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The Honourable Kenneth R. Kowalski, Speaker

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Legislative Assembly of Alberta

7:30 p.m. **Tuesday, May 26, 2009**

[The Deputy Speaker in the chair]

The Deputy Speaker: Please be seated.

Government Bills and Orders
Committee of the Whole

[Mr. Cao in the chair]

The Chair: I would like to call the committee to order.

Bill 44
Human Rights, Citizenship and Multiculturalism Amendment Act, 2009

The Chair: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Minister of Culture and Community Spirit.

Mr. Blackett: Thank you, Mr. Chairman. Alberta's human rights legislation has not been updated for 13 years, since 1996. While 88 per cent of Albertans have said that they feel protected by our human rights legislation and system, there was a strong recognition that the legislation needed to be updated. In taking consideration of what updates were needed, government took note of that strong support.

But we need to bring forward changes that reflect our diverse 21st century society with a made-in-Alberta human rights law to continue to position Alberta as a safe and welcoming province, make the human rights processes more transparent to Albertans through the establishment of tribunals rather than panels, reflect the Supreme Court decision on inclusion of sexual orientation to acknowledge that we are a tolerant society, remove system bottlenecks which have slowed the resolution of complaints, and recognize that Albertans feel strongly about the rights of parents to make decisions regarding the education of their children, as existing School Act policies demonstrate. These changes as well as appointing a new chief commissioner with a judicial background and making administrative improvements will restore Albertans' confidence in the Human Rights Commission. It will restore the confidence that their complaints will be dealt with respectfully, effectively, and expeditiously by the commission.

Mr. Chairman, Bill 44 strikes the right balance on a variety of complex and difficult issues. I believe that it will improve our province's human rights system in the areas that matter most. Since becoming minister, I've heard a number of issues raised by Albertans, commission staff, former commissioners, and others, and we have addressed them in the following ways.

First of all, section 2 of the amending act amends the name of the act to be the Alberta Human Rights Act. Commissioners, staff, the Sheldon Chumir foundation, and others recommended deleting citizenship from the name of the act. The new name clarifies that the purpose of the legislation is indeed human rights.

In section 3 of the amending act and throughout we are adding sexual orientation into the act. Sexual orientation has been a protected area in Alberta for over a decade. Writing it in makes the legislation consistent with judicial decisions and was recommended by the Alberta commissioners and others.

We've also heard views regarding removing the section on hatred in publications currently in the existing legislation in section 3. We listened to all concerns and decided to retain that section so that Alberta's human rights legislation balances freedom of speech with our responsibility to others. Although we as a caucus and a government believe in freedom of speech, we also feel the need to protect those who are vulnerable to discrimination with respect to employment, accommodation, and access to services as our primary responsibility. Until we can be assured that the Criminal Code of Canada would ensure protection for those, we have to err on the side of those that we are charged to protect.

It is important to emphasize that the commission operates independently of government. The commission interprets Alberta's human rights legislation and decides which cases to pursue and those not to pursue. Government's role is to help ensure that the qualifications we use to hire our chief commissioner and commissioners include an ability to deal with complex human rights cases.

Section 11.1 would give parents the right to receive notice and, if they choose, exempt their child from courses of study, educational programs or instructional materials, or instruction or exercises that deal explicitly with religion, human sexuality, or sexual orientation. The proposed amendments will simply consolidate into law the rights that parents or guardians already have concerning the education of their children throughout a combination of legislation and education policy. However, the bill does not provide the right to exemption from instruction in any additional curriculum areas.

Mr. Chairman, I had meetings with the hon. Member for Edmonton-Whitemud, our Minister of Education, and the Alberta Teachers' Association on May 4. We also had meetings with the Alberta School Boards Association and the Alberta School Councils' Association on May 12. I had a meeting with the hon. Member for Edmonton-Centre on May 5. At each of these meetings we promised to consider changing the wording of this section to make the intention very clear.

Bill 44 is being amended to clarify that parental rights do not include withdrawing children from spontaneous discussions of religion, human sexuality, or sexual orientation that may arise during everyday classroom teaching. The exact wording of the amendment is: Section 9 is amended in the new section 11.1, (a) in subsection (1) by striking out "explicitly with religion, sexuality or sexual orientation" and substituting "primarily . . .

The Chair: Hon. minister, are you introducing the amendment?

Mr. Blackett: Yes.

The Chair: You're talking about the amendment you're bringing in, not the bill, right?

Mr. Blackett: I was talking about the bill, and I was talking about the amendment. Do you want to deal with the amendment afterwards?

The Chair: You have to introduce an amendment; then you talk about it.

Mr. Blackett: Okay. Then I will do that, sir. Sorry.

The Chair: Hon. minister, because you introduced an amendment, the page needs to distribute it before you continue on.

Mr. Blackett: Okay. My apologies.

Mr. Chairman, can I continue reading it, or do I have to wait till after it's distributed?

The Chair: Wait until the members have got the amendment in their hands.

The amendment moved by the minister is now known as amendment A1.

Minister, please continue on amendment A1.

Mr. Blackett: Okay. Mr. Chairman, the exact wording of the amendment is: Section 9 is amended in the new section 11.1, (a) in subsection (1) by striking out "explicitly with religion, sexuality or sexual orientation" and substituting "primarily and explicitly with religion, human sexuality or sexual orientation"; (b) by adding the following after subsection (2):

> (3) This section does not apply to incidental or indirect references to religion, religious themes, human sexuality or sexual orientation in a course of study, educational program, instruction or exercises or in the use of instructional materials.

Bill 44 has absolutely nothing to do with parents' religious beliefs or teachable moments, those conversations that can arise in a classroom but are not directly tied to the curriculum. It's important to note that there are very few requests to exempt students from discussions on human sexuality. School boards have an excellent system to address parent concerns, and we respect that process.

I'll stop there right now.

7:40

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

Ms Blakeman: Thank you. Following on the precedents of the House and referencing *Beauchesne*, I think it's 688, I would request that the government amendments be severed for the purpose of voting.

Thank you very much.

The Chair: That should be allowed for separate voting. Could you repeat which parts to separate out?

Ms Blakeman: Into A and B. It looks to me like there are two sections, so it would be two votes, section A and section B.

The Chair: Okay. Do you want to debate the proposed amendment as a whole package and vote on each or debate separately?

Ms Blakeman: I'm fine with debating it in its entirety and voting it separately.

The Chair: All right. We shall proceed along that line, debate entirely and vote separately, A and B.

Ms Blakeman: Yes. Thank you very much, Mr. Chairman. I will admit that I'm not usually at a disadvantage in this House, but I certainly find myself at a disadvantage tonight. We have not seen these amendments, and now I am up debating them without even having been able to read them. This is somewhat of a superhuman effort on my part, but I will do my best to speed-read.

Okay. I've had an indication that my plea has been answered. At this point I would like to move adjournment of this debate.

[Motion to adjourn debate carried]

Bill 52
Health Information Amendment Act, 2009

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

Mr. Horne: Thank you very much, Mr. Chair. Yesterday in the House I tabled the report of the Standing Committee on Health with respect to Bill 52, which was referred to the committee after second reading. There are a number of amendments contained in the committee's report, and I would appreciate the opportunity to distribute those now to members.

The Chair: The amendment introduced by the hon. Member for Edmonton-Rutherford shall now be known as A1.

Hon. Member for Edmonton-Rutherford, please continue on A1.

Ms Blakeman: I'm sorry. Could I ask that these amendments be severed for the purposes of voting, please, so that they would be severed into sections A, B, C, and D? I am happy to have us debate this as a whole, but I would like them voted in four separate votes corresponding with A, B, C, and D.

The Chair: Yes. The amendment shall now be debated as a whole but voted on separately, in sections.

Hon. Member for Edmonton-Rutherford, please continue on A1.

Mr. Horne: Thank you very much, Mr. Chairman. I would like to make a few remarks. I will address all the amendments since we're debating them as a whole. I don't propose to go through the amendments in much detail. They were distributed to members yesterday as part of the standing committee's report. Throughout my comments I will make reference to particular amendments, and then perhaps if there are questions, I can help to address those later in the debate.

Mr. Chairman, first of all, I appreciate the opportunity to speak to you about Bill 52, the Health Information Amendment Act, 2009, and would like to once again express my gratitude to my colleagues on the Standing Committee on Health for their considerable efforts to improve Bill 52. I think the amendments before us tonight are a testament to the committee's hard work over this session and the previous session of this Legislature.

The Health Information Amendment Act was referred for further review to the Standing Committee on Health on November 27, 2008, after second reading. Over the past five months, Mr. Chair, the committee has held a series of public meetings totalling more than 20 hours of review on this bill. As part of the review process the committee sought input from stakeholders and the public. The committee listened to 11 presentations and received a total of 59 written submissions.

Based on the feedback received, the committee developed a series of recommendations for amendments to Bill 52, which are now before Committee of the Whole. The recommendations are contained in the committee's report, as I've mentioned. I'd like to take a few minutes now to highlight the key issues that were identified before our committee and to outline our specific recommendations to address them.

The first major issue, Mr. Chairman, relates to a patient's right to know who has accessed their personal health information and for what purpose. Section 41 of the Health Information Act currently requires custodians to maintain detailed logs of all disclosures of health information, and in the proposed part 5.1 of Bill 52 all interaction with the Alberta electronic health record, including making the information accessible through this resource, is defined as a use of that information. Therefore, the existing disclosure-related logging requirement would not apply to the use of information in the Alberta electronic health record context.

In response to many concerns raised on this issue, Mr. Chair, the committee is recommending an amendment to Bill 52 that requires custodians to maintain access logs for Alberta electronic health record use. Those amendments can be found in part B of the amendments that were just distributed.

The second major issue, Mr. Chair, that we dealt with related to stakeholder concerns about protecting the privacy and confidentiality of individuals' health information. The first concern, which is addressed in part A of amendment A1, involves section 46 of the Health Information Act, which enables the minister to request health information from other custodians. If the requirements of that provision are met, those custodians must provide that information to the minister.

Stakeholders expressed concern about the proposed deletion in Bill 52 of the minister's requirement to prepare a privacy impact assessment and to submit it to the office of the Information and Privacy Commissioner for review and comment when requesting information from other custodians. In response, the committee is proposing to reinstate the requirement for privacy impact assessments.

The second concern stakeholders raised relates to the expressed wishes of patients in the context of the Alberta electronic health record. This, Mr. Chair, is dealt with in part B, clause (c) of amendment A1. Individual consent is not required to disclose information to other custodians in numerous situations, including via the electronic health record. However, section 58(2) of the Health Information Act currently requires custodians to consider individuals' expressed wishes when deciding how much health information to disclose.

As I indicated earlier, in the proposed part 5.1 of Bill 52 all interaction with the Alberta electronic health record is defined as use by this bill. Therefore, the existing expressed wishes requirement in section 58(2) of the Health Information Act would not apply to use of information via the electronic health record. The concept of expressed wishes is tied closely to masking, Mr. Chair, and masking is not defined or otherwise referred to in the existing Health Information Act or in Bill 52. Masking is sanctioned by the office of the Information and Privacy Commissioner and used by the department in its role as information manager of the Alberta electronic health record to prevent information from being seen by other custodians attempting to access information via the electronic health record.

7:50

Custodians can unmask information if they need the information to provide treatment and care to patients, but it should be noted that masking is the current tool used to give effect to a person's expressed wishes. If in the future, Mr. Chair, other tools provide feasible options, the language of the act would be flexible enough to accommodate such a change. Stakeholders appear to recognize the limitations of masking both technologically and in its ability to block access to information permanently or from all access points. I should add that as part of the committee's deliberations the Department of Health and Wellness provided a demonstration of the electronic health record and specifically demonstrated and discussed with us the limitations of the masking feature.

Stakeholders have consistently indicated that completely removing the expressed wishes component from the electronic health record provisions goes too far and fails to strike an appropriate balance between the Alberta electronic health record's efficiency and individual privacy. Therefore, in response to this concern the committee is proposing to include the concept of expressed wishes within the Alberta electronic health record provisions.

The third major issue the committee dealt with relates to stakeholder concerns about balancing the protection of individual privacy and confidentiality of health information with the needs of the health care system. Mr. Chair, for this I would refer hon. members to part B, clauses (a) and (b), of amendment A1. This was by far the most controversial part of the bill and the part that was perhaps examined in most detail by the committee.

Bill 52 as proposed gives the minister the ability to compel custodians to make information accessible via the Alberta electronic health record. Custodians who fail to do so are subject to significant fines. In an effort to strike a more appropriate balance and address stakeholder concerns, the committee is recommending that delegation of this authority be put as preferential approach prior to enabling the minister's ability to compel custodians to make health information accessible through the electronic health record.

Just to elaborate very briefly on this, Mr. Chair, what the amendment proposes is that the authority for requiring a custodian of health information to make that information available to other custodians of health information be delegated to the colleges of the respective health professions. Members will note that in amendment A1 there is a more explicit definition of regulated health professions provided for this purpose. The idea for this is to allow the colleges, which have the right under Alberta law and the responsibility to regulate health practice, to in fact be able to develop standards of practice and codes of conduct that reflect the appropriate uses and behaviours of health professionals in sharing health information via this new medium. The committee is also recommending that the corresponding offence provision be removed, and that is addressed in part D of the amendment.

Mr. Chair, the fourth major issue the committee dealt with relates to health information repositories. Although health information repositories exist in other jurisdictions, the concept is new to Alberta. Bill 52 establishes a basic legal framework to ensure that the Health Information Act will apply to health information repositories.

However, Mr. Chair, concerns have been raised about leaving the details to regulation. Health information repositories are intended to improve access to health information for research purposes only. These amendments simply enable health information repositories to deal with research requests in the same manner as custodians currently deal with health information today. Health information repositories cannot authorize the use of health information for any other purpose. In addition, health information repositories do not expand access to health information beyond what is currently permitted under the Health Information Act.

By creating health information repositories, greater protection will be provided to health information used for research purposes. Rather than requesting information from multiple custodians, a researcher will be able to request information from a single health information repository. Since the repository is the single source of entry to that information, Mr. Chair, it mitigates threats to privacy. For example, a health information repository will be able to conduct data matching and provide the final data at the highest level of anonymity. Currently researchers conduct their own data matching based on information received from multiple sources.

In response to concerns about dealing with health information repositories through regulations, the committee is recommending that Bill 52 be amended to include a provision requiring the Minister of Health and Wellness to consult with the commissioner when preparing these regulations. The committee is also recommending that Bill 52 be amended to address the correction and amendment of health information by health information repositories.

A more detailed description of the standing committee's proposed amendments can be found in our report, Mr. Chair. For now, with

respect to amendment A1, I would just direct members to part C to review the amendments that we are introducing.

Mr. Chair, just in conclusion, in addition to thanking committee members, I would like to point out that the committee heard extensively from the College of Physicians and Surgeons of Alberta, the Alberta Medical Association, and the office of the Information and Privacy Commissioner. We are very appreciative to all for their advice in our deliberations. As I noted earlier in the House today, I have tabled letters indicating support for the committee's amendments from those three entities. In addition, it's my understanding that the Information and Privacy Commissioner issued a news release this afternoon indicating that he had no outstanding concerns regarding Bill 52 based on the amendments proposed by the committee.

With that, Mr. Chair, I'm pleased to support our committee's recommendation that Bill 52 proceed with the proposed amendments outlined in A1 as distributed. I would urge all members to join me in doing the same.

Thank you, Mr. Chair.

The Chair: The hon. Member for Edmonton-Centre on amendment A1.

Ms Blakeman: Yes. Thank you very much, Mr. Chairman. This is my second go-round now with the Health Information Act and amendments and reviews of it. I was so interested, actually, that I asked to be subbed onto the policy field committee on health, which was charged with reviewing Bill 52, the Health Information Amendment Act, 2009. I was on the committee that participated in developing the amendments that are now before you.

I have to say that my overriding concern with health information has been the protection of people's personal health information because it is such an integral part of our identity and how we move through the world, our ability to get a job, keep a job, marry certain people, have a credit rating and a standing in the community, maintain an individual identity. Protection of that and everyone else's protection of personal health information are critically important in this day and age.

At the same time, we have immense pressure to be more efficient in the way we deliver health care. One of the things that we're told repeatedly is that we need to be able to share health information about people quicker between health professionals. Indeed, as I've often mentioned to this House, there are a number of individuals in Alberta who would find it reassuring to be able to go to a hospital, present to a hospital for health services, and know that that hospital has access to the same information as the clinic they go to at home and that there's no possibility that there's confusion over medication or past diagnoses or diagnostic tests they've had or ailments they've had. The information is all together for everybody to be able to access.

Certainly, for anyone that's ever been in the hospital, that teeth-grindingly frustrating moment when the umpteenth health professional comes in, takes the clipboard from the end of the bed, and starts over from the top with the same series of questions that the last health professional asked you not six minutes ago is very frustrating. You get asked the obvious question: "Is there no way you people can keep track of all of this information? Why do I have to keep giving it to you?"

8:00

That's part of what we're trying to achieve in electronic health records. The challenge for us is – here's that tricky word – balance, and I actually don't know that it is about balance. I think it needs to be about protection of personal health information, first, and facilitation of how that information gets out and to whom, second. That's my primary cause.

If we go back to the original bill, it is very clear in its opening sections. It sets itself up to say:

> The purposes of this Act are
> (a) . . . to protect the privacy of individuals with respect to their health information and to protect the confidentiality of that information,
> (b) to enable health information to be shared and accessed, where appropriate . . . and to manage the health system,
> (c) to prescribe rules for the collection, use, and disclosure of health information . . .

And this is very important.

> . . . which are to be carried out in the most limited manner and with the highest degree of anonymity that is possible in the circumstances.

So collect the least amount of information you can possibly do with, and as much as possible keep that information anonymous. Don't go walking around, you know, giving out detailed health information with names, addresses, and telephone numbers attached to it. That's actually set out under the purposes of the bill and has the paramountcy of the protection in there first.

What we had under Bill 52, I felt, did not meet a number of tests around this privacy. What we attempted to do in the committee, having listened to a number of stakeholders that approached us – and I was surprised because I would not tend to view the AMA as a rigorous, progressive, get-out-there group of people, generally speaking. I would have said that they tend to be more, let me say, conservative, not in their politics, necessarily, but in their approach. They were vigorous in how they criticized the bill because they felt it was really going to have a negative effect on the way they were able to provide health services.

Clearly, they felt that the public would not have confidence in the system and would start to withhold health information from them, the primary health provider, and that would cause a breakdown in the system. And I agree. If there is a balance we're trying to achieve here, that's the balance: we run the system well enough that people have confidence in the system and will give us their personal health information, and we can in turn provide the health service that is necessary.

How do we maintain or uphold that public trust, that confidence in the system that we're using? Frankly, when I first started into this, Mr. Chairman, I thought it was all about electronic technology. I thought it was all about, you know, password systems and people not being able to get into certain kinds of information. You know what? It's not. What we know now, from watching how personal health information gets out there, is that it's mostly about being able to detect and stop, hopefully in advance, human deliberation, people who are sloppy and access personal health information of other people when they shouldn't, people who are deliberate about accessing it. Those people wreck the system for everybody.

What are some of the things we've learned about how to stop that kind of unauthorized use of personal health information? One of the famous examples – and I think it's from here in Alberta through our own Information and Privacy Commissioner – is an individual who was having an affair with someone, and his wife was suffering from a major disease. The individual managed to access the personal health records of the wife, who was suffering from cancer, and tracked her progress, one presumes, to be able to judge the likelihood of supplanting the first missus. This, clearly, is not why we collect health information, so that someone can plan their romantic life. I mean, it's a horrifying, horrifying story. It's the kind of thing that people make up bad movies in Hollywood about. Unfortu-

nately, it's not a bad movie. It was somebody's life, several people's lives, and it happened here in Alberta. It happened, and it happened under the system that we have.

So the audit trails that are available is one of the ways that we are able to find out and, hopefully, move in advance of worse things happening, that we're able to get out in front of someone who is accessing personal health information in an unauthorized way. That ability to have those audit trails in place was very, very important, and that's one of the things that turns up in that first series under A, what we're calling amendment A. I'm sorry; this is amendment A1, but this is under the section A. Under section 11 it's striking out clause (b), which was basically getting rid of the necessity of the minister to do a privacy impact statement, which is another tool that we found is very helpful in checking whether this really needs to happen or that person really needs to get access: why are you doing this? If you have to do a privacy impact statement, it gives us, the system, a better sense of whether that is a legitimate access point. The second section was that the privacy impact statements had to happen before disclosing the health information to a custodian listed in various areas. This was about keeping an audit log in place.

The second series, the B series, is around the electronic health record section, and that's what's in section 20. The sponsoring member, the chair of the committee, the Member for Edmonton-Rutherford, was right. There's actually a lot in this amendment, but there were a number things we were looking for. One, again, is around people's privacy. There was the ability of the minister to compel information from doctors and even from doctors' medical records. Remember, you've got two terminologies here: an electronic health record, which is that sort of electronic in the sky stuff, with the diagnostic and the lab results and your prescriptions and what happens to you in hospital all going into an electronic health record. A medical record is what the doctor is writing on in your doctor's office. So those in many cases are still paper files, but increasingly they've got a little electronic tablet, like a laptop, that they're walking around with, and that's where they're making the notes now, with some sort of super transcriber for bad doctor handwriting, one must presume, like a translation program.

There was a clause in there that was going to force doctors to give information over to the minister if the minister asked for it, including information from the medical record, which was the little one that's taken in the doctor's office. That was a break point, a tipping point, if you will, I think, for the medical profession, that if people were aware that anything they said to their doctor could end up as part of these records, there just would not be public confidence. So it was important to change that.

There is a new series of how the minister could try and get at that information. At this point I always say to myself: I'm sorry; why does the minister of health need to know my personal health information? Well, for a number of reasons, usually to do with tracking and planning for health care management, you know, some of those census questions we always get annoyed about. Why are they asking these personal questions? Well, it helps for allocation of money and to provide social services in that context, and it's similar to what is being talked about here. They're collecting that information so they have an idea that in a population of this age you're likely to have X number of these kinds of surgeries required, for example. So it helps with health planning, which should help us with our health expenditures, so this would be a good thing.

8:10

The other piece that's covered in this section is the masking provisions. This is something that, no surprise, I was very concerned about because I have heard from a lot of people who for a number of reasons – let me be specific. I've worked with a lot of people in the queer community. There are still people in there who are living with AIDS, and they're doing well living with AIDS. They're leading productive lives; they're working in many cases. But they certainly don't want that information out in the general public, and they need to be careful about that. They need to be careful about who gets that information. As a matter of fact, you know, lots of us have reason to not want to have our health information sort of bandied about out there.

An individual's ability to mask their information from anyone that just looked on the electronic health record was, I felt, an important feature when I started into this. I'll tell you that I've come to the other end of the spectrum on this. I did do a minority report, which is included in the report from the committee and was tabled in the Assembly. Masking means that certain bits of your information literally get masked, like having a piece of paper over it.

Having watched the demonstration of Netcare, I think the masking can give people a false sense of security. If they think that nobody can look at that information for any reason at all, they are mistaken. There's actually a drop-down menu on the Netcare portal, and you can just click on it. It says: this information is masked. You click on the drop-down menu, and it says: I want to unmask it. Then it gives you half a dozen reasons why you'd want to unmask it: this is an emergency situation; this is a public health situation; I want to; they told me to; they gave me permission to. You just click on the drop-down menu, and, bingo, it's open. So it's not masked in the way people think it's masked. But we had completely lost that provision under what was originally proposed in Bill 52. So for those people that want some kind of masking provision, it is available to them under the amendments that have been brought forward under the auspices of the policy field committee on health.

I think we need a lockbox because that actually does lock up information, and you cannot get it, no matter what. The masking provision, as I say, can be lifted for any number of reasons and without having to go back to the individual that it's about and say: can I unmask this information for you? That's why those phrases, those words about collection, use, and disclosure of health information are so important. You need to get very familiar with these in the act because certain things can be done without disclosing it. Certain things have to go back and get your consent to do that. Is it blanket consent or informed consent? All those things get really important.

I'm running out of time again.

Okay. Section C in the amending document is the one that I proposed, and there's actually another piece on the end compliments of my ND colleague who was also on the committee. One of the things that I learned is that a lot of health information that exists is inaccurate, badly input, incomplete, wrong, or wrong person, and you don't realize that unless there's some reason why you have to access your health record and go: oh, my goodness, I don't have that at all.

I actually had an episode with that, you know, in one of those things you fill out in the doctor's office: have any of your parents ever had diabetes or heart disease, blah blah blah, and you check all those boxes. One of them had got some wrong information about a health issue I'd had as a young woman. They actually had me as having had cancer. Wrong. But that's what was in that particular doctor's file. At one point I applied to get more life insurance, and they make you sign a blanket consent that the insurance company can go look at all your health information to decide if they're going to give you more life insurance. Right? Okay. Fine.

I kept getting denied, and I'm thinking: "What goes here? Like, I'm healthy, I'm exercising, I lost all this weight. You know, I'm a vegetarian. I quit smoking. Good God, what do I have to do here?"

I finally said: "What gives? What's the problem?" They said, "Well, you know, you've got this cancer thing on your file." I said: "I've never had cancer. Where did you get that from?" They said, "Oh, well, from your file." I thought: gee whiz. So I went back to every doctor I had and said: go look in your files because one of you has got this wrong. I found the one that had it wrong and said: it's wrong; correct it. That's the only way I found out. We know that despite all of our best attempts – and you guys know me; I'm pretty picky about information and specificity and accuracy and all of those things. There's an example of a really simple, everyday life experience that happened to me. That happens many, many times over and over and over again.

The accuracy of the health information they hold is critical. The health information repositories are really the big new bit of this act. I wanted to make sure that you could correct any information that is held by a health repository that is wrong. With the help of Parliamentary Counsel I was able to draft amendments, which were accepted by the committee, that essentially said that if you identified it to a custodian, as I had done – remember, I went back to the doctor and said, "You've got it wrong; fix it," and they did fix it – the custodian of the information would be obliged to tell any health information repository to also correct it. So you could get your whole file corrected. That was the point of that.

Then section D is removing the absolutely draconian fine that was in place and went back and reflected on any doctor who wouldn't give the information to the minister that the minister was requesting.

I think these amendments have gone a long, long way to making Bill 52 much better. It still felt very much like a rushed and very rigid process to me. I think we could have done an even better job if we could have spent more time looking at the bill and reflecting on what amendments were really needed. But I know the chair of the committee was determined to get it back before the Assembly and, hopefully, I think in his mind, get it passed before we rise from spring session. It felt very rushed to me. I think we did good work. I think we could have done better work.

Thank you, Mr. Chairman.

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

Ms Notley: Well, thank you, Mr. Chairman. I'm pleased to be able to rise to speak to Bill 52 in Committee of the Whole and, in particular, amendment A1, that has been put forward by the Member for Edmonton-Rutherford, also the chair of the Standing Committee on Health. I'd like to start my comments by picking up where the Member for Edmonton-Centre left off in terms of the process through which we went with respect to this bill.

As has been stated by everybody who has spoken to it so far, this bill deals with a very important issue. It deals with the treatment of people's personal health information, their very, very private, sensitive information. It deals with the balancing, if you will, or the integrating, on one hand, of tremendous growth in our technological capacity to collect information and to share it electronically and at the same time, while we collect more and more and more information, the need to preserve it in a way that keeps people's ultimate security maintained.

When personal health information, that information that is shared between you and your doctor – I mean, this is something that the medical profession has for centuries made as a key part of their profession, this notion of patient-doctor confidentiality. The information that a doctor receives about an individual is so incredibly personal and has such significant implications were it to be shared with the wrong person. What this bill deals with in many ways is how we balance this growing technological capacity we have and tendency to collect information against the right of individuals to preserve the security of that information.

8:20

Now, as the Member for Edmonton-Centre already stated, there was a committee, a select standing committee, that was established in 2004 which was tasked with the job of reviewing the Health Information Act. At the time that the Health Information Act was brought in, in 2000 – I believe it was 2000 – it was seen as being very leading edge, cutting edge, and it was very cutting edge in terms of how we protect privacy and manage information. So a select standing committee was established in 2004 to review how that had worked and also to review a number of issues that they perceived were developing as a result of the initial establishment of the act and the legislative authority.

Now, that select standing committee ultimately prepared a report, which included a number of recommendations, many of which were followed up subsequently through statute and many of which were not. But some of the recommendations stated: you know, there are a whole bunch of other issues that we learned about in the course of reviewing this act in 2004 that need to be referred to another committee for more exploration and more discussion. One of those issues was how we manage this concept of the electronic health record and the way information just shoots from one person to another person to another person over this electronic health record without our ever having the slightest idea that that information was being shared. The committee in 2004 recommended that that issue, the issue around who's allowed into that electronic health care information arena, and a number of other issues should be sent to another committee for further exploration and review.

Well, ultimately, unfortunately though, that committee was never struck. What happened instead was that in the fall of 2008 Bill 52, with its many significant consequences, was presented in the House. It was referred to our standing policy committee, and we commenced meeting on it in January of 2009. Well, what we did was that we essentially had one meeting where we received about an hour and a half, two hours of presentations from the people who wrote the bill, who were presenting the bill to us to convince us that it was a good thing. Then we had a day and a half of hearing submissions from a number of different interest groups, who made, as the chair of the committee has already noted, some very worthwhile, intelligent, very helpful submissions to the committee. Then the plan was to have been for the committee to sit down and work through this information that had been presented to us and, in fact, to get further information as we saw fit.

Instead, what happened was that the schedule changed quite dramatically. Suddenly we were given a total of three hours – through the encouragement of the opposition members I think we ultimately ended up with six hours – to discuss and review and analyze this very complex piece of legislation and come up with amendments. As even this amendment A1 signifies, this amendment in and of itself is a very complicated proposal to deal with some of the concerns that were raised, but it was one that sort of came as a done deal to our committee. I have to say that in many respects I think that we are rushing forward on a very serious set of initiatives with only a limited amount of oversight.

I want to put that out there as a start because I do feel that as legislators we haven't really been given the opportunity to consider these issues with the attention that they deserve. Having said that, there is no question that amendment A1 is a step forward in addressing a number of the concerns that were raised to us. There were other concerns that were not addressed through this amendment, which, obviously, are identified in the minority reports that

were appended to the majority report of the Standing Committee on Health. But this amendment does address some of them.

I think an important addition is the notion under the first part, section A, of ensuring that there is, in fact, a requirement for there to be a privacy impact assessment before information is disclosed to a custodian under certain circumstances. So that's good. I don't know exactly why it is that we were ever in a situation where we were ever trying to avoid that. Nonetheless, it's an improvement to have that back in there.

Section B is an interesting addition to the bill. It's a creative one, and I give credit to the people who helped draft this and, of course, I think, to the chair of the committee because I think he put a lot of work into it in terms of dealing with the very serious concerns that were raised by, primarily, the physicians over the prospect of being told that the minister would be able to tell them and ultimately compel them to put whatever information the minister deemed advisable into an electronic health record. Of course, there were tremendous concerns that what would ultimately happen is that we'd start seeing more and more detailed chart notes getting into this electronic health record.

As I'm sure many people in this House know, doctors now have a tendency – I don't know what percentage of them, but certainly mine does – to listen to you and type into their computer as they're listening. So all the notes of the whole discussion end up in your electronic file. Now, the physicians raised a very good point, you know: if this is what we are compelled to include in the electronic health record, it's going to fundamentally change the way patients communicate with us, and it's going to fundamentally impact the way that we're able to provide health care to our patients. That was a good point.

The proposal that is in this amendment essentially gives a lot more authority back over to the professional associations for them to determine what is appropriate to go in and what is not. That's certainly a good start. There's no question that those folks have tremendous expertise in deciding what is the best balance between what the health record needs to have to provide good care versus what would otherwise put a chilling effect on the patient in terms of what they would be willing to disclose or talk about to their doctor. It's certainly a good component.

My concern, though, is that ultimately we are still leaving that decision to another body, and ultimately that body can be overruled by the minister. We all know it's not the minister; it's the officials in the ministry of health who originally didn't have this kind of information or this kind of balance in the first draft of the act. You know, ultimately there is no complete protection because the way this is crafted, the minister can overrule recommendations made by the professional associations trying to limit the amount of information that they need to put into the electronic health record and, hopefully, also limiting certain circumstances.

But it doesn't quite go all the way. There's still that possibility for too much information to be compelled from individuals and put into an electronic health record. We then move into the situation where we're not a hundred per cent sure for other reasons that that information will be protected as well as it could be.

Definitely I give credit to the creativity that underlay this proposal to try and balance those interests. It's worth exploring whether or not it can work. I just raise a caution that there are circumstances in which I could see it not working. That's all I will say on that piece of it.

The last section that I wanted to talk about relates to the health information repositories. That, as the previous member noted, includes amendments that both opposition members put forward. As I outlined in the minority report of the third party, although these amendments were accepted, they don't ultimately go anywhere far enough to constrain or delineate the rights and obligations of the health information repository.

Put clearly, the bill as it stands right now gives the health information repository the authority to hold personally identifying health information of Albertans. There is nothing else in the bill as it exists now that compels that repository to follow the majority of the rest of the privacy rules which are included in the Health Information Act. There is nothing in the bill itself that sets out the purpose and the objectives of the health information repository as would be the case in, say, other acts, acts in Manitoba that we referenced in committee debate.

8:30

There is nothing in the act right now that gives the Information and Privacy Commissioner a good deal of authority over regulating the health information repositories. A good deal of the authority that the Information and Privacy Commissioner has to enforce the privacy protection which appears in the Health Information Act arises from the relationship between a custodian and their duties under the act and the enforcement provisions that attach to the Information and Privacy Commissioner. Because the health information repository is not a custodian under the act, there are large gaps throughout the act that do not apply to the health information repository.

A simple example is that the Member for Edmonton-Centre proposed an amendment which requires the health information repository to report whether it has corrected inaccurate information that has been sent to it. Then they have to report whether they've corrected it or whether they haven't corrected it. If the health information repository were a custodian, the person would then have the ability to look at the information held by the health information repository to check that the mistake wasn't still on the file.

I'm sure everybody in this Assembly has had the experience of trying to get something corrected or changed and having to do it two or three times because it simply won't go away. In this case, because the health information repository is not a custodian, a person will never actually be able to check whether or not the inaccurate information on the health information repository files has been corrected. They must simply take it at face value. This is just a small example of how this new body, which has the legislative authority to collect personally identifying health information of Albertans, has that legislative authority but is not governed by significant portions of the remainder of the Health Information Act. That's why we have some very serious concerns.

Now, the committee – we appreciated it – did accept our own amendment that in developing the rules, the objectives, the purpose, the functions, all the information that should be in legislation describing what the health information repository does, as all those rules are created by regulation around the cabinet table, at the very least the minister must consult with the Information and Privacy Commissioner. That's good. They must consult. But where these kinds of bodies have been created in other provinces, there has been a much more substantial set of descriptions, rights, obligations, rules set out in legislation. All we have in this legislation is the authority for this body to collect buckets of information and the authority of the government to then through regulation create rules that will govern how that information is managed within the health information repository. So we have some very, very significant concerns.

We talk about how the health information repository is designed for research, but that in and of itself is not even clearly stated within the act. I think we all understand that to be the case, but it's not stipulated in the legislation, so the question is: why not? What other

uses may this information ultimately be put to? What legislative limit will there be on those uses?

Those are the kinds of concerns that we have that remain with respect to Bill 52. There's one other set of concerns that I have, but they are not really addressed directly through amendment A1, that I'm speaking to right now, so I'll wait until this amendment has been dispensed with by the Assembly.

Finally, going back to the issue of the electronic health record covered under section B of this amendment, I did also want to mirror the concerns that were identified by the Member for Edmonton-Centre with respect to the whole concept of masking. I do believe that people are given a very false sense of security about what information they are able to control once it goes into the electronic health record. It's very clear to us that there are a tremendous number of situations within which information that a person believes is masked can become available to others on the electronic health record.

We heard that the technology is developing such that at some point it may be possible to mask certain pieces of information but not others. But that information, that capacity, that technology doesn't exist right now. Basically, what happens is that if you as a patient say to your doctor, "I don't want this information widely shared through the electronic health record," everything must be masked. Well, you would think, then: oh, well, that's not helpful either because then nobody ever gets any information. But, no, that's not true because there is a long list of exceptions such that the mask comes off very, very quickly.

I think, ultimately, what's happening here is that people are going to lose a tremendous amount of control over the carriage and the custody of their personally identifying health information. I'm sure some of you may have noticed that just today on the news there was a breach of privacy where a whole bunch of personally identifying health information – this was, of course, just documentary. Nonetheless, a mistake was made. It should be easy to control these things, but a mistake was made, and that information ended up going up and down 97th Street in Edmonton, copious amounts of personally identifying health information about a number of people who were patients at the Royal Alexandra hospital.

The Chair: The hon. Minister of Health and Wellness.

Mr. Liepert: Well, thank you very much, Mr. Chairman. I just want to take a couple of minutes because I'm not sure after the theatrics of the last almost hour that we're any wiser on whether the two members are going to support this amended legislation or not.

First of all, let me say that soon after the Premier established the policy field committees, we heard all kinds of comments from friends in the opposition about how these committees were nothing more than window dressing, that they were just going to give government MLAs something to do, and on and on and on, a typical sort of negative way of looking at things. Well, Mr. Chairman, I think that this particular process that we've gone through for the past now almost four or five months has shown that if members of this Assembly want to have a committee actually work, it can work, and this one worked exceptionally well.

We introduced the bill, a bill that was very sensitive, took the time to have the committee look it over, hear submissions, meet with those who had concerns, come forward with some amendments to the point where the chairman of the committee, the Member for Edmonton-Rutherford, I believe, today in this House tabled letters from the Privacy Commissioner, from the College of Physicians and Surgeons, from the Alberta Medical Association, all supportive of the amendments and the bill going forward. We have a letter from the president of the Alberta Medical Association, who states in his letter to his membership that they are "strongly supportive" of this particular legislation.

Yet I'm not sure if these two members who've just spoken and spent all of this time – I'm not sure what you do to please these folks sometimes, Mr. Chairman. It boggles my mind when we've got, effectively, the entire province onboard supporting this particular bill, and we have to go through the theatrics we've just seen with these two particular members. So I would just like to say that I think this House should right now support the amendments that have been proposed and move on to other business.

8:40

The Chair: The hon. Leader of the Official Opposition.

Dr. Swann: Thank you very much, Mr. Chairman. It's a pleasure for me to rise for the first time on Bill 52 and to make some comments about, in this case, the amendments recommended by the hon. Member for Edmonton-Rutherford. I will say that health information is extremely sensitive, and we've made significant progress in this province through the electronic health record. Nobody would deny that we now have much better access to information, timely information, transportable information for improved quality care, better access for individuals to the appropriate professional, and more opportunity for effective treatment.

Along with these tremendous benefits in the electronic health record have been the concerns that many of us have and have heard about, whether it's in Canada or internationally, because of the access to information through devious methods and for unknown and perhaps devious motives. The concerns that have been expressed tonight and in the past around this bill and actually quite alarmed the medical profession initially have been and are being addressed in some of these amendments. I'm glad to say that the committee did its work, I think. I congratulate the committee for being so inclusive and actually listening to the different points of view on the issues and coming forward with some amendments that really do address concerns raised by the Information and Privacy Commissioner, by the health professionals, including the Medical Association, and by our own Member for Edmonton-Centre relating to section C, as indicated.

Let me just briefly for the record say that section A, which concerns, again, the questions raised about who gets access and when and to what information by the Privacy Commissioner, will repeal subsection (5)(b) and require that comments of the commissioner be considered and a response be made before disclosing health information to a particular custodian. That gives us a lot of confidence, Mr. Chairman, that at least there is a secondary oversight before that kind of access to very sensitive information is provided.

We recognize that nominal information has to be accessible at any time to researchers to provide statistical analysis, to establish trends in different conditions, and to make prompt associations between particular conditions and particular environmental situations. But apart from that, we cannot assume that people have the best intentions, whether a designated custodian or the minister himself, without having a secondary provision for the commissioner to review it. Section A also provides that the minister or his department, then, must have to perform the impact assessment and consider the comments that the commissioner has made.

On the issue of section B, this largely arises out of issues raised by the Medical Association. The main concern was the power of the minister to trump, I guess, the concerns of professional bodies who spend their lives developing trusting relationships and ensuring the

confidentiality of information. It did raise significant questions for many of us about what it was that the minister or the health department might have at its disposal but, more than that, how careful they would be in dealing with sensitive information because they are a third party and don't have any particularly personal relationship with an individual or recognize the significance of some information. This amendment goes some distance in ensuring that information from a regulated health professional is made accessible in an appropriate way but balanced by the rights and privileges of an individual and their confidential relationship with their professional.

Subsection (b), again, makes prescribed health information accessible. It's clear here that the health professional body will be responsible to direct the health professional to make the prescribed health information available through the electronic health record. The minister is given the authority to direct a regulated health professional to make information available only after consulting with the relevant health professional body, preparing a privacy impact statement, and considering the comments provided by the Information and Privacy Commissioner. It also outlines the repercussions of a regulated health professional to follow the directions of either the health professional body or the minister. It further outlines that an authorized custodian may also make prescribed health information under its control accessible to authorized custodians through the Alberta electronic health record.

Subsection (c) also adds a section where a regulated health professional or authorized custodian must consider the expressed wishes of the individual who is the subject to the health information when determining how much of the information to make available through the electronic health record. This is important as it clearly outlines the individual's primacy in deciding what and when and how it can be released.

Subsection (e) outlines that an electronic log must be kept of custodians who use prescribed health information through the Alberta electronic health record: the name or identifying number of who uses the information via the electronic health record, the date and time it occurred, and the description of the information used. This log has to be kept for 10 years. Individuals may ask the custodian or information manager of the electronic health record to view and have a copy of the log. If the individual makes this request, then the custodian or manager must provide it. This is clearly a protection mechanism so that individuals can identify who is seeing their personal health information.

Subsection (e) also adds a section with respect to where a committee must be made that would provide recommendations to the minister on rules regarding access, use, disclosure, and retention of prescribed health information through the electronic health record, clearly important because at least two members of the committee will be from the public, and this will provide some oversight to the rules.

On the issue of section C information may be amended or corrected when it is in a health information repository. This also gives the commissioner some ability for oversight. This was recommended by our Member for Edmonton-Centre and is eminently sensible. The first section, section 72.4, adds correction or amendment of health information by repository, where if a custodian has corrected or amended health information, the custodian must notify the health information repository of the change. The health information repository then must correct or amend the record within 30 days and provide notification back to the original custodian, who must then notify the individual, clearly important in allowing individuals the ability to personally audit their health information and ensure that information is correct and that this change applies to the record that is in the health information repository.

An individual is also given the right to ask the Information and Privacy Commissioner to review a failure by a custodian to notify a health information repository of an amendment or correction. Clearly an important amendment as it was uncertain what type of oversight the Information and Privacy Commissioner would have over the health information repositories: this amendment clearly outlines the oversight the commissioner would have.

The second section added states that the minister must consult, again, with the commissioner in the preparation of the regulations that would govern health information repositories, ensuring that someone with specific knowledge, with concern for the privacy of Albertans would have oversight and be involved in the drafting of these regulations.

Section D simply removes the high penalties associated with unauthorized access to information and removes, therefore, the threat, I think, of inappropriate or unbalanced recourse following access.

With those comments, I would thank the chairman for the opportunity to speak on this and look forward to further debate. I personally will be supporting these amendments.

8:50

The Chair: Any other hon. members wish to speak on amendment A1?

Seeing none, the chair shall now call the question. We will vote on the four parts – A, B, C, D – separately, as we stated at the beginning.

[Motion on amendment A1A carried]

[Motion on amendment A1B carried]

[Motion on amendment A1C carried]

[Motion on amendment A1D carried]

The Chair: On the bill are there any other comments or questions? The hon. Member for Edmonton-Strathcona on the bill.

Ms Notley: Thank you. I hate to disappoint the minister of health. You know, it really does disappoint me when that happens. Nonetheless, there is one other set of comments that I'd like to offer on this bill, and they, ultimately, relate to an amendment that I am putting forward. Perhaps what I will do is move the amendment and have it distributed, and then I'll make my comments about the amendment.

The Chair: You can send it to the table, and we will distribute it.

The amendment introduced by the hon. Member for Edmonton-Strathcona shall now be known as amendment A2.

Hon. member, please speak on A2.

Ms Notley: Thank you, Mr. Chairman. The amendment that I am proposing is one that would amend section 2 of the current Bill 52. Anyone who'd had an opportunity to read the minority report that our caucus put forward as an addendum to the majority report coming from the health committee would know that what this relates to is the initiative within Bill 52 to add totally privately funded health care providers to the list of health service providers who would have access to the health information and the electronic health record scheme. This amendment that's being proposed to Bill 52 would also change the definition of health service such that it was no longer necessary that that health service receive either partial or full

public funding, so that instead it could be a health service which is entirely privately funded.

Now, generally speaking, whenever members on this side of the House raise the concern about the expanded scope of privately funded health care in our province, we're constantly told that we're seeing ghosts, that we're fearmongering, that it's all in our heads. Yet I have to ask: if that's the case, why is it necessary in this particular bill to change the act so that fully privately funded health services and health care providers can get access to this health information scheme? I appreciate that there are already in our system some providers of health care who have historically been privately funded. Those include dentists, for instance. Those include pharmacists in many cases. I don't agree that those folks, if they're providing a health service that's actually necessary, should be privately funded or at least not partially publicly funded. Nonetheless, I know that that's the history, and that's how this system has evolved, so there are some identifiable professions that are often fully privately funded.

However, it seems to me that if we had no plan to expand the scope and expand the number of people who fit within that definition, it would be quite a reasonable thing to simply list those exceptions within the act. Instead, what we're doing is we're changing the language so that any privately funded health care provider and any privately funded health service will now be included. Indeed, between the time that this bill was initially introduced and the time that this issue was discussed in the policy field committee on health issues, you know, two weeks ago, we found two particular health services which were previously publicly funded that are now solely and completely privately funded. So we've seen the list grow even as this bill has been in debate.

Mr. Hehr: Oh. You mean delisting is really privatizing?

Ms Notley: Indeed, delisting is privatizing. Who would have thunk it?

You know, I appreciate that this bill is not the mechanism for the privatization, but it is a vehicle that facilitates the privatization. For that reason I have very serious concerns with the amendments that are included in Bill 52 right now which would ease the transition to adding more and more privately funded health care providers to this arena and ease the transition of delisting. The more we delist, we won't have to keep coming back and changing this legislation every time we delist another service. Needless to say, given the historical position of our caucus on the need to maintain maximum publicly funded health services, this amendment is a concern.

Now, I also raised in the committee another concern that is very serious to me, which I've not been able to receive any kind of assurance or explanation for how it is not a concern, and that is that by including health care providers who are privately funded and health services that are privately funded, we open the door to allowing an individual's employer access to their health information, and we open the door to allowing insurance companies access to an individual's health information, and we open the door to allowing the Workers' Compensation Board access to a person's health information. When I raised this in committee, I was told: "No, no, no. That's not what we're doing. We're just giving the information to the health service provider in their capacity of providing a health service, so that will govern how they use that information because it's only when they provide a health service." But the reality is that the lines are not that clear; they cannot be drawn that clearly.

Ironically, we're going to be talking about the human rights code after this. One area of human rights that this province is desperately behind on is the issue of the duty to accommodate, particularly the issue of the duty to accommodate injured and disabled employees in their workplace. Now, that is an issue which crosses the border between health care provision and employer obligations day in and day out. Services provided through different sections of the Workers' Compensation Board also cross that boundary day in and day out. Insurance company doctors, insurance company rehab centres, rehabilitation centres that people go to often cross that boundary. Not only do they go to those rehabilitation centres to get their back improved, to rehabilitate from, say, a workplace injury, but those rehabilitation centres then also create a report which has significant implications for that individual's ability to gain employment, become re-employed, or to pursue other economic objectives which they are entitled to.

Now this body, this provider, will have access to everything, and they will be able to go back: you know, Joe injured his back six months ago at work, but now the insurance company physical therapist will find a record of Joe complaining about his back 20 years ago. Then suddenly it's all related to the fact that Joe's back has been sore all this time, and he doesn't need to get any further support from WCB or the employer or the insurance company or whoever.

9:00

This happens. This happens all the time. This has critical implications for people's very security, for their very economic security, for the very way they live their life. When I said earlier that we were concerned about this issue going through the committee too quickly, this is an issue that is very, very serious, with very, very serious implications, and it has not been fully explored. The law around defining those roles, the health care service provider who works for the employer, is not yet clear. This bill does not find a way to help clarify it for the purposes of this act, so we are moving forward on unlocking people's most sensitive and private information and potentially handing the key to people who have no business having access to this information ever. It is of great concern to us that that's what could happen through Bill 52.

As I stated in the committee, we know that there are roughly about a hundred thousand health care employees who are already sort of subject to the confusion around this. As I've stated before, this is an issue that comes up repeatedly, and although the Information and Privacy Commissioner referred us, I believe, to only one or two actual hearings on the matter, I can say from personal experience that the issue does actually come up more regularly than that. It's often addressed through grievance arbitration because the setting within which this currently happens is one where it's very unionized, and that particular group of employees has a much higher level of protection than the average employee across the province. A hundred thousand employees have a different mechanism that protects them from the wrongs that may be incurred through this bill, but this bill would essentially expand it to the 1 million employees in Alberta, most of whom do not enjoy the benefits of that protection.

This is a very serious issue. As I stated before, when the committee in 2004 reviewed this issue, they said that this particular thing needs to be thoroughly examined just on its own, this one issue of allowing privately funded providers of health services into this arena. This issue on its own needs to be fully considered, and the implications need to be fully considered. The same committee completely rejected at the time allowing the WCB anywhere near this scheme, yet it appears as though inadvertently that's what we're doing. We have never been given the opportunity to fully consider the implications, to inquire, to get assurances, to come up with ways in which we could limit the damage done. As a result, the only way

we see that we can ensure that that damage is not allowed to go forward is by going ahead with the amendment that we're proposing today.

The final point that I would make in support of this amendment is simply that as more and more privately funded bodies are able to gain access to this arena within which our very sensitive personal health information resides, we potentially lose even more control in terms of our ability to regulate and to monitor and to protect. Certainly, no question, that which is publicly funded is not by definition the most careful body, but it is something that's closer and easier to monitor should we choose that we need to do that and should we need to do that.

The Auditor General is already looking at these systems as it relates to government bodies. We know, as I've said in the past, that with the registry systems the farther away we get from that body that monitors the safety provisions, the more likely it is that there may be a breach. Obviously, if we're moving into fully privately funded bodies being able to get access to this information, many of which may have head offices that aren't anywhere near this province, again, the risk is increased with respect to our ability to preserve and protect the sanctity of the health information that resides in these electronic health records.

These are the three reasons why I would urge members of this Assembly to support this motion, and I thank you for the opportunity to put it forward.

The Chair: The hon. Leader of the Official Opposition, on amendment A2.

Dr. Swann: Thank you, Mr. Chairman. A pleasure to rise and speak to the amendments to Bill 52. Some real legitimate concerns are raised here. When I view any aspect of change to the health care system, I view it through four lenses, basically. Will it improve the quality of care? Will it improve the access in a timely way to appropriate care? Will it improve the cost-effectiveness of our dollars spent in the health care system? Finally, does it protect the rights and freedoms of the individual to their privacy?

This amendment raises some interesting questions with respect to the bill and the amendments just passed, the questions being around whether it's aiding and abetting privatization, whether it's increasing the risk of a breach of privacy, and whether it would decrease the adjudicator access to private health information.

I'm not concerned, frankly, with aiding and abetting private health care. I think we already have a significant degree of private services here. The question is: do people who are fundamentally cared for in the public system have access to the same benefits of an electronic health record, whether they're getting services from a chiropractor or getting services in a hospital, through this vehicle? I believe that they do. I find it difficult to argue that an amendment is needed to suppress private access. I don't think that will in any way affect the rate of progress of private health care delivery in the province, and it will compromise the care of people who are accessing both, whether it's ophthalmic surgery or whether it's chiropractic or psychological services in the private sector. I don't see that the existing bill with the amendments that we have just passed would compromise that.

With respect to the increased risk of privacy breach, obviously the more people that have access to information, the more the risk of a privacy breach, but it's impossible to argue on that basis to restrict information from caregivers whom the individual chooses to take responsibility for their health. While technically true that privacy would be at a little increased risk because of increased numbers of people handling the information, in this case, as the hon. member is mentioning a private provider, it's not somehow logical, then, to conclude that they will be the ones most likely to breach the privacy any more than others, whether in the public or the private sector, providing the services.

9:10

With respect to access to private information by an employer or an adjudicator, that does raise significant questions, and I would like to think that Bill 52 has addressed some of this. We simply cannot tolerate a system where an employer could have access both to the health records and to the qualifications for compensation and privacy of their health information. That simply cannot happen under the current situation, and it should not be possible under the new provisions of Bill 52. I don't believe it is any more likely to happen than in the past, and with the new provisions of Bill 52 I think it's less likely to happen that there would be this conflict of interest between an employer and some of the benefits programs, insurance programs, or workers' compensation programs that this employee may be entitled to and compromised if this private information was passed along. So while I share some of the concerns – and I congratulate the member for bringing these issues forward as they are issues that I hadn't thought deeply about to this point; I think they're important areas for discussion – I don't find sufficient justification to support these as a basis for moving ahead with this bill.

Those are my comments on the amendment recommended by my hon. colleague. I'll now take my seat and listen to further debate. Thank you, Mr. Chairman.

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

Mr. Horne: Thank you very much, Mr. Chair. I'll be very brief. I'd just like to begin by thanking the hon. Leader of the Opposition for making a number of comments that I would have made as well in response to the amendment proposed by the hon. Member for Edmonton-Strathcona.

First of all, we'll begin with the premise offered by the hon. Member for Edmonton-Strathcona that somehow – and I'm not sure how one would arrive at this conclusion – Bill 52 is enabling legislation for future decisions that may be made around insured health care services under the Alberta Health Care Insurance Act. I think that if I was looking for a clue that that might be in the offing, I would probably look to proposed amendments in other pieces of legislation. It is certainly not a policy objective as stated in this bill, and therefore it's not a conclusion that I would draw easily.

In fact, Mr. Chair, as you may know, approximately 30 per cent of health care services are funded through private sources, and often these are not exclusively funded by private sources. They are cost shared with patients, with employers through their employer health benefit plans. In fact, many of the professionals who provide these services that are funded in this mixed way are in professions regulated under the Health Professions Act of Alberta. Dentists were one that was mentioned by the hon. member opposite. Physiotherapists receive funding through employer-sponsored plans and privately. Occupational therapists do; podiatrists do. In fact, many paramedical professions that we regulate as professional disciplines provide services that are funded through these means.

The intent of the bill, Mr. Chair, is to bring to bear under the regulations that govern the collection, use, and disclosure of health information that same oversight in the public interest as we have currently for the regulation of the professionals who offer those services to Albertans on a day-to-day basis. I would submit that that

is a responsible and appropriate objective of a piece of legislation as important as this one. I would hope that hon. members would recognize that the funding and the disciplines that provide these services are organized in a way that is substantially more complex than has been suggested here this evening.

On the second point, with respect to inappropriate use of health information by custodians, who may have varying reasons for accessing information, all I can say, Mr. Chair, is that this bill does absolutely nothing to change the obligations of custodians with respect to use of health information. We've seen recent decisions, as recently as a month ago, by the Information and Privacy Commissioner that called individuals to account who, in fact, were authorized custodians who accessed information for inappropriate purposes, employer-related purposes. So we can see that when people do make errors in judgment, knowingly or otherwise, the Information and Privacy Commissioner recognizes those cases and calls those individuals to account.

There is absolutely nothing in this bill, Mr. Chair, that removes the right of any individual to exercise their ability to provide consent or withhold consent for an employer or an insurer or another third party to access personal health information. So, again, really, there's nothing here, in our view, that would cause us to consider support for the amendment. I thank the hon. member for bringing it forward. They certainly were issues that were discussed in committee at length.

With that, I'll take my seat. Thank you.

The Chair: Any other member wish to speak on amendment A2? The hon. Member for Edmonton-Strathcona.

Ms Notley: Thank you. I'll speak very briefly and then probably call the question, depending on the process. But I just want to respond. Many good points were made. The only point that I did want to identify is with respect to the decision recently made by the Information and Privacy Commissioner. As I'd mentioned in the past to the Member for Edmonton-Rutherford, in that particular case the Information and Privacy Commissioner was able to delineate the conflicting role of the health care professional and found that the activity was inappropriate. However, given the rationale and the reasoning upon which the commissioner relied to reach that conclusion, it is truly not clear to me that had that particular health care professional been engaging in the facilitation of a return to work, a duty to accommodate, a workers' compensation claim – indeed, the commissioner himself suggested that had the health and safety nurse been dealing with a workplace injury, the answer might have been different.

So it is because of the very decision mentioned by the Member for Edmonton-Rutherford that I am so deeply concerned about what the implications are for this change to this bill and the scope of the opportunity for these kinds of errors in judgment to be expanded so significantly away from those who simply work for health care employers to those who work for all employers, which is the consequence of the proposed changes to section 2 as it currently stands in Bill 52.

With that final point, I will call the question.

The Chair: The chair shall now call the question on amendment A2.

[Motion on amendment A2 lost]

The Chair: Now we go back to Bill 52. Any other member wish to speak? The hon. Member for Lethbridge-East on Bill 52.

Ms Pastoor: Thank you very much, Mr. Chair. I'll be very brief. I just would like to make sure that I'm on the record speaking in favour of Bill 52. I think probably remarks have been made prior to this about the work that had been done on this particular bill through the committee the first time.

The Chair: Hon. member.

An Hon. Member: You're in the wrong chair.

Ms Pastoor: Okay. I thought we were in committee so I could . . . [interjection] But I have to speak from my chair. Thank you. I'm in my chair. Thank you for pointing that out, Mr. Chair.

Where was I? Oh, yes. Just that there was some, I think, good work done in the committee. It came out, it came back into committee, and we, I think, went through many concerns that were certainly mine. I'm not a big fan of the world necessarily knowing my business and still maybe am a little apprehensive, but overall the changes that have been made and the amendments that have been brought through as a result of the recommendations from the committee are good. I thank the chair for the work that he did on this committee. I think that it was a lot of work. It was well focused, and everyone had their say in it.

With that, Mr. Chair, I will take my chair.

9:20

The Chair: Seeing no other member wishing to speak on Bill 52, the chair shall now call the question.

[The clauses of Bill 52 as amended agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Opposed? Carried.

Bill 44
Human Rights, Citizenship and Multiculturalism Amendment Act, 2009
(continued)

The Chair: The committee now resumes with considering Bill 44, the Human Rights, Citizenship and Multiculturalism Amendment Act, 2009. We have amendment A1, proposed by the hon. Minister of Culture and Community Spirit. The hon. Member for Edmonton-Centre on A1.

Ms Blakeman: Yes. Thank you very much, Mr. Chairman. My thanks for the co-operation of the House in giving us some time to be able to actually read the amendment and take some stock of it. For those of you that are newcomers to the House, you were almost treated to the specialized Official Opposition drone-on as we try to waste time through something until we've got enough time to read it. By adjourning briefly, you weren't subjected to that.

I thank you for your courtesy in doing that although I have to say it was a bit unusual to have government amendments brought forward and us up debating them instantly. Usually there's an opportunity to present them and then adjourn and come back another day or to table them during the earlier part of the Routine so that we've had a chance to look at them for a couple of hours and then come into the House and debate them at night or something else.

It's quite unusual to, first of all, have an evening sitting where we weren't up to speed on staff and be expecting one Parliamentary Counsel to handle all of this and then to have the amendments come onto the floor and have to debate them immediately, so thank you for that.

An Hon. Member: It's not unusual at all.

Ms Blakeman: Yeah. It actually was pretty unusual, especially for the last four or five years.

What we have before us is A1, the government amendment to Bill 44, and as per my request we have severed the two sections for the purposes of voting. Essentially, what we have is that section A is dealing with the very controversial section 9, which amends section 11.1 of the original bill, and that was the section that has been commonly referred to as the parental opt-out section. Some people have called it a parental rights section.

This was the part that was new. Many, including myself, argued that, one, you shouldn't be doing it, and two, if you absolutely had to do it, you shouldn't be doing it in the human rights act because this section is giving direction to the school boards, in essence, and telling them, one, that they have to provide notice to a parent or guardian of a student if they're going to have any instructional material or teaching instruction, any classroom time spent on a subject matter that dealt explicitly with religion, sexuality, or sexual orientation, and secondly, that if the school did receive back a written request signed by a parent or a guardian, that student would be excluded from that instruction, and the teacher could not penalize the student academically, and some additional alternative instruction would have to be provided for them to make up for that.

Of course, what goes with this is that if this section was contravened – we're talking about the human rights act, after all – then that gave the parent or guardian the opportunity to bring a human rights complaint against the teacher or the principal or the school or the school board. I think we have not even begun to comprehend what far-reaching, rolling effects this section will have on our society as we know it.

You know, if you look at this from a parental rights point of view, this is something that a number of states in the U.S. have tried to get into their legislation and that has been vigorously opposed. Here with 72 members of a Conservative caucus voting – well, we'll see if it's a free vote – it's quite likely that the government will be able to with their majority implement this into law. I can see this having an effect on allocation of resources, priorization of services that are offered by government, depending on whether or not you fall under what is being assumed by this particular clause.

The amendment that they're working on is to say "primarily and explicitly" – in other words, add in the words "primarily and explicitly" – dealing with religion, sexuality, and sexual orientation and a small change around human sexuality. In fact, I had an amendment ready to go that would have done exactly that, add the word "human" in front of the word "sexuality" because it had been pointed out to me by a number of teachers that it would be very difficult to teach biology and some of the other sciences if you could not in fact refer to different sexes because that's how it occurs in nature. You had to be able to talk about that, or it would be very difficult for a teacher to work in the classroom and actually impart that knowledge.

Those two changes have been brought in plus an additional clause that's added in that says: by the way, if this is an incidental or indirect reference to religion, religious themes, human sexuality, or sexual orientation, it wouldn't have effect in the larger picture. What we would have, then, is a parental opt-out section – it would still be in the human rights act, not in the School Act – which would still require notification to parents or guardians about the type of instruction although it's now saying: subject matter which would primarily and explicitly deal with religion, human sexuality, and sexual orientation. It would still require that teachers, on the written request of those parents and guardians, would exclude the student from the instruction. They would provide something alternative. Just to clarify, the subject matter primarily and explicitly dealing with religion, sexuality, and sexual orientation would not apply where this was an incidental or indirect reference.

That amendment does not fix what is in this bill. I think, in fact, that to me this clause is a perversion of what was intended by the human rights legislation and even a perversion of what I think was originally intended by the minister and by the government, which was to strengthen the administrative abilities of the Human Rights Commission and to add in sexual orientation. I cannot countenance this section.

I have gone back into the communities that I deal with and have said: what do you want me to do? Essentially, what I got back from them were instructions saying: "Don't do this. Don't support this." Here it is:

> While I would like to see [sexual orientation] in, I do not want to see it in at the cost of the opt out clause . . . By expressly including sexual orientation in the legislation they are taking back with one hand what they purport to give with the other.

9:30

I think that it also gives a larger message. You know, it was bad enough that we gave a message that the province, although it would begrudgingly offer the service of protection on the grounds of sexual orientation, particularly around housing, employment, and access to government programs and services, there was a sort of megamessage there, "But we don't really like it very much," because they wouldn't write it into the legislation. Now they've done that, but they've given it with one hand and taken it away with a much larger hand to say essentially with this clause that it's okay to discriminate, that it's okay to have children not learn about certain kinds of people. I just cannot support it, and I think many other Albertans can't support it.

As a result, Mr. Chairman, I have a subamendment, which is at the table, and I would ask that it be distributed at this time.

The Chair: Okay. This amendment is now known as subamendment SA1.

Hon. Member for Edmonton-Centre, please continue.

Ms Blakeman: Thank you very much, Mr. Chairman. Indeed, this is a subamendment, and this is part of what I had to get organized, with the co-operation of Parliamentary Counsel, in no time flat here tonight. Thank you, everyone, for co-operating with that.

Looking at the government amendment, which came in two sections – section A, which was amending section 9, and section B, which is amending section 16, a different section – my subamendment SA1 completely strikes out section 9. With that, I hope what I am doing is removing that opt-out section.

Some of the material that I've been reading in support of that are things like the Sheldon Chumir foundation, and they're talking about the legal test for what counts as religion. What we're talking about here is that a family could decide that a student, a child, was not to be exposed to certain concepts, including a concept under that subheading of religion, of many different things. There's been some argument back and forth in this Assembly in question period about: well, of course, you know, it couldn't be mistaken to be such and such and so and so. Well, yes, it can. If you go out onto the street and say to somebody, "What exactly does the word 'religion' mean

to you, and how do you see it playing out in the context of the School Act?" you would get as many different answers as people that you spoke to.

I was looking for the legal definition, and in my reading through a number of things, I actually ran across something that will serve that purpose for me in the Sheldon Chumir document, that was sent around to all of us, that is dated May 8. They say:

> The wording and potential scope of the proposed opt-out is far too broad and vague. Given that the legal test for what counts as religion, which has been consistently pronounced by the Supreme Court of Canada, is "sincerely held belief," there can be absolutely no doubt that all sorts of things could be construed as dealing "explicitly with religion."

They go on to say:

> The sincere Creationist believes that much of science, including evolution, deals explicitly with religion in a highly offensive way by contradicting the word of God. They will want to withdraw their children from at least some science instruction and Bill 44 invites them to do so.

I think they have put that very well.

That goes forward under a number of the other headings that are here. I mean, there's an entire discussion to be had around religion and parents withdrawing their children from curriculum or teaching or instruction based on religion, which, as we've talked about, is a sincerely held belief, but also around sexual orientation and human sexuality. I was talking about the sexual orientation because, you know, here we have it now written in as a protected grounds, and then you turn around and say: but, you know, we can withdraw a number of children out of those classes so that they don't come to understand what this is about, that there are people who have a different sexual orientation on the face of this earth and that they have certain protected rights, as do many others.

We end up with children that are not taught analysis and critical thinking and an understanding that there is a diversity in our world and that you need to learn to work with them in many cases. You can choose to absent yourself from many things, but we all live in this world. We're all moving about on its streets, and there are some things that you need to learn how to work with. To simply remove a child from a class is not going to help them.

I've read through a number of education documents, letters from teachers, e-mails, other policy documents, even the School Act itself, which talks about, you know, looking for situations which can challenge children and push them beyond their normal bounds of comfort so that they do learn that there are different things out there and find coping mechanisms for that and are challenged to think and to be critical and to analyze the material that's given to them, learn to cope with that and work within it.

I think it's important that we do take this section 9 completely out of this bill. It is the one large anomaly that is part of this proposed Bill 44 right from the get-go. We're talking about, you know, writing in sexual orientation, as the Supreme Court directed the province to do some 11 years ago now. The rest of what's in this act is a number of changes: moving this from a commission to more of a tribunal way of dealing with things, some discussions around the titles that are being used, you know, substituting tribunal for panel, and some other changes like that.

Having this opt-out section, I've been told by a number of people, was some sort of a swap, a deal in the Conservative caucus, and that may well be. That may well be what that caucus is happy with, but I don't think that gives us good legislation. As I said before, this could have a very, very far-reaching effect on allocation of budget resources, priorization of who gets money and for what. Even at the most basic level the administration that is required of an individual school to deal with what's anticipated in this clause is an additional resource. Additional money will have to be pulled away from other student-focused learning activities to pay for the administrator that has to go through their curriculum every September and say: okay; these are the people that we're going to have to notify that there are religious themes or a religious connotation or meaning or could offend some people that have sincerely held beliefs in these classes. These are the people that need to be notified about sexual orientation appearing possibly in, you know, the poetry section of the English class, and these are the people that have to be notified about human sexuality. Then every time the school contemplates having a special speaker come in at Christmas or anything else that the school wants to do but is not strictly according to the curriculum they've already notified people about, they have to go through that all over again.

9:40

That's no small amount of resource that gets dedicated to notifying a bunch of people about what they're already doing. Here's where, you know, I'm told: well, this is already happening in Alberta, so it's no big deal. Well, if it's already happening in Alberta, then don't put it in this act because this is not where it should be. Aside from the fact that it shouldn't be happening, it should not be in this act.

I think I've stated pretty clearly and with some force and passion why I think it's important that section 9, that is commonly being referred to as a parental opt-out section or a parental rights section, should be removed from this act.

Let me just state in closing that I think that if parents, families, whatever your family unit is, want to, you know, discuss issues at home and have a certain focus on the way they lead their life, that's great. But when we're talking about a public education system funded by a province, by all the taxpayers, where we have a standard and an expectation that students will go out into the world, that we will have a reputation outside of our borders about what the standard of education is – and that's a standard; it means that everybody has that – and then we bring into play something like this, it's just wrong, and I think that it hurts the province. Let me be clear. I'm not saying that parents deciding to educate their children in a certain way is wrong. I think putting it into this act is very wrong.

Thank you for the opportunity to move that amendment.

The Chair: On subamendment SA1, the hon. Member for Edmonton-Riverview.

Dr. Taft: Thanks, Mr. Chairman. I want to speak strongly in favour of this particular subamendment because I believe strongly that section 9 of this bill should be struck. I think it is badly conceived, badly drafted, that it's been badly executed and it should be tossed out. That, in effect, I think, is what this subamendment would do.

In some ways it's ridiculous that this issue has come up at all in 2009 in Alberta. I feel like we're back decades ago or even a century or more ago, not in 21st century Canada. Yet here we are debating issues that had been settled long ago and were nonissues until this strange section 9 appeared in what otherwise would have been a good-news bill for the government. I think we're going to end up spending a lot of the evening talking about sex and religion. Those are two topics that tend to stir up pretty strong passions, so I'm looking forward to lots of engagement from people. I can tell you that I'm feeling pretty engaged in this topic right now.

Well, let's start with the sex, Mr. Chairman, the issue in section 9 and in the proposed amendment that talks about – let's see; I've got to get the wording right here – human sexuality or sexual orientation. Now, I'm glad the word "human" is in there because it was a pretty glaring problem before. It's interesting that they chose

to put in the word "human" because I think it reflects how poorly drafted this particular piece of legislation was and is unless we turf section 9.

The way it stands right now is that any kind of reference to sexual reproduction could be caught up in this legislation. Now, this amendment bringing in the word "human" would narrow that down, but frankly it should all be tossed out. I had issues brought to me, and sometimes with great humour, by teachers saying: "My goodness. Now we can't talk about sexual reproduction at all as this bill is proposed." I had one of them speak to me. Their son had just finished grade 9 biology, and they learned there about plants, Mr. Chairman. And guess what? Plants in their own special way have sex. Plants get it on. There are male plants and there are female plants, and actually there are some plants that are both male and female. I know that may be shocking and perverse and outrageous to some people in this province. [interjections] Yeah, they're hermaphrodites, in fact, as the Leader of the Opposition just mentioned to me. I thought that same thing.

Now, I'm not as informed on this as the Leader of the Opposition because he's a medical doctor, but it happens that I have a printout on hermaphrodites. See? Mr. Chairman, if this bill is carried to its logical conclusion, this kind of stuff potentially could be turfed out of schools. So let me just remind people what hermaphroditic means.

> A hermaphrodite is an organism having both . . .

Hold your breath.

> . . . male and female reproductive organs. In many species, hermaphroditism . . .

And I don't know if my pronunciation is correct there.

> . . . is a common part of the life-cycle, enabling a form of sexual reproduction in which partners are not separated into distinct male and female types of individual. Hermaphroditism . . .

I won't go into the Greek origins of the word.

> . . . most commonly occurs in invertebrates, although it is also found in some fish, and to a lesser degree in other vertebrates.

Now, I won't go on. There are lots of pages here, but actually the reason that I thought about this is that I was taught about hermaphrodites in school, Mr. Chairman. It's true. I think it was maybe junior high. Maybe it was high school. I think that was actually an important thing to learn. I'm getting strange looks. Maybe there are people in here who didn't have that same kind of education, but here in Alberta where I went to public school we were taught about hermaphrodites.

Now, I think we might as well face the truth, though, that not all plants are hermaphrodites. There are lots of ways for plants to reproduce, Mr. Chairman. This is just basic information that would be available to kids, and under the way this bill had been drafted, potentially kids would be pulled out of classes for this. This is just a bio review of plants, plant reproduction. The first sentence: "Plants can reproduce asexually or sexually." It goes on: "Sexual reproduction in plants involves male and female plant organs. The female structures involved in sexual reproduction are the stigma, the style and the ovary," and on and on it goes. Other material is all over the place which is fundamental to our teachings of science.

Now, this is only dealing with plant reproduction, Mr. Chairman. We haven't even mentioned animal reproduction.

Mrs. Forsyth: Oh, no. Animals have sex, too?

Dr. Taft: Yes. I know. It's quite something to consider, but animals do reproduce sexually. As one of the articles aimed at kids says – I don't know if I can find it here. I won't dwell on this, Mr. Chairman, but I think the point here is that the fundamental point of this part of this bill is just misguided. We get the word "human" brought in, so at least – at least – we narrowed things down that much.

9:50

But it still raises the question: where is this coming from? Where is this anxiety about human sexuality coming from? I think, more specifically, why did it suddenly emerge in this caucus today or this winter? There's certainly been lots of talk about the rise of the far right in this caucus, and that's led a number of people to do a little bit of research. Mr. Chairman, one of the things we found was a speech given by the Member for Foothills-Rocky View before he was actually elected, and I think this speech probably tells much about the spirit behind section 9 of this bill. It doesn't matter how heavily amended it is, unless we toss it out, as the subamendment proposes, it's a dismal thing.

I'm going to read you a little bit about this speech. It was delivered to the World Congress of Families. I won't give the member's name, but he sits currently as the Member for Foothills-Rocky View. It was delivered before he was elected, so I believe it's from about '99. It's about 10 years ago. I believe he has held to these views, and I think these views have actually shaped this piece of legislation. The speech goes on and on. I won't read every word of it, but I think there are a handful of key points to be made.

One is about the speech's references, multiple, to the idea of the natural family. I'll just give you a couple of examples of that. I'm quoting here from the speech.

> Recently, however, the moral dimension of liberal democracy – and the family's crucial role in it – has been rediscovered by social scientists. This new body of social science recognizes the importance of the natural family to a properly functioning democracy.

It goes on in several places referring to the idea of the natural family. I'll go on further down. The general idea of the speech is that modern society is being threatened by the move to give gays and lesbians equal rights and by the feminists, so I think that's the context of this. If I wanted to read the whole speech, everybody would get it, but I won't subject people to that.

The speechmaker, the hon. Member for Foothills-Rocky View, speaking in 1999, is opposed to these developments. He wants to protect what he calls the natural family, which is an interesting position. I'm going to read a little bit here. He calls the feminists and the gay rights people the new egalitarians. He says:

> If the rediscovery of the social value of the family is good news, there is bad news on another front. There is another stream of modernity – represented primarily by the gender feminists and gay rights movement – that target the natural family as public enemy number one. According to the feminist-gay gospel, the great evils of this world are sexism and homophobia, and their breeding ground is the traditional family. Hence, the gay-feminist project has become a social engineering project – to use the coercive power of the state to undermine the existing family and to reconstruct in its place their gender-equal utopias.

I'll stop quoting for a moment there. Just imagine a gender-equal utopia. My, oh my. Now, that's a threatening concept, isn't it, Mr. Chairman? I imagine that's the kind of thinking that's behind section 9 of this bill.

Now, I'm going to refer back to this speech, but I'm going to go to something else. I want to address the idea of a natural family because there is this sense that somehow there is a natural family and that there's only one true family, and that's a male and a female and kids. But I think the Member for Foothills-Rocky View should probably read some of his western Canadian history. I know he's actually originally from the United States, but he's also an academic and a well-read one. I draw his attention, for example, to a recent publication by the University of Alberta Press. It's an academic

publication. It's called *The Importance of Being Monogamous*, and the subtitle is *Marriage and Nation Building in Western Canada to 1915*. It is by a woman, Mr. Chairman. Her name is Sarah Carter. What the book outlines, or more than outlines actually – it's very extensive and carefully researched – is the clash of different forms of family. It outlines the very extensive evidence that there were other forms of family in western Canada before this idea of just the nuclear family took hold.

Let's see. I can pick out perhaps, oh, a few quotes. I'm just flipping through the book here, Mr. Chairman. On page 5:

> In Western Canada . . . there existed diverse forms of marriage among Aboriginal people, including monogamy, polygamy, and same-sex marriage, and no marriage needed to be for life as divorce was easily obtained and remarriage was accepted and expected.

I'll stop the quote there. But imagine that. There was more than one form of natural family. Or perhaps in the views of some this was not natural. Perhaps the First Nations people before the 1880s were living some kind of unnatural existence. I don't know. Perhaps the Member for Foothills-Rocky View, when he does some more studying, would be able to fill us in a little bit more.

I'll just read a few other quotes here, Mr. Chairman. How about this one? On page 32 of this book:

> Some European fur traders wholeheartedly adopted the diversity of Aboriginal marriage law and had a series of wives, or several at the same time. Many fur traders left a wife behind in England or Scotland and at the same time had a wife in the west. Some had several wives in the west.

It goes on at great length. I'll stop that quote there.

Now, this next one is a particularly interesting case. It's on page 37 of this book. Do you know why it jumped out at me? Because it involves a person who was born in 1831 in Fort Edmonton, and Fort Edmonton in 1831 was about a hundred yards from where we're standing right now, very close to home, folks. I'm on page 37. Here's how it goes:

> One example was Red River resident John F. Grant, born at Fort Edmonton in 1831, although raised by his relatives in Trois-Rivières following the death of his mother . . . He returned to the west at the age of sixteen and before his death in 1907 he had seven wives and at least twenty-one children.

Now, that is something to contemplate, isn't it, Mr. Chairman?

It goes on:

> His earlier wives were from various Aboriginal nations and his last two were Métis.

And on and on he goes.

My point, Mr. Chairman, is pretty clear, that there are many forms of family, and this idea that there's just one natural family, which is espoused at great length by the Member for Foothills-Rocky View, I think needs to be treated with some deep, deep skepticism. But I believe it's the thinking behind section 9 of this particular act.

It's interesting, as you go through the book, that there's a discussion of the influence of the Mormon church on attitudes towards marriage and by other groups as well: Doukhobors, Ukrainians, various others. Many forms of marriage were brought to western Canada, and they didn't all fit the ideal of the natural family, but they were families. And you know what? In some of these cases the notion of an illegitimate child didn't even exist because every child was legitimate. Every child was cared for by somebody. It might have been an aunt or a grandparent, but every child was part of the community.

10:00

I'm going to return now to some other points made by the Member for Foothills-Rocky View in his speech. He talks at length about moral relativism, and he says, "The new role of moral relativism in the redefinition of human rights is obvious in such issues as abortion and gay rights." Then he goes on.

> Here is the great paradox in this "new improved" version of human rights. Whereas human rights once stood for something objective and eternal, now it stands for the subjective and the temporal. Whereas once human rights pointed toward what is right always and everywhere, regardless of government policy or public opinion; now it means "what I want, here and now."

Interestingly, I think the notion of human rights gets turned around to resist human rights, so the rights of, for example, all citizens to marry somebody they love suddenly get resisted through a perversion of the idea of human rights. That's what I think we're watching here.

He also speaks at length about the role of the courts and how the courts are, in fact, a big part of the problem. I think that's particularly relevant here because what's actually prompted this piece of legislation to come forward at all is a ruling of the Supreme Court of Canada, which most Canadians think was a good ruling. I know people in gay marriages, Mr. Chairman, and they deserve the equal rights of all of us. But when I read this speech, you know, you get the idea that the courts shouldn't have made this ruling.

I'm going to quote again from his speech. It says:

> A final distinguishing characteristic of the New Egalitarians is their love affair with non-representative, non-accountable institutions: courts, rights bureaucracies and recently the United Nations. Their recourse to the coercive authority of non-accountable institutions is not by accident.

The Chair: The hon. Member for Calgary-Buffalo on subamendment SA1.

Mr. Hehr: Well, thank you very much, Mr. Chair. It is a privilege to rise and speak to the subamendment which appears to have brought some sanity and some wisdom back to this legislation, and it would actually make this bill a whole lot better. We can see that striking out this whole section 9 would take out the essential piece of the act which has been called the parental opt-out clause or the return Alberta to the 1940s clause or whatever clause you want to use. It's simply one of those clauses that has been put in there. I'll read it because every time I read it, it actually still shocks, stuns, and disturbs me that this is happening in the year 2009 here in Alberta, here in Canada, where we're part of the free world that has adopted science, has adopted a progressive agenda, so to speak.

I look at these words. Well, what the minister was proposing to do was strike out "explicitly with religion, sexuality or sexual orientation" and substitute "primarily and explicitly with religion, human sexuality or sexual orientation." Well, let's look at that first and just sort of look at the merits of that change. Yes, I'll agree with the members that have spoken from this side of the House so far that human sexuality, well, yes, that is at least a basic element to this bill that should have been included. Again, like the Member for Edmonton-Riverview noted, it just goes to how poorly drafted and how badly thought out the entire bill was to actually have made that mistake in the first place.

But I look at this, and don't get me wrong. I was a lawyer, not accused of ever sitting on the Supreme Court. Nonetheless, when I try to look at these words, "explicitly with religion," "primarily and explicitly with religion," again, that's just lawyerspeak. How it's going to dramatically affect . . .

The Chair: May I interrupt you one second?

Hon. members, please, if you carry on a conversation, there's a place out there, the Confederation Room, or if you do it in here, please lower the level.

Hon. member, please continue.

Mr. Hehr: Well, I read that, and essentially it doesn't make that much of a difference to me. This is still being enshrined in an act. It's still "primarily and explicitly." Well, what does that mean? It's open to interpretation, as are the terms "religion," "human sexuality," or "sexual orientation." Like many things that are of scope and substance, religion and human sexuality and sexual orientation are broad-based topics that in an open, modern society take on a variety of dimensions and interpretations by many individuals, groups, and anyone in between. Simply put, they can come up with a whole host of ideas of what those terms mean. So by simply adding those two things to it, I don't believe they adequately do any justice to the bill or change the thrust or substance of what we are subjecting the Alberta population to.

Then I even see more additions put forward by the minister.

> This section does not apply to incidental or indirect references to religion, religious themes, human sexuality or sexual orientation in a course of study, educational program, instruction or exercises or in the use of instructional materials.

I'll tell you what. If that paragraph isn't open to a legal interpretation, having people chomping at the bit to go try this legislation in 47 different ways, I really haven't seen a paragraph that looks like that, then. Good luck on this having any sort of clarification whatsoever to the bill. I don't know whether it confuses it more, but it certainly doesn't help the entire situation. The entire exercise here has been wasted. The only sane and sensible thing to do is to move to the motion made by the Member for Edmonton-Centre that can amend amendment A1; that is, striking out section 9 as it exists. That seems to be the only thing that we as reasonable people, which I hope we are, in this Legislature can do in a reasonable society.

They were interesting, some of the comments made by the Member for Edmonton-Riverview. He asked: "Where is this legislation coming from? Who might be asking for this type of legislation to be done?" You know, it struck me. I sort of thought to myself: "Who might be calling for this legislation? Who – maybe from above or below or something like that – might be influencing the current, I guess, Legislature or government at play here?" Really, the only thing I can see here that has come into play is that somehow Ernest Manning and William Aberhart have sent their messages down to the Minister of Culture and Community Spirit and have played a trick with many members on this side of the House and said: we are returning to 1945; we are returning to 1945. [interjections] It's a seance.

Those individuals, it's well known, have a play that was written about seances and how they would, you know, maybe conjure up ideas of how faith and their vision of the world and their vision for Alberta would continue on for the long haul.

10:10

An Hon. Member: Permanently.

Mr. Hehr: Permanently. I know.

And this looks like that vision that they had in the early '40s of keeping Alberta, I guess, as a sort of enclave by itself which really wasn't interested in learning the modern ways of science and religion, that we would become a place where ideas were stifled, that really true knowledge really wasn't warranted or we won't recognize other ways except for the models of, I guess, a narrow Christian sect in a one-horse town with only one way of praying and one way of doing things. Well, it looks like that could have happened because, really, that is the only thing that could happen.

You look back to where 1971 was where you really have the emergence of the Progressive Conservative Party. You have people like Ron Ghitter and parliamentarians like Peter Lougheed who said: "You know, let's throw off the shackles of this type of thinking. Let's get Alberta into a modern world, a modern way of understanding, a modern way of embracing this world view, and to really take Alberta from where it was." I look back to the way it was. At least on the social conservative side of things it was seen by other progressive states as being somewhat backward, okay? I know that's what many people have said, that Alberta at that time was somewhat, I guess, closed minded.

That's why individuals like Peter Lougheed, who when he studied at the University of Alberta – by all accounts at that time a very liberal law school – came out with some of these ideas of moving a progressive social agenda that really saw people embrace different colours, different creeds, different religions, and more of a recognition that we weren't a one-horse town with one steeple and one preacher and we all prayed to the same god and we all married our high school sweethearts and we all just went about our business. Yeah. I guess they realized that, no, things change and the world has changed and the people of Alberta are going to change with it.

So what I can only think that again brings me back to how this legislation got passed is because it's truly a turn-back from where this party was in 1971 even. You look at things coming out of that party at that time were truly progressive pieces of legislation, you know, written by Senator Ghitter. He wrote on tolerance and understanding, a great piece of work that recognizes human differences, recognizes the compassion and caring of all members of the community and their contribution to it, and recognition that society should embrace science and learning and understanding in the classroom. You know, those documents in those early days referenced a learning. You saw in the recent Canadian Press article where Senator Ghitter spoke out and said: "You're right. Something's been lost here." He was actually embarrassed by what had happened.

All I can really say – and I alluded to this the last time I spoke – is that this is, I guess, what you get when you have a governing party that is neither progressive, nor is it conservative. It has become a flag of convenience, I guess, for many people to wave in hopes they'll get elected, and they go in the back rooms and they trade one argument for another and it comes out to some sort of mishmash approach of no direction, no idea of what actually Progressive Conservatism means. It's essentially the big tent party at work. It doesn't know what the heck is going on. So on things like this you get a Social Credit-like legislation that comes into play.

Okay, let's face it: in no uncertain terms this takes us back a long, long, long time ago in a galaxy far away, to quote a famous movie in the 1980s. Let's face it; it does. I think some of the more progressive members – it not only was Senator Ghitter but other members who had been of that party and who have also spoken out. [interjection] Did he? I don't know if he did, but other people have come out.

Anyway, I'm sure I'll get to speak on this more, but that's the only thing I can say. A seance occurred. Ernest and other people who were around a long time ago and who I thought weren't ruling the province are back, and they're having their way, and they're taking Alberta back a few years with this.

Mr. Mason: Bible Bill.

Mr. Hehr: Yeah, Bible Bill Aberhart. Exactly. The Sunday night radio show will be back. Maybe Premier Stelmach may wish to do it, or maybe someone else would – I'm not sure – but it'll be back on the airwaves soon.

Thank you very much for your time here tonight. I'm sure I'll have some more to add a little later.

The Chair: The hon. Member for Calgary-North Hill.

Mr. Fawcett: Yes. Thank you, Mr. Chair. I wanted to speak to this subamendment because I believe that the amendment brought forward by the hon. Minister of Culture and Community Spirit is a positive step towards providing clarity to this section of the bill. I believe that any talk about getting rid of this section and the heightened rhetoric around some of the issues takes us away from what the essence of this particular section in the bill is about. The key issue is: is parental choice and authority over their own children's education a courtesy we afford parents through policy regulation or the School Act, or is it the fundamental right that a parent owns and which properly belongs entrenched in our human rights act?

In my mind, any discussion about how this may or may not affect teachers' ability to facilitate classroom discussions or the administrative processes of school boards is, quite frankly, irrelevant. Like any fundamental right that is enshrined in the act, current practices, systems, and norms must adjust to be in compliance with the rights that are enshrined in the act. It would be a sad day in our province's history when we decided to start cherry-picking which fundamental rights are to be protected or not.

I understand that enshrining something as a fundamental right in the Human Rights, Citizenship and Multiculturalism Act is not without controversy. Our society is comprised of diverse individuals, and we are not going to all share the same set of uniform values. In fact, it is this act that is charged with protecting those minority groups that do have different values. I recognize that some might not agree with the parental rights and that parental rights are as fundamental as other rights that are enumerated in the act. I also recognize that for some, in accordance with their value system, parental rights are just as important or more important than some of the other rights that are enshrined in the act.

The bottom line, Mr. Chair, is that parents play a fundamental role in the development of our young people. While our public education system is also fundamental to the development of our future citizens, young people spend less than 15 per cent of their time under the age of 18 in a classroom. This puts a huge responsibility on parents to guide, direct, and oversee the development of their own children.

As I was taught, both in school and by my parents, rights and responsibilities go hand in hand. You cannot ensure effective responsibility without the appropriate rights and protections, and vice versa you cannot be afforded certain rights without fulfilling the appropriate responsibilities. Based on the above reasoning, I believe that this clause is as important as any other within the act.

Even further to that, Mr. Chair, there was mention of the United Nations. I can't remember in what context, but if you go to the United Nations declaration of the rights of the child, principle 7 states that "the best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents."

10:20

The UN convention on the rights of the child, article 14, section 2:

> States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

Article 18, section 1:

> States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

Then article 29, section 1:

> States Parties agree that the education of the child shall be directed to . . .
>
> (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

Notice that it does say at the beginning of that section: "the development of respect for the child's parents."

Mr. Chair, I do believe that if you look at all of this, this is a fundamental right within our society and, therefore, should be enshrined in this piece of legislation.

Additionally, I simply do not agree with the sentiment that because a similar clause already exists in the School Act, this section is simply not necessary. If this type of reasoning would be acceptable, there would be no need to specifically enshrine sexual orientation into the act as we have already for a decade had protections under the Supreme Court decision. Simply, that just does not wash with me, Mr. Chair. Again, I submit to all the opposition parties whether they think it's appropriate to cherry-pick fundamental human rights, which I believe is what they're doing.

With those comments, that's the reason why I will not be supporting this subamendment and why I believe that the amendment brought forward by the hon. minister is appropriate to further specifically define what the intent of the legislation is.

Thank you, Mr. Chair.

The Chair: The hon. leader of the third party.

Mr. Mason: Thank you very much, Mr. Chairman. Under 29(2)(a) am I allowed to ask . . .

The Chair: No. No.

Mr. Mason: Oh, we're in committee. Okay.

Well, I'm going to speak again, but I can't let that particular speech pass without a few comments, Mr. Chairman. The hon. member is saying that the opposition wants to cherry-pick fundamental human rights, but I submit to you that he doesn't understand the concept of human rights at all. Human rights are not something that exist, that are handed down to us; they are something that society as a whole adopts and chooses to make a right because people need to be protected.

Now, people on the basis of sexual orientation are discriminated against. There's no question about it. They're discriminated against for jobs. They're discriminated against for housing. They are discriminated against and bullied at school. There is a reason why we provide and extend that right to people, because there is an actual situation that those people face in their daily lives from which they need some protection. Society is not perfect. Society has prejudices. They go away with education and over time, but in the meantime we need to have protection for that. The same thing applies, for example, to women, who have also experienced discrimination. People with disabilities require some protection because they are discriminated against.

There is no evidence in this particular case that children whose parents have different religious views or different moral views are in some way discriminated against. In answer to questions today in the House the minister was unable to give an example of any particular instance of discrimination which required protection in this case.

I would like to ask the hon. member: if he thinks this is a fundamental human right and we are cherry-picking and choosing not to

apply it, why are we not providing a basic human right for children in schools against bullying? We could do that. Or if students have certain disabilities or special needs and the school system does not provide adequate facilities or programs for them, we could protect that as a right and say: those children have a right to those programs and those facilities. This act is not doing so.

To suggest that there are these rights that existed before this act was introduced is absurd. What has happened here is that a particular group in the government caucus has enforced a particular approach or a particular view because they choose and they want to make this a right. They do that for certain particular reasons, and the pros and cons of that can be debated here. The very suggestion that we are cherry-picking human rights and that in some fashion the rights that the government is trying to extend in this act existed before and that we are denying them is absurd. This is the political agenda of a small, far-right faction of the Conservative caucus.

Across the United States fundamentalists and evangelical Conservatives have attempted to impose this very type of approach, and they have failed. They have been prevented because it's not a human right, Mr. Chairman. It's not a fundamental human right at all. It is an attempt to impose a certain view in the school system at the expense of a broad scientific education, which I believe all children are entitled to regardless of whether or not their parents wish to take that away from them under the guise of parental rights.

The Chair: The hon. Member for Lethbridge-East on amendment SA1.

Ms Pastoor: Yes. Thank you, Mr. Chair. I would like to weigh in on this amendment, and I support it being removed. My remarks aren't going to be nearly as academic, probably, as some that we've heard and that I was actually fascinated with. However, I've listened to a lot of stuff that has been going on since this has been presented, and I still can't get it through my head why it's necessary to put it in this act when, in fact, it is protected under the School Act. I can't get it through my head why it's even being protected under the School Act.

Clearly, I'm a little older than a lot of people in the House. I don't perhaps go back as far as Aberhart; however, what I remember is that even when my children were growing up – I know, certainly, that probably the first sexual education I ever had was in the schoolyard. It wasn't in the schoolroom. It was in the schoolyard. The conversation was in the schoolyard, and the kid that had *National Geographic* was the kid that knew it all. How can you possibly protect our babies from what goes on in the schoolyard? Horrifying. Horrifying. But what happened was that we could go home and talk to our parents.

One of the things that I guess I learned was perhaps a basic thing right out of the Bible: judge not lest ye be judged. One of the expressions that we had in our house – I am the oldest of six kids – when somebody would tell the other one what to do was: who made you God?

As parents we have to allow our children to grow. Yes, we are responsible for them, and yes, we can guide them, but we can't guide them by protecting them from every single thing. Let them go out. Let them go to the schoolyard. Let them see *National Geographic*, for Pete's sake. Then let them bring it home, and then let us talk about it.

10:30

One of the things that has been brought up on the academic side was about feminists. God forbid we should have a feminist. I'm the oldest of six kids. I was so fortunate to be raised in a genderless family. I'm the oldest, there were four boys, and then my sister is at the other end. If it was your turn to do the lawn, it had nothing to do with your sex. It had to do with that it was your turn for on the chart. If it was your turn to do the dishes, if it was your turn to babysit, if it was your turn to do anything, if your name came up on the chart, it was your job. It had nothing to do with your sex. As far as being a feminist, it was just something that I automatically grew up with, and to this day I'm very fortunate – at least I believe I'm very fortunate – to have grown up in a very open-minded family and also a family that could discuss.

Nothing shocked my parents, at least openly. I'm sure that they were shocked at some of the things that we brought home, but it was never shown openly. It was discussed. Again, it was always: judge not lest ye be judged. This is what we do; this is what we believe. You do what's right. You cannot judge what other people do as wrong.

When I went to high school, I went to a private school, and a goodly portion, well, 10 per cent, of the school population was not of the religion of the school that I went to. We had a large number of Jewish kids in our classrooms. It was interesting to note something, again, that I couldn't get through my head at any point in time. In Winnipeg there was a beach, which was a very important and popular beach, that did not allow Jewish people in up until 1961. So I learned what prejudice was. I learned how wrong it was. I learned how wrong it was to judge someone else until you've walked in their shoes.

Sexual orientation and sexuality. As I said, you know, the best stuff came off the school grounds. Certainly, we learned about the birds and bees in school. We learned how it all worked. Now the kids in school can be taught 10 different ways to do it as long as they don't get caught, and here's how you don't get caught. That wasn't what I learned. However, it appears to be what's out there today. So what? Let your kid come home and tell you what's going on. You know what's going on. Talk to them. Sit down and talk to them. How many times we have seen ads on TV, particularly the ones that go with drugs: talk to your kids. If you're not talking to them, what difference does it make if they're in the classroom or not? I just can't get this kind of thinking through my head.

We are, I think, clearly moving, particularly in the western world, from a strong Christianity base, and we're moving more into secularization. We're moving more into secular societies. I think probably as a fundamental, maybe basic question we should be asking: why is this happening? Why is God allowing this secularism to happen? Why is he allowing what some people consider to be horrible, horrible things to happen? Our question probably, as I had mentioned, would be: why is this happening? I think that probably an answer, perhaps, as a Christian is that we can't know the ways of God. Who are we to know? We should be trusting to do what we believe is right. No matter who you recognize as God, whether it's a higher power, whether it's a Supreme Being, whether it's whatever word you put on God – and there are an increasing number of atheists in our society. We have to wonder why society is changing as it is, but we have to do what's right and not necessarily always perhaps question the ways of God.

I know that this was a little bit more basic conversation than perhaps has been at a different, elevated level, but I still simply cannot get it through my head why anybody would want to take away the joy of learning from any single person on the face of this earth.

The Chair: The hon. Leader of the Official Opposition.

Dr. Swann: Thank you very much, Mr. Chairman. I'm pleased to rise in support of this amendment. It's a very key issue for the bill,

clearly one that we cannot support without the removal of section 9. Perhaps as much as anything what many Albertans have told me is that this aspect of the bill reflects a profound lack of confidence in the system, a system that we've created to balance the rights of individuals, the rights of families with the responsibility to provide the most abundant and rich and science-based as well as faith-based education.

I guess the surprising thing for me with this bill has been the perceived need on that side of the House or perhaps elements outside the House entirely that want to see a legalism imposed in the case of any perceived lack of consideration of particular individuals and parents, in this case their right to determine what their child might be exposed to or not. The provision for the parents to opt out has always been there. I guess the question many Albertans are asking me is: what is the impetus to make this a more legalistic approach such that if there's a failure of a teacher or a failure of a school or a failure of a board to acknowledge certain elements of religion or sexual orientation or human sexuality, there would be fines, there would be penalties, there would be potential lawsuits associated with this or at the very least a very embarrassing public criticism of teachers, of schools, of a failure of responsibility and a moral misconduct by a particular school, teacher, or board?

Among other issues, people have raised the question of why this government has lost confidence in the ability of schools and teachers and even in parents to supervise their child and the education they're getting and to provide the climate in which issues are discussed and that if there are conflicts with what people believe at home, they be open and discussed and resolved. Clearly, our history has shown us that by suppressing freedom, by suppressing the open discussion of issues and encouraging dialogue, encouraging different points of view, whether it is on sexual orientation or gender or colour or age, we have to be able to hear those discussions in order to become balanced, nondiscriminatory individuals who can engage the world as it is, with all the range of belief systems and understandings of right and wrong and good and bad.

This government has brought upon itself the approbation, I guess I would say, the dislike and a feeling of being offended by those custodians of our educational system that we have given the responsibility to educate our children. It really staggers me that such an inclusion was necessary and that this government was blind to the implications of what it was doing in this particular instance when the provisions have always been there for parents who identified issues of real conscience that they could by their own will and by their proper communication with the school exclude their child from issues that they felt the child was not ready for or that were contrary to their belief.

That's one dimension of why this must necessarily be amended and this section removed. It will never be supported by this side of the House, and it will never be supported by a large number of Albertans. It will create an unmeasurable impact, in fact, on the culture of education, on the culture of our society, where people are feeling already a sense that there is an intimidation extant in this province around different ideas: political ideas, social ideas, sexuality issues. There is already a chill and an intimidation factor that I've heard from many sources. Whether it's professionals or lay people, religious or nonreligious, there is a sense in this province that to speak dissent is to speak against the state in a most profound way and to undermine the state.

10:40

This is a government that has lost touch with the people and lost a sense of what balanced society, open and free speech, responsibility and rights have to do with good citizenship. We have demoralized and, I would say, undermined the democratic process to such an extent in this province, and the example, clearly, is the last election, where only 2 out of 5 people were moved to vote; 2 out of 5 people felt the system was working; 2 out of 5 people felt that dissent and critique were valid and respected in this province.

We have become a culture of sheep, and it's partly because of this kind of philosophy, that we have to enshrine tighter and tighter controls on people, tighter and tighter limits to freedom. In many ways it's really difficult to accept as a 21st century Albertan and Canadian who wants to see us move into the 21st century, whether it's environmentally or politically or, in this case, from a social and public affairs viewpoint.

Mr. Chairman, this is central. We could spend the whole night on this if we choose to. I think if this government can see the error of this particular section and the unnecessary conflict it's creating and the unnecessary added chill to this province and the educators of this province and simply dismiss this section, allow this amendment to go forward, we could move very quickly through this bill. There are aspects of this bill that are very good. They are enshrining the rights of all citizens, including those with transgender issues, sexual identity issues, and different sexual orientations. But this particular aspect of it is simply unacceptable, and it is not going to be acceptable in this province even if you pass this legislation. It is going to create all kinds of tensions and distrust, a further erosion of our culture in terms of open debate and discussion, and again undermine the trust that we have built up in our education system, in our teachers. There is already a process in place, and we somehow as legislators have taken it upon ourselves to enshrine this in a very punitive way in the human rights code.

I hope members are listening. I hope they're thinking about the potential for resolving this issue fairly quickly tonight. This is the key contentious issue in this bill. By removing this part of the bill, we could very quickly move on. You on the other side of the House would have the fundamental parts of this protected, and the rest of Alberta could move forward with the progressive agenda that many in this province are asking for, including teachers, school boards, some religious groups, and the vast majority of Albertans who do not believe that we should be meddling and enshrining in legislation this kind of common-sense direction for parents and families and schools.

Thank you, Mr. Chairman, for this opportunity to speak. I look forward to the debate.

The Chair: On subamendment SA1 the hon. Member for Edmonton-Strathcona.

Ms Notley: Thank you, Mr. Chair. I rise to speak in favour of subamendment SA1, I believe it was. This is very similar to an amendment that we would have introduced had we gotten up first. Of course, it's designed to deal with that which is the fundamental problem with Bill 44, without which there is no way any fair-minded or reasonable person could possibly support the bill.

In essence, Bill 44, without the removal of section 9, is, in my view, a capitulation on the part of the government caucus. It's a capitulation to an overall deference to what is throughout the rest of the province a shrinking sense of narrow-minded and fearful examination of the world.

I do believe that, in fact, the last vestiges, in many respects, of the fearfulness and the discomfort and the lack of respect for diversity that drove this caucus to bring this piece of legislation, particularly this section 9, into the House today – I think that it is more dominant in the government caucus across the way than it is throughout the rest of Alberta. I actually believe that Albertans have moved far beyond that portion of this government caucus which pushed the rest

of the government caucus into pursuing this very ill-advised course. Nonetheless, in an attempt to quiet the many, many, many critics, the government came forward with its amendment to Bill 44.

Let me just start by pointing out the many reasons why this amendment doesn't do any of the things that its advocates would suggest that it does. One of the major concerns that has been raised about this very ill-advised, ill-thought-out piece of legislation is the implications to the education system by putting in this parental rights clause and creating chaos from classroom to classroom to classroom across the province. The thought was, basically, that by putting it into the human rights code, begging people to litigate on the issue – that's what happens when you put it in the human rights code – and then putting in this very vague language, of course, we're going to have, without question, a chilling effect on the ability of our educators across the province to expose our children to a balanced education, which consists of critical thinking and analysis of complicated issues.

So the government came forward then with this amendment, which they hoped would clarify the problem so that the teachers would not be fearful of speaking about science, the human rights code, why bullying is bad, so that teachers could actually talk about those things in the classrooms without fear of reprisal. The government thought that maybe we can deal with that problem by bringing in this amendment. It doesn't take a lawyer with many, many years – it doesn't even take a lawyer to understand that with the language that they are adding, "primarily and explicitly," we could probably spend 15 years before the new human rights tribunal, as they would now like to call it, arguing about what "primarily" means. While we're doing that, we will ensure that teachers across the province fail to teach our kids about the human rights code, about why it's bad to bully people because they're gay, and about large tracks of science. That's why it doesn't help.

Now, the other section in there talks about that it doesn't apply to "incidental or indirect references to religion," et cetera, et cetera, et cetera. Well again, what is "incidental"? What is "indirect"? I'll tell you. It's another 10 years in front of the Human Rights Commission adjudicating what "incidental" and "indirect" are as opposed to "primary". So it doesn't actually clarify things. It just begs more lawyers to go out and find more clients to spend more time in front of the human rights tribunal. Meanwhile, teachers aren't teaching what I want my kids to learn and what most Albertans believe their kids have a right to learn, and that includes about the human rights code and about science.

Now, I've mentioned the human rights code several times because I am completely of the view that with or without the changes to the legislation being brought forward tonight by the government, the legislation that they are bringing forward right now could well limit the ability of a teacher to go into a classroom and talk about Bill 44 and talk about the human rights code.

10:50

Were the remainder of this legislation to pass, we would have a bill which would say: whereas it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in dignity, rights, and responsibilities without regard to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation. If this legislation passes, that will be in there, but if section 9 passes, a teacher will not be able to teach the code to the students in Alberta, which is just the most inane outcome that I can possibly imagine, that we would, within the very human rights code that we presumably all support, limit the ability of our teachers to talk about it in the classroom.

Let's be clear. The 10 years of interpretive time-wasting in front of the Human Rights Commission: this legislation will not prevent that. In the meantime, teachers will have to question themselves and their principals and their school boards about whether they can teach their kids about the fact that we are on the verge of finally including sexual orientation in the human rights code. Is that indirect, or is that explicit? Is that primary, or is it inadvertent? I don't know. It's in the human rights code. Presumably, we all think that people are equal on the basis of sexual orientation, but apparently when we read that section in a classroom, we won't mention that part of it because it's a section that includes it, so it might be primary. Who knows? That's why on the face of it this piece of legislation is such an incredible embarrassment.

I was watching TV tonight, and I'm sure many people saw the former chair of our Human Rights Commission, Fil Fraser, who I believe was appointed under former Premier Lougheed, talking about how when this human rights code was introduced, Alberta was a leader in the country on human rights and that now, thanks to this, we will be the last-place province in the country when it comes to promoting human rights in our province. He was very, very dismissive of this bill and what it means.

Now, I also think that we won't actually be spending all of our time in front of the human rights tribunal interpreting what is primary, what is incidental, or whatever the language is. It doesn't really matter. The point is: interpreting all these different weaselly words, trying to deal with the communications and political fallout of this really ill-advised piece of legislation. No. We're also going to be in front of the courts and, ultimately, in front of the Supreme Court of Canada. I actually believe that if this passes, there is a very strong case that this code, this legislation, is itself in breach of section 15 of the Canadian Charter of Rights and Freedoms in this country, and as a result we are going to spend lots of time having the Supreme Court of Canada ultimately telling us that our human rights code is discriminatory. But, hey, it's Alberta, and we have the freedom to create, even if it is the freedom to create a second-class human rights code.

Now, I want to go to some of the points that have been made over the course of the last several weeks. I'm sure I won't get to all of them in the time that I have.

Mr. Mason: Take 10 more.

Ms Notley: Exactly. But I'm sure we'll have lots of time over the course of the evening.

I want to talk about this concept that particularly the Premier always pulls out: the family, that this is about protecting the family, that the family is the basic unit of everything in the province; the family is the most important building block of all that comes in the province.

Mr. Mason: It's holy.

Ms Notley: The family, indeed, is holy. The family is that which is the most important entity that can possibly exist.

Now, that's fine. I love my family, and I believe all people love their family. But here's a question for you. For that child who is 8 years old or 9 years old who goes into the classroom in I think it's grade 1 or 2 and they learn about the family and community, and that child has two parents of the same sex, is that child's family less of a family? Does that child have to be told to give notice to other kids in the class before she starts talking or he starts talking about his family when the class starts talking about what it means to be in a family, what it means to be in a community?

When they draw those pictures – I'm sure there are lots of parents here who have had their kids go through this. They draw pictures of their families. They give reports in class on what their families are. They talk about what the role of a mom is and the role of a dad and a grandparent. They talk about how families treat each other. This is all part of the curriculum. This is the social development in grade 1 or grade 2. What happens to the child whose family consists of two parents of the same sex? Does that child have to apologize? Does that child have to leave the room? Does that child have to give notice to everybody else in her class that she might talk about her family?

Does that show respect for the family as the family unit? No. What that shows is that the whole spin around the importance of the family is simply that because if you really respected family, you would respect that family comes in a number of different forms, sizes, and shapes. You need to construct a bill that recognizes the rights of all families to be treated equally, but we have not done that here. This is not about recognizing family as that important unit in our society.

Now I'd like to talk about another question, and I've raised this before. What is primarily and explicitly dealing with sexual orientation, and what is incidental or indirect reference to sexual orientation? Here is an example. A child goes to school, a happy child, a very well-adjusted child, very active in school activities, more likely to be sort of grade 7, 8, or 9, very involved in a sports team, maybe involved in some of the community activities that happen at the school, a very engaged kid. One day the kid is walking home, but he's still on the school grounds, and four of his classmates come along and beat him up because he's gay or because they think he's gay.

What does the school do? Well, the next day – if it's my school and if I'm a parent in that school, let me tell you it had better be happening very quickly – the principal and the teachers are very quickly bringing everybody together to talk about why this can't happen, why it shouldn't happen, why it can never happen again. You don't just sit in a room if you want it to be effective. You don't just stand there and say: by the way, we're going to beat you all if this ever happens again. No. The way to make sure this never happens again is to talk about the issue. I believe, then, that that assembly would be an incident of a teacher talking about primarily sexual orientation and that it's really not an incidental or indirect reference. It's a very clear reference to sexual orientation.

What happens? Does the teacher have to wait 48 hours before notice can be given to the parents? What if the parents who pull their kids out are also the parents of two or three of the kids that actually perpetrated the bullying and the beating in the first place? What happens there? What does that say about us in this Legislature if we would think for a second to pass a piece of legislation that would actually make us have to stop and ask these questions? To me, it is utterly ludicrous. It is so incredibly disrespectful.

Now, I've also said in the past that I think that, in effect, what we're really doing here is actually reducing the rights of gay and lesbian people in Alberta because, as I've said before, we had symbolically chosen to discriminate against them for the last 11 years, but only symbolically. Thanks to legal obligations outside of the control of the Conservative caucus we were not able to legally discriminate against them for the last 11 years, but we were going to symbolically, finally, accept that probably we should have changed our code some time ago.

11:00

Instead, what we're doing is we're actually giving them no additional legal right, but we are both symbolically and legally qualifying and downgrading a right which had previously been given to the gay and lesbian community by the Supreme Court of Canada many, many years ago. We are treating that community differently, and there is simply no answer to that. Even now, in the amendment being put forward by this government, we continue to treat sexual orientation differently from all of the other prohibited grounds for discrimination.

Now, the School Act already deals with the issue of religion, and an hon. colleague stated: well, I don't really care if it's already in the School Act or not; we should still be able to do this. In fact, the reality is that the School Act works. Members on both sides of the House have clearly identified that for dealing with issues around religious education, the School Act is the most rational and logical vehicle through which to address those concerns. It's working. No one is suggesting it's not working. No one. Not a single soul has suggested that the School Act is not working in terms of how this issue is addressed.

There's no need to put religion in here, and previously sexuality had been included in policy. Presumably, because we're putting sexual orientation into the code, we actually think people should be treated equally. I do. I am not convinced at all that all members on the other side do, though. I believe that at the end of the day the reason we have this travesty of a piece of legislation, this embarrassment of a piece of legislation is because there are too many people in the government caucus across the way who still don't believe in the fundamental equality that we owe to people who are gay or lesbian. I think that ultimately that is why we are on the verge of creating the most poorly written and embarrassing example of a human rights code in the country.

I truly wish that those on the other side who know that this shouldn't be happening, who know that this is a wrong decision would show the courage of their knowledge and vote to support this amendment because with this amendment being passed, which was proposed by my colleague from Edmonton-Centre, we would then have a good bill, and it would be a victory. It would be a victory for diversity, and it would be a victory for everybody in this House. The government could actually come out and say: "You know, we're not actually completely controlled by the rural right wing. We have moved out of the '40s into the second decade of the second millennium." You could say that, and we'd be hard-pressed to say that it wasn't true. But if you carry on with this bill as amended, even with the amendment proposed, which basically just maintains the current status – it has no significant change at all – then you will send a very clear message. [Ms Notley's speaking time expired] Don't worry. I'll get up again.

The Chair: Hon. Member for Edmonton-Riverview, do you wish to speak on subamendment SA1?

Dr. Taft: Yes, very much. I want to speak enthusiastically in favour of this subamendment. Thank you very much, Mr. Chairman.

I'm going to pick up from where I left off before. I was speaking about the culture within the governing caucus that would lead to a piece of legislation like this coming forward requiring an amendment and then a subamendment such as we have on the floor right now. I believe that a driving force behind this is what some people would say is the real Premier of Alberta, the Member for Foothills-Rocky View, and I think the evidence for his attitudes on this are very clearly laid out in a speech he delivered some 10 years ago, so I'm going to go there.

First of all, I want to address the Member for Calgary-North Hill. I'd like to say to him for starters that although I don't agree with his position, I'm glad he participated. I see there are at least – I don't

know – 25 other Conservative members here. I wish they would also participate. I do want to respond with a couple of thoughts in our exchange.

This member probably knows that addressing childhood hunger in Alberta is a real priority for me, and it's a great frustration to me that alone among all provinces Alberta doesn't provide any direct funding to feed hungry schoolchildren. So I guess one of my questions to the member would be: if children are so important to this government, as he indicated, then why won't this government feed children who are chronically hungry in this province through no fault of their own? The member cited the United Nations convention on the rights of the child, but what about the right to food? Do children have the right to food? If they do, why isn't this government doing something to support that right?

Also, you know, I fully understand that on some issues, in some areas, this is complicated. Parental rights have to be sorted out. We're witnessing the struggle with that right now in a deeply troubling case in Manitoba involving a seven-year-old girl who was turning up at school with hate symbols written on her body by her stepfather, and there's a court case right now, which I assume you're aware of, struggling over the rights of parents to raise children in that manner. These are difficult issues. I think that a much more straightforward issue is the right of children to be fed, and I think it's shameful that this government doesn't respect that right.

But moving on from there, I want to go back to this very, very telling speech from the Member for Foothills-Rocky View before he was elected. I want to make sure it's on the record. I was speaking, when I ran out of time an hour or more ago, about his comments on the court system, so I'm going to pick up there. Just to provide context, the speech talks about what he calls new egalitarians, who are, in fact, in his view, people to be opposed and resisted because they support gender equality and they support equal rights for homosexuals.

I'm now going to quote from further down in his speech.

> A final distinguishing characteristic of the New Egalitarians is their love affair with non-representative, non-accountable institutions: courts, rights bureaucracies and recently the United Nations. Their recourse to the coercive authority of non-accountable institutions is not by accident.

I'll skip a couple of sentences just for brevity. He goes on to say – and I think this is a remarkable sentence and something we need to contemplate coming from the mouth of a man who is now a cabinet minister. He said:

> Just as Lenin had to create the Communist Party as the "Vanguard of the Proletariat" to construct Marx's workers' paradise, so the courts (and other non-accountable institutions) have become the "Vanguard of the Intelligentsia" in the construction of the new egalitarian utopias.

I think that we need to be very alert to the fact that we have a senior cabinet minister who's pushing a bill through this Legislature that consolidates immense power in his hands and that actually has a clause – I'm talking about Bill 36 – that exempts some of those decisions from the courts. Maybe we know why now, don't we, Mr. Chairman?

11:10

I want to continue getting onto the record some of the views that this minister portrayed because they relate exactly to this bill. He speaks at length and very forcefully about his views on public education. I'll just quote directly, with no interpretation needed.

> The family-choice principle should be extended to primary and secondary education. This can be achieved easily and efficiently by expanding the school voucher programs. The state maintains responsibility for the universal availability of primary and secondary education, but parents are given the power to choose the kind of school they want.

Now, let me continue.

> We know that state monopolies provide inferior service in every other field of human endeavor. Why do we continue to support it in education?

Mr. Chairman, these are the words of a man who today is sitting in the cabinet of this government.

I'd like to continue. I'll skip a few more paragraphs here, but I urge everybody else to read it. Mr. Chairman, the importance of those comments relating to this bill are clear. We have a cabinet minister whose history suggests deep, deep suspicion of public education. He says that it's an inferior product, and he advocates ways to get around it. He advocates ways for parents to exercise greater rights. You know what? Today we are seeing that played out through this caucus. This bill is evidently a power play by the supporters of that particular cabinet minister.

I will wrap up my references to his speech by quoting one last section, which relates very closely to this subamendment, this amendment, and this bill. It reads as follows:

> On the subject of marriage, I would conclude by stressing the importance of resisting the growing pressure to accept so-called homosexual or gay marriage. Homosexuals have – or should have – the same rights to individual freedom and personal privacy that the rest of us enjoy. But they should not have more. Enlisting the coercive power of the state to force people to "approve" homosexual relations is the antithesis of toleration.

And then he goes on and on at length.

Mr. Chairman, it is deeply troubling to suggest that somehow giving members of the gay community the right to marry is giving them any special right, any right more than the rest of us have. We all have the right to marry. All we're trying to achieve here is equal rights, not more rights. I think we should be deeply concerned that a prominent member of this government is prepared to distort the evidence for that sort of end.

I think this speech and the many other positions taken relating to this attitude from a senior member of this government explain why this bill has been brought forward and why it is so contentious. I think it also explains why there is foot-dragging in meeting the Supreme Court ruling of 11 years ago brought forward through the Delwin Vriend case. I think it explains why, in taking one step forward, we are ending up taking two steps backward through this bill. That's why the subamendment is so terrifically important to support.

I wanted to get a couple of points on the record, Mr. Chairman. Moving on from some discussion around the sexual orientation aspects of this legislation, I'm going to dwell for a moment on administration, and perhaps the Minister of Education will engage in this part of the debate. The subamendment would get rid of this problem that I'm going to put to the Minister of Education. I see that the minister of advanced education is here tonight. Last night he set a wonderful example of engaging in debate. Tonight I hope the Minister of Education follows.

There are, as I think this through, some serious administration issues for schools in section 9 of this bill. If we don't toss that, then these administration problems will arise. Now, I ask the Minister of Education to just think this through with me. Imagine a school, say, K to 9, an elementary-junior high school, with 600 or 700 students. There are any number of schools like this in this province. Every one of those kids in every one of those courses will now need to be entered into some kind of filing system or database by whom, Mr. Minister? He's carefully avoiding me.

Mr. Hancock: No. Honestly.

Dr. Taft: Okay. There will be cost to this. Are we going to be expecting the school secretary to manage this database? As each

grade goes through and different components of a science course come up or social studies or religion in the Catholic school system or other things come up at different points in every different grade, every different child's family is going to have to be notified, and if there is a mistake or if somebody is missed, there's the risk of a human rights complaint. So my question to the Minister of Education is: who is going to manage that in the schools? How is that going to be managed? Has anybody thought about the administrative implications of this? The school offices I've been in are already awfully busy.

Is the minister wanting to respond to that tonight? Yeah? Okay. Thank you.

The Chair: The hon. Minister of Education.

Mr. Hancock: Thank you, Mr. Chairman. I'll be very brief because most of what I've heard tonight really doesn't warrant a response. The discussion so far has taken a very extreme view of the proposed section and ignores what the amendment really is trying to do, which is to clarify what probably shouldn't need clarification.

It's absolutely absurd to think that reasonable people, much less a Human Rights Commission or a court in this province, would interpret section 11.1 as proposed to mean hermaphroditic plants, I mean, as the Member for Edmonton-Riverview was talking about earlier. That's an absolutely absurd interpretation, and no sensible person in this province would understand that to be what was meant by this section. So that's the type of debate.

To get to the specific question that was raised, in the province now under the School Act there is a provision for parents to opt out of religious instruction or a religious exercise or, indeed, patriotic instruction or patriotic exercises. They can opt out of that. That presumably, although the act doesn't say so, would require some notification if there was going to be religious instruction or religious exercises or patriotic instruction or patriotic exercises so that they would have the opportunity to opt out. Under the mandated policy that we have, parents can opt their children out of what would be notionally called sex ed but what we know in the mandated policy is identified as the health curriculum in grades 4 to 9 and the CALM curriculum in high school, where there's teaching about human sexuality.

Now, in past debates in the House, of course, there's been discussion about whether by not putting human into the act, perhaps we were talking about frogs. Well, again, only a crazy person would suggest that that's what this section means. However, it's been clarified in the act now that it's human sexuality, and that includes sexual orientation. There's clarification now that this is not about some of the fears – some of the fears – that were raised by people having read some of the discussion in the media about evolution and other things, notwithstanding that I've consistently said this is not about looking through a religious lens at Shakespeare or at rocks or at anything else. This is not about the teaching of science or the teaching of social studies. This is about the explicit and is now primarily and explicitly about religion.

11:20

Notwithstanding that we've said that over and over again, we put in another subsection by this amendment that's on the floor to make it even clearer that this is not incidental. This is not something that comes up in class that you have to stop the class and give notice on. That's very, very clear in this section, so I hope that members will support this.

To the point the hon. Member for Edmonton-Riverview asked me about: what database could possibly be required? You don't have to keep a database. All you have to do is what you're doing now, which is that if you're going to teach the grades 4 to 9 health curriculum, when the units of human sexuality come up, you have to send a notice home, which is what they're doing. Nobody has to worry about that. If a parent sends in a written request that their child be excluded from that, it's done now. This is not about a massive horde of kids leaving class. This is not about somebody keeping track of all the kids who have to leave class. This is a very simple process that schools engage in now.

It was raised earlier, for example: in a Catholic school how would you keep track? Could you be excluded? Well, in fact, I know that some jurisdictions now – I presume all jurisdictions now – when the children are registered have the parents sign an acknowledgement that they know and understand that religion permeates the courses of study and the exercises and the activities in a Catholic school and to give their permission at that time.

This is not the type of disaster that the hon. member is talking about in terms of administrative process. The interpretations that are being placed on this section, Mr. Chair, are absolutely absurd.

The Chair: The hon. Member for Edmonton-Riverview again.

Dr. Taft: Yes. Thank you. I appreciated the minister's engagement in this. One of the key points to make here is that while most people will follow common sense, there are lots of people who will not. There are lots of people who will use this issue to disrupt education in the schools. We've seen letters to the editor – and I'll get into those later in the debate, maybe sometime after midnight – from people who have made it very clear that they don't buy into what most of us would consider common sense.

Now, my next question to the minister. Remember that we've raised the stakes if we proceed with this bill, and by putting people at risk who violate this bill if it goes through, if we don't pass the subamendment, they end up exposed to a human rights complaint. So a practical issue, and maybe the Minister of Culture and Community Spirit would respond or the Minister of Education: what if the child's parents are divorced and each parent gives conflicting views? One parent wants their child exempted and one doesn't. How do schools manage that?

Mr. Blackett: Well, there are two things that the opposition member has forgotten. One is that we've talked about the intention and how we would change that wording. The other part that we have in there is that the director of the commission has the ability to ask that anybody who wants to bring a complaint in front of the Human Rights Commission has to have exhausted all the avenues of appeal that they have. In the school board that means they have to have gone to the teacher, they have to have gone to their principal, to have gone to their school board. Whether it's a single parent, whether it's a divorced couple, the school board has an excellent process to deal with those issues.

To say that somebody is going to be dragged to the Human Rights Commission – and that's the big bogeyman – that's not a fact because here, if you look at it, it states explicitly that notwithstanding section 21, the director at any time that a complaint

> (a) is one that could or should more appropriately be dealt with,
> (b) has already been dealt with, or
> (c) is scheduled to be heard,
> in another forum or under another Act . . .

And the School Act would apply in this particular case.

> . . . the director may refuse to accept the complaint or may accept the complaint pending the outcome of the matter in the other forum or under the other Act.

There is your protection that you have talked about. That's the protection the ATA was talking about. That's the protection the

ASBA is talking about. There is an excellent provision and an excellent process already in place, as the Member for Edmonton-Strathcona alluded to. Absolutely believe in that. That's why we made this amendment. That's why this subamendment is absolutely unnecessary because there is a protection there, and we as a responsible government made sure that we put it there.

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

Dr. Taft: Thank you, Mr. Chairman. Well, I read that portion of this amendment, of course, when it was circulated, and I read it as the minister read it out loud now. Frankly, it seems to me to just reinforce the whole idea of getting rid of this entire section because in practical terms it's going to stretch processes out.

You know, I raised kids. My kids went through school. I know how this works. There's a controversy in the school about a grade 4 child attending sex ed, so there's a debate. Then what's going to happen? It's going to work its way through the school process over a number of weeks or months, and then maybe it'll get taken to the Human Rights Commission. By the time it's resolved, so much time has been spent. The curriculum has come and gone. Huge efforts have been put into resolving it.

I think that we would just be better off to chuck this entire section, just not go there. That's why I think the subamendment is important. Obviously, we differ on this.

Mr. Liepert: Let's vote on it, then. If you think it's so good, let's vote on it.

Dr. Taft: Okay. We'll hear from some other people. The minister of health is raring to go. Go ahead, then.

The Chair: The hon. leader of the third party, on subamendment SA1.

Mr. Mason: Thanks very much. On the subamendment, and I support it. I think that it's a very good subamendment. I don't think that the amendment that the government has put forward can salvage this dreadful section of this act.

You know, I kind of wonder, Mr. Chairman, about some of the divisions on the other side, how things happened in this caucus that would produce such an appalling clause. I would divide the government caucus into three real parts. There's probably the group that is opposed to this and knows what it is and oppose it, but unfortunately – unfortunately – they're also the people in a lot of cases that have been charged with the responsibility of getting this piece of legislation through. [interjections]

The Chair: The hon. leader of the third party has the floor.

Mr. Mason: You know, they know better, but they've chosen to fulfill their responsibilities and fight for something that they don't actually believe in.

Then there's the big group, I think, in the middle, Mr. Chairman, that really doesn't understand what's at stake here and doesn't understand the motivations and the implications of this piece of legislation. I suspect that that probably incorporates a lot of people in the government caucus. But there is also a group that is pushing this that fully does understand what this is about.

Now, I think if you look at some of the sites of some of the evangelical groups in the United States, the social conservative movement in the United States, and look at what they think about parental rights and why they're pushing it and do a bit of analysis, you'll really get a good sense of what's going on. What really is the thing that's bothering them is the whole question of the United Nations convention on the rights of the child. In fact, in the United States the groups that are pushing the theory of parents' rights are extremely concerned about the impact that a potential ratification of this convention by the Obama administration will have on a number of things.

11:30

For example, they're very concerned about its impact on gun ownership because the convention on the rights of the child deals with the protection of children against violence. So they think that this will be used to take away their gun rights. That's one of the things that they're concerned about. They cite cases where courts have found that you can't deport immigrants if they have children who are American citizens, and they want to be able to deport immigrants. There are cases where they've argued that children should not be removed from homes because of the existence of domestic abuse. One particular case they take a lot of exception to is where the Supreme Court ruled that you could not execute a minor for committing a capital crime, and they, of course, want to be able to execute anyone that they want.

They're putting forward a constitutional amendment in the United States, and that constitutional amendment is very interesting. They want this as the amendment:

> Section One: The liberty of parents to direct the upbringing and education of their children is a fundamental right.

That sounds like some people in this government.

Ms Notley: The Premier. Pretty much like the Premier.

Mr. Mason: It sounds like the Premier.

> Section Two: Neither the United States nor any State shall infringe upon this right without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served.

And this is the convention on the rights of the child.

> Section Three: No treaty may be adopted nor shall any source of international law be employed to supersede, modify, interpret, or apply to the rights guaranteed by this article.

Now, this has been introduced in the United States House of Representatives by Representative Hoekstra and Senator DeMint. They believe that this will bolster existing family law and codify the fundamental right of parents to, quote, direct the upbringing and education of their children. The threat of government infringement upon parental rights comes in the form of a controversial, legally binding international treaty known as the U.N. convention on the rights of the child. If ratified, as urged by the Obama administration, the treaty would supersede even the U.S. Constitution, they say.

Their promoting this in the United States is very similar in content to the changes that the government is proposing to the human rights legislation. I would submit, Mr. Chairman, that this government has been hijacked by a small minority of people with extreme views with respect to this and that this is a parallel campaign to what is being pursued by the fundamentalist right in the United States.

Now, let's take a look at the convention on the rights of the child. This is from an organization called Save the Children, one of the pre-eminent organizations in Canada, on why they believe that compliance to the convention on the rights of the child is important. They say:

> The short answer is that because a healthy, sustainable and secure Canada depends on it. When children and young people are protected, respected and included, they become key contributors in shared social contexts motivating a nation to strive for excellence, whether or not this excellence lies in the field of private sector

> development, technological innovation, community mobilization, human rights, socio-cultural expansion and so forth. I have seen this time and time again in the programs Save the Children Canada operates here in Canada and throughout the world, when children and young people are valued they establish the conditions that most contribute to human flourishing. We as a nation perhaps best understood this when Canada afforded an opportunity to children to be present at the UN General Assembly Special Session on Children in 2002 to articulate their right to participate in decisions affecting their lives.
>
> To explore what Canadians knew about child rights and [the] role the Canadian government played in fulfilling its obligations to the UN Convention of the Rights of a Child, Save the Children Canada commissioned an Ipso-Reid study three months ago.

Well, this was more than three months ago now.

> The results were overwhelming: from coast to coast adult Canadians scored poorly when quizzed on issues affecting Canadian children. Only 33% of the 1000 interviewed answered questions accurately when it came to Canadian children living with HIV, in poverty, abuse, labour and child care. Seventy one per cent of those interviewed gave Canada a grade "C" or lower in fulfilling its obligations to improve the lives of Canadian children. These results show that Canadians are concerned about Canada's commitment to children's rights, but they also show that more needs to be done to ensure Canadians are learning about children's lives and rights, most notably, the most marginalized and socially excluded.

Mr. Chairman, the point here is that this move that has taken place in the Tory caucus to create a new category of rights is part of a political campaign closely connected to the evangelical right in the United States. Of course, they are connected there through the Minister of Sustainable Resource Development and some of his followers. In my view, this is useful in illuminating some of the rationale and some of the motivation for this particular change.

This change came out of nowhere. As we've indicated before, there is no evidence that these so-called rights were being violated in any way. There were no parents coming forward and saying: "The current system has failed my children. I want to protect my children from learning about certain things that contradict my values, contradict the values we want to raise the child with. Therefore, we need to create a category of rights in order to protect our children and our rights as parents from that." This didn't exist. This was not something that came from the grassroots to the Conservative caucus. The Conservative caucus likes to talk a lot about how they listen to people and how in touch they are and how they reflect the needs and aspirations of Albertans, but there's absolutely no evidence that this came from the grassroots.

This didn't come from people who felt that their rights and their children's rights were being violated and weren't adequately protected by the existing system, but it came from somewhere. That's what I'm trying to perhaps illuminate a little bit for some members tonight, where it came from and what is motivating it. The person behind this is, you know, appearing on, for example, the *Huckabee* show in the United States on the Fox News channel. You can see that this is part of a broader campaign. I'm not sure that all members of the Conservative caucus who may have ended up supporting this change to the human rights legislation were fully aware of it.

Mr. Chairman, one of the things that does concern me and which I don't think the government amendment will deal with is, in fact, that we do have an excellent system for dealing with these issues today. Nobody is saying and certainly I'm not saying that we don't want to deal with parents' concerns that they may have with respect to religious or sexual education. What I am saying is that we have a very excellent system in place now that's the right kind of system, where there's contact directly between parents and the teacher, and it's resolved right at the front line, right at the greatest point of contact, by actually talking to the people who are educating your children. If you're not satisfied with that, well, then, of course, you can take it up to the superintendent, and if you're not satisfied, you can go to the board and you can go, ultimately, to the minister.

Again, here's a system that is very workable. We haven't had a lot of complaints. That's not where this legislation came from. It didn't come from complaints that the system is not working properly. It came from some outside ideological agenda that's very dominant in certain parts of American politics.

11:40

The real problem, Mr. Chairman, is that this section of this bill will short-circuit the existing system, where the parents work closely with teachers and principals at the school level to resolve these sorts of issues. It will allow a parent who has a difficulty or a problem with how things have been handled to skip over all of that, to render it inoperable because they can then bring forward a complaint directly to the Human Rights Commission.

Now, one of the concerns that I really have had about this is certain comments that were made by the Minister of Culture and Community Spirit at one time and that have been reflected by others, which is that people are reasonable and we will expect that people will behave in a rational sort of way, so there shouldn't really be any problem. Mr. Chairman, you don't write legislation on the assumption that everybody is reasonable and rational. I would suggest that if you talk to any teacher, they will tell you stories about parents who are not reasonable that they have dealt with from time to time over the year. You know, it is not only reasonable people who avail themselves of the law. Unreasonable people may avail themselves of the law as well and often do so more often than reasonable people do.

That is what's going to create the difficulty. We're going to have some unreasonable parents or some people who may think they're perfectly reasonable, but they will avail themselves of this law, and it will undermine the relationship between the parent and the teacher and the principal in the school. It will effectively undermine the local school and the delivery of good education at the local level.

Mr. Chairman, I just want to say that I think this amendment is necessary. I think that without it we're going to have long-term problems on our hands. It may give a little bit of comfort to some in the education profession to have the amendments that the government wants to see, but ultimately it doesn't affect the basic problem with this approach, and that is that you're dealing with the Human Rights Commission as a court of first resort as opposed to dealing with your teacher and your principal and resolving those issues at the local level.

I want to just indicate that I think, Mr. Chairman, that we should pass this amendment to the amendment because the government's amendments fall far short of correcting the problems that were created by this legislation in the first place. They certainly don't correct the basic problem, which is to insert the Human Rights Commission into the classroom and, in a way, to protect rights that don't need to be protected. If you're going to protect rights, then I think we could have a real good discussion about what rights of children should be protected. Should we protect children against poverty? Should we protect children against abuse? Should that be in the Human Rights Commission? I've already mentioned programs and facilities for children who have disabilities or other kinds of learning issues. Should we protect children against bullying? Should we protect children against not being fed before they go to school?

If we want to talk about rights for children that should be enshrined in the Human Rights Commission, I'm sure we can come

up with far better ones than the ones that this government is proposing. The ones they're proposing here don't protect the rights of children at all; they advance a foreign political agenda, and they don't protect and advance the rights of children.

So I want to urge hon. members to pass this amendment. If we want to have a discussion about protecting the rights of children or protecting the rights of families or even protecting the rights of parents, then I think we should have an open discussion and put all sorts of rights on the table and then sort them out as to which ones should take priority, which ones are more important, which will make a difference in people's lives, which will protect people. But to write into this legislation the right of protecting parents' rights to protect their children against being taught, again, certain things is not a right that anyone has identified as something that absolutely is important from actual parents' point of view. I know it is for the hon. Minister of Sustainable Resource Development and some of his followers, but it's not something that the parents of Alberta are asking for as opposed to certain far-right groups and certain religious leaders who don't represent, in my view, the voice of parents who actually have children in the school system today.

Like the hon. Member for Edmonton-Riverview, I also raised a couple of boys, put them through the school system. We dealt with teachers. If problems came up, we talked to the teachers. But we never had a problem with teachers trying to ram some sort of ideology down their throats or a religious view or attitudes towards sexuality that we didn't agree with. I thought the teachers were throughout very professional. They were more interested in teaching children to think rather than teaching them what to think. That, I think, is exactly what we want to promote in this school system, in our education system in this province.

Frankly, I think that this bill is counterproductive with respect to that goal. It focuses much more on what you teach kids to think rather than teaching them to think. I think that that is the highest goal of any teacher. In my experience it was relatively easy to resolve the very few difficulties that we ever had with our children's education simply by talking to the teacher. We never had to go to the principal, and we certainly didn't have to go to the school board.

Mr. Chairman, I urge members to vote for this amendment to the amendment.

The Chair: The hon. Member for Calgary-Buffalo on subamendment SA1.

Mr. Hehr: Well, thank you very much, Mr. Chair. It is, again, a pleasure to speak on the amendment as brought forward by the hon. Member for Edmonton-Centre. Some of the debate that has ensued has sort of brought some more ideas, I guess, to the foreground that I would like to follow up on and bring comment to in an effort to get the minister and members of the House to accept this amendment on what is, by anyone's account, a flawed bill.

I'd just like to sort of pick up on the points brought up by the hon. Member for Edmonton-Riverview and the hon. Member for Edmonton-Highlands-Norwood, who said: yes, we can enshrine any number of rights in legislation to protect children. These are very admirable goals. For instance, for them to have enough food to eat and go to school and learn here in Alberta is a wonderful goal. We could enshrine that if we wished to and all of these things. I don't know. I don't think it would be proper in a human rights act, but I guess we could do it. Or we could say that all children are going to graduate grade 12, and we'll hire them 14 tutors to do so and whatever. We could enshrine that as well. But, again, is that really essentially a human right, you know, or should it be contained in the human rights code? I think the simple answer is: probably not.

11:50

I did some brief research. I really do appreciate the fact that the hon. Member for Calgary-Nose Hill did make some comments because it is perfectly correct that this is a difficult issue and that parents do have rights and they do have responsibilities regarding children. But here's the deal. I checked on human rights legislation, the United Nations' as well as any other human rights act in Canada. In the United Nations' bill on human rights there is nothing incorporated on parental rights. You can go and find that in ancillary bills, like the rights of a child, but by no means do you have them in an overarching framework act that guides your human rights. Simply, these have been placed there, and they're out of context. If you look at other legislation dealing with human rights, this is out of context, okay? Just simply put, if you look in any manner of speaking at legislation throughout the world, it is out of place.

If you look even deeper, I think that's where you have the political agenda, where this was made as a complicated trade-off. Really, if we're going to give those people in the GBLT community something, if we're actually going to let them put their name, inscribe it in our human rights legislation, well, tell you what: we're going to have to get a little something back here. We can't really allow this to happen here without some form of payback, something we're able to take to the rednecks or whoever who want to believe, who actually still believe this stuff, that these are secondary, second-class citizens. I believe that is essentially what has happened here. We'll give them this, but I tell you what: you know, we're not going to let this happen. We're not going to stand by and watch this happen in Alberta, where we believe this shouldn't be happening. We're going to make sure that we reference this somewhere in our legislation and put our stamp on that we don't think Alberta is a place for this.

If you look at the context, like I said, laid it out in the framework of human rights legislation, this doesn't belong. You go down the list and say: which one doesn't look like the other one? Well, our act. And it's because it's driven by a specific agenda that doesn't make any sense in this type of legislation. So I'd just like to point that out. It was . . .

The Chair: Hon. member, may I interrupt you? The side conversation level is too high. Please lower it.

Continue, hon. member.

Mr. Hehr: Nevertheless, that was my second opportunity to speak. I notice the troops have been reinforced. I look forward to their taking part in the debate and maybe adding their thoughts to this bill and maybe weighing in on the amendment. We can discuss this. That's a good thing. That's what we're supposed to do.

Thank you, Mr. Chair, for giving me the opportunity to speak. It's been an honour to do so this evening.

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

Dr. Taft: Yes. Thank you. On the subamendment. I'm going to make one last point in my support for this subamendment. I'm going to do so, Mr. Chairman, by reading directly from an Alberta Education publication, a very significant one called Guide to Education: ECS to Grade 12. It's a document signed off by the Deputy Minister of Education. It's an important document. I'm going to begin at the beginning – how about that? – the introduction.

> Education is the key to our young people becoming full partners in shaping a global future and in shaping our province's and our nation's future. Quality basic education for our young people is key to maintaining Alberta's standard of living and ensuring our competitiveness in the world market. Our education system must

> focus on what all students need to learn and be able to do to participate successfully in an economy and society undergoing fundamental changes.

The Chair: Hon. member, may I interrupt you? Again I want to remind hon. members that the level of side conversation is too high. Please lower it down, or there's the Confederation Room out there.

Continue on, hon. Member for Edmonton-Riverview.

Dr. Taft: Thank you. The last sentence I was reading from this Alberta Education document was, "Our education system must focus on what all students need to learn and be able to do to participate successfully in an economy and society undergoing fundamental changes." I'm going to stop there for a moment. Think about this. We want an education system that teaches students to be able to participate successfully in an economy and to learn what to do to be able to participate successfully. Now, I ask you this, Mr. Chairman: if we exempt kids from learning about religion, how is that helping them to go out into the real world and participate effectively?

Our own caucus and the previous caucus had in it people from a range of religions: Catholic and Protestant, we had a former Protestant minister, we also had a Hindu, and we had a Muslim. In our caucus today we have a Sikh and we have Catholics and we have people who are very active in a number of Christian churches. Mr. Chairman, that's a reflection of the world today. How do we prepare our children for that world if we give their parents the rights to pull the kids out of teachings that might inform them about these various religions? I think, in fact, this provision betrays the very intent of this document.

Then I'm going to continue down this document. "It is a plan for Alberta students to be well prepared for lifelong learning and the world of work." Well, imagine. What if they have to work with people of other religions? Might it be a good thing that they've been taught a bit about those other religions? It goes on.

> These initiatives reflect Alberta Education's leadership role in developing programs for students, setting standards for education, communicating these expectations to our stakeholders and supporting improvements to meet student needs.

I will skip a couple of sentences, and then I will finish off with these two sentences, quoting from this Alberta Education guide for K to 12.

> Schools have the responsibility to provide instructional programs that ensure students will meet the provincial graduation requirements and are prepared for entry into the workplace or postsecondary studies.

Well, let me ask you, Mr. Chairman, and let me ask all people considering this: how are we preparing kids for the workplace or for postsecondary studies if we can't guarantee what education they've received? How do we know if somebody graduates from grade 12 if they've been exempted from a range of issues? What if they've been exempted from classes on human sexuality? What kind of people are we sending out into the adult world if they haven't had education on human sexuality? What kind of people are we sending out into the world if they haven't had education on religion? This is a betrayal of the responsibilities that the school system of Alberta has.

What about education about sexual orientation? Mr. Chairman, people go through life encountering people who are gay or lesbian. They may not know it. I'll bet you, Mr. Chairman, that there are members of this Assembly who are gay or lesbian, and we work with them every day. It is possible. I bet you it's true. [interjections] Apparently, it's very true. I'm getting all kinds of responses.

My point is, Mr. Chairman, that we need in our society to be able to work and live with people of all kinds of backgrounds. One of the core principles and objectives of our school system is to prepare our children to work with people of all faiths and people who are gay and people who are straight and people who are lesbians. This particular piece of legislation, particularly section 11.1, betrays that purpose. It goes against the very responsibilities of our school system. That's why I'm supporting this subamendment. That's why I think we need to get rid of this aspect of this legislation.

Thank you, Mr. Chairman.

Mr. Anderson: I just had to comment on this. The hon. Member for Edmonton-Riverview just commented: what kind of people are we sending into the world that never took a sex education course? Well, I am so afraid to tell this Assembly that I am one of those children that was opted out of sex education by choice. I'd like to ask the hon. members of this Assembly if that lack of sexual education has been a problem for this hon. member and his family of four boys under the age of five? I would submit to you that it certainly, certainly has not been a problem.

Thank you, Mr. Chair.

12:00

The Chair: Hon. members, we have subamendment SA1.

[The voice vote indicated that the motion on subamendment SA1 lost]

[Several members rose calling for a division. The division bell was rung at 12:01 a.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Cao in the chair]

For the motion:

Blakeman	Notley	Swann
Hehr	Pastoor	Taft
Mason		

Against the motion:

Ady	Drysdale	Olson
Anderson	Elniski	Ouellette
Benito	Evans	Prins
Berger	Fawcett	Redford
Bhardwaj	Fritz	Renner
Bhullar	Groeneveld	Sarich
Blackett	Hancock	Snelgrove
Campbell	Jablonski	VanderBurg
Danyluk	Knight	Vandermeer
Denis	Lukaszuk	Webber
Doerksen	Marz	

Totals	For – 7	Against – 32

[Motion on subamendment SA1 lost]

The Chair: We are back on amendment A1. The hon. Member for Edmonton-Strathcona.

Ms Notley: Thank you, Mr. Chair. Going back for a moment to A1 and the many things that are wrong with it, we're left with this amendment that the government suggests will somehow address the phenomenal level of concerns that have been expressed by Albertans across the province, whether they be teachers, whether they be

school boards, whether they be the parents who theoretically are the subject of the very protective efforts that this government is engaging in but not really so much. Notwithstanding all that, yeah, they brought in this amendment to address those issues, but of course, as we've said, it really doesn't address the issues. It just creates more confusion in a lot of different ways.

Now, it's interesting because earlier the Minister of Culture and Community Spirit had suggested that their new section 16 might help them out a little bit there because, you know, it gives the commission the ability to basically maybe not investigate and hear the complaints quite as quickly or as rigorously as some of us naysaying, fearmongering, negative nellies think that they will. Instead, it gives the commission the ability to decide whether the complaint is one that could be dealt with more appropriately somewhere else or whether it is scheduled to be heard somewhere else, in a different forum, or under another act. So it's not necessarily the case that all these unreasonable parents, of which apparently, according to the government, there are only two in the whole province, will tie up the Human Rights Commission. No, no, no, because there is this great little section in here.

I have to share with you a personal little anecdote about a legal matter I was involved with before I had the joy of being elected to this Assembly. It centred around the question of whether or not the Human Rights Commission had jurisdiction to deal with an issue or whether one of those other bodies should be the place to deal with the issue. In that case it was an arbitration board. Now, I could stand to be corrected, but my rough guess at how much time that particular question – just that one question in terms of who is the body that has the jurisdiction to deal with this issue was a matter that took about eight years to be addressed through the courts. I think that maybe was because leave to appeal to the Supreme Court of Canada was actually denied.

Anyway, if anyone thinks that this section 16 is going to somehow smooth the way and that, you know, all those reasonable people will look at section 16 and go, "Ah, I'm just not going to bother compelling my teacher to be brought before the Human Rights Commission because there's this thing in section 16," no, no, no. Quite the opposite. I think that that very, very, very effective lobby that managed to convince a significant portion of the Conservative caucus to adopt this ridiculous section in the bill, that being section 9, will dedicate the same level of effort to ensuring that every complaint is addressed at the Human Rights Commission that they can make happen.

That will take a lot of resources out of our public education system, and that will take a lot of resources from our general public purse while this matter is adjudicated. It will generally create confusion and chaos and, to review, go back to that whole process of chilling the degree to which teachers in our province believe that they can teach critical thinking, opposing views, analysis, and again, as I've said before, talk about our human rights code without fear of persecution or retribution.

Anyway, that's the problem with the amendment as it stands. It is just inviting more confusion and inviting more litigation and inviting more debate over the interpretation. As I've said before, as long as that debate and that interpretation and that confusion exist, our teachers and, as a result, our children will learn less in our schools.

It's a good thing that we have the freedom – is it the freedom to create? The spirit to create? I can't remember.

An Hon. Member: Spirit to achieve.

Ms Notley: The spirit to achieve and the freedom to create.

Anyway, we've got to be darn creative because we're not going to be taught a heck of a lot. We've got to be coming up with it all up here because we certainly will not actually be taught about it in our schools. That's that.

Because this amendment is so deeply ineffective, what we would like to do is try to limit – limit – the application of section 9 if at all possible. So it is for that reason that I am proposing another subamendment to the first amendment, and I'm wondering if I could have that distributed.

12:20

The Chair: The subamendment is now known as SA2.

Hon. Member for Edmonton-Strathcona, please continue on SA2.

Ms Notley: Thank you. Basically, the rationale underlying this proposed amendment, as I said before, is to try and limit the scope of the so-called parental rights clause in that rather than giving the authority for people to complain about curriculum that deals primarily and explicitly with religion, human sexuality, or sexual orientation, the section would be amended to only include human sexuality.

Where parents, perhaps parents like the parents of the MLA for Airdrie-Chestermere, were concerned that their children might learn things about human sexuality, they would still be able to, well, bung up the system and do all those things that we actually think ought not to happen. Nonetheless, it would still be there, but thankfully they would not have the ability, if this amendment were to pass, to hold hostage our teachers or the majority of children within our classrooms and, therefore, limit their ability to learn about religion and to learn about sexual orientation and, as I've said before, to learn about our human rights code. That is the point of this amendment. Parents would have the right to choose with respect to dealing with when the school decided to teach on issues directly dealing with human sexuality. They would be able to get the notice. They would be able to pull their kids out. They'd be able to take the teacher to the Human Rights Commission if they didn't get the notice. They'd be able to do all of those great things.

Now, in terms of the concerns people here have expressed: well, what about those parents who are concerned about religion? They would still of course have all the protection that they have now under the School Act, that deals with how to give parents the right to pull their kids out of school where there is religious instruction with which the parent is uncomfortable. Of course, as I think has been mentioned before, one of the many reasons why the School Act is a better place for that particular provision to be placed is because the School Act puts the onus on the parent to notify the school board as opposed to requiring the school board to give notice to every parent and then regive notice when the curriculum changes and all that kind of stuff. Administratively, the School Act is a far more workable mechanism.

Of course, the other reason why having it in the School Act is so much more reasonable is that, as we've said before, if you put it in the human rights code, you invite litigation. You invite debate over how the language is interpreted. You invite debate over: well, if this is a right in the human rights code, it's got to have meaning, so it's got to be that when my kid is not in the classroom, they're getting a completely separate course of education and instruction, so you'd better hire yourself another teacher for all those kids that are going to be wandering around the halls because to do otherwise would be to not give full effect to a very substantive right. Why is it substantive? Because it's in the human rights code.

These are the kinds of arguments that get made when you put things in the human rights code. That, of course, is why this amendment would not have this living in the human rights code. It would have it relegated back to that place where it was working absolutely fine up until now without any problems or complaints: in the School Act.

Of course, as I've said before, the other good thing about this is that by not having this reference to sexual orientation in this amendment, we would also manage to deal with that very inconvenient little embarrassment where we're treating certain prohibited grounds differently in the very document which has been propagated to protect people from being treated differently on the basis of certain prohibited grounds. By taking sexual orientation out of this section, we would be able to walk away with our head held high from this very disturbing irony and very disturbing message that we are sending to one particular minority group within our province.

We still have parental rights. Parents who want to be in charge of how their kids learn about sexuality will still have parental rights. Parents who want control over the religious education of their children will still have the School Act. Parents who want to imply either directly or indirectly that it's okay to treat people differently because they are gay will not be allowed to. That's why this amendment would be a good thing. Frankly, I would think that all those objectives are things that people on both sides of the House would want to pursue.

So those brief reasons are the rationale behind this amendment, and I look forward to further debate on it. Thank you.

The Chair: The hon. Member for Edmonton-Riverview on subamendment SA2.

Dr. Taft: Yes. Thank you. I rise to support this subamendment. I am prepared to accept it as a compromise. Obviously, my first choice would have been if the previous subamendment had passed, but it did not. So we're now in the process of trying to look for the second-best solution, and I guess this is probably as good a second-best as we're going to get.

I listened to the comments from the Member for Edmonton-Strathcona. I think she sketched out some of the issues pretty well, but I think they need to be reinforced and driven home. One of the things that should be obvious to government members is that if everyone were reasonable, as the Minister of Education suggested maybe they are, then we wouldn't need legislation. He's saying that no reasonable person would ever do anything that disrupted things. The problem is . . .

Mr. Hancock: No. I said that no reasonable person would interpret this as referring to the sex life of plants.

Dr. Taft: Well, the problem is that there are all kinds of people there with different senses of what is reasonable. Some of them, Mr. Chairman, have written letters to the newspaper. I'm going to read just one of those letters here for you. I'm not saying that this person doesn't have a right to these opinions. They absolutely do. I'm reading this to illustrate that there are people who are in fundamental conflict with what's done in schools.

This is a letter that was written to the *Edmonton Journal* and published May 7, 2009. It's from a person from Spruce Grove. I don't need to read their name into the record, although I guess it's a letter to the newspaper, so I might as well. The name is Claire Helmers. The title for the letter, put in by the newspaper, is: What if Scriptures 101 Was Mandatory?

12:30

The letter goes like this:

> Rob Wakarchuk states that evolution is a fact, and that there is more evidence to support evolution than there is to support the law of gravity.
>
> He calls the biblical burning bush "mendacious ignorance" that is the "bane of modern civilization."
>
> He claims we need to get into the 21st century by teaching evolution and homosexuality in schools.

I don't know if any of those are true statements about what that person claimed, but this is how the letter reads. It continues.

> I wonder if the people in the 14th century said, "This is the 14th century, people. Don't tell me you still believe in God. Get with the times already!"
>
> I've always wondered what the current century has to do with truth.

Then we begin to get into issues where there may be conflict with basic education. I'll continue, Mr. Chairman.

> The theory of evolution is as untrue today as it was when it was promulgated in the 19th century, to a great hue and cry of "Don't make a monkey out of me!"
>
> Teaching it and preaching it 10,000 times doesn't make it true, it just makes it familiar and easier to believe.
>
> Why shouldn't a parent who believes that evolution is a lie be able to take her child out of a class that teaches it as fact?
>
> Why shouldn't a parent whose religious beliefs preclude homosexuality be able to remove her child from a class that promotes it as being "normal"?

The letter goes on from there.

The point of the letter, I think, Mr. Chairman, is that for this person evolution is a fiction and a literal reading of the Bible is the truth. Clearly, we have a clash of two belief systems there, and anybody approaching things from a serious, scientific mode is going to say that the underlying structures of those two belief systems are very different.

Mr. Chairman, if we open up our curriculum to the kinds of challenges that are proposed in the legislation, we are going to undermine the learning of our children. We are going to allow children to be pulled out of school and not be taught about things that are scientifically very supported. We have people out there who are going to challenge the curriculum time and again on religious beliefs.

I'll read quickly into the record the definition of religion from the *Oxford* dictionary. It says here: "a particular system of faith and worship." Well, it's a pretty wide-open definition, isn't it, Mr. Chairman? The point is that people coming to the curriculum from any particular system of faith or belief could cause all kinds of disruption, so that's why I think it's a good thing to pull that exemption out of here. We're not saying that children have to be taught any particular religion, but we are saying that there are fundamental knowledges and fundamental attitudes and fundamental skills that are required for functioning successfully in the modern world.

I spoke when this bill first was up for second reading about a book I read a few months ago, long before this legislation came up, called *The Search for God at Harvard*. The challenge put out by this book, which was written by an Orthodox Jew, is that you can explore and embrace and study all kinds of religions, and it doesn't end up threatening your own. The experience of this Orthodox Jew who wrote this book was to go to a divinity school where all kinds of religions were taught. He proceeded with some concern, and he discovered over the course of the year that his own faith in his Judaism was reinforced while at the same time he got a new appreciation of the richness of many other faiths.

I think that's the approach that we should be taking in our school system, Mr. Chairman. I think that we should urge and require the children of this province and this country to sit side by side with children of other religions and not give their parents the option of yanking them out of those classes. I think this is an important idea.

I also think it's important to briefly address the difference between religious faith and scientific evidence. There's a really interesting book out called *Why Evolution Is True*. It's written by a fellow named Jerry Coyne, who for 20 years has been at the University of Chicago, specializing in evolutionary genetics. It's a book that's 250 pages long or so, so I won't read it all. But I think it's worth serious contemplation. He goes on at great length about the difference between knowing something scientifically and knowing something through an article of faith. What we want to do, Mr. Chairman, is keep our school system focused on issues that can be supported by evidence. We need to protect that core.

Now, Mr. Chairman, there's one other concern that I want to raise here, and this relates to the matter of tolerance. Obviously, it's closely related. If we have a school system where parents can pull their kids out because they don't want them to tolerate being taught about other religions, then we have a problem. We're sending the wrong signal to everybody involved in that. In fact, I have to tell you that this entire debate – this entire debate – has sent the whole country and the whole world the wrong signal about Alberta.

I'm going to refer a little bit to the work of Richard Florida, whose work I also talked about in Bill 27. Richard Florida has studied societies that flourish. He's developed theories supported by evidence. Not everybody agrees with them, but they're certainly worth serious thought, and they get serious thought. One of the things he argues is that a key indicator of a society's prosperity and success is its tolerance. The more tolerant a society is, the more welcoming it is to many views and many religions and many sexual orientations, the more that society is creative; and the more creative a society is, the more it flourishes.

I'm just going to read a few items that Richard Florida has written. If anybody ever has a chance to go listen to him, I suggest you do because he's a darn good speaker and very stimulating.

Well, listen, I'll do some summarizing here, Mr. Chairman. Basically, Florida's point is that a tolerant society is a necessary factor in developing a strong creative class, and it's the creative class that keeps a society vibrant and moving forward.

The problem with this bill and the reason I'm supporting the particular amendment brought forward by the Member for Edmonton-Strathcona is that it reinforces, in my view, intolerance. It encourages people to step out of facing and living with their neighbours. It facilitates intolerance. Creative individuals need to feel welcomed in any society if they're going to stay there or if they're going to move there and settle there. If a society doesn't develop tolerance for individuals, if it doesn't encourage diversity, and if it doesn't encourage learning about diversity, then creativity is neither going to develop fully in a particular society, nor is it going to flourish. My concern as an Albertan with this bill, all other things aside, is that we're actually taking steps that fuel intolerance and that we are setting ourselves up for a disappointing future.

Related to tolerance, in Richard Florida's analysis, are talent and technology. Talented people are drawn by tolerant societies. It's as simple as that. Talented people are looking for new ideas. They're looking for creativity. They're looking to embrace, whether it's something as concrete as a range of foods or a range of music. They want a rich stew of society. They want everything there. They want to embrace it, and they want a society that celebrates it. This bill takes us in the opposite direction. Economic prosperity relies on cultural, entrepreneurial, civic, scientific, and artistic creativity.

12:40

There are a couple of quotes I'm going to put on the record from Mr. Florida which I think speak to the necessity of supporting this subamendment. This is a quote from a book he wrote called *The Rise of the Creative Class*.

> Why do some places become destinations for the creative while others don't? Economists speak of the importance of industries having "low entry barriers," so that new firms can easily enter and keep the industry vital. Similarly, I think it's important for a place to have low entry barriers for people – that is, to be a place where newcomers are accepted quickly into all sorts of social and economic arrangements.

And then he goes on.

> Places that thrive in today's world tend to be plug-and-play communities where anyone can fit in quickly.

I'll end that quote there, Mr. Chairman, and just ask people to consider: what message are we sending to people with Bill 44? We're telling them that this is not a tolerant society, that it's okay for you to be intolerant of other people's beliefs or other people's sexual orientation, and I think that's a serious mistake.

With those comments, I think, Mr. Chairman, that I'll take my seat and listen to responses from others, but I urge everybody to support this particular subamendment. Thank you.

Mr. Anderson: Mr. Chair, as I saw my hon. colleague reading from the newspaper, I was flipping through some articles myself, and I thought there was a really good one in today's paper that I'd like to share just to give people something to chew on. It's from Naomi Lakritz in the *Calgary Herald*.

> Bill 44 Debate Gives Parents an Unfair Rap
>
> Since when did parents get to be so stupid that they can't be trusted with raising their own children? To hear some of the opponents of Bill 44 talk, you'd think that kids should be removed from their parents' custody and handed over to schools to raise. The teachers – the same ones who complain at bargaining time that large class sizes prevent them from paying adequate attention to their students – apparently know what's best for all those kids they say they don't have time to really get to know.
>
> This week, the [ATA] passed a resolution which expressed fears that Bill 44 "will have a chilling effect on classroom discussion and instruction." The bill's language will be fine-tuned next week when it goes to committee – as well it should be. Education Minister . . . has promised that these concerns will be addressed via clear guidelines. And [the] Premier . . . said, "Bill 44 confirms the existing situation to opt out of religion instruction and sex education. It does not give parents the right to opt out of other instruction on religious grounds."
>
> Parents have always had the choice to opt their children out of sex-ed classes. This is nothing new. When material about sex – gay or straight – is introduced in kindergarten or the early grades and parents feel it's age-inappropriate, they have every right to object to their kids learning it. As far as "instruction on religious grounds," there is no religious instruction taking place in public schools, by their very nature. And comparative religion courses are inevitably option courses anyway, so the students in those classes are there voluntarily.
>
> In her column Thursday, Janet Keeping, president of the Sheldon Chumir Foundation For Ethics In Leadership, asked: "How are children to develop into thoughtful, tolerant adults, if the education system is prevented from exposing them to a variety of perspectives?" Gosh, it sounds like if we leave it up to pea-brained parents, they're sure to bungle the job of producing such terrific adults.
>
> So a six-year-old who is prevented from learning about sexual orientation because his supposedly narrow-minded parents think his innocence is worth preserving [just] a little [bit] longer, is doomed not to develop into a "thoughtful, tolerant adult?" That's ridiculous.

> Marilyn Sheptycki, president of the Alberta Schools Councils Association, worries Bill 44 will shut down debate of challenging ideas, thereby interfering with critical thinking skills and tolerance. Really? Then, students must be awfully limited in the things they're debating, confining themselves only to discussing sexual orientation and never going near politics, science, literature, philosophy or history. Which brings us to a far bigger threat to critical thinking skills than missing a one-time discussion of sexual orientation. That threat is the students' lack of exposure to the ideas of great writers and thinkers.

It goes on to talk about how there should be more study of the classics in school.

> Referring to concepts of tolerance and such, Sheptycki said: "The way it is now, teachers will be afraid to have those great discussions in class." Since when is school all about sexual orientation, tolerance and other such topics? Nobody objects to teaching kids to be respectful of others, but whatever happened to the 3Rs?

Reading, 'riting, and 'rithmetic.

> And you can't have any kind of "great discussions" when students can make it through high school "without having read any of the classic novels."
>
> The debate about Bill 44 has left parents with an unfair rap. They're being dismissed as bigoted idiots who are presumed guilty of inculcating their kids with all kinds of wrongheaded thinking which it's the school's self-imposed agenda to undo. Nonsense. The school's job is to educate the child in academic subjects, not to undermine the values being taught at home.
>
> Bill 44 is not going to land teachers before human rights commissions. Before it's passed, the language will be tightened to prevent that. Educators should chill. Oh, and while they're chilling, they might want to do some critical thinking of their own – about revamping a curriculum whose paucity of exposure to the classics already does a fine job of keeping challenging ideas out of the classroom.

I thought that that was a worthwhile thing to share. I think there needs to be some perspective brought into this debate.

I read a letter that the hon. Member for Calgary-Varsity had put into the *Calgary Herald,* that appeared in the *Calgary Herald* over the weekend. I am paraphrasing, but the allegation was that by passing this legislation, we are basically allowing schools to be turned into breeding grounds for intolerance and bigotry, implying, of course, that the only parents that would dare – that would dare – opt their children out of sex education or out of a religion course are bigoted, narrow-minded, intolerant idiots. It's a travesty, but that is exactly the message that has been sent to parents during this debate. As a parent of four children I find it very offensive.

I think it's, quite frankly, disgusting that a parent's tolerance in education can be called into question because they believe that, frankly, they would like to teach their kids in a home setting about these very sensitive topics. I know for myself that I'll be teaching my children all about tolerance and about gay rights and about the need to treat a diversity of people the same and to care for them and to accept them as contributing members of society and as friends and as family, in some cases, as the situations come. I'll teach that to them, but I'll also teach them the value of what I see as traditional family values and how much success and good things that has brought their dad in life. I'll be proud to do that. I think I can give a balanced education to my children on those things, and I believe I can do so in a nonbigoted and completely tolerant way. So I don't need people on this side of the House telling me that I am some kind of uneducated moron. Effectively, that's what this debate has been.

I would also ask the hon. members to think, possibly, why they have 11 seats in the Legislature right now between the two parties. Maybe it's because when these types of debates come, you are unable to identify with a massive group of people out there: voters, parents who have kids. Every time some issue like this comes up, you basically narrow them down and belittle them down into self-serving morons. That's, again, shameful.

You know, I ran for the nomination and won overwhelmingly, as many of the members in this Assembly did, and also ran in the election and won overwhelmingly. The reason I did is because I told parents and families that I would stand up in this Legislature and that I would defend their rights and that I would defend their dignity and that I would defend the rights of their children. That's what I'm doing right now, and I would hope that all hon. members of this Assembly would do the same.

Thank you, Mr. Chair.

12:50

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

Ms Blakeman: Thank you very much, Mr. Chairman. I'm sure that everybody both here and listening at home and joining us in the gallery . . .

An Hon. Member: Nobody is listening.

Ms Blakeman: Oh, yes, they are. You've got to get on Twitter, my friend. It's just abuzzin'.

. . . really appreciates the participation of the Member for Airdrie-Chestermere because, you know, we just got the debate all happening and woke everybody up and re-energized everybody, and we're good for another two, three, four, five hours here. So thank you so much, Member for Airdrie-Chestermere. It certainly got me re-energized, and it looks like the member from somewhere in Calgary is also going to be joining the debate.

I think what's really interesting in all of this – my question back to the member is: what in the current situation is stopping parents from doing any of the activities that he has just described? As far as I am aware, there is nothing currently that stops any parent from discussing any of these issues at home with their child, that prescribes to them in any way how a family would decide to conduct themselves in their home and educate their children. There is nothing currently that would prohibit that from taking place at all.

So I think: all right, if that's not a problem now, if the Member for Airdrie-Chestermere can move through life as he chooses to and raise his four sons as he wishes to, if there's not a problem, then why did we need this legislation brought before us? And he is a huge proponent of this legislation. So what is it that he felt was lacking in the current situation that somehow was impinging on his ability, was prohibiting him from interacting with his family and his community in the way that he wanted to so that he is such a prime proponent of this legislation? The truth is that even in this legislation – I mean, what the issue is is what's happening at school, not what's happening at home.

[Mr. Mitzel in the chair]

I have not heard any of my colleagues talk about what needed to happen at home. That is a different realm. That is not a public realm. What the parents that have spoken thus far in this Assembly talk about wanting to do or have done in raising their children: that's at home. That's not part of what exists today in legislation, and it's not part of what is anticipated under this. So I'm not sure how this whole discussion moved away from what is in front of us in this bill and what is being discussed about what will be discussed or will not be discussed in a school setting. Who is allowed to talk about what is in a school setting. It's not at home.

And I haven't heard anyone stand up in this Assembly and call anyone a moron except for the member who just got up and spoke, who then went on to say that the members in the opposition were somehow shameful. So the only group I've heard casting aspersions and throwing names around here is the very member who just spoke. I have not heard any of my colleagues today or the earlier time in second reading for this debate indicate in any way, shape, or form that any parent was a moron in any choices that they choose to make. It just didn't happen. So I don't know why he feels the need. He's the one raising it. He's the one throwing it around. Nobody that we've heard in *Hansard* . . .

Mr. Anderson: Actions speak louder than words, member. Actions speak louder than words.

Ms Blakeman: Actions speak louder than words. Hmm. So which action is he referring to? My action in getting up and debating here?

Let's talk about the casting of aspersions on the members who successfully were elected. They're in this House. They're not the problem. They were successful, and they were winners. Frankly, I'm a little tired of hearing the Conservatives constantly get up and talk about how the members of the opposition, who were successfully elected, many of them with larger margins than other people that are sitting in here, are somehow losers. We are not losers, and it's disrespectful to the people that elected us. [interjections] It's disrespectful to talk about people who were legitimately elected and serve time in this House as somehow not being reflective of their electorate and not being the primary choice of their electorate. [interjection] Oh, that's just as bad.

The focus of this bill is not about what people do with their children at home. It's not. It's about what is being anticipated under human rights legislation that is specifically directed towards behaviour that will be allowed or not allowed in school.

Particularly under section 9, considering the amendment that's in front of us right now, it's a subamendment that is talking about discussions around religion, human sexuality, or sexual orientation. Specifically, it's trying to narrow the focus of what would be considered as prescribed or prohibited grounds under this particular legislation and narrow the discussion to human sexuality, which some argue, and I've had them argue it to me, is a slight improvement on the wider scope that actually is in the bill now.

I'm glad I got the opportunity to respond to some of the member's interesting comments, and I'm certainly willing to . . . [interjection] Well, I'm not going to be bullied and I'm not going to be yelled at in this House. I have a right to be here, and I am here. You can mutter under your breath all you want and talk about how somehow my actions speak louder than my words. Well, I have taken action in standing up and speaking in debate on this and supporting what I believe in and reflecting what my constituents believe in. I have the e-mails and letters that are giving me the direction, so I'm very happy to be doing that on their behalf. Part of that is in supporting subamendment A2, which is before us, as proposed by the Member for Edmonton-Strathcona, to limit the scope of what is to be considered under section 9, to narrow that down to only being human sexuality. It's a slight improvement on what we have in front of us, but I'm willing to take just about any improvement; therefore, I'm willing to support subamendment A2.

Thank you very much.

The Deputy Chair: The hon. Minister of Culture and Community Spirit.

Mr. Blackett: Thank you, Mr. Chairman. A lot has been made about the composition of the caucus and the motive behind this amendment and that somehow there was some other agenda. I'd just like to bring the members' attention to the facts of some of the composition within our caucus. We have former members of the teaching profession: from Edmonton-Castle Downs, the Minister of Aboriginal Relations, the Member for Bonnyville-Cold Lake, the Member for Battle River-Wainwright, and the Member for Edmonton-Ellerslie. We have former school board trustees: the members for Edmonton-Decore, Drayton Valley-Calmar, Calgary-North Hill, and our Premier. We have former chairs of school boards: the hon. Minister of Municipal Affairs, the hon. Minister of Infrastructure, and the hon. Member for Calgary-McCall.

I would say that we're quite representative of Albertans, and we're also representative of those people who have experience in the educational profession. We as a caucus collectively saw the need to actually give the parents of those some 600,000 students in this province the ability to be able to opt out of a particular course of study with respect to three specific issues and to be notified.

Now, most of those parents will not pull their kids out of those classes. In our CALM classes that we have in this province, we have a total of 47 students that opted out of those classes last year. How many students do you think will opt out of sexual orientation? Well, it will be zero because there's nothing in the curriculum with respect to sexual orientation. And with respect to religion it will probably be the same amount.

1:00

But it is the choice of the parent, the same parent who chooses which type of school that they will go to. Will it be a charter school? Will it be a public school? Will it be a home-school? Will it be a Catholic school? It's the same parents who choose their clothing, the same parents who decide what religion they're going to have. It's the same parents who will decide what kinds of activities and what kinds of friends they will have.

The hon. members of the opposition think that these parents aren't responsible enough, aren't tolerant enough to be able to make that distinction. Well, did you know that we have same-sex marriage in this province? Did you know there was nobody marching in the streets? Did you know that was brought forward by a Progressive Conservative government? Did you know that there are hundreds of those that actually exist in this province? Did you know I actually had a chat with Richard Florida about this?

An Hon. Member: The Supreme Court did it.

Mr. Blackett: Well, no. With respect to same-sex marriage? No, no, no.

You're talking about the fact that we are embarrassing our province because we are showing intolerance. Well, we have shown immense tolerance. There are hundreds of those people. They are in my community. They are my neighbours. They are my friends. That is something that we all in this caucus are able to do. We brought forward the inclusion of sexual orientation because not one single member of the opposition, before we introduced this bill, talked about anything but that with respect to human rights. Not once. I dare you to go through *Hansard* and pick that out and find it for me. I've got all the different references here. If it's Kent Hehr, whether it's April 16, whether it's March 15, 2008, March 21, 2008, or the Member for Edmonton-Centre, October 28, October 29, November 5, November 19 . . . [interjections]

The Deputy Chair: Hon. member, are you calling a point of order?

Point of Order
Referring to a Member by Name

Mr. Mason: I am indeed. The minister knows he's not allowed to name members of the Assembly. He should apologize.

Mr. Blackett: Mr. Chairman, I apologize sincerely if I offended the Member for Edmonton-Highlands-Norwood. That was not my intention.

Debate Continued

Mr. Blackett: At the end of the day, when we responsibly sat down with the members of the ATA, when we responsibly sat down with members of the school boards, the concerns that they articulated on behalf of teachers, on behalf of administrators is that they wanted to make sure that they were able to conduct themselves in a discussion in the course of teaching their students without interference. So we have made sure that there is, if notification is given, an opt-out clause. We have nothing else to do with the teachers or the school boards. We made explicit that indirect or indiscriminate comments with respect to religious beliefs, religion, sexual orientation, or human sexuality are not to be there. We also went as far as to say that the school boards have a fantastic system for mediating disputes. That's there. None of the opposition members seem to want to acknowledge that. They want to talk about the same bogeyman that we talked about three weeks ago.

Right now there will be a provision that the director has, who can say that if a prospective complainant has not exhausted the avenues for appeal – that is, going to the teacher, going to the principal, going to the school board – then they have no merit. Their case will not be heard until that appeal has been satisfactorily exhausted. Other people have mentioned that we should do that. It's a fantastic system. Absolutely. We have faith in it. That's why we have put that in there.

We believe in it. We are representative of Albertans. We are representative of parents, of those 600,000 people, and we are representative of each of those professions, whether it's teachers, trustees, or board chairs. I stand by our caucus, our decision, and if you think for one moment that there is going to be a chance that we are going to waver on this particular bill to get one amendment, you are barking up the wrong tree.

Mr. Mason: I'm just going to be very brief, Mr. Chairman. I want to respond to the minister. [some applause] If I get more applause, it'll encourage me to go on a bit.

I want to respond to the minister because the minister seems to think that human rights and the work on human rights in this Legislature started 19 months ago when he was elected, but there's lots of work that has taken place in this Assembly and some very good work by previous governments of this party. In its early days it was actually a lot more progressive than it is today. You know, the minister seems to think that because the opposition raised the question of protecting sexual orientation and not some of the other weird ideas that he has incorporated in this bill as human rights, we have no right to speak on it.

But I'll remind the minister that my colleague the hon. Member for Edmonton-Strathcona repeatedly challenged him to bring in changes to the human rights code making sexual orientation a protected right, and he said: "We're not going to do it. We're not going to do it." He had a number of different reasons for not wanting to do it, notwithstanding the fact that that was imposed, but finally he did. Finally he did, but unfortunately that little change which he has only adopted, you know, years after the Supreme Court of Canada guaranteed that right – he's brought forward an amendment to this code only after a great deal of pressure and after initially telling the House repeatedly he was not going to do it.

Unfortunately, his bill has been hijacked by the extreme right in his own caucus, who are importing some ideology from an American campaign to protect parental rights against the United Nations convention on the rights of the child. That's where it came from. It didn't come from parents demanding it, and I think that's very clear.

So I just want to respond to the minister that he wasn't going to do this, and then he did it, but unfortunately it has been hijacked. Instead of being a very late and long overdue step to bring Alberta in line with other provinces and the Supreme Court decision, I think it's actually now a step backwards because of these bizarre rights that the social conservatives who seem to dominate this government today have imposed.

The Deputy Chair: The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you very much, Mr. Chair. I have listened to all of the comments, and I really do appreciate the hon. minister and the hon. Member for Airdrie-Chestermere taking part in the debate. I think it's good that we do so. Just to comment a little bit back in there, I understand very well that both members are parents. They both love their children much, and I really honestly believe both of them do probably fabulous jobs with their children. I believe in their fundamental right to be able to yard their kid out of the classroom any time they don't want them to talk about anything sexual that they don't want, and I respect that right.

But here's what I don't want to happen: I want that right contained in the School Act, where it was in section 50, not in my human rights legislation, enshrined as a right that no other human rights legislation has, and for good reason. You know why? Human rights are rights essential to all humans. Not all humans have children. Not all humans, you know, actually even want children. Not all humans are able to have children. There's a reason why no other human rights act has this: because it's not a human right that you have a child, that you do all these things, that you opt out. There are separate acts, of course, that deal with these things.

I believe the hon. Member for Calgary-Nose Hill brought up the fact that this is contained in the rights of the child in some innocuous legislation, but it's not contained in human rights legislation in Canada, nor is it contained at the United Nations. There are reasons for that. I don't by any means, there's no one in this party – we respect a parents' right to yard their children out of classrooms in this province when they are opposed to something in the curriculum. Okay? Fair enough. Fair enough. But here's what it is: don't enshrine it in human rights legislation and in language cloaked with what can only be seen as borderline innuendo, borderline giving people a slap in the face, saying sexual orientation, and doing it in this haphazard, sloppy manner that we see before us here today.

1:10

I think that, speaking to the amendment, by all means, the amendment is one of those things where I believe the hon. member from the third party has struck, really, a middle ground. You know, there's not something untoward here. We're not doing a swap – all right? – that with the right hand we're going to give the gay, bi, lesbian community protection. We're going to name them, like we should have 11 years ago. Okay? We're going to do that here. But if there's a trade-off, we've got to say: "Darn right; we're going to mention somewhere in this legislation that we're not that happy about sexual orientation, that this doesn't happen in our communities, that we're not all supportive of it" and go back to our communi-

ties and say: "Hey, look. We stood up on this reasoning. We actually believe in this reasoning. That is why this shouldn't be in our human rights legislation."

That's why I believe, speaking directly to the amendment, this strikes a balance. Hon. Member for Airdrie-Chestermere, if you really are seriously concerned about having your rights enshrined about yanking your kids out of school, then fair enough. I believe in your right to do that and I respect your right to do that, and I know you're a good parent, but just put this halfway point in the bill. We're not naming sexual orientation.

If there's nothing wrong with this, if we're really, truly saying to ourselves, you know, "it's human sexuality and all the rigamarole that goes with it" – the male-female bit, the male-male bit, the some other people in strange situations bit – and we're going to talk about that sometimes in our classroom and we're going to allow people the right in this thing, I still don't think it should be in our human rights act, but if you really want it there, to say, "All right, parents, we're going to give you a nod here, and we're going to do this," let's do it this way. Let's not do the backhanded approach, where we need sort of a wink and a nod that sexual orientation really doesn't mean anything, but it's there. You guys, if you look yourselves in the eye, you know it's there for that reason, and I believe it's disingenuous when you say that it's not there for that reason.

Mr. Blackett: It's not there for that reason.

Mr. Hehr: Okay. Well, then, let's just take it out. Let's clear it out. The hon. Minister of Culture and Community Spirit says, "It's not there for that reason." If it's not there for that reason, let's take it out. Let's look at this amendment. Let's do it. Let's take out this inflammatory language. If it's not there, let's do it.

Mr. Blackett: How is that inflammatory? That's not inflammatory.

Mr. Hehr: The Minister of Culture and Community Spirit asked me how the language "sexual orientation" is inflammatory. It wasn't inflammatory when this government for 11 years wouldn't enshrine it when the Supreme Court decision came down?

Mr. Blackett: I wasn't here. I wasn't here.

Mr. Hehr: Yes, yes, yes. I know the Minister of Culture and Community Spirit is many things. I guess, you know, he can turn a blind eye to this and say that that's not the reason for it, but the history is clear in this province. For 11 years the words meant something. The words "sexual orientation" meant something. It said to people: "We're not going to believe in these rights, we're not going to listen to the Supreme Court, and we're going to deny people the respect they deserve under this legislation. We're not going to do it." So for 11 years it meant something, and all of a sudden today it didn't mean a thing. Well, I think that's wishful thinking, sir, and . . .

Ms Notley: It's disingenuous.

Mr. Hehr: . . . disingenuous at best.

Mr. Denis: Shame.

Mr. Hehr: I'm glad you said that because I believe you were saying that to yourself, hon. Member for Calgary-Egmont.

Thank you very much for allowing me to speak on this. I believe this amendment would take out the bad association this province has had with sexual orientation over the 11 years and would truly erase the 11 years where these words have had a meaning.

Thank you very much.

The Deputy Chair: Do any other members wish to speak to subamendment SA2? The hon. Member for Edmonton-Riverview.

Dr. Taft: Yeah. Thanks, Mr. Chairman. I've appreciated the debate. I've listened to both sides here. I was trying to track down the column that the Member for Airdrie-Chestermere was reading by Naomi Lakritz because I thought there was a reference in there to the effect that nobody is going to get hauled before the Human Rights Commission under this legislation. When I combined that with the repeated comments from the minister about how few actual exemptions there are, requests for exemptions and all the other safeguards now written in this amendment, I find myself wondering: why is the government standing on this at all?

It's clearly almost entirely about symbolism because there are now so many outs and apparently, according to the minister, so many safeguards. Although I don't read it quite as extensively as he does, nonetheless they're certainly spelled out now under this amendment more than under the original drafting. But why are we doing this? I think it's clearly about symbolism, and I think the symbolism involved is – well, we're going to disagree on what the symbols mean. Obviously, many members on that side think it's a symbolism of endorsing parental rights. To me and to many other people it's a symbolism about facilitating intolerance and discouraging shared experience.

I read into the debate some letters to the newspaper, one in particular about a person who literally takes the word of the Bible and dismisses evolution. Fair enough. They're entitled to that view, but I don't think it's a view that should be brought into the public education system.

I now want to read one other letter which I thought really touched on something that's important. We claim here, all of us, that we're thinking about the kids. I think we need to think for a moment about that kid who is, you know, the age of 12 or 14 and beginning to experience sexual awakenings and may be beginning to wonder about their own sexual identity if they're having homosexual sexual awakenings. How does that kid feel in a class where teaching about that subject can be seen as a violation of a human rights code? I think it's sending the wrong signal.

I want to read just a few sentences from a letter that was written to me as an MLA. This is not a public letter, so I'm not going to read who it's from, but I will read a couple of key points. It goes like this:

> There are two critical points here. The first is that, for children who may be homosexual, they be given good information that helps them understand their feelings and orientation. The obligation to protect and support the child supersedes the obligation to support the religious beliefs of the parents. The second critical point is that, for heterosexual children, they receive good information about homosexuality in a way that does not demean gay people. This does not prevent the parents from providing their children with their views as well.

I think we need to contemplate that for a minute. We need to imagine the child who is at that very vulnerable age and may be feeling sensitive about their own sexual orientation or may not really even understand it. What kind of social environment are we creating for that child? Are we creating one of support and health and tolerance, or are we creating one that's going to reinforce a sense of oppression or a sense of denial or a sense of confusion or a sense of humiliation? I'm afraid that the symbolism of this bill is doing the latter, and I think that's an unhealthy situation.

1:20

You know, Mr. Chairman, it's just a few years ago that some good friends of ours had a son who happened to be the same age as one of our sons. As he was going through school, he just found he wasn't attracted to girls. He found through high school that, in fact, he was homosexual. It was tough for his parents, and it was tough for him. But you know what? The parents came around and have become very supportive, and the school and the children and his schoolmates were all very supportive. I'm concerned that the symbolism of this bill goes against that. This young man has gone on now to a stellar academic career. He's an undergraduate student in his senior year in a very advanced science program. Too many children who come of age and discover that they're homosexual have quite the opposite experience. They become depressed, they turn to other escapes, or too often they even end up in suicide.

I think that we need to be alert to the power of symbolism. We need to show leadership on these issues, and I guess we're just going to have to disagree on the different sides of the House here about what leadership is. I think that the leadership we should be showing as an Assembly, as people who value a tolerant society, a society that welcomes the world would be to accept the subamendment moved by the Member for Edmonton-Strathcona.

Thank you.

The Deputy Chair: The hon. Member for Edmonton-Castle Downs.

Mr. Lukaszuk: Thank you, Mr. Chairman. First of all, I apologize for my raspy voice. I'm a little under the weather.

Mr. Chairman, I'm actually listening very intently to the debate on both sides of the House, and I think some good comments have been made on both sides. But I have to tell you that I'm not very proud of being a member of this Legislature today for the reason that perhaps often politicians are given a bad rap, often unjustly, for finding a wedge issue and then milking it to the maximum for political gain. Perhaps this is one of these days when, actually, we may be earning that stripe by doing exactly that.

One member from across the aisle said that we're sending a bad message to Albertans and Canadians and perhaps the world, and I would agree. But I think the bad message that we're sending primarily is because we have found an issue that clearly polarizes Canadians, definitely Albertans into two very well-defined camps, and now we're going spend all night long here really for no meritorious reason. At the end of this, Mr. Chairman – and I think it's fair to predict the future – when it's all said and done, the sun will rise tomorrow, and the rights that are entrenched there will continue to be entrenched, but somehow we will think that we have secured some support of various groups out there in society that will say: "Yes, these are our champions. They stood up all night, and they fought for our rights."

Well, this is an issue that I'm very passionate about, and maybe because of that the Premier has given me the privilege of chairing the Alberta human rights, citizenship, and multiculturalism education fund. The last number of months I have spent travelling the province and meeting with various minority groups, be it religious, ethnic. Also, I've made a point of meeting with as many gay and lesbian groups as possible to find out, just in case I didn't know, what it is like to be you in Alberta. What kind of experience do you have being a gay person in Alberta, being lesbian or transgendered in Alberta? Mr. Chairman, I have to be honest with you. Frankly, I've learned – and I intuitively always knew it – that it is not easy to be a gay person in Alberta, and it's probably not easy to be a gay person in Canada or anywhere else in the world because there are wrongful assumptions attached to that title, and there is historic lack of acceptance of that community. They're really living a very difficult life. Many never publicly admit to being gay.

Mr. Chairman, whether this government has entrenched into legislation the inherent right that the gay community has in this society early enough or late enough we can debate. The fact of the matter is that that right has been entrenched by the Supreme Court of Canada's decision. If you look at any and all publications published by the government of Alberta since the time of the decision of the Supreme Court of Canada, that right already was entrenched in the literature that the government was releasing. The fund that I chair was releasing dollars to causes promoting acceptance, eradicating prejudice and discrimination against the group. The group was protected except that it wasn't named in the legislation, and kudos to the minister and kudos to, actually, all members of this Legislature – it's irrelevant which side they sit on – for, I hope, passing that aspect of the bill because that is very important.

But what we're doing right now, Mr. Chairman, is that instead of celebrating the obvious, celebrating the fact that we have gotten to the point where we have entrenched it and we're doing the right thing irrespective of the timing, we have found a wedge issue, and we're going to milk that wedge issue, whether parents have the right to remove a child from a classroom. Well, I'm a parent and I'm a teacher, and I can tell you that if there was anything taught in a classroom that I found objectionable, I would have as a parent exercised the right of removing my child from that particular class. I think all members in this Legislature will agree.

Now, if this bill passes as it is on the floor right now, that will not change except that it will be written into the legislation. I'm not sure what the problem with that is. Could it have been written into the School Act? Perhaps. The fact of the matter is that now a practice that has taken place in the province for many, many years – parents have exercised the practice of being able to remove their children – is codified just like we wanted to codify the protection that our gay community is to have in the province of Alberta. It was very important for the gay community. Even though they were already enjoying the benefits of legal protection, it was so important for the gay community to have that codified. They wanted it codified. It didn't change anything. Tomorrow they will not have any more rights because those rights have already been put in place by the Supreme Court of Canada, but they wanted it codified for a symbolic reason. Kudos to them. I agree with them, and I'm glad that they have it codified.

I can by extension also understand why these parents who have objections to certain aspects of curriculum – I personally don't, but apparently there are some who do – want it to be codified: because it also means that much to them. They already have the right of removing their kids, but it means that much to them.

So we have two groups of people, Mr. Chairman, seemingly polarized – I wish they weren't – who were enjoying certain privileges, but now they insist on having those privileges or rights codified. How can you argue that one group is right in their desire to have their rights codified and the other group is wrong in that desire? It simply doesn't make a lot of sense. But we're going to sit for another six hours over here because we found a wedge issue, and the argument, as I'm hearing it, is that we are pro gay and they are anti gay. Well, I haven't polled our caucus, nor do I care to poll any other caucus, but I can tell you – I can speak only for myself – that I don't believe that members of this Legislature are either pro or con. We don't have the right to be pro or con. It doesn't matter how we feel. The fact of the matter is that these are human beings, these are citizens of Alberta, and they have any and all rights and privileges like you and I do, Mr. Chair.

So I would implore the members of this Legislature to reconsider and understand the fact that we have two groups that simply want to

codify their rights and have the assurance that one day a different government isn't elected or a new curriculum is put in place that would jeopardize their rights. That's what it's really all about. But if we choose to sit here for a number of hours for simply political reasons and try to prove what big supporters we are of one group or another, Mr. Chairman . . .

An Hon. Member: There'll be no one to service.

Mr. Lukaszuk: Maybe that's right. Maybe ultimately there will be no one to service because we're not doing either group any justice.
Thank you.

1:30

The Deputy Chair: The hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you, Mr. Chair. I'd just like to sort of respond briefly to the hon. Member for Edmonton-Castle Downs. I don't think discussing human rights and staying up late in the evening is a matter of political gain. It's a matter of human rights and treating people with dignity. I don't buy the argument that this is for political gain.

On our side many people who have contacted us feel this is a very important issue that should be debated, and for him to dismiss it in the manner that he did, that this is for political gain, I believe doesn't serve the teaching community, who have been in contact with us about this bill, the gay and lesbian and bisexual and transgendered community, who have been in touch with us about this bill, the many school boards, who have been in touch with us on this bill and wished us to really try and dig in and try to make some amendments here and battle this.

I don't believe chalking it up to political gain is what we're doing here. We're doing what our constituents ask and what they believe they are entitled to and what I believe the rules of this House allow us to do. I don't see, you know, us getting political gain out of this right now. It might get a line in the paper tomorrow: they stayed up till 5 o'clock. But that's not why we're here; we're here to honestly debate this.

Anyway, if we move to the merits of the amendment and why the hon. Member for Edmonton-Castle Downs should actually – I know he didn't talk too much about the amendment, but if I could bring him back to actually why we're a little worried. I, too, congratulated the minister when I spoke on this – I believe it was in second reading – on bringing sexual orientation into the act. It had been 11 years ago when this happened, the Vriend decision. It was one of those things that was brought in and that this government resisted under the words "sexual orientation."

For some reason previous governments and this government as well objected to the words "sexual orientation" being put into our then human rights legislation. That has been rectified now, I guess, because this government had a problem with the words "sexual orientation." Otherwise, if they didn't have a problem with it, I'm assuming they would have done what the Supreme Court asked. Otherwise, call me crazy.

Some Hon. Members: Crazy.

Mr. Hehr: Thank you. I know I asked for that.

Call me crazy, but there was a problem with that language, okay? Let's say there was. I think anyone would be naive not to believe that that, in fact, was the case. Then to wake up today and all of a sudden say: "Those two words don't mean anything. It's blank slate time here in Alberta. We wiped out everything in the past." I know the hon. Minister of the Treasury Board doesn't like to look in the rearview mirror, and it's always straight ahead. These two words don't mean anything anymore. It's straight ahead. Don't look in that rearview mirror. No point in doing that right now. Everything is right as rain here in Alberta. We've got it straight. But, no. Sexual orientation: these two words come up again. They come up again here in this bill, and they cause many people concern. They cause the teaching community concern and other communities concern: the gay, lesbian, bi, and transgendered community, for one, and others of many stripes and what have you.

Needless to say, that is the reason why this amendment is choosing to go down to just the words "human sexuality." Human sexuality. It's enshrined. You can take your children out of class. This is a halfway point where we're willing to meet the hon. member on human sexuality. We take out those two words that for whatever reason this government didn't want in. We take them out. Then you've got human sexuality.

I'll tell you what. It's not the best bill in the world, but, you know, it's put forward. I can live with it. I think, hon. member, I'd like to hear your comments on why you object to just changing this bill from including those words, "sexual orientation," that right up until today this government didn't like for some reason, and we'll now just put these two words in. I'd like to hear his comments on if that would suffice him and allow that to codify these rights. We're okay with it. We've spoken in favour of that.

Those are my comments. Thank you very much, Mr. Chair.

The Deputy Chair: The hon. Member for Calgary-Egmont.

Mr. Denis: Thank you very much, Mr. Chair. I'm pleased to rise and join this debate. I have to say that I've listened impassionedly during the day, during the night, and sometimes during the graveyard shift as we are right now with some speeches here, and one of the best speeches I actually heard was from the Member for Edmonton-Castle Downs. He makes some good points.

I just want to add a couple of items here to the history. There's a lot of talk here about the Vriend decision. This actually came down from the Supreme Court in 1998. It read sexual orientation into our law. I remember this very closely as I was a law student at the time. Essentially, it's been there for seven years. Many ask: why do we need this? I'll tell you why we do. During some consultations on Bill 52 a group said to me that sexual orientation was not a protected ground of discrimination. That was incorrect. But at the same time it hit me to this point: not everyone understands the intricacies of the law or of this legislation, and this is why we need to add sexual orientation to the provision of the legislation. I submit to this House that you should not have to have a legal background to understand your rights or to be free of discrimination, to be free of discrimination in employment, to be free of discrimination in housing. Our laws must be clear. This is why sexual orientation is being added to section 4, and I'm pleased to support this.

As the Member for Edmonton-Castle Downs indicated, there's another side to this coin. That ground against discrimination was already there, but we put it in law. Similarly, parental choice was there in the School Act as it is right now, but at the same time, for the same reason we want to put it into legislation.

Now, Mr. Chair, I don't have the privilege of having children of my own. I do come from a long line of teachers in my family, and I have to say that as a child my parents were the first and the best of my teachers. I learned from a very young age that many people have different values, many people have different families. While everybody may be alike in many aspects, it's up to the parents – not the government, not the state – to raise the children.

It's important also to never be judgmental towards others who may have different lifestyles. This legislation reflects just that: a parent's right to set parameters for raising their own child. I've heard again: this provision is in the School Act; what's the benefit? Well, first off, advanced notification to parents on matters of religion, sexuality, or sexual orientation. This is, again, why this subamendment is unacceptable, striking out religion, human sexuality, and sexual orientation and just leaving human sexuality. Rather, we need to enshrine this clause in legislation.

As I've stated earlier, our own laws must be clear and understood by all, and that's why section 11.1 achieves this: parental choice. Many misconceptions we've dealt with earlier. The Member for Calgary-Nose Hill talked about, at the outset of this debate, that this doesn't have anything to deal with evolution or anything with historical fact in the past.

My submission is that we must oppose this subamendment because it goes against the whole character of this bill. If we're going to respect rights on one end, we also must respect the same rights on the other end. Thank you.

The Deputy Chair: Do any other members wish to speak?

[Motion on subamendment SA2 lost]

The Deputy Chair: We are now back to amendment A1. The hon. Member for Edmonton-Riverview.

Dr. Taft: Thank you, Mr. Chairman. I would like to propose a subamendment to amendment A1, so I will circulate those through the pages.

The Deputy Chair: Okay. We'll pause, then, while they're circulated.

Dr. Taft: Thank you.

The Deputy Chair: Hon. members, we will refer to this amendment as subamendment SA3.

1:40

Dr. Taft: Thanks, Mr. Chairman. For the record and those of you listening in the gallery and elsewhere, the subamendment reads as follows: be it moved that amendment A1, clause (b), be amended by adding the following after the proposed subsection (3). This would be, then, subsection (4). "No costs incurred under this section by a school board shall be taken from funds voted for the Ministry of Education." That's the full substance of this proposed subamendment.

It seems inevitable that this piece of legislation is going to move through, but when we think through the administration of it, I think we need to get specific here. We need to think about resources. It would be naive to say that there will be absolutely no costs related to this bill getting passed. The amendment proposed is, if anything, in some ways more complicated than the original. Regardless, in either case there are going to be costs, and I just want to enumerate briefly what some of those costs might be.

Clearly, there are going to be records kept for every single child from K to 12 in every school in Alberta specific to this. Each one of those children is going to have to have a form sent home from school, maybe multiple forms because there will be multiple subjects covered in various grades. Those then have to be compiled, sorted, stored, and kept in some kind of bring-forward system so that when the exemption has to be implemented, it's brought forward at the right moment. So there are those costs there. I know from my own experience at schools that school offices are already darn busy places. They often tend to be crowded, too, so there are questions of how those resources will be handled.

I think that beyond that there will sooner or later be cases brought forward. There will be complaints filed. Somebody will slip up. Some school secretary will be sick on the day that an exemption was supposed to occur, and the kid will be taught when the parents wanted them exempted or whatever. It's going to happen. Or maybe it'll be a frivolous complaint. However it happens, there will be a complaint, and then there will be costs incurred for that.

The number of students in school in Alberta – I don't know the exact number. The Minister of Education is here. It's got to be in the few hundreds of thousands. So we can be darn sure that there are going to be complaints filed. When those complaints are filed, the lawyers will get involved, and right away the costs start to climb. They'll climb very quickly, you know. Then we don't know how long this will go. We don't know how many other kinds of people might be entailed, but every step of the way there are going to be costs.

This particular subamendment is intended as an insurance policy, as it were, or as a barrier that prevents those costs from being taken out of the Education budget. I imagine, for example, the school that's closest to where I live. It's a very small elementary school, about a hundred students. They're students from very highly engaged families. It's not hard for me to imagine one of those families at some point filing this kind of complaint. There are lots of lawyers there. There are lots of professionals in that neighbourhood. Well, if the costs of dealing with that complaint came down on the school budget, a little school like that is really going to suffer. It wouldn't take long if there are lawyers involved for the cost to climb into the thousands of dollars.

What we are wanting to achieve by this proposed subamendment is that an action taken under the human rights act does not cost money that's meant to be spent under the School Act. We don't want to see money taken out of the classroom to support this bill. That's pretty straightforward. I hope that members opposite will understand that this is intended to protect the budget integrity of the school system, and I hope they support this.

Thanks, Mr. Chairman.

The Deputy Chair: The hon. Member for Calgary-Egmont.

Mr. Denis: Thank you very much, Mr. Chair. I appreciate the comments from the Member for Edmonton-Riverview. He has mentioned costs in this subamendment and mentioned lawyers' fees. I'm no longer a practising lawyer, so I can't talk about what lawyers' fees are these days. I have to say that his intent is good, but in practice this amendment is bad. I have to say that because it is going to actually involve more costs in tracking these costs, and there is only one pocket, be it education, human rights, or otherwise. This is just going to result in more administration costs. I don't know how much it is going to cost, but at the same time this is a bad amendment. I would encourage all members to oppose it. I'm not sure where the intent really comes from here. Is this just to give more bureaucrats more things to do? Is this to hire more people in our civil service? I don't know. But this is a bad amendment, and I would encourage all members to oppose it.

Thank you.

The Deputy Chair: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thank you very much, Mr. Chairman. I actually think this amendment should be supported. I was trying to figure out

how to do a similar, related amendment because what I was trying to do was make sure that even if a teacher had been found in violation of section 9, they wouldn't personally have to pay a cost and wouldn't be liable for any kind of punishment. I wasn't able to successfully convince Parliamentary Counsel that there was a way to do that, but this was the alternative.

I think, actually, the member has done the honourable thing, and that's to make sure that the school doesn't end up having to pay the costs here, that it's not pulled away from educational dollars towards students. I think that ultimately what we're trying to do here is give the students in the education system the best possible experience and make sure that the money is spent on them and not on others.

That's the problem with punishment and liability and responsibility clauses in legislation. I think that often we seem to make two mistakes. One is that in trying to reinforce that this is a serious matter, we put the amounts too high. When these get to be adjudicated in front of a court, the judges look at the punishment, and if it's very high, for example in a monetary fine, they go: well, that's an awful lot of money. So the test is going to be very high to make sure that somebody has broken this law in a vigorous enough way that we're going to charge them the absolute top dollar. What happens, I've found, in a lot of cases is that it's never charged because the test is too high and people don't meet it.

We have to be clear on what we're trying to do with this legislation. From our point of view, it's to try and minimize whatever damage we think is being done specific to section 9, and that is that there is a chill that's being put on teachers about their ability to raise and react to and teach the various prohibited sections, but the cost of it appears to be coming forward on the school board. I mean, who will pay the costs if we have the situation that's described? If the secretary or the school administrator is not there on the day that these notices are supposed to go out in the school, the teacher is now in violation. They're brought up before the Human Rights Commission, and there are definitely costs involved there. Who is liable for it? Do we really want to have the dollars pulled away from the kids in the classroom? I would argue no. That's not what we're trying to do.

I'm more than happy to support the member's amendment, and I urge the rest of my colleagues to do the same.

1:50

Mr. Snelgrove: I guess it's just coincidence that I happen to be sitting here listening occasionally and reading this book called *Risk: The Science and Politics of Fear*. It explains very clearly what people do when they're trying to misrepresent a position or trying to somehow make an issue that's not real. You can create the fear. Then if that doesn't work, you create the result of the fear or what could possibly happen. That's fine. But, you know, I have to wonder. If a school board or staff or someone in their organization has done something that requires a legal opinion or process, then logically that board or that organization would pay. Or I guess you could go take it from, oh, say, seniors. They're not here tonight, we're not worrying about them, so we'll take it from them. Or maybe from health care. That's a good connection. We can't take it from education. We're not going to tell you where we're going to take it from. We don't even know what it's going to be. We don't even know if it's going to be anything.

I can just about guarantee you that what we've paid the security staff here tonight to listen to their politics of fear is more than will be spent worrying about what they're worrying about. I just think it's ironic that I just happen to be reading *Risk: The Science and Politics of Fear*, and it's going on right here in front of our eyes.

The Deputy Chair: The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thanks very much, Mr. Chairman. Nothing could better represent the politics of fear but section 9 of Bill 44. It raises a question in my mind and surely has in other members as well: what are some people afraid of? What are they afraid is going to happen in the school that their children are going to be exposed to that requires the entrenchment of this in human rights legislation? I'd like to know from the extreme right that's driving this agenda: what is it about these subjects that you fear so much?

The Deputy Chair: The hon. Member for Edmonton-Centre on subamendment SA3.

Ms Blakeman: Absolutely. I'm responding to the way the President of the Treasury Board talked about subamendment SA3. Thank you so much for the opportunity. You know, what I find interesting is why the members in this Assembly are more than willing to accept a legal cost to be covered for our activities through the risk management fund, but when you point out a similar situation for another sector . . .

Dr. Taft: This legislation is creating the risk.

Ms Blakeman: This legislation is creating the risk for other people, actually, but there the similarities end.

While the members opposite can understand and accept and value the risk management fund covering their decisions and any liabilities they may create in doing their job, they don't seem to understand that when it transfers to a different sector like the teachers or the principals or the schools boards but specifically the teachers, which is what this particular amendment was on. I just find it really curious that there's a clear grasp and understanding when it comes to protecting their liabilities with the risk management fund but not to understanding how those liabilities could be created or, indeed, what they will cover for another sector, in this case the teachers.

The Deputy Chair: The hon. Member for Edmonton-Riverview.

Dr. Taft: Yeah. Thanks, Mr. Chairman. I think it is important for us as MLAs to understand that by passing this legislation, we are creating a liability for others that did not exist, we are creating a risk for others that did not exist, and that we are making absolutely no provision to counterbalance that in any financial way.

What's going to happen – and I guarantee it. I'll take the President of the Treasury Board out for a steak dinner sometime on this. I'm sure he'd be thrilled to go with me if this guarantee doesn't work. I guarantee there will eventually be complaints filed under this, and I guarantee that that will lead to costs. All I'm trying to do is make sure that those costs don't come out of the budgets of the schools or on the backs of the teachers. The Member for Edmonton-Centre is absolutely right. We all sit here as MLAs covered under the taxpayer dollar by the risk management fund, but, oh no, we don't want that benefit to go to anybody else. It's good for us, bad for the others. I think that's wrong, particularly when this bill is creating that risk in the first place.

I don't know that there are any other comments on it. Yeah, we have one more comment, and then we can keep moving.

The Deputy Chair: The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Movement is good, Mr. Chairman.

Well, I'm certainly interested in the point that the hon. Member for Edmonton-Riverview has raised, Mr. Chairman. He's raised the fact that in order to enforce this or in order to accommodate the types of activities that are going to go on, it's going to take resources away from our school system. So any time a parent decides to launch a case before the Human Rights Commission, there are going to be a lot of costs, and they won't all be borne by the Human Rights Commission and certainly won't all be borne by the parent.

You know, teachers are going to have to take time off to prepare for this. The school administration, the school board, and the principal all will have to take time in order to prepare the case and, potentially, to appear. They'll need to take staff time to be interviewed by complaints officers, and depending on where all of it goes, it could have a substantial impact on a given teacher or a given school. That will come not only as a financial cost, but it will come at a cost for the children, the children who will not have the full attention of their teacher because their teacher is busy defending themselves under a human rights act that enshrines a bizarre set of rights that, as far as I'm aware, no other jurisdiction has even thought of.

I think it's well warranted. I don't want my child's education or any of my constituents' children's education negatively impacted even a little bit by this wacky piece of legislation and by charges that might be brought or cases that might be brought by parents who could have just as easily resolved the issue by talking to the teacher in the first place. That's part of the educational responsibility of both parents and teachers as well as schools, and I think that it's worked very well. This creation of the government is in fact going to do just as I think the hon. Member for Edmonton-Riverview rightly points out. It's going to consume resources that need to go to the education of children rather than being sucked up by absurd and unnecessary complaints to the Human Rights Commission under an absurd and unnecessary clause to this act.

The Deputy Chair: Any other members wish to speak?

If not, I will call the question on subamendment SA3.

[Motion on subamendment SA3 lost]

The Deputy Chair: We are back to amendment A1. If there are no members that wish to speak, I will call the question. We are doing this in two motions.

[Motion on amendment A1A carried]

[Motion on amendment A1B carried]

The Deputy Chair: We're back to the bill. The hon. Member for Edmonton-Centre.

2:00

Ms Blakeman: Thanks very much, Mr. Chairman. I have some amendments at the table. At this point I would like to move the amendment. We're finished with A1, right?

The Deputy Chair: Yes.

Ms Blakeman: Okay. Good. It would be the one that is adding in "aboriginal heritage." So it's adding in "aboriginal heritage" as a prohibited grounds of discrimination. I'll allow time for that to be distributed.

The Deputy Chair: We'll pause, yes, while the amendment is passed out.

Okay. Hon. member, please proceed. This amendment is A2.

Ms Blakeman: Thank you very much. Essentially what this amendment is doing is adding in the phrase "aboriginal heritage" wherever the list of prohibited grounds of discrimination occurs in the act. This is springing directly out of the recommendations that were done by the Sheldon Chumir Foundation for Ethics in Leadership. The point that they make around this is that for aboriginal people it is not clear to them that the human rights legislation is there to serve their people as well as others, that there is confusion as to whether this legislation applies to them at all.

For a number of us that deal with these issues all the time, that would seem to be pretty clear. Human rights legislation is supposed to cover everybody and specifically to cover those groups that have traditionally experienced a particular kind of discrimination, whether that's the withholding of services or difficulties in finding employment or housing. In fact, given the language that we currently have, there's an argument that aboriginal peoples would be covered under the word that's used, race, or under ancestries. Both of those words appear in the list of prohibited grounds and discrimination.

What Sheldon Chumir found was that there is a lack of understanding, that the human rights legislation does apply to aboriginal peoples, and, furthermore, that there's a real reluctance for aboriginal people to go to the commission to take advantage of their services. The foundation goes on to say that this group of people are the group that face the most severe discrimination. This is the group that could most benefit from the commission's services yet is the least likely to seek out those same services. What the Sheldon Chumir foundation believes is that the Human Rights Commission and the legislation could be more useful and accessible. I'll just quote a section.

> The Alberta Human Rights Commission must be made truly useful and accessible to Aboriginal people in the province. While we . . .

That's the Sheldon Chumir foundation.

> . . . recognize the difficulty of responding to this challenge, there are changes that could be made to signal that the provincial government is serious about protecting the dignity of Aboriginal people. For example, in Nova Scotia, discrimination on the basis of "Aboriginal origin" is explicitly prohibited by law.

They argue that aboriginal heritage should be added into the legislation. In fact, it appears as recommendation 12 of their report.

It was one of the areas that really struck me. Clearly, in Edmonton-Centre I have a number of urban aboriginal people that live in the riding, and many of them, I will say up front, are very successful. But there are also those who are not and seem to struggle in many ways to be able to take advantage of the services that are there in ways that people from other identifiable disadvantaged communities don't seem to have the same difficulties with.

So in looking at that and in looking at what was possible under this human rights legislation while we've got it open, I thought this might be an area where we could improve on Bill 44 and what's proposed under Bill 44, and therefore I'm happy to move amendment A2, which does request that Bill 44 be amended in sections 3, 4, 5, 6, 7, 8, and 13 by striking out ", family status or sexual orientation" wherever it occurs and substituting ", family status, sexual orientation or aboriginal heritage," which brings in that aboriginal heritage phrase and is more inclusive and clearly identifiable to members of that community.

Thank you for allowing me to move that amendment. I hope that I can get the support of the Assembly in passing this amendment.

The Deputy Chair: The hon. Minister of Culture and Community Spirit.

Mr. Blackett: Thank you, Mr. Chairman. I applaud the hon. member's intention in this bill. It's something that we had looked at, actually, last fall, when we got the Sheldon Chumir report. We had talked to our legal counsel, and they suggested that aboriginal people, even though they are First Nation people, are covered under ancestry. They didn't feel it was necessary to include a separate area with respect to aboriginal people. So we've gone with the legal advice, and we feel that ancestry as it is included now is sufficient to cover the aboriginal people.

The Deputy Chair: The hon. Member for Edmonton-Riverview.

Dr. Taft: Thanks, Mr. Chairman. At some point as a society – particularly, I'm thinking of Canadian society – I think we will need to begin to revisit the basis of how we categorize discrimination. I'm reading from Bill 44 and its reference to the existing act. The existing human rights legislation addresses discrimination specifically in regard to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, as the minister just pointed out, place of origin, marital status, source of income, or family status. This won't get resolved tonight. It may not get resolved for many, many years, maybe not in my lifetime. But the issue of race, I think, is going to have to be hashed out, and it's going to be a very slow process.

2:10

What do we mean by race? I was just spending some quick time on the web here because I've actually wondered about that question for quite a few years. I'm struck when I go to the United States. You know, I think I'm figuring out what's going on, they all speak the same language, and then I realize, after I read the newspapers for a few days, that there are some things that are just really different. There's a really different discourse in the United States on some things. Health care is one, guns is another, and race is another. I haven't lived in the States. I mean, I've read the history and so on, but I haven't absorbed that by growing up there. So issues in the United States get cast as issues of race at times when it wouldn't even have occurred to me here.

I don't want to downplay the existence of racism, whatever it is, in Canada, because it's there. Yet is it racism or is it discrimination on the basis of something else? Is it discrimination on the basis of colour or on the basis of ancestry and ethnicity or all kinds of other things? I actually have found myself wondering – gee, I'm going way out on thin ice here – if in some ways the best way to begin to get rid of racism is to stop talking about race. Just let it disappear. Instead, we recognize that there is discrimination on lots of other bases, as I said: colour, ethnicity, religious belief, gender, all those kinds of things. So that's kind of stewing in the back of my mind when I read this proposed amendment from the Member for Edmonton-Centre, which specifically addresses aboriginal heritage.

Actually, I think the minister made kind of an interesting point there although I would never totally go against the Member for Edmonton-Centre because I think so highly of her. But it's a complicated issue. I'm getting really into hot water here. In my constituency there are a number of people of aboriginal heritage, and there are hundreds of thousands in Alberta, and there are millions in Canada. I think we have to admit, whether we call it racism or something else, that there is discrimination against people of that ancestry or of that heritage. I think the idea here of specifically naming aboriginal people is acknowledging that in Canada's experience people of aboriginal heritage have had a particularly broad and systemic experience of discrimination and that if we are to take genuine steps towards addressing that, then maybe we need to take some particular step in naming them and giving them a particular acknowledgement under this act.

So having said all kinds of things there that are wading in all kinds of directions, I think the spirit behind this is a good one. Given the experience of aboriginal people in this country I think this is something that should be supported.

Thanks.

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

Ms Notley: Thank you. It's a pleasure to be able to rise to speak on this amendment and to speak in favour of this amendment as well. It's interesting, you know. The history of how the rights of our aboriginal Canadians are addressed through human rights statements in our country is a varied one, and it's actually been the case in the past that aboriginal heritage has not necessarily been something that has been pursued as prohibited ground for discrimination in part because many aboriginal people themselves advocate more for a parallel system of justice and a parallel system of governance and a parallel sort of polity almost, if you will. They don't necessarily see the mechanism for the amelioration of the many, many systemic and historical injustices that they've had to suffer as being treated equally with all other groups, cultures, races that coexist within the nonaboriginal society. For that reason, for instance, we see in the Charter of Rights and Freedoms actual exceptions to certain parts of the Charter as it applies to aboriginal communities in order to recognize what at the time, anyway, was an acknowledgement of a more collective approach to analyzing rights and obligations and the law and that kind of thing.

As a result, when I first see the concept of aboriginal heritage being introduced, my first response is to hesitate a bit because I'm not a hundred per cent sure that that's what the aboriginal community itself would pursue. Having said that, I think we know that, you know, the aboriginal community itself is not monolithic. There are aboriginal people who are living on reserve and in communities where they're able to engage in that parallel community-building and community-functioning. But there are, of course, many aboriginal people who live, for instance, in the city of Edmonton who are making a go of it within the broader community, as they should be able to. Certainly, we want them to be as successful as possible.

It's in cases like that, then, that we need to analyze whether or not we're doing a good job of ensuring that there is equality being afforded to aboriginal Albertans, and I think most of the statistics really tell the story. We know that the statistics show the state of any measure, whether it be education or health care or income or, you know, the percentage who make up the population within our prisons. We know that the aboriginal community is under great stress in a way that is not proportional to their population, at a rate that is much greater than the actual number of aboriginal people.

Clearly, we're not doing a good job of ensuring that equality. I think that, on one hand, we can't abandon the primary mechanisms through which we can support aboriginal communities in their search for equality, whether it be equality in a parallel system or equality within our system but giving them as much autonomy and support for their parallel situation as they seek. At the same time, I think that this amendment will assist in those cases with the description I think one of the members talked about, or perhaps it was in the Sheldon Chumir foundation report where they talked about aboriginal Albertans describing how they would get jobs in, you know, industry A, industry B but then would have to leave them because they would be subjected to so much racism just simply within the community at large.

We know that that's a problem, and we know we need to do something to improve how we are educating Albertans about the need to treat aboriginal Albertans with respect and dignity and, ultimately, with equality. Just, of course, with the asterisk beside it being that true equality doesn't mean that you're treated the same; true equality means that you're treated in the way you need to be in order for your situation to advance at the same rate that others would.

2:20

It's with that in mind, then, that I support this amendment. I think that we need to do a better job. Granted, one might say: well, you know, it's already covered in other provisions of the act. But I do believe we've just spent several hours agreeing to go ahead with the inclusion of a rights clause which is actually already covered in other pieces of legislation. So, clearly, that is not a barrier to moving forward on an issue in an area where we know we need to do a better job and work harder and reach out more effectively to a community that definitely needs our support to ensure true equality within our province.

With that in mind, I do support the amendment put forward by the Member for Edmonton-Centre, and I urge all members of the Assembly to do the same. Thank you.

The Deputy Chair: The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you, Mr. Chair. It's a privilege to rise and speak to the human rights amendment we see before us brought by the hon. Member for Edmonton-Centre. It is with a note that I found here from the Sheldon Chumir Foundation for Ethics in Leadership, their very good report on human rights and the recommendations that were made therein. This amendment emanates from their recommendations, and I have no doubt that Janet Keeping and her staff, who have studied this issue over the last three years, have a firm understanding of what the human rights situation is and how it can be best accommodated.

Looking at the landscape and the nature of this amendment, it's true that amongst our aboriginal people in Alberta there's widespread confusion as to whether the provincial human rights statute applies to them. In many circumstances it does, but most aboriginal people the Chumir foundation spoke to did not know this. There was also widespread reluctance amongst aboriginal people to go to the commission, in any event. Those are the words of the Chumir foundation.

At the same time, you can almost take what they call judicial notice of the fact that for people, natives, at least in my history and experience and as it goes further to even when I was younger and older, the group singled out most for, I guess, public scorn or ridicule or social commentary or what have you has traditionally been the native population. This has existed for some time, and I don't believe – hey, don't get me wrong. I'm not saying it's always a treat to be other minorities and all that sort of stuff, but I think a special set of ridicule is saved for our aboriginal peoples. This is truly reprehensible yet is seemingly referenced in the work of the Sheldon Chumir foundation.

As the member from the third party just indicated, anything we can do to ameliorate those differences or to rectify those inequities to help a community that is significantly behind the curve in terms of almost any socioeconomic indicator of health, whether that is the amount of time they live on this earth, the amount of education they get, the amount of employability they get, the amount of individuals who graduate from high school – you go down the list, and here in Alberta we'd be hard pressed to find one category that our aboriginal people aren't scoring either the lowest on or near the bottom.

Clearly, we as legislators should have that in mind in looking for opportunities where we can give a hand up to that group to try and do better and to create opportunities for themselves and to be able to access things like the Human Rights Commission when they feel their rights have been trampled upon. That's why I am speaking in favour of this amendment. The minister correctly points out that this is referenced in ancestry, but again this is one of those places where maybe we'd do a little extra, a little bit of a nod to a community that has been disadvantaged and is having a difficult time getting ahead and getting, I guess, some form of social justice or even human rights justice in this province, that we maybe put this in there and offer that opportunity for them.

I appreciate speaking in favour of the amendment. At some point in time, I guess when we don't need it, we could always retract it and say: that's great; our native populations have been restored to a situation that is acceptable. But at this time I don't think we can say that.

So I'm supporting the amendment, and I encourage all other members to do so as well. Thank you very much, Mr. Chair.

Mr. Blackett: Chairman, I'd just like to say, again, that it's very noble. We have to do more for the aboriginal community in terms of awareness of the Human Rights Commission, what their rights are under that commission. I think that is something that the human rights, citizenship, and multiculturalism education fund should certainly focus on.

There are, I think, roughly 600,000 aboriginal people in Alberta. If you single that group out, what are you saying to the 400,000 people of Chinese ancestry or the people from India? They all have long histories of discrimination. Is anybody's more important than another? When you single out one group, then you automatically are leaving others aside. We believe all these different groups should be helped and recognized, and discrimination is reprehensible, but we thought that covering it as one and not singling out one group – because the next group will be coming forward and saying: we should be included in there. All of a sudden we're going to have a list of 50 different areas in terms of protected grounds.

I'll just leave it at that.

Mr. Mason: Well, you know, Mr. Chairman, I would like to speak briefly to this amendment. I guess the minister has just made the point that I think the drafter of the amendment wanted to make, which is: why are you picking and choosing certain groups or certain rights to protect and not others? It occurred to me that that was the case. I think the minister has made the point of this amendment, with apologies to my colleagues in the opposition, better than anyone over on this side, which is to illustrate that the government is picking and selecting some groups that are going to get protection or that we'll be protected from and not others. It's just curious because they've never really explained why those particular groups are included and others are not.

He has just made a really good argument against including some of the things that are included in this bill, which, again, really begs the question: where did this come from? It didn't come from the complaints of parents. It came from a campaign of the religious right in the United States. That's where it came from, and it has found its way into this legislation.

Mr. Chairman, I think it's pretty clear that we should, if we're going to include family status and sexual orientation, also include aboriginal heritage. The fact that the minister has identified that there are lots of other groups that could be included as well, I think, simply outlines the point being made by the mover of this amendment.

Thank you.

The Deputy Chair: Are you ready for the question on amendment A2?

[Motion on amendment A2 lost]

The Deputy Chair: We are back to the bill. The hon. Member for Edmonton-Centre.

2:30

Ms Blakeman: Well, thank you very much, Mr. Chairman, for recognizing me. I had an additional amendment.

Dr. Taft: We even lost the people in the gallery. Bye.

Ms Blakeman: Oh, there goes the last fan of the evening, gone, walking out the door, and we're still here.

All right. I would like to move another amendment, and this is an amendment for sections 3, 4, 5, 6, 7, 8, and 13. It's essentially adding in the concept of gender identity to be another ground that prohibits discrimination. So I'll let that be distributed, and you will call me when you're ready.

The Deputy Chair: Yes. Thank you.

Hon. members, we'll call this amendment A3. Please proceed.

Ms Blakeman: Thanks very much, Mr. Chairman. This amendment is intended to include the concept of gender identity under those areas that are protected under our human rights legislation from discrimination and, let's be honest, specifically protected from discrimination on the grounds of employment, housing, and access to government programs and services. But that does tend to flow outwards and does sort of establish an expectation that any one group that is protected under this would find itself receiving equal treatment in the community.

The reason that I specifically included gender identity is that this is not covered under sexual orientation. I know that currently the Human Rights Commission is accepting cases of gender identity under the auspices of sexual orientation, but they are under no obligation to do so. It's not the same thing.

This is a concept that can be a struggle for people to understand. Gender identity is an issue of being, if you can think of it this way, arbitrarily assigned one body, yet your personality does not match that. We had a very good example of it in the Assembly here when the budget was brought down and the minister announced that he was no longer going to cover the cost of gender reassignment surgery.

We, in fact, have never had surgeons qualified or interested in doing that here in the province, so people have always had to travel out of the province to get that. Believe you me, this is not something that someone does on a whim. This is a series of very painful and complex operations, so you can understand that someone only undertakes that if they really felt driven to it, that it was really something that they had to do in order to lead a fulfilled life.

I know that for some people this seems pretty out there, but those individuals that I work with – and, indeed, there are some members in the House, I think – have come to understand that gender identity is an important part of our lives, and for most of us it's a done deal. It's not a question. It just is. But there are a number of individuals for which it's not a done deal, and it does involve a number of, as I said, very painful and complicated surgeries to match them up with the right body. So gender identity is not about sexual orientation. It's not about who you like or who you want to be with. It's about who you are.

We recognize that this exists as a medical condition. We have until this year paid for the surgery. It was recognized for many, many years in the – I never remember the name of this, and the medical people have all gone home. It's the psychiatric diagnostic manual.

Ms Notley: DSM-IV.

Ms Blakeman: Thank you. The DSM-IV is our bible, if you will, of medical diagnosis. I struggle with that because I had never regarded gender identity or transgendered individuals as having a mental illness, and clearly the medical profession has now come to that same point because it's no longer listed. That may be the reason why the government decided that they were no longer going to fund the surgeries, but actually we don't know because we never got an explanation from the minister.

But there's no question that individuals who are transgendered face in many ways a double jeopardy because there are questions about their sexual orientation, but also, I mean, people don't understand what's happening and most people are afraid of the unknown. You know, looking at transgendered individuals, for a lot of people they just don't understand what's going on. As a result there is a great deal of discrimination against them, misunderstanding, some very real difficulties about which facilities they can use or are allowed to use, a misunderstanding about what their place in the family is, et cetera, and then there are all the medical issues that go along with that.

So to me it's very clear that, actually, the two groups of people that in my experience are the most likely to experience severe discrimination and a lack of access to services and a struggle to find appropriate housing and sometimes even employment are people with aboriginal ancestry and transgendered individuals. Clearly, that's why I had the previous amendment and why I've brought forward this amendment.

I know that this is a struggle for a number of people in this Assembly to grapple with this concept, which doesn't mean that it is not meritorious, and I would urge my colleagues in the Assembly to make that leap and to understand that this is a group of people that is in need of protection, that this is a different issue than sexual orientation, and it shouldn't be assumed that they would be captured under that definition. As a matter of fact, I mean, as I said, they are currently, but that doesn't mean that they will be in the future because they are not specifically mentioned under this legislation under protected grounds. I think they need to be. We make ourselves a better society when we recognize the people who are truly vulnerable and are in need of some assistance now.

I would ask people to support this amendment. Thank you.

The Deputy Chair: The hon. Member for St. Albert.

2:40

Mr. Allred: Mr. Chairman, I have not been participating in this debate to date. I've been sitting here somewhat bored by some of the trivia of some of the amendments. But I note that this amendment creates a bit of a redundancy in that the word "gender" is already included, I think, in all of the sections that have been mentioned. So if we add gender identity, I'm not sure that it adds anything to the particular clauses. In fact, I think it causes a lot of confusion. I'll just read section 3 as it would appear with the amendment: whereas it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in dignity, rights, and responsibilities without regard to race, religious beliefs, colour, gender, physical disability, mental disabil-

ity, age, ancestry, place of origin, marital status, source of income, family status, sexual orientation, or gender identity.

Well, Mr. Chairman, I find that very, very confusing. I don't know what the heck the difference is between gender and gender identity, so I would urge members to defeat this amendment, and let's get on with things.

The Deputy Chair: The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you very much, Mr. Chair. It's a privilege to stand up and speak in favour of Bill 44 and this amendment, which adds gender identity to the debate. I'd just like to commend my colleague for Edmonton-Centre for bringing forward this amendment. She is always on the cutting edge of human rights and knowing in the right direction they're going and getting there faster than most people can. Really, this is one of those issues that has come up, and the medical evidence is there that gender identity is a real and not a trivial cause. It is there, and it is a struggle for many people, many families, and people really feel like they are left out to twist in the wind with no protection or no rights or no understanding of what they're going through.

I believe that this gender identity addition is welcome at this time for other reasons. You notice in Ontario that when their health minister attempted to cut the funding to transgendered reassignment surgery, well, guess what? They found that a violation of their human rights, citizenship, and multiculturalism act, so clearly it is a violation of a human rights act, at least in Ontario, and by rights it may happen here at some point in time.

Nevertheless, whether that is the case or whether it is or is not there, what I would say is that gender identity is an issue. I believe that this is timely as I believe it will be a matter of course in other jurisdictions soon. It would be, really, truly a feather in Alberta's cap to say, "We were the first to identify gender identity," not like in this one, where it took us 11 years after to identify something so simple as sexual orientation.

Nevertheless, I'm supportive of the bill. I'm supportive of the people who struggle with this issue yet choose to live life according to the way they want to. Just if society could be more accepting, this would go a long way to enshrining their rights and having society move in a more accepting manner, which I think should be the goal of all Legislative Assemblies.

Thank you very much, Mr. Chair. I will allow someone else to speak on the amendment.

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

Ms Notley: Thank you. I'm pleased to be able to get up and join in on this debate in support of this amendment. This is an addition to the list of prohibited grounds which I think the members of this Assembly should give due consideration to.

It's interesting. Gender identity is not an issue of gender per se, nor, as has been pointed out, is it an issue of sexual orientation. People who suggest that it is an issue of either really highlight the need for this to be actually included properly within the legislation. It is a real issue. It's an issue, actually, that affects the estimates with respect to how many people it affects.

I was pleased to be able to attend an awareness presentation at a local church on Sunday where a number of people from within the transgendered community talked about their personal experiences and shared them with members of the congregation as well as members of the public in order to help educate people on what the experience is to be a transgendered person in Alberta. Two of the comments they said right off. They started out by saying, "I'm not gay," or "I'm not a lesbian; that's not what I am; that is not the experience that I have." Then they went on to describe the remarkable number of ways in which they are faced with discrimination day by day by day in very small sort of almost innocuous ways.

For instance, one person talked about how when she applied for a job and had to have a criminal record check done, she had to give them both of her names. In doing that, of course, she then was compelled to disclose that she had previously been, certainly on the outside, a man. That then allowed for a number of decisions to be made with respect to whether or not that person would get the employment that they were seeking. Another example that was given was the issue of whether transgendered individuals would be given the opportunity to adopt children. Another example of sort of the chronic, systemic kind of challenges they faced was where they would have gone through the process of changing the gender but then for a variety of reasons in a variety of ways were accepted by neither gender or had challenges being accepted by either gender.

So it really was a very informative opportunity for me to learn more about the experiences of these people. I want to say that the folks that were there were very, very courageous to get up in front of a room of, you know, a hundred or so people and describe these very personal experiences in their lives with a view to trying to promote education and promote understanding and promote tolerance.

The reality is that while right now our commissions are in many cases reaching in order to ensure that these people's rights are protected, they're doing it in the same way that our commissions were previously reaching to protect the rights of people whose sexual orientation was different, as directed by the Supreme Court of Canada in the Vriend decision, basically saying that you can read in certain prohibited grounds. So our commission has been reading in this prohibited ground. But like the fact that it was never really appropriate or fair or symbolic or in any way embracing the true equality that people were seeking by our failure to include sexual orientation for so many years, the same really exists with this community as well.

So it is a community that is subjected to a great amount of discrimination. As I say, in the same way gay and lesbian Albertans were protected by virtue of the Vriend decision through the Supreme Court of Canada, without being specifically named in the code in the past, these members of this community will be, too. But it's a question of whether this Legislature would demonstrate more foresight and forethought than they did with respect to the previous addition to the list of prohibited grounds and actually get ahead of the curve. I know it's a lot to suggest that this Legislature might get ahead of the curve on human rights issues, but what the heck. It's late at night, and we can dream. I guess that's what this amendment is about.

In a sleep-deprived fit of naïveté and hopefulness, I urge members of the Assembly to support this amendment in the name of bringing our human rights code up to date. Thank you.

2:50

The Deputy Chair: Do any other members wish to speak?

I'll call the question on amendment A3.

[Motion on amendment A3 lost]

The Deputy Chair: We're speaking to the bill now. Hon. Member for Calgary-Buffalo, do you wish to move an amendment?

Mr. Hehr: I wish to move an amendment.

The Deputy Chair: Okay. We'll pause and have the amendment distributed, and then you can open.

Mr. Hehr: That would be great.

The Deputy Chair: Hon. members, this is amendment A4.
The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you very much, Mr. Chair. I bring this amendment. It is again a recommendation by the Sheldon Chumir foundation that returns an element of free speech to our way of life here in Alberta and is, I believe, really the way our society is meant to operate and how we are supposed to best communicate ideas. I look to the Sheldon Chumir foundation, who studied this issue long and hard. I, too, agree with their recommendations, and that's why I bring them forward here. Free speech is a fundamental right in this society that shouldn't be intertwined very easily with our human rights commissions.

I'll go into it further and explain my amendment. I know that from time to time earlier when questions were asked to the hon. minister in this House regarding sexual orientation, I remember hearing the hon. minister of sustainable resources yell back over to our side: what about free speech? I actually believe that the hon. Minister of Health and Wellness also yelled: what about free speech rights? I honestly believe that maybe someone from the back – and I can't be held true here – possibly the Member for Airdrie-Chestermere, may appreciate the amendment I am bringing forward as I heard he was yelling something similar when the other ministers were talking. That was just rumour and innuendo. I guess now we'll see where the rubber hits the road.

Let me just talk about this for a second. I quote directly from the Sheldon Chumir foundation.

> Many of the most virulent criticisms leveled at human rights commissions over the last few years concern provisions that seek to make statements of opinion illegal. Some of the high profile cases have concerned opinions on the part of the Christian right about the evil (in their eyes) of homosexuality and cartoons and articles perceived by some Muslims to be offensive or even, according to their faith, blasphemous. We do not endorse the sometimes offensive views expressed by people and organizations who have come under attack pursuant to legal provisions such as section 3 of the HRCMA. But we do have grave misgivings about the threats to free expression inherent in such provisions.

Accordingly, they have offered some revisions, which you see before you in the act. Really, these are sort of changes, but the nuances are clear. This will return the wording of our act to the pre-1996 version, which reads:

> 3(1) No person shall publish, issue or display or cause to be published, issued or displayed before the public any statement, publication, notice, sign, symbol, emblem or other representation that
> (a) indicates discrimination or an intention to discriminate against a person or a class of persons, or
> (b) is likely to expose a person or a class of persons to hatred or contempt
> because of the race, religious beliefs, colour, gender, physical disability, mental disability, age . . .

Et cetera.

Accordingly, the Sheldon Chumir foundation recommends that

> s. 3 of [the act] be amended to read as it did prior to 1996. This would remove the words "issue," "issued," "statement" and "publication" from s. 3. It would also remove the part of the law which refers to material which is "likely to expose a person or a class of persons to hatred or contempt." In our view . . .

The Sheldon Chumir foundation's view.

> . . . this would suffice to remove the menace presented by s. 3 in its current form.

Okay. So what does all this mean? Essentially, what we've seen human rights legislation used for as of late has been some cases that should not be there. For instance, we saw that when the *Maclean's* article written by Mark Steyn, because it referenced Muslims, found itself before the Human Rights Commission when, really, it was just matters for discussion. The public should be entitled to have this knowledge and should be able to read accordingly. But, anyway, this journalist found himself in front of the Human Rights Commission.

We also have seen other things. An individual printed cartoons making fun of Muslimism. They were in cartoon fashion. The only place in the world where any charges were brought was at the human rights, citizenship, and multiculturalism office. In no other area of the world, to my knowledge, were any criminal proceedings, human rights, or otherwise violations found. This is the only place where this occurred. Really, these are examples of things that shouldn't happen at our Human Rights Commission.

Seriously, we look at this. Whether we abhor what people say, whether we abhor what people print, whether we abhor what people are doing, this always has to be balanced against our expression of freedom of speech. If we look at that, the topic of free speech in any liberal society, if one is not allowed to express oneself freely, this right is seriously impinged upon. In fact, I brought this up the other day. John Stuart Mill argued in *On Liberty* that a struggle always takes place between the competing demands of liberty and authority. He argued that we cannot have the latter without the former. I'll read this quotation from that famous book.

> All that makes existence valuable to any one, depends on the enforcement of restraints upon the actions of other people. Some rules of conduct, therefore, must be imposed, by law in the first place, and by opinion on many things which are not fit subjects for the operation of law.

Freedom of speech: this right is sacrosanct.

Now, let's also remember that free speech is not unlimited, and we do have provisions in our criminal code which limit free speech. There are two occasions that this happens. It's when someone uses speech that is considered hate speech. We have seen examples of our courts stepping in where they have seen examples of this occurring, and they have said: "Hey, we're not going to take it."

3:00

An example of this was in 1990, when Mr. Keegstra, a teacher from Eckville, was espousing what was termed – basically, he denied that the Holocaust had occurred and was teaching this to his classroom. Anyway, he was charged under 319(2) of the Criminal Code with wilfully promoting hatred against an identifiable group by communicating anti-Semitic statements to his students.

Now, there is a defence to this, and that's if the statements uttered were true. Clearly, in this case Mr. Keegstra's statements weren't true. He had no defence, and he was prosecuted. His free speech was limited because it was found to be hate speech. That is how people are protected and how people should in fact be protected. The free speech. We're protected there.

Here's another incident, where Mr. Zundel was publishing stuff that was clearly untrue and was clearly offensive and prescribed hate. He was charged for spreading false news contrary to section 181 of the Criminal Code, which provides that "every one who wilfully publishes a statement, tale or news that he knows [to be] false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence and liable to imprisonment." Mr. Zundel was locked up for many years and I think eventually deported. Again, there is the protection for free speech.

The simple fact of the matter is that we shouldn't really limit free speech willy-nilly. Even though these ideas may be repugnant to you and me as we sit here, repugnant to most individuals on the street, we must allow for some form of this debate to go on in society. It's with this debate that we better ourselves, where we get ideas, and where people actually can be exposed and you can see people who are talking this nonsense and you can say to them: "No. This is nonsense." They are not encouraged to do this behind closed doors.

With that being the balance, I would suggest that there are provisions in our Criminal Code which deal more effectively with freedom of speech and when it borders on hate crime, and we should leave it in the Criminal Code context. I don't believe this is handled well through our human rights boards. What happens is that people are dragged to these committees for publishing and sometimes saying things which may be abhorrent but that, nevertheless, they are allowed to say. There's a place for them to be taken to task, and that is through the Criminal Code.

What I will say is that there are very few of these claims made to the human rights jurisdiction. Only 3 per cent of these types of claims go through. More importantly, the justice sort of meted out by the Human Rights Commission is rarely satisfactory to anybody, neither the person who receives the infraction nor the individual who made the claim. You see that in people who have made a claim under this, and it takes five, six years and a whole lot of money, with no really satisfactory results and no really satisfactory end to the issue; for instance, you know, sanctions that are unenforceable, sanctions that really are undemocratic and without limit.

You can see that this amendment essentially is a call, I believe, a step in the right direction of returning free speech to where it should be. I believe it is better served, as does the Sheldon Chumir foundation, through our courts system. I believe that this is a good bill that would allow for us to allow for our society to indulge in free speech and for ideas to be shared yet to espouse ideas that we abhor and bring light to them.

Anyway, sir, those are my arguments. I'd appreciate hearing some members from the other side as there may be some interest in this.

I understand that this bill has not come without some concern from some groups. I have talked to some of those groups, and I understand the uneasy balance that exists, that people, some of the minority groups, believe that their rights are better protected under the human rights and citizenship act. I disagree with them fundamentally on this issue. I believe their rights are protected under the Criminal Code and that we should err on the side of free speech and not stifle this speech when, in fact, it's simply value systems that we don't share.

I understand it's not an easy decision. Nevertheless, if we always took the easy road, we wouldn't get very far, and sometimes taking the easy road actually puts our democracy in jeopardy and stifles things. But those are my arguments, and I leave it open to the House to tell me where I'm wrong or where I'm right or whatever the day may hold.

Thank you very much, Mr. Chair.

The Deputy Chair: The hon. Minister of Culture and Community Spirit.

Mr. Blackett: Thank you, Mr. Chairman. Fundamentally the government caucus believes in free speech. We've had a long discussion, both inside and outside of caucus, amongst our members. Though we advocate free speech, we have a tremendous concern amongst many of our members. We have a very diverse caucus, as the Premier has said, probably the most diverse in Canada in terms of ethnicity, gender, background, age. We represent pretty much a microcosm of what Alberta is.

When we have a discussion, it's a free discussion, unlike the allegations that are made that there's somehow this religious right movement that's influencing our policy with respect to section 11. Well, if that were necessarily the case, then this would have been a slam dunk. We would have taken publications and statements out of there.

At the heart of the Human Rights Commission is that we've got to protect people against discrimination, and that's with respect to a combination of things, with respect to employment, with respect to access to services. We felt that by taking publications and statements out of there, there wasn't enough of a safety net that's there in the Canadian Criminal Code. The test to get a conviction by a Crown attorney is very high, and the test to even get a conviction is even higher, and it's not a slam dunk.

There are many different ethnic groups. Many different groups of new immigrants to our province have expressed concern. If you look at the last 500,000 people that have come to our province, probably 60 per cent to 70 per cent would be in those different ethnic groups, and that's where we live. So although we advocate free speech – and you're right; it's only 3 per cent of the cases – we have to make a decision as a caucus. Do we err on the side of free speech? Or do we err on the side of representing and protecting those people from discrimination because we're not comfortable with the safety net that's provided through the Canadian Criminal Code? We had to err on the side of the people that we're elected to represent.

So though many of us individually believe in the principle – I've gone on record as saying that I believe in the principle, you know, I would have thought this would have been one of the contentious issues where people would have said: "Ha ha. There is a right side," and this is the carrot to go with the sexual orientation piece. If you use the logic before, like I said, we would have put this in as a slam dunk, but we actually as a caucus had to look at it, and we think we made the right decision. Over time it may be challenged.

3:10

The other part of it is that by changing the commission, the administrative changes can't be overstated. The people who have a fear about many things don't have enough confidence in the commission being able to deal with a case in an objective manner, an impartial manner, a transparent manner, and one that will be done expeditiously. One of Ezra Levant's major complaints is not because the decision was thrown out but because it took 900 days to do that.

Hopefully, in looking at free speech and in looking at the commission, which is headed up by Blair Mason, a person with a great legal mind, one that's viewed universally as somebody that's impartial, hard-working, fair, honest, he will impart that knowledge and that wisdom and that belief through the rest of the commission. We will be able to take those cases, as limited a number as they are, and we'll be able to deal with them in the proper fashion and get the resolution that should be.

You know, sometimes we have to make those tough decisions, as you said, and we can agree to disagree. I don't think that in principle any of us disagree in this Legislature. But this is one of those times we had to make that decision, and we'll stand by it.

Mr. Hehr: I thank the minister for his comments. It was no easy decision for myself to put forward this amendment, too. I am a visible minority although not really of the traditional sort. To many of my friends who have a disability: fine; they're using the access of

the Human Rights Commission. I guess at the start it was very palatable. Towards the middle they realized that this was fraught with difficulty, and by the end they had a bad taste in their mouth. That's why I've come to this decision on free speech, almost to save them the frustration with the entire hassle. Still, at the end of the day, I don't believe that the Human Rights Commission can deal out effective punishment that can satisfy either the person being charged or the person being absolved or whatever. I don't believe it is the proper forum for it.

But I understand the minister's comments. The precautionary principle is not always the worst principle. We advocated for it from time to time. It's just that I've come to believe on the balance of probabilities that in this instance the free speech side of this won out on me. Hence, that's where it is. I think that eventually, if these amendments don't work for, I guess, the human rights code, we can always come back, hopefully, with this government or another government. We can see how it works in some other jurisdiction first, so we can ease minority concerns on this issue that their rights are truly protected under our Criminal Code. I think that it would be better served.

Again, I appreciate the minister's comments. He expressed his opinion in an open and fair manner, and I applaud him for that. Thank you very much.

The Deputy Chair: Any other members wish to speak?

Are we ready for the question on amendment A4?

[Motion on amendment A4 lost]

The Deputy Chair: We are back to Bill 44. Any other members wish to speak?

Hon. Members: Question.

[The clauses of Bill 44 as amended agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Deputy Chair: Opposed? That's carried.

Bill 20
Civil Enforcement Amendment Act, 2009

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

Dr. Taft: Sure. I'm pleased to rise to speak. I feel all invigorated again now that we're on to a new bill.

Mr. Denis: Please don't feel too much vigour.

Dr. Taft: I'm just stretching the truth a bit there, the first time I've ever done that in this Assembly.

Bill 20 is the Civil Enforcement Amendment Act, 2009. It's an act we will probably support, and I think I'll turn the floor over to our critic, the Member for Calgary-Buffalo.

The Deputy Chair: The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you very much, Mr. Chair. I believe I gave comments on this in second reading, and they are similar to those. This is good legislation, and I'll commend the hon. Member for Calgary-Egmont for bringing it forward. Essentially, this bill allows for the protection of retirement savings funds as well as disability savings funds, RRIFs or whatever they're called, and all this stuff. In this society we encourage people to save, and guess what? We haven't done a good enough job as a society or maybe as a Legislature or maybe as an education system in encouraging a culture of savings. Maybe this act goes some way to promoting that culture of savings.

What this bill does is protect the civil enforcement of these types of savings devices from lawsuits. Say a person has started a business and worked his whole life to have a thriving business and puts money into RRSPs and RRIFs and whatever it is you call it and all of a sudden something goes south in that business that he's worked his whole life at. Before this legislation came about, a lawsuit could be filed. Not only could that gentleman's company be taken but his entire savings account. What would happen then? Well, that family, that man or that woman – the company would be gone – would be reliant on the government for, I guess, help and assistance and be essentially thrown on the government dole. We don't really think that's a proper result. I don't believe that would encourage entrepreneurialism and/or saving, which are two things here in Alberta that we value, hon. minister of the Treasury Board, right? We value entrepreneurialism and the culture of saving. But there's no joy in Mudville tonight.

Anyway, here we go. If we value those things, go ahead and try and have those things, and I think this bill does it. It brings us up to speed with Saskatchewan, Manitoba, and Newfoundland, who have already implemented these types of bills. Many other groups have recommended these types of ways to keep outside of the legal system people's money that has been saved. We are supportive of it, and I appreciate the member, again, for bringing this forward.

Just as a final comment, this was also recommended by the Uniform Law Conference of Canada. They thought this type of bill was good, and if it's good enough for the Uniform Law Conference of Canada, well, my goodness, it's good enough for me.

Thank you very much, and I'd turn it over to any other member who wishes to discuss this.

The Deputy Chair: Any other members wish to speak?

Are you ready for the question on Bill 20, the Civil Enforcement Amendment Act, 2009?

Hon. Members: Question.

[The clauses of Bill 20 agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Deputy Chair: Opposed? That's carried.

3:20

Bill 23
Municipal Government Amendment Act, 2009

The Deputy Chair: Are there any comments or questions to be offered with respect to this bill? The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Chair. Just a very short comment. There was one minor piece that we wished to make an amendment to, and I ask that the amendment be distributed. It's essentially with respect to section . . . [interjection] No, it's a very small thing. It changes the date from May 1 to July 1.

The Deputy Chair: Hon. members, we'll pause for a moment while they're distributed.
Okay.

Mr. Hancock: Thank you, Mr. Chair. Section 9 of Bill 23 indicates that section 310, sending assessment notices, is amended. Section 310(1) says, "Subject to subsection (1.1), assessment notices must be sent no later than May 1 of each year." The amendment would simply change May 1 to July 1. It provides for a little bit more flexibility in the system so that there's no rushing of deadlines but doesn't really change the import or effect of the act. I would ask for support of that amendment.

The Deputy Chair: Any other member wish to speak? The hon. Member for Edmonton-Centre.

Ms Blakeman: You know, again, getting an amendment and having to instantaneously comment on it without being able to consider it, even if it does appear to be simple – I'm just not prepared to do that, actually, Mr. Chairman. I can't support an amendment when I haven't had time to review it.

The Deputy Chair: Any other members wish to speak?
I'll call the question on Bill 23, the Municipal Government Amendment Act, 2009.

Mr. Hancock: On the amendment.

The Deputy Chair: I'm sorry. I got ahead of myself. You're right. I stand corrected. We are voting on the amendment.

[Motion on amendment A1 carried]

The Deputy Chair: Now to the bill. Any other comments? The hon. Member for Edmonton-Centre on the bill as amended.

Ms Blakeman: We have been speaking against this bill, and at this point I think I would continue that, mostly because it's taking away the right of property owners to appeal decisions that are made by the local appeals boards and that used to go on to a municipal level. This is changing that. It's restructuring how the appeals are heard and decided. Now we're going to have a composite board rather than the levels that we had before.

The problem with the levels that were existing before was that there was a very long backlog in trying to get cases heard – 23,000 appeals were filed last year – and it's over a year for appeals to be heard and decided. There are some additional costs that are associated with that. Both the city of Edmonton and the city of Calgary have tried to increase the fees, and there's been a great deal of push-back on that from just about everybody and their pet spaniel.

The Municipal Government Board, that's available now, seems to be a better solution than what the government is suggesting. The act is silent on who would fund the composite board, and we believe this could create even more bureaucracy and be even more costly for the municipalities than what they're bearing now.

We have heard from a number of individuals with concern over the lack of impartiality that will result from these changes, and at this point we're not prepared to support Bill 23.

The Deputy Chair: Any other members wish to speak?
If not, I'll call the question.

[The clauses of Bill 23 as amended agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Deputy Chair: Opposed? That's carried.

[Mr. Denis in the chair]

Bill 26
Wildlife Amendment Act, 2009

The Acting Chair: Are there any comments or amendments? The hon. Member for Cypress-Medicine Hat.

Mr. Mitzel: Thank you, Mr. Chairman. I'm pleased to provide the committee with information on Bill 26 regarding its most important sections. To be more specific, the critical sections will address spoiled or wasted game meat under section 3 of this bill, amending section 41(1) of the Wildlife Act; on the export of wildlife and wildlife parts the proposed amendments will deal with section 92(3) of the Wildlife Act; giving officials increased access to land to perform their duties, primarily under section 5 of this bill, amending section 66 of the Wildlife Act; and restitution payments for those who incur financial losses when others commit offences under the act, dealt with partially under section 10 of this bill, amending section 96 of the Wildlife Act.

The Wildlife Act is integral to the protection and proper management of Alberta's native and nonnative species for the sustainability of the province's biodiversity and ecosystems. The proposed miscellaneous amendments to the Wildlife Act will clarify and strengthen the legislation in the areas of enforcement, sentencing, and wildlife control measures. Put simply, we need to ensure this act is up to date in order to better address current and future challenges.

Mr. Chairman, we all know that it is disrespectful, wasteful, and illegal to throw away edible game meat. The Wildlife Act requires that big game and game bird meat is not wasted, destroyed, spoiled, or abandoned. There have been many cases involving spoiled meat brought before the courts, but there have been problems proving to the courts what evidence is required to show that meat that was once edible has now become spoiled. In some cases fish and wildlife officers have testified to the poor condition of game meat by stating that the meat was no longer suitable for human consumption. Despite these testimonials the court did not accept the evidence.

The amendments to section 41(1) of the Wildlife Act will clarify what constitutes wastage and the spoilage of big game or game bird meat. To do this, methods to enter evidence will be established and applied in the courts. The amendments will require game meat to be kept fit for human consumption. This will eliminate the defence that any meat in question was intended for animal food, which was the excuse often used. The amendments would also ensure that hunters follow the regulations for exporting wildlife. Currently an export permit is required to export wildlife or wildlife parts. Export permits are not issued for certain wildlife parts such as a bear paws or bear gallbladders.

Bill 26 will also provide the courts with a higher penalty range to deal with those who have been convicted of this offence involving such wildlife. This would help deter the illegal export of wildlife or

wildlife parts. Higher penalties will deter those involved in this sometimes lucrative smuggling.

Mr. Chairman, the section 5 amendments are about ensuring that our fish and wildlife officers are able to carry out their other expected duties. At times there have been challenges to the authority of fish and wildlife officers to access land. For example, an officer needs to be given reasonable access to land to respond to the report of dead wildlife in order to determine whether the animal's death resulted from illegal activities.

The amendments will authorize fish and wildlife officers' access to land to respond to reports of dead, injured, diseased, or dangerous wildlife and to monitor hunting activities while still protecting privacy rights. The amendment will authorize access to land, but the act will continue to prohibit entry into any building, tent, or other structure or the search and seizure of any property without a warrant if one is required. This amendment is not intended to infringe on privacy rights but, rather, to give fish and wildlife officers more support so they can perform their expected duties.

In response to concerns of the farm cervid industry about removal of consultation prior to attributing costs, I'm putting forth an amendment to Bill 26. I would ask the pages to deliver the amendment, and then I'll speak to it.

3:30

The Acting Chair: We'll pause just while the amendment is circulated. This is amendment A1.

We're now debating on the amendment. The Member for Cypress-Medicine Hat.

Mr. Mitzel: Mr. Chairman, I'm proposing an amendment to Bill 26 that deletes from the bill the amendment to section 60 of the Wildlife Act. Section 60 would then remain as it reads today. The amendment will ensure that Bill 26 accurately reflects the issues of the farm cervid industry and that procedures for dealing with escaped animals under the Wildlife Act will not change.

Thanks for allowing me the opportunity to introduce the amendment. I look forward to discussion on it.

The Acting Chair: Debating the amendment, the Member for Edmonton-Riverview.

Dr. Taft: Mr. Chairman, it's such an honour to have you up there.

My question to the Member for Cypress-Medicine Hat: can you just explain a little bit why you brought these changes in, and now you're going back to the original wording? Why the amendment?

Mr. Mitzel: The amendment was brought in because there wasn't enough consultation with the cervid industry, the elk ranchers and deer ranchers, and the imposition that was being created on them had not been under full consultation. After working with them, it was decided that it would be better to leave it exactly the way it is now with the enforcement that they have and move on with that. That is why section 60 will remain exactly as it is in the Wildlife Act now and not be changed as had been suggested prior.

The Acting Chair: Debating the amendment, the Member for Whitecourt-Ste. Anne.

Mr. VanderBurg: Mr. Chairman, just to speak briefly on this, the captive wildlife or controlled animals that have escaped or were unlawfully released from captivity are dealt with by section 60 of the Wildlife Act and amended in section 4 of Bill 26. Captive wildlife are species native to Alberta and include farmed elk and deer while controlled animals are nonnative species that require a permit for live possession.

We all recognize that at times animals may escape from their enclosure. We recognize that in all cases of these animals escaping, the owner is considered the most appropriate person to recapture the escaped animals. We expect that owners will make a reasonable effort to recapture their animals, and government officials support them in those efforts. However, there have been instances where owners have been unable or unwilling to recapture their animals. Mr. Chairman, when this happens, our officials play an active role in the recovery of these animals, and costs are incurred.

Currently under the Wildlife Act we are able to recover costs such as staffing costs from the owner or operator to recapture the escaped animals. But once the escaped animals are recaptured, there may be additional costs to transport the recaptured animals or destroy them if necessary.

The proposed amendment to section 4 by the Member for Cypress-Medicine Hat is timely. I understand that the Member for Cypress-Medicine Hat, the bill's sponsor, and the Member for Lacombe-Ponoka have had discussions with stakeholders such as the Elk Commission, and they've expressed concerns regarding new provisions that seemingly extinguish consultation with owners in cases where the animals would have to be destroyed. The amendment of section 4 in Bill 26 was designed to provide more flexibility in dealing with escaped cervids. I believe this amendment went too far in streamlining the process.

To ensure Bill 26 adequately addresses the concerns raised by the farm cervid industry, I urge all members to support this amendment. Thank you, Mr. Chair.

The Acting Chair: On the amendment the Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you, Mr. Chair. It's good to see you handling this meeting in such a fine fashion.

I would just like to speak on the amendment. I appreciate the hon. member coming forward to me prior to us beginning the session and doing his level best to explain to me the amendment. That said, you know, in all good conscience – and I believe it probably is a decent amendment – I need a little more time to think about this, and I'll vote against the amendment.

I would like to say that the hon. member did do his level best to get it to me. But just in all good conscience, so I can run it by this, that, and the other thing, I'm going to vote against the amendment.

[Motion on amendment A1 carried]

The Acting Chair: Now back to the bill.

[The clauses of Bill 26 as amended agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Acting Chair: Opposed? Carried.

The Government House Leader.

Mr. Hancock: Thank you, Mr. Chairman. I move that the committee rise and report bills 44, 52, 20, 23, and 26.

[Motion carried]

[Mr. Mitzel in the chair]

The Acting Speaker: The hon. Member for Calgary-Egmont.

Mr. Denis: Thank you very much, Mr. Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bill: Bill 20. The committee reports the following bills with some amendments: bills 52, 44, 23, and 26. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of this Assembly.

The Acting Speaker: Does the Assembly concur with the report?

Hon. Members: Concur.

The Acting Speaker: Opposed? So ordered.
The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. I move that we adjourn until 1:30.

[Motion carried; the Assembly adjourned at 3:39 a.m. on Wednesday to 1:30 p.m.]

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