these primary provisions by clarifying the requirements for dealer licensing, bonding licence suspension, and usage of trust accounts. It requires livestock dealers receiving money from the sale of someone else's livestock to deposit those sale proceeds into a trust account to protect the seller's money. It also clarifies processing related to making a claim on a dealer's security.

Currently the Livestock Patrons' Claims Review Tribunal functions pursuant to its regulation. The tribunal administers two assurance funds funded by participants. The proposed legislation maintains these primary provisions and will continue the tribunal and its two funds as well as clarify the tribunal's role and function. In the end, this consolidated and revised act will help the day-to-day commerce of the livestock industry operate in a more transparent, harmonized, and predictable manner.

Mr. Speaker, this legislation was built during three years of intense consultation with the livestock industry, and we believe that this legislation reflects the goals of the government and industry. The act reflects and balances diverse interests to drive commerce forward. It reduces lending risk by promoting the integrity of livestock marketing. I believe that enactment of the Livestock Identification and Commerce Act is in the best interest of the livestock industry and the lending community. It's certainly going to help our industry advance in the 21st century.

Mr. Speaker, that pretty much sums up the nuts and bolts of the proposed act. I encourage all members of this Assembly to give their full support to Bill 38. However, even though I know that there are many, many waiting to speak to this bill, we have many other things on the agenda, so I would move that we adjourn the debate on this bill.

Thank you, Mr. Speaker.

[Motion to adjourn debate carried]

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

[Mr. Shariff in the chair]

The Deputy Chair: Hon. members, we'll call the committee to order.

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

The Deputy Chair: When we last adjourned on this subject matter, we were dealing with amendment A1. Are there any comments, questions, or further amendments to be offered with respect to this bill? On the amendment that's before us, the hon. Member for Edmonton-Ellerslie.

Mr. Agnihotri: Thank you, Mr. Chairman. Thank you for giving me the opportunity to speak to the proposed amendment to Bill 20 introduced by the Official Opposition. The wording of 24(2.1)(b) is very general, and it would expand the scope of restricted information greatly. Again, this appears to be an attempt to hide government information without justification and diminish accountability.

[Reverend Abbott in the chair]

Mr. Chairman, this section demonstrates the hypocrisy that exists within this Progressive Conservative government. On the one hand, we hear this government praise the value of accountability and criticize the unethical activities of the former federal government. On the other hand, this proposed clause would protect this provincial government from public scrutiny. It is absolutely outrageous that this government would propose and expect Albertans to accept an amendment that would hide chief internal auditor documents from public access for 15 years. Clearly, this government has developed a sense that they are somehow above accountability. I support this amendment because we don't want this power-corrupt government to add more layers of secrecy and reduce legitimate access to information.

This House should focus on protection of the privacy of citizens of this province. This should be the priority of this government. Many people have concerns about identity theft and fraud committed on and off the Internet. People don't want to wait for years for the Privacy Commissioner to review their cases. There are lots of delays and pending work, and people are frustrated, angry. The Privacy Commissioner may need some more staff or resources to review those cases.

Even with the required amount of money for the information, it takes a lengthy time. We get half of the document blacked out, sometimes blank ones, or withheld. Let me give you the example of a FOIP request I made for an agreement between the Allen Gray long-term care facility, a care centre in my riding, and Capital health. After paying a certain amount of money, the statement and some papers I received were not the current statement or the current papers. It was six or seven years old, and it took me two months, maybe three months. I hope it's not repeated again like this for somebody else. The people living inside the long-term care centre are vulnerable. They wanted the answer right away, but because I was totally dependent on the FOIP department, I couldn't help them right away.

I definitely support 50 per cent of this bill, Bill 20, but also there were already a few amendments introduced. I oppose 50 per cent of the bill, those which are already mentioned in the amendments.

This government might be thinking that they are here forever, but I'd just remind them that every kingdom has to fall one day. It is about time to be transparent. Otherwise, the time is running out.

Two weeks ago, Mr. Chairman, I heard complaints from two constituents against the office of the Privacy Commissioner. I have those papers with me here. Maybe I will ask permission to table those letters. I can't do it because they didn't give me the undertaking yet. They filed their case against their former employer, who has used their extensive personal information – name, address, phone numbers, bank accounts, signatures, SIN numbers, e-mail, et cetera – to violate their privacy by sharing information on the Internet and by contacting their banks, watching them in their homes and at work, et cetera.

First, the commission asked them to submit a written submission through a lawyer, then the oral part of the inquiry, and then investigations. The people whose privacy was violated, not the defendant, made these efforts. I mean, the commissioner didn't even ask the offender to come and explain his side of the story. But the people paid money, filled out all those forms. After even 19 months they didn't get any proper answer, and they are frustrated. The guy who is to be blamed got bankruptcy and didn't show up at the inquiry, and he should be liable to come to the commission. Now his company is bankrupt, and he has started a new company. I don't know how the commission will follow that person because now he's working under some other company name. The process has taken 19 months, as they said in this letter, with no outcome yet in sight. They invested time, money, resources, and they are still frustrated.

10:40

The reason I'm supporting this amendment, Mr. Chairman, is because the present law has got no teeth. We must focus on protection of privacy of citizens in this province. From the proposed amendments introduced so far, this bill could be very satisfying to Albertans. Then we will support this bill. Otherwise, at this stage, as I said before, we support 50 per cent of this bill, and 50 per cent of the bill needs proper amendments.

Thank you very much.

The Acting Chair: The hon. Member for Calgary-Mountain View.

Dr. Swann: Thank you, Mr. Chairman. My pleasure to rise and speak to the amendment to Bill 20, the Freedom of Information and Protection of Privacy Amendment Act, 2006, which strikes out section 5. As indicated, the wording in 24(2.1)(b) is very general and would expand the scope of the restricted information greatly. Again, this appears to be an attempt to hide government information while at the same time suggesting that we are trying to open up the information to the public and other interested parties to hold the government accountable.

Clearly, one of the great needs in this province is to reassure people that we do want more involvement of people in the public process and the policy process to encourage more critical thinking and to demand accountability, and this will not move us toward that. It will actually diminish that accountability and demonstrates a level of hypocrisy, Mr. Chairman, on the one hand, where we praise the value of accountability and, on the other hand, fail to actually produce in terms of this legislation. Along with others that have spoken, I think we will have great difficulty in approving this without further changes.

Some of these are housekeeping changes, but on balance this will not enhance the transparency and accountability of this government. The perception from us on this side of the House is that it will make things more expensive, more difficult, more discouraging, and

undermine the public process that we all seek, on this side of the House at least. This will not serve democracy and, in fact, could promote corruption and public policy that ignores the realities on the ground. If people cannot get access to the information readily, obviously this is not a win for transparency and accountability.

A confident leadership is not bent on covering up but, rather, opening up to engage citizens in a dynamic and democratic exchange of ideas about where we're going and, just as important, how we're getting there, on whether we are following ethical, fair, and accountable processes or not. A public that doesn't know what is being decided and how it's being decided is an increasingly isolated, cynical, and disengaged population.

I'm afraid that for this particular amendment I can't find the support, Mr. Chairman.

The Acting Chair: The hon. Member for Edmonton-Beverly-Clareview.

Mr. Martin: Thank you, Mr. Chairman. The amendment has to do with the chief internal auditor, and along these lines I find it, frankly, unbelievable that we would take a 15-year exclusion of documents belonging to the chief internal auditor of Alberta and say that we cannot have access for 15 years if the government doesn't want us to look at that.

The purpose of the chief internal auditor of Alberta is to provide independent objective assurance and advisory services. It assists management in meeting business objectives by evaluating and making recommendations to improve the government's risk management, controllership, accountability and governance processes and to improve the effectiveness, efficiency and economy of government operations.

That's right from the government website. Given that mandate, it seems to me that that's what they want. Government by extension is: we want to be efficient and the rest of it. But the Legislature is to also look after and control the cabinet and the government, Mr. Chairman, and to exploit from FOIP the auditor's documents to see how the government process is working, what controls are there, what accountability is there. It seems to me that that's precisely what we should be doing here in the Legislature, and I find it unbelievable that we'd have to wait 15 years before we could actually take a look at what was happening if that's what the government wanted.

Mr. Chairman, we're talking about transparency, accountability. We hear lots of lip service here. What we're doing is going backwards. Dealing with FOIP now, getting information, is difficult to say the least. Now we're even making it harder. I can't understand why we'd be worried about assisting when the mandate on the website says that it's assisting management and "making recommendations to improve government's risk . . . controllership, accountability and governance processes and to improve the effectiveness, efficiency and economy of government operations." Why would we want to hide that? That makes no sense to me at all. There may be a temporary reason that we couldn't do it in FOIP. I can't for the life of me think of what that reason might be. But 15 years? Fifteen years? It's unbelievable.

I think that if this government believes in transparency, they should at least give lip service to – it seems to me to be common sense that we should remove section 5 of this proposed amendment. Certainly, in the NDP we would support the amendment coming from the Official Opposition, Mr. Chairman. You know, I don't understand these sorts of draconian measures – I really don't – what this is all about, why now we're bringing all these changes in in what I believe is a totally unnecessary way.

Mr. Chairman, I would certainly encourage members of the

Assembly – I won't hold my breath – to support this particular amendment. Thank you.

The Acting Chair: The hon. Member for Edmonton-Manning.

Mr. Backs: Thank you, Mr. Chair. I'm very pleased to rise to speak on the amendment to strike out section 5 of Bill 20, the Freedom of Information and Protection of Privacy Amendment Act, 2006. I think it's important to speak to this because, realistically, in looking at the section and the fact that the government is looking to amend section 24 after subsection (2), which clearly deals with some of the things that should be there that should be accessible by FOIP, this really brings clarity to the charge that this is not the freedom of information act but the privacy and secrecy act. The desire of the government to bring secrecy to the whole notion of this type of legislation is indeed so particularly odious.

I think this should be opposed on substantive technical grounds. Dealing with section (2) and looking at the fact that it is the section that opens up areas for the purpose of being accessible to the public – indeed, the government's amendment deals with closing it off. It deals with refusing: "must refuse to disclose to an applicant." That's the whole thrust of that whereas the actual section (2) does not deal with "must refuse"; it deals with the whole fact of trying to open up and to deal with, actually, the true purpose, which most Albertans and most acts of this type are meant to deal with. This is a restrictive measure, the government's amendment. This is, I think, not something that the public of Alberta, the citizens of Alberta, the people across this land think that these acts are meant to deal with and to achieve.

10:50

In terms of the construction of the law, I mean, if we look at the whole section, it looks at the more realistic ways of statistical surveys, things that have been around for a while, substantive rules. These are things that should be opening up. I expect that the will of this Legislature will be seen in the courts. The will of this Legislature will be seen in the courts. I hope that this is quoted to be seen that way, especially from the opposition's point of view, that this particular amendment on the government's side is something that should be turned down, turned out, and refused in any court challenge. That is something that I think will happen in the future because it does not apply to that particular section.

For that reason, I ask everyone here to accept the amendment and to strike out section 5. Thank you, Mr. Chairman.

The Acting Chair: The hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Thank you very much, Mr. Chairman. My pleasure to rise this evening and speak to the amendment moved by my colleague from Edmonton-McClung, which would see section 5 struck out of Bill 20, the Freedom of Information and Protection of Privacy Amendment Act, 2006. I'll try to be relatively brief because the hour is late. There's still a little bit of a hockey game involving a team from down south somewhere that apparently is tied after the second period, and I'm going to guess that some members might wish to catch the remainder of that game. So we'll try to finish this off fairly quickly.

It may have been touched on already, but the wording of this section 24(2.1)(b) that currently exists in the government's proposed amendment, and is being recommended by the Official Opposition to be struck, is terribly general and would appear that it would in fact expand greatly the restriction of information. I think that the hon. colleague from Edmonton-Manning pointed out that it certainly

appears not only to the Official Opposition but to media outlets in this province and, in fact, to almost anybody who's ever tried to access information through the Freedom of Information and Protection of Privacy Act, that this act is much more about the protection of privacy than it is about the freedom of information. All we're doing here, it would appear to me, is further enabling the government to do just that, protect information.

I find it ironic, quite frankly, that on a day when we've talked an awful lot about openness and accountability and restoring the confidence of the electorate in their elected officials, we now find ourselves debating a bill that, in fact, clearly goes the opposite direction by making it ever harder to access information about the goings-on of the people's government. In fact, it was pointed out by the Member for Edmonton-Beverly-Clareview that 15 years is what this section 5 is calling for, and I just can't imagine why there would be any need to protect information of this government for 15 years. Bear in mind that this is not 15 years from the date that something happens; this is 15 years from the time that the chief internal auditor actually either drops his investigation or completes his investigation, which could have been going on for a period of years prior. So we could in fact be talking 20 years or even longer from the time that a situation develops and the chief internal auditor is brought in to investigate. It's incomprehensible to me.

The Premier, who's retiring, will have been here for 13 years. I think this really puts it into context: this is saying that we would not be allowed to access information for two years before the current Premier became the Premier. Fifteen years in an awfully long time. They say that in politics a week is a long time. Fifteen years is literally an eon, and it's outrageous, quite frankly, that we're being asked to have the people of Alberta wait for 15 years before they can access information that the chief internal auditor would have been looking at.

You know, let's also remember that the chief internal auditor doesn't report to the members of this Assembly. He reports to the government, to Executive Council. It's often been suggested – I can't say it for a fact, but it's certainly been suggested – that some members involved in that audit are nothing more than patronage appointments, friends of the government, and certainly . . .

An Hon. Member: Close friends?

Mr. R. Miller: Perhaps even close friends.

Maybe that's why we're asking to protect that information for 15 years. I'm not sure, but it certainly pauses one to think. As I said, in an era when openness and accountability are, sort of, the buzz words – and there's certainly a greater appetite for that from the people of the province – this is clearly a step backwards.

Lastly, Mr. Chairman, I would just like to point out, as it regards this particular amendment asking to strike out section 5, that the unethical activities of the former federal government have been mentioned in this House a lot today and, in fact, a lot over the last 18 months since I've been here, but the question is: how are we to be assured that similar unethical activities aren't taking place here in Alberta with this government? Again, by hiding that information away that might show – perhaps it would show that there haven't been similar unethical activities taking place here. Perhaps it would show that this government is clean as a whistle.

Mr. Backs: Come on. Look at those faces.

Mr. R. Miller: They're clean as a whistle, those faces.

But if that's the case, Mr. Chairman, then why are we taking such drastic measures to protect that information? Why aren't we

throwing the books wide open and inviting Albertans to come in and have a look if, in fact, things are as clean as whistle? But we're not going that way. In fact, we're going the other way. So that certainly is troubling to me and, as I said, not only to the opposition but to several others out there as well.

With that, Mr. Chairman, I would certainly recommend that this particular amendment as moved by the Member for Edmonton-McClung be supported by all members of this Legislature. I think it is one of many changes that would have to occur in order for this amendment to the Freedom of Information and Protection of Privacy Act to receive the support of this member. It would be a step in the right direction were we to pass this amendment. I look forward to hearing the result of the vote, and then perhaps we can move on to further amendments as I know that they're coming as well.

Thank you very much, Mr. Chairman.

[Motion on amendment A1 lost]

The Acting Chair: The hon. Member for Edmonton-Beverly-Clareview.

Mr. Martin: Thank you, Mr. Chairman. Well, as I said, I wasn't holding my breath, and it was a good thing when I'm expecting transparency and openness from this one-party state government. Again, it seems to me that we're moving backwards. We're taking a freedom of information act that was difficult enough to deal with, to get the answers that you wanted, and we're making it even more difficult.

11:00

The reality is that it seems to be that in other jurisdictions where we don't have one-party rule, we seem to be moving in the other direction. We had a discussion about the cynicism and apathy and all the other things. Well, no wonder. People can't get the information. We can't get the information. I try, Mr. Chairman, through Motions for Returns, Written Questions. We get stonewalled there. They say: go to FOIP. We get stonewalled there. Now we're going to make it even more difficult in what, as I said, was a most difficult proposal. No wonder there's so much cynicism out there.

[Mr. Shariff in the chair]

Again, why do we have to take an act and sugar-coat it and say, "Well, it's to deal with the USA PATRIOT Act of the United States," and then stick on all these amendments that make this government even less transparent and more secret? I guess that's what comes when you've had absolute power for so long. You don't want to share information. You don't want it to get out, Mr. Chairman. We have to protect it. We have to sugar-coat it. We can't let the public know what's going on. That seems to be the reality of what we're facing here.

Now, Mr. Chairman, I want to again look at one specific part of FOIP in this, the five-year FOIP exclusion of ministerial briefing materials. I take it that the argument for this is based on the argument that public access to these documents may impair the government's ability to prepare for session. Frankly, that's absolute nonsense. Legislative debates based on such notes are public, and to bar them is to invite accusations of secrecy. For a government already plagued by lack of accountability and transparency, we're amazed that they would even have the gall to bring forward these amendments.

I mentioned before in this bill, Mr. Chairman, that the very spirit

of democracy rests on the fact that the government is formed by and for its citizens. Therefore, its documents, preparatory notes, and discussions must be made public and available to the public, particularly considering that such ministerial briefings do not – and I stress this: do not – and should not be considered as revealing the substance of the deliberations of the Executive Council any more than any other ministerial comments and debates do in the Legislature. They're public. You can't stop it. Maybe we'll find a way to not have *Hansard* next. Maybe that's the next step with this open government. [interjection] Tried that last week, yeah.

I just don't understand this sort of overkill about information. Is it that they're worried that something will come out and embarrass the government? Whenever governments try to block and control things, Mr. Chairman, that's inevitably when they get into more trouble.

I just want to be helpful here, Mr. Chairman, be helpful and try to help this government. The Official Opposition tried to help them out a little while ago, and they turned it down. So in the spirit of co-operation, I'd like to bring in a further amendment. I have the copies here that I would hand out. Do you want me to wait until it has time to go around or proceed?

The Deputy Chair: I think you may proceed.

Mr. Martin: Thank you, Mr. Chairman. It was under my colleague Dr. Pannu that this was signed to move that Bill 20, Freedom of Information and Protection of Privacy Amendment Act, 2006, be amended "by striking out section 4."

Now, section 4 has to do with what I was talking about, Mr. Chairman, the five-year FOIP exclusion of ministerial briefing materials. I want to repeat; these are briefing materials. This has nothing to do with deliberations of Executive Council. As I said, briefing notes should be no more valid than what people say in the Legislature here. Why we'd want to have these out of the domain for five years is overkill frankly. As I said, in the spirit of co-operation I would hope that the government members would think

that we're going too far with this and support this particular amendment.

Thank you, Mr. Chairman, and I'd beg leave to adjourn debate.

The Deputy Chair: Hon. members, before I call for a vote on the motion to adjourn debate, we shall refer to this amendment as amendment A2.

[Motion to adjourn debate carried]

Mr. Renner: I'd move that the committee rise and report progress on Bill 20.

[Mr. Shariff in the chair]

The Acting Speaker: The hon. Member for Drayton Valley-Calmar.

Rev. Abbott: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports progress on the following bill: Bill 20. 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 Acting Speaker: Does the Assembly concur in the report?

Hon. Members: Concur.

The Acting Speaker: Opposed? So ordered.

The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Speaker. Given the hour and the fact that the south is about to join the north in celebrations, we hope, I move that the House now adjourn until 1:30 tomorrow afternoon.

[Motion carried; at 11:08 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

