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The Honourable Kenneth R. Kowalski, Speaker

Legislative Assembly of Alberta

The 27th Legislature

Second Session

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Legislative Assembly of Alberta

7:30 p.m.

Wednesday, May 27, 2009

Government Bills and Orders Committee of the Whole

[Mr. Cao in the chair]

The Chair: I shall now call the Committee of the Whole to order.

Bill 32 Alberta Public Agencies Governance Act

Mr. Marz: Mr. Chair, I would move adjournment of Bill 32.

[Motion to adjourn debate carried]

Bill 43 Marketing of Agricultural Products Amendment Act, 2009 (No. 2)

The Chair: Hon. members, before we proceed, there is an opportunity for declaration of conflict of interest. Does any hon. member wish to take that opportunity?

Seeing none, we will proceed.

Ms Blakeman: I was going to make a joke about not having a conflict because I actually am allergic to beef, but it's not particularly funny. [interjection] Oh, one person laughed. There we go.

Thank you very much for the opportunity to rise and speak to Bill 43 in Committee of the Whole. I do have an amendment, which I have delivered to the table, and I'll come to that in a few minutes.

This has been an interesting debate on Bill 43 because I think it does have its roots in a question of whether the government is willing to allow a particular group of people to pursue their own democratic process or not. What we have in Bill 43, the Marketing of Agricultural Products Amendment Act, 2009 (No. 2), is a situation where we have four agricultural commissions in the province that do not currently allow for a refund to be requested. I think there are mostly agricultural, rural background people here, so I don't need to go into the details of what the check-off stands for although, for those at home, about \$3 an animal is what we're eventually talking about here.

So you have the commissions. Most of them allow for the producers to request a refund of that check-off, but the four that don't are the Alberta Beef Producers, Alberta Pork, Alberta Lamb, and the Potato Growers of Alberta. They have not given themselves that, but there is the ability under the Marketing of Agricultural Products Act for producers to hold a plebiscite to make changes to their own commission plan. So if they choose to, they have a venue that is currently available in legislation to make changes to their commission plan. For those that are searching for that, it's in section 24 of the existing act. Bill 43 is looking to change that, basically to override it or replace it, so that all of the commission plans would have refundable service fees. That means that in this case those four producers would not be able to make that decision for themselves. It would be made for them.

Clearly, the producers of those four commissions that are involved in this are not happy about this. They have contacted a number of the government members as well as members of the opposition. They see this as a move that caters to the larger producers, who clearly benefit from those refunds. I mean, if you're running an intensive livestock operation and you've got several thousand head of cattle sitting in your yard, that's a lot of money at 3 bucks a head.

The Liberals are approaching this from a standpoint of saying that, you know, these producers should have the right to make this decision for themselves. We disagree with the government essentially overriding that or stepping in front of their ability to make use of section 24 of the Marketing of Agricultural Products Act to make that decision for themselves. There has been some discussion, some feelings in the community that this is a retaliatory action by the government against certain producers, and we've gone over all of that. For anyone that wants to follow it, it's in the debates that have already gone on in second reading.

The government has said that this is about choice for the producers to basically decide whether their representing organization is doing a good job in the way they're spending that money, and if the producers don't like it, they can request that refund of service. But I think really what it is is that the producers already have this choice through that plebiscite, and the government is basically stepping in and supporting one group over another. They're essentially internally picking winners and losers, which I would have said, generally speaking, politicians avoid doing. We have lots of intersectoral disputes in just about any community we're involved in, and my advice has always been to let those groups decide, not to step in the middle of that and pick winners and losers. But the government chooses to do something else in this case.

I do have an amendment if I could ask that it is distributed at this point.

The Chair: The amendment shall be known as amendment A1.

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

Ms Blakeman: Thank you very much, Mr. Chair. This amendment is proposing four changes to Bill 43, and correspondingly the amendment has four sections to it: A, B, C, and D. They are making changes to the respective sections of the bill which exempt the four producer commissions from having nonrefundable service fees, so that's beef, pork, lamb, and potatoes.

Section A of the amendment makes the four producer commissions that are listed exempt from the service fees being refundable. Section B makes the four producer commissions listed exempt from the new proposed sections 23(4) and (5) of the existing act. Section C of the amendment replaces the government's proposed amendments to section 24 of the existing act to make it so that a plebiscite is required for beef, pork, lamb, and potatoes should a plan be amended to change provisions on service fees being refundable. Section D of the amendment adds to the government's proposed addition to section 26 of the existing act, which is the refundable service charges, by stating that this section does not apply to producers of beef, pork, lamb, or potatoes.

The intention is that this amendment would allow those four commissions – beef, pork, lamb, and potatoes – to continue with the service fees being nonrefundable, but it also allows for the producers to decide for themselves through a plebiscite whether or not they want them to be refundable. It's really clarifying the situation because without this amendment Bill 43 takes away the democratic ability or right of those producers to determine for themselves through a plebiscite as set out in the act whether or not their service fees should be refundable.

7:40

I can tell by the looks on the faces that those people that are from the rural areas understood exactly what I just said – thank you for that – and I'm sure that there's someone that can respond to the amendment.

We've spent some time on this and have thought about this quite a bit and actually have debated it a fair amount over the last couple

of weeks, particularly led off by our agriculture critic, the Member for Edmonton-Riverview, so this is our best consideration of the way to make our way through this situation. We think what the government has done does not honour that democratic process. It doesn't honour the ability of those commissions to make decisions for themselves. We disagree with the government arbitrarily stepping in front and making this decision for them, particularly in this situation where they've been fine. Why the government decided to step into this one at this point has not been made clear, so we would urge all members to support this amendment, and I look forward to vigorous debate.

Thank you very much.

The Chair: On amendment A1 the hon. Member for Calgary-Varsity.

Mr. Chase: Thank you. Like so many other aspects of governance, there is a situation here where a group of people are having sidelined their right to have a say in their own production both individually through the ability to use a plebiscite and collectively as an association, whether beef, pork, lamb, or potato producers. They have been sidelined by this government with Bill 43, and what we're trying to do with amendment A1 is give them back their voice that Bill 43 takes away.

Now, I realize that the people who are most affected are, unfortunately, in a conflict of interest in terms of debating this bill. Had they been here to speak to the amendment on behalf of the constituents they represent, I would think that they would have been supportive of amendment A1. We have heard before the Ethics Commissioner's ruling from individuals within this House who have concerns. One individual from southern Alberta talked specifically about the problems potato growers had and the number of correspondences he had received in his constituency office.

This, like so many other pieces of legislation, seeks to give back to individuals their collective voice. As so often is the case, the government has gone in favour of the large producer to the detriment of the smaller producers. The big factory farms, as was the case with the BSE crisis, the American producers, the large feedlots had their cattle slaughtered first, and then the smaller individuals were lucky to get what was left, and of course we didn't have sufficient slaughter facilities at that time in this province. They were all American owned. Ranchers Beef came up with an attempt to provide some alternative slaughtering close to Calgary. Unfortunately, it just did not have enough animals to process on a daily basis, and it went under. But that was one of the few opportunities where independent producers tried to have a Canadian, an Alberta voice in the marketing of their produce and the slaughter of their animals.

The pork producers, as we all know, are suffering tremendously through no fault of their own with the flu that is going around and has been falsely attributed to pigs. They need all the help they can get.

With regard to the small beef producers, they're frequently a family-run outfit, and maybe they take on the feeder aspects of it. Possibly they've got a cow-calf operation. But they're, not to make fun of the word "potatoes," in the larger scheme of things the small potatoes. They're the small family farms that Alberta has historically arisen from, and they're being left out. What amendment A1 to Bill 43 attempts to do is give them back their lost voice.

[Mr. Mitzel in the chair]

Now, for whatever reason this government seems to be afraid of plebiscites. They seem to be afraid to give people their voice. They

would rather attempt, either in closed-door cabinet sessions, Lieutenant Governor in Council, call it what you like, to try and control the direction agriculture is headed and not necessarily for the best.

In the second reading of this Bill 43, I talked about the Canadian Wheat Board and the millions of dollars the Alberta government spent trying to undermine that organization, which is prairie-province-wide. It's not just Alberta but Saskatchewan and Manitoba, obviously. When farmers and producers were given the choice, they chose to collectively market their wheat, and they would have chosen, given the choice, had there not be such political manipulation, to market their barley as well. Now with that attempt to beat up our neighbours – Saskatchewan, Manitoba – the bullying is being brought specifically into our province, and the people on the short end of the stick are the people in beef, pork, lamb, and potatoes.

In so many pieces of legislation we've seen go through this House – and those of you who were here last night saw direct evidence of it – when a small group of powerful individuals who manage to gain the government's ear put forward their thoughts, the thoughts of the majority of Albertans are sidelined. In this case it's the small producers, the family farms, the salt of the earth of this province whose desire for a voice through plebiscites has been taken away.

Amendment A1 attempts to give them back their voice, and if democracy is important in this province, I would hope that you would take into account the wishes of the individuals. Those of you who are able to still be here from rural ridings, please look into yourselves, look at your own consciences, look at the correspondence that you've received from your constituents, and vote with the majority of your constituents, allowing them the democratic opportunity to vote on their own livelihood both through their production and through their economic viability.

Alberta was built, as I say, as a province in a co-operative situation. People got together. They raised barns. They helped their neighbours. That was part of the historical Alberta experience. Alberta had a few sort of outlaw types in terms of American whisky traders coming up and individuals monopolizing land and building it up at the expense of their neighbours. It's time to get back to the history of co-operation, and I'm hoping all members present will recognize the democratic right of people to determine their livelihood individually and collectively.

Thank you.

The Deputy Chair: Any other members wish to speak? The hon. Member for Calgary-McCall.

7:50

Mr. Kang: Thank you, Mr. Chair. It is my pleasure to rise and speak in favour of amendment A1. I'll just go into a little bit of background. There are approximately 20 agricultural commissions in the province, and they can charge service fees called check-offs when a producer sells products. The majority of the commissions allow for a refund to be requested by the producers under the individual commission plans. However, there are four which don't: Alberta Beef Producers, Alberta Pork, Alberta Lamb, and the Potato Growers of Alberta. However, there is the ability under the Marketing of Agricultural Products Act for producers to hold plebiscites to make changes to their commission plans if they wish, as outlined in section 24 of the existing act.

With Bill 43 as it currently is, it would make it so that all commission plans have refundable services fees without producers deciding for themselves. This is going to take their democratic right away from them. This is like enforcing something upon some of

them which they don't want. The producers of the four commissions listed above are upset that their producers were not able to determine for themselves through plebiscites as to whether or not they want these funds to be refundable.

I think the government is not listening. They claim to be consulting, and they claim to be listening to Albertans. That is always the case. When there's a big hue and cry out there, then the government turns around, and they start to change things with amendments. Many of them see this move as catering to big producers, who will benefit from these user funds. Huge feedlots seek to gain an enormous profit, particularly for cattle, at \$3 per head. We believe the producers should have the right to decide for themselves whether or not the service fees should be refundable. The government is blatantly acting in the interests of big feedlots at the expense of small family farms.

The bill will take away the democratic right of the producers under the act to conduct plebiscites to amend their plans, determining whether or not service fees, or check-off fees, should be refundable. This act by the government appears to be a retaliatory action against Alberta Beef Producers for criticizing the implementation of the Alberta Livestock and Meat Agency. It is also being made in the interests of big corporate feedlots, who will benefit from the refund of hundreds of thousands of dollars in their service fees, so it is not in the interest of small producers on face value anyway.

The government has said that this is about the choice for producers to determine whether or not their producer organization is doing a good job representing them; therefore, they could request refund of service fees if they feel the organization is not doing a good job. However, the reality is that the producers already have the choice to a plebiscite as set out currently in the legislation. This move by the government is aimed at supporting the interests of big corporate players.

Amendment A1 proposes to make four changes to Bill 43. The amendment has four sections to it – A, B, C, D – which will all be considered together. I think we should all support these amendments because these amendments will go a long way in addressing the concerns of the four producers, and that's the Alberta Beef Producers, Alberta Pork, and the lamb and potato producers. If passed, this amendment to Bill 43 will allow the commissions for beef, pork, lamb, and potatoes to continue their service fees being nonrefundable and would also allow for producers to decide for themselves through a plebiscite whether or not they want them to be refundable. Without this amendment Bill 43 will take away the democratic right of producers to determine for themselves through a plebiscite as set out in the act whether or not their service fees should be refundable, and we strongly encourage all members to support these amendments.

Thank you, Mr. Chair.

The Deputy Chair: Any other members wish to speak to amendment A1? The hon. Member for Lethbridge-East.

Ms Pastoor: Thank you, Mr. Chair. Interestingly, I represent an urban riding but have certainly heard from many, many, disgruntled small beef producers, those that are struggling, those that have struggled through BSE and have managed to come out the other end fairly intact but are still struggling. I believe and they believe that this is really not beneficial for them.

Many of these beef producers are really hoping, and their sons are also hoping – and I know, in fact, of one family where the daughters are hoping – that they will be able to maintain the family farms and maintain the independence that they have known which allows them to work on a small farm. It's the independence that has made this

province what it is, and it's the independence that allows instant changes that would better the producers and their production line. They can change it very quickly when it's a smaller organization, and therefore they can benefit. Being dictated to by larger organizations, particularly the people that cut the meat up and stuff, being at the whim of the large corporations is not what the small independent beef or pork or lamb or potato producers want.

Certainly, in southern Alberta potatoes are a huge, huge item. In fact, many of them are at the mercy of the pricing that is involved between Lamb Weston and McCain, so having that little bit of independence that they can have they certainly want to maintain. At least, that's what I'm hearing in my office.

I'd like to just quote, maybe, some statistics. We're not talking, as someone has mentioned before, small potatoes. These are not small dollars. The Alberta industry statistics for 2008: farm cash receipts from cattle sales are \$3 billion; farm cash receipts from hog sales, \$398 million; farm cash receipts from lamb and sheep, \$17 million; farm cash receipts from potato sales, \$150 million. This is not chump change. These are large, large dollars, and these are the large dollars that keep the Alberta that we really want to keep. We do want to maintain our rural areas. We want to make sure that we have the small towns, that we've got the small producers that can actually afford to raise a family and not have to have both the mother and the father working off the farm.

The value of beef and live cattle exports is \$1 billion. The value of pork and live hog is \$342 million. The value of lamb and sheep exports is \$164,000, and the value of potato exports is \$239 million. I mean, these are large, large dollars, and I think that it behooves us to be able to do all that we can to be able to listen to these producers and do what they're asking us to do.

The broad participation of producers and relatively predictable funding levels enable the Alberta Beef Producers to be an effective voice for the cattle industry in Alberta. That's what they want to do. They want to be able to speak for themselves.

8:00

The check-off funds provided the resources to successfully defend the industry against the last U.S. countervail challenge, launched in '98 and concluded in '99. I think we're all very aware of the R-CALF association out of Montana, that may be quiet at the moment, but certainly they have not gone away and have right from the get-go given our cattle producers a hard time.

Our investments in legal and trade advocacy activities were important factors in opening the U.S. border to Canadian beef and cattle after the BSE episode as well as recent improvements in access to Asian markets, Canadian trade policy, and the impacts of the COOL implementation. Check-off dollars also provide significant benefits to Alberta producers through work on policy, regulatory issues, production research, promotion campaigns, animal health and welfare concerns, communications activities, land use, and environmental stewardship. These are very important aspects not only to their production, not only to their industry but to all of Alberta.

Let's look at the production research, promotion campaigns, animal health and welfare concerns. Certainly, those are huge. Knowing what some unfortunate hog farmers have had to go through with the swine flu, certainly these are important pieces of information that they need. It isn't just kept within their own industry. This is information that they share. And they pay for it. I fail to see why this amendment wouldn't be an indication that, yes, this House has listened to what this group of independent producers, farmers, the salt of the earth, the people that are the backbone of our rural areas are asking us to do.

The Alberta cattle industry has a small number of very large producers who would have a great deal of influence if the check-off was made refundable. Cattle organizations would become more accountable to these large producers rather than accountable to all producers. They don't want to be accountable to large producers. They don't want to be swallowed up. They don't want to be dictated to. They want to be able to negotiate on their own. They want to be able to understand the marketplace and be able to stand up for themselves, not be told how much their product is worth. They want to be able to negotiate.

A situation could arise where policy influence would be based on the size of the individual operation rather than the number of producers supporting a position. This would appear to be what's going to happen right now. This bill as it stands really does lean towards these large, individual operations rather than all of the producers getting together and being co-operative as they have done for the last probably 100-plus years in this province. As I said, it would limit the ability of an organization such as the Alberta Beef Producers to represent the interests of all the producers.

I really believe that amendment A1 is important for all of the reasons that I've mentioned, but more important than anything I really believe that if we would pass this amendment, it would prove that this House has really listened to the people that have sent the letters, written the letters, and have asked, close to begging, to please listen to them and to please have this type of an amendment go through, which would give them back the power of their own producers, which is what they want.

With that, Mr. Chair, I would ask that all of those in the House that have the ability to vote on this please really consider what we are doing to the backbone of our rural communities if we don't look at this amendment, show that we've listened, and actually pass it.

Thank you.

The Deputy Chair: Any other members wish to speak to amendment A1? The hon. Member for Battle River-Wainwright.

Mr. Griffiths: Thank you, Mr. Chairman. I was here for the discussion during second reading, and I've reread the notes, and I've drafted a bunch of comments on questions and issues that were raised during second reading. Some that have come up during the amendment are very similar. I know we'll probably have further discussion in Committee of the Whole, so I'll save those for the end of Committee of the Whole.

In reviewing the amendment proposed, Mr. Chairman, I really think I need to point out to the members of this House that everything that's proposed in the bill is completely being undone in this. I mean, it's equivalent to simply defeating the bill. Passing this bill is incredibly important, and I think we need to proceed, so I would encourage all members to vote against this amendment.

Thank you.

[The voice vote indicated that the motion on amendment A1 lost]

[Several members rose calling for a division. The division bell was rung at 8:06 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Mitzel in the chair]

For the motion:

Blakeman	Hehr	Pastoor
Chase	Kang	Swann

Against the motion:

Ady	Griffiths	Morton
Benito	Horne	Oberle
Bhardwaj	Johnson	Olson
Blackett	Johnston	Prins
Boutilier	Leskiw	Quest
Campbell	Liepert	Renner
DeLong	Lindsay	Sarich
Drysdale	Lukaszuk	Webber
Evans	Marz	Zwozdesky
Fritz	McQueen	

Totals:	For – 6	Against – 29
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[Motion on amendment A1 lost]

The Deputy Chair: We are back to Bill 43. Any members wish to speak or comment? The hon. Member for Battle River-Wainwright.

Mr. Griffiths: Thank you, Mr. Chairman. There were some questions that came up in second reading, issues that came up during the discussion on the amendment, and I'm sure there will be similar issues or repeated issues that will come up through the rest of Committee of the Whole. I would like to take the opportunity to address a few of those questions.

First, there were a couple of questions from the hon. Member for Whitecourt-Ste. Anne. A question about how producers will be represented provincially and nationally should the majority of producers claim a refund. I'd like to point out to that member that membership in national organizations in all of the 20 commodity groups is voluntary. Each and every commission in consultation with their membership will need to assess the value and benefits that they get from belonging to a national organization just like they will have the ability, should this legislation pass, to decide whether or not they're getting benefit from their provincial association.

I'd like to point out that I know that a few people have commented or said on occasion that it will make it difficult to belong, have a membership in a national organization unless the levy that's collected is mandatory. But, Mr. Chair, the nine other commissions right now that have a mandatory refundable check-off currently support a lot of different national organizations, and they support research. So carrying through with this legislation does not preclude being a member of any national organization.

8:20

The hon. member had also suggested that neither the Alberta Lamb Producers nor the Alberta government had been lobbied by sheep producers themselves for a refundable check-off, so he was wondering why the government would include the Alberta Lamb Producers in Bill 43. Mr. Chairman, since 1987 – that's 20 years ago – every single producer commodity commission that has been created in this province has had a mandatory refundable check-off. These four organizations that preceded 1987 that have a mandatory nonrefundable check-off: all we're doing is making our legislation consistent. Quite frankly, it's worked very well for the other nine organizations. There's nothing that suggests that it can't work very well for these four and bring them up to speed with what we've been doing for the last 20 years as we've created new commissions.

There were some other questions, as well, Mr. Chairman. The hon. Member for Calgary-Currie had commented. He had said: big guys are the only ones that want this. I have a lot of letters. Now, I'm not suggesting to the opposition or to anybody in this House that there is only one point of view. I mean, my name is on the legisla-

tion. I'm carrying it. I've had less than 50 calls and e-mails and letters out of the thousands of producers that could potentially be affected by this, and there is no clear line of support or opposition. It's about even. In fact, the last letters that have come in in the last few days out of those less than 50 responses I've gotten have probably pushed support for this legislation.

There is absolutely no clear line that big producers are lining up in favour of it and small producers are lining up opposed. There's not even a trend or a tendency. I've had a lot of small producers phone or e-mail or call, suggesting that they support it, and I've had some large producers call, suggesting that they have concerns about it. In fact, some of the lines from some of the comments – and I'm not saying these are all the comments; these are just some.

Just to clarify to everyone in this House that this is not black and white and this is pitting big guys against little guys because nothing is ever that black and white, there is a small potato grower who has said: "Having individual choice in our industry has been lacking for . . . too long. To be successful, an organization, commission, or association requires a membership of solid supporters. Supporters that choose to be" there on their own.

Another comment was made about the potato growers association. The producer said: "We believe in freedom of association (as the Constitution states)" we should have and that "currently we are forced to belong and to pay the levies . . . we whole-heartedly support Bill 43, as we believe that being forced to belong to an organization is unconstitutional. Furthermore, all commissions should have to prove that they show value for producers" and let producers make the choice on their own.

Another one states: "Choice matters. It makes organizations more accountable and responsive to producers. A refundable checkoff is a plebiscite" every year.

The last one I wanted to read – and I want to read this one specifically because it's been argued over and over and over again that the whole point to this legislation is to pit big producers against little ones: big ones support this; little ones don't. "As a paid up member of Alberta Beef Producers, I believe that organization needs this to help them to be more democratic, accountable and responsive to me as a beef producer on my family farm."

This is not corporate versus family or big versus little. There is such a diversity of opinions, and as I said, it's not black and white; there is some controversy. But out of the less than 50 responses I've had – I was actually kind of surprised I didn't get more comments, given that there are thousands of producers out there.

The comment was also made by the Member for Calgary-Currie that without cow-calf guys feeders are sunk, and that's where he left it. I found that very interesting because without feeders the cow-calf guys are sunk, too. I always found this interesting about the supply chain. I hear arguments from cow-calf producers on occasion that say that they're mad and tired of being hammered by the feedlot guys. They don't give them a fair deal. But I hear feedlot guys say that they're tired of being hammered by the packers. And then I hear the packers say that they're tired of being subjected to a U.S.-only market.

It's so strange that in an organization like this there would be different groups along the same supply chain that would consider each other enemies or start to talk about each other like "they're out to get me," or "I'm out to get them," or vice versa. A cow-calf guy has nothing to do with his animals unless he's got a feedlot to put them into, and the feedlot has nowhere to send them to unless there's a packer, and the packer has nothing to do with them unless there's a market to sell them into. Every single one of these divisions within the supply chain has to work together if they're going to be successful. There is no us versus them in this because none of them succeed unless the other one succeeds.

In fact, the Member for Calgary-Currie even made a comment – where is that comment? – that the big guys or the feedlots were going to make servants, I believe it was, of the small guys, or the feedlots were going to make servants of the cow-calf producers that are going to be subject to them. I don't understand how this is going to work when every single part of the supply chain has to be successful or nobody is. If all the cow-calf guys go broke, who's going to fill up the feedlots? I find this very strange. I want everyone to realize that this entire supply chain, this entire industry has a symbiotic relationship of interdependency, and every single one of their successes depends on everyone else along the chain being successful.

The Member for Calgary-*Buffalo* even suggested that the family farm makes no money, but feedlots always make money. I invite any member of this Assembly from an urban region to come out to rural Alberta, come out to my constituency and answer the phones for a little while and talk to constituents. They'll find out that black-and-white statements like that – that the family farm never makes any money; the cow-calf guys never make any money; the feedlots always make money – are not true. Just two years ago feedlot guys were phoning me in my constituency saying that they were losing a hundred dollars a head. Family farm guys weren't doing too bad three years ago. I mean, these black-and-white statements don't serve the industry well. Every commodity in agriculture has tough times because of the cycle of economics. It's not that one is always successful at the expense of the other.

There was also a comment from the Member for Calgary-Currie – and this is probably the strangest comment I've ever heard in this House – that the little guys care more about the health and welfare of their animals than the big guys do. You know, that's an emotional argument, talking about little versus big, family versus corporate farms. How big is a family farm allowed to get before it's not a family farm anymore? How small does a corporate farm have to be before it's called a family farm?

There's a farmer with 50 cows. He's got a couple of sons that are teenagers that work on the farm, and it's a family farm. Would you define a family farm as three brothers who farm? They have 200 cows that they calve out, and they do grain operations, and they have a small feedlot. There's one right near my hometown. There are three brothers, and it's a much larger operation than much of its neighbours. It's incorporated just like many of its neighbours are. Is it a corporate farm, or is it a family farm? Those arguments about family farm versus corporate farm are meant to be emotional arguments that distract us from the real crux of what we're discussing, and that's the future of the industry.

Another comment that was made was that we will be picking winners and losers. The Member for Edmonton-*Strathcona* and the Member for Edmonton-*Centre* commented, and I think the Member for Calgary-*McCall*, actually, had made a similar comment about it. Quite a few people have made the comment that we favour larger ones over smaller ones, that we're picking winners and losers. Our legislation right now forces all producers to pay. When the discussion comes up about, "Well, if we change this, it's going to favour the big guys over the little guys," intuitively, then, if we leave the legislation the way it is, because it's provincial legislation, we are picking smaller guys, if that's the way you want to argue it, over bigger guys. By eliminating this legislation, we're not picking anything.

Producers individually are allowed to decide what they're going to do with their own money. If we leave the legislation the way it is, we are picking winners and losers, but we're not picking small guys over big guys or big guys over small guys. If we leave the legislation the way it is, we are picking an industry association over the

success of the producers and the future of the industry itself. We're securing an organization that may not necessarily reflect producers big or small unless there's some accountability to those producers.

8:30

The last comment was about democracy and the plebiscite. The Member for Calgary-Varsity and the Member for Edmonton-Strathcona commented that a plebiscite gives farmers choice: let farmers make the choice; we're taking away farmers' democratic choice. You know, it's got to be said that producers right now still get to vote for their directors. They still get to have those elections and vote for their directors. But I don't know necessarily if the association is always so democratic.

Just two weeks ago we had a discussion in this House about democracy and about the electoral boundaries review. If we're talking about democracy and democratic representation as the focus, then you have to compare the zones that some of these organizations represent. One zone has 3,400 farms in it, and a neighbouring zone has 8,200 farms in it, kind of like a constituency in the city having 80,000 people in it and a constituency in rural Alberta having 35,000. We talked about the need for fairness because of democracy. Even if you go by the number of cattle, there's a zone that has 1 million cattle on farms; there's a neighbouring zone that has 400,000.

If we're talking about democracy, what about some of those principles? Some of those boards have had their zones come forward with motions. In fact, every zone has come forward at some point with the same motions, and their board has overridden those motions. If we're fundamentally talking about democracy, the very board that's sometimes arguing and inciting the opposition members to talk about democracy and our right to choose has itself overridden motions that have come forward out of all of their zones consecutively. I don't know if it's fair to say that we're removing their democracy when they're not always necessarily the most democratic.

The bigger question that we need to ask is whether or not the fundamental purpose of some of these organizations is to be democratic or to drive the industry forward, to make it successful. I mean, imagine if there were choices made by the democratic organization that drove the industry into the ground. Is that good for the economy? Maybe their first focus should be on driving the industry forward, growing it, reaching into new markets, driving the industry ahead. Try and do it as democratically as possible, but when you weigh the two principles, which one is most important, the democracy or the future success of the industry? I think the choice is obvious. It's the future success of the industry.

Mr. Chairman, I think I have addressed most of the concerns. I just want to reiterate that this legislation will make all of our practices around the 13 producer commodity groups consistent by giving the last four organizations the same choice that's already given to the other nine organizations, which function really well and successfully by providing more money for research and by participating in national organizations. It also gives choice, which ensures accountability, leadership, and responsiveness to producers who fund those organizations with their own money.

Mr. Chairman, in absolutely no other business association does this government force businesses to be members of those business organizations. We don't do it for chambers of commerce or any other business association. It's a choice of those businesses which organizations they participate in.

This is not fundamentally about the future of the industry associations. The future of those industry associations is not a choice for this government to make by having legislation that mandates that every producer pay that organization. That is not a

choice for this government to make. That choice rests squarely and strictly with the producers who support that organization and their ability to choose whether or not they're going to support that organization. That, Mr. Chairman, is democracy at its finest, it's choice at its finest, and I believe it will create industry organizations that will make sure they're more responsive to the producers that they represent, more reflective of all the producers' needs and opinions that they represent and will make them eternally accountable year after year after year and, quite frankly, make them more effective organizations.

Thank you, Mr. Chairman.

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

Mr. Chase: Thank you. To the charge of inciting democracy I plead guilty as charged. The future should be determined by the people, by the majority, not the dictates of a privileged minority.

The Member for Lethbridge-East pointed out some important statistics that come from Alberta industry statistics 2008: farm cash receipts from cattle sales, \$3 billion; value of beef from live cattle exports, \$1 billion; size of the industry in Alberta, 5.4 million cattle and calves; 28,750 farms produce cattle and calves.

Plebiscites are one form of democracy, a form of freedom of choice. The hon. member mentioned that very few individuals participated in terms of e-mailing or writing him letters. That's what I would consider to be the passive approach. What I would like to know is: in preparing Bill 43, how were these producers contacted? Was it just something simply up on the web? Were any polls taken amongst the various producers, 28,750 farms? Were there public consultations held? If there were, where and when did they occur? I'd like some proof that the people were consulted beyond just simply a website or a little ad in a local paper.

The hon. member shared communication, and I'd like to share a communication, too. This was written on May 1, 2009, and I think most members would have received a copy of it. It says:

Dear Honourable Member:

I am writing to you as a cattle producer who is very concerned about legislative action that is taking away my right to choose how my producer organization is funded. On April 28, 2009, Agriculture and Rural Development Minister [fill in the blank] announced the tabling of Bill 43, legislation making service charges (check-offs) refundable for Alberta Beef Producers (ABP) and three other commissions. The Marketing of Agricultural Products Act currently allows cattle producers to choose . . .

Oh, heaven forbid that in a democracy we should have choice.

. . . whether service charges are refundable or non-refundable and any changes in the nature of the service charge should be directed by producers.

They're the ones directly involved. They need to have a voice.

The Act allows the government to conduct a plebiscite to determine our opinion on a matter of this importance.

As a cattle producer, I urgently request that you follow the democratic process that is available to you and conduct a plebiscite of cattle producers on the question of whether the ABP service charge should remain non-refundable or become refundable. This is my industry and my organization. I have a right to make this choice.

Why wasn't this plebiscite conducted? If the results were clear and that's what people wanted, then I could be supportive of this legislation. The cattle producers of Alberta have not given ABP any indication that they want the check-off to become refundable. During the recent plan review ABP circulated a discussion paper which included a question on refundable check-offs. By a 2 to 1 margin the producers responding to this question voted for a nonrefundable check-off. At a recent fall meeting the only resolution on check-offs to pass was a motion to continue with the

nonrefundable check-off. It seems clear to Alberta Beef Producers that most producers see a nonrefundable check-off as the best way to support an organization representing their interests and want that check-off to remain nonrefundable. Alberta Beef Producers believe that any change in the collection or distribution of the check-off must be directed by these producers.

8:40

Here we have in Bill 43 the government overriding the wishes of the majority. I would like to know: of the 28,750 farms, what was the vote? How many individuals voted for nonrefundable check-offs to be mandatory? How many chose to have their own decision? Without those types of democratic voting statistics, this just appears to be big government back in the business of being in business, and that's clearly not what the people want. If you have any poll results or votes, I would ask you to table them to demonstrate that the people are behind this piece of legislation, or I would suggest that it needs to be further amended.

Thank you.

The Deputy Chair: Any other members wish to speak? The hon. Member for Lacombe-Ponoka.

Mr. Prins: Well, thank you very much, Mr. Chairman. I just want to make a couple of little comments, and that is that I live in the Lacombe-Ponoka constituency, and it has the largest cattle auction in all of Canada. I'm surrounded by cow-calf producers and some feedlot people as well. I have about, I believe, 20 per cent of the pork production in the province in my constituency. I also have a number of potato farms, fairly large seed growers that produce seed into the provincial market. So I've been talking to some of these people.

There are some concerns about the legislation and not because people are so much against it. I think they don't understand the intent of it, and I think I would like to ask the hon. Member for Battle River-Wainwright if he can answer today or maybe in the future, in the amount of time before this legislation comes into effect – I believe it's a year, and in that time there are probably some regulations that have to be put together – what the role of the producer groups could be in consulting with the marketing council or the ministry in the development of these regulations to find out what portion of their check-offs, all or none or what part, how the refundable part of the check-off is going to work. I think these producers want to know these things. I think we should have some of these answers, and if we can assure these people that there's a fair and honest and open process to deal with these check-offs, I think producers' fears would be allayed.

I believe that some of the concerns were about: we're going to lose a voice. But I think this could actually create new voices in the industry, particularly in the beef industry. I look forward to a very bright future for the beef industry if they can work together cooperatively between the different segments of the industry that have I wouldn't say opposing or conflicting interests but different interests that the hon. member mentioned between the cow-calf people, the backgrounders, the feeders, and the packing industry. They do have different interests, and I think it's time that these different groups can work together, each have their own voice, and give this industry much more strength and responsiveness to the market demands not only in Alberta but Canada, North America, and the world. I'm looking forward to some of these assurances for my producers and this government.

Thank you very much.

The Deputy Chair: Any other members wish to speak? The hon. Member for Calgary-Varsity.

Mr. Chase: Okay. Just a question. The hon. Member for Lacombe-Ponoka lent his expertise based on the fact that he's in the centre of a significant beef-producing area. I'm just wondering if organizations that raise elk, for example, or raise deer are affected in any way by Bill 43, or is that marketing strictly for beef, pork, lamb, and potatoes? Are independent producers of elk or domesticated deer subject to different legislation?

The Deputy Chair: The hon. Member for Lacombe-Ponoka.

Mr. Prins: Thank you very much. That is a really good question because I have produced elk, bison, cattle in the past, pork, and potatoes along with barley and canola, so I have paid into all these different commissions. I have never, ever requested a refund from any of them because I felt that the organizations were doing a good job. Your question was: how does this Bill 43 affect those other commissions? It absolutely doesn't affect them at all. They already have the ability to ask for a refund. But I believe that in those organizations, particularly for the elk and the bison, they have a set period of time within the year. All check-offs are mandatory, so every producer pays a check-off and has a set amount of time to request in writing a refund if they wish. I have never ever asked for a refund, and I don't even know anybody in my organizations that have.

These organizations might get a small amount of refund requests, maybe 8 or 10 per cent. What they do in the long term is adjust their budgets to account for that, and they're very successful. They become more accountable. People actually get involved in the governance because they know that when they're involved in the governance, they have a more accountable organization. If the organization is not accountable, some people can actually pull out, or they can form their own organization, a sister organization. They might have, instead of one voice, two voices representing different aspects of the industry.

I see nothing but positive coming out of this. There's going to be a transition period where there's some unrest and some fear, but I think the industries and the producers will get over that if they understand what the intent of the legislation is. I think everything will settle down. I think these industries have a very, very, bright future if they can get everybody working in the same direction.

Thank you.

The Deputy Chair: Are you ready for the question?

Hon. Members: Question.

[The clauses of Bill 43 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? It's carried.

Bill 36 Alberta Land Stewardship Act

The Deputy Chair: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Thank you, Chair. I rise to begin discussion at committee on Bill 36, the Alberta Land Stewardship Act. This bill is the legislative means to implement the land-use framework, the most sophisticated land-use regime yet proposed in Canada.

First, I'd like to briefly review the bill. It's a complex piece of legislation. Sections 3 and 4 create the legislative authority to develop and implement regional plans. Further authority is granted under section 51 to establish a regional advisory council for planning regions. Regional plans provide more certainty to municipalities, industry, and to all Albertans, and government will work with municipalities and industry to help align their plans with the regional plan. Sections 7, 8, and 9 provide for the content of these regional plans, including vision, objectives, and policies to achieve the vision and objectives. Section 11 allows a regional plan to alter or amend a statutory consent. This authority is considered necessary to allow regional plans to achieve their mandate to manage the cumulative effects.

In part 2 section 15 of the bill sets out the effect of a regional plan on the provincial government, its boards and agencies and local governments and authorities. It makes it clear that the regional plans are binding unless otherwise provided. The regional plans have the legal status of regulations and in case of conflicts with other regulations take precedence.

Regional plans. Sections 15(3) and (4) make it clear that regional plans do not create any new cause of legal actions in our courts of law except for the commissioner under section 18. I want to emphasize that nothing in this part of the bill alters the decision-making powers or appeal processes created through other laws.

There has been some concern expressed with the sections under division 3, sections 20, 21, 22. Again, I want to emphasize here that what they require is that local governments be in compliance with regional plans and file a statutory declaration stating so, which is to say that local decision-making powers will not be altered by the bill. By way of example, local authorities will continue to make decisions to meet local needs. Municipalities will maintain their authority for municipal development plans, area structure plans, land-use bylaws in subdivisions, and development standards.

Section 19, also in part 2, states that the act does not create any new rights to compensation but recognizes and leaves in place all existing provisions for compensation such as exist in the Mines and Minerals Act or the Forests Act.

8:50

Part 3 of Bill 36 sets the legal foundation for the use of four key conservation and stewardship tools. It lays the foundation for research and development for market-based instruments in section 23(a) and for pilot projects in subparagraph 23(b).

Section 25 provides further authority to support conservation, environmental, and agricultural objectives.

Division 2 deals with conservation easements. Conservation easements are voluntary agreements that place protections on private lands by landowners to protect and enhance the environmental and ecological integrity of their lands.

Sections 35 to 43 deal with a new instrument, conservation directives. Conservation directives have the same or similar objectives as conservation easements but may be imposed by a regional plan.

Section 38 creates a right to compensation for landowners who suffer a loss of value as a result of land conservation directives, and this type of landowner compensation, for what are known as regulatory takings, is the first in Canada.

Section 46 authorizes conservation offset programs. Offset programs have been used in other jurisdictions with success.

The last conservation and stewardship tool is the transfer of development credits as described in sections 47, 48, and 49.

Part 4 outlines the regional planning process and the administrative matters, including in section 56 the establishment of the land-use secretariat and its functions in sections 57 to 61. Sections 52 to 55 define and describe the responsibilities of the regional advisory councils. Section 62 contains other functions and responsibilities that the secretariat will handle. Section 61 covers the complaint mechanism. It does not create additional processes for landowners or industry to deal with. Rather, it supports the use of existing processes under existing acts and regulations, including existing appeal processes.

Part 5, the last substantive part of Bill 36, deals with transitional matters, including amendments to other legislation. The majority of sections from 68 to 95 in this part deal with aligning decision-making and planning with regional plans. Importantly, none of the changes alter existing rights to appeal decisions of the government bodies under these other statutes. In fact, sections 76 and 90 include amendments to the Forests Act and the Public Lands Act to require the establishment of fair appeal mechanisms under those acts, which did not previously exist.

Now, having summarized Bill 36 as introduced, there have been discussions with colleagues, communications with stakeholders both in industry and environment that have highlighted the need for some clarification in a few areas of Bill 36. As a result of these discussions I'm proposing some amendments for consideration by this Assembly, and I'll wait a moment for the distribution of those amendments to take place before speaking to them.

The Deputy Chair: Hon. members, this will be amendment A1, and we'll wait until they're distributed.

Hon. members, the request has been made to have these severed. Hon. member, are you talking about severed in discussion or severed in voting?

Mr. Hehr: We just want the amendments severed for voting.

The Deputy Chair: Severed for voting?

Mr. Hehr: Yes.

Dr. Morton: So should I continue?

The Deputy Chair: Yes, please continue. We will discuss the entire amendment. Then they'll be severed for voting on A, B, C, and D.

Dr. Morton: Okay. Thank you. Members can see that the proposed amendments are indicated as A through I, and I'll quickly describe each one.

Amendment A makes four changes to section 2, the definitions section. The first change clarifies how regional plans apply to Métis settlements in Alberta. A new clause is added following clause (a) to define compensation board. For settlement patented land the term refers to the Métis Settlements Appeal Tribunal, established under the Metis Settlements Act. The tribunal already has jurisdiction over disputes affecting settlement lands. For lands other than settlement patented lands, the term refers to the Land Compensation Board.

The next change to section 2 deals with the definition of effect. In clause (g)(i) the words "the economy" are added before the words "the environment," and the words "a community" are added before the words "human health." These changes, adding "economy" and "community," completely reflect the intention of the land-use framework to strike a better balance amongst the three objectives: economic, environment, and social.

The third change to section 2 amends clause (l) by striking out the words “section 222 of.” Amendment A’s final change to section 2 is clause (v) subclause (iv). These are replaced with a new section adding the words “but does not include a General Council Policy.” Again, that addresses the special circumstances of Métis settlements.

I’ll move, then, to amendment B. Amendment B addresses section 11 of the Alberta Land Stewardship Act. Amendment B clarifies how regional plans will apply to statutory consents. Statutory consents are any permissions required under an act or regulation before an activity is carried out such as permits, licences, and approvals. Section 11 of the bill is replaced with a new section. Subsection (1) of the new section clarifies that regional plans may, to achieve or maintain an objective or policy, call for the amendment or extinguishment of a statutory consent or the terms and conditions of a statutory consent but only by express reference to that statutory consent. In other words, it must be made explicit.

More substantive changes are in the new subsection (2), which requires the government to give notice to the holder of a statutory consent of the objective or policy that is to be achieved or maintained. It also gives the consent holder an opportunity to propose an alternative means to achieve or maintain that policy or objective. This amendment provides additional procedural safeguards to the holders of statutory consents without undermining the objectives of section 11.

Amendment C, again, addresses Métis settlement issues. Amendment C changes section 17(2) by striking out the words “made and approved under section 226” and substituting the words “or anything authorized under or by the Co-Management Agreement, as amended, referred to in Schedule 3.” This ensures that policies made by the Métis Settlements General Council are not adversely affected by regional plans and that Bill 36 does not affect the governance structure created for Métis settlements.

Moving, then, to amendments D and E, Bill 36, as indicated earlier, enhances the conservation and stewardship tools available to protect heritage landscapes, views, habitat, and agricultural lands. Amendments D and E recognize existing responsibilities and accountabilities of ministers when regional plans seek to use these conservation and stewardship tools.

After section 26 amendment D adds a new section, 26.1, to ensure that any tax-based conservation and stewardship tools are implemented only with the approval of the Minister of Finance and Enterprise.

Amendment E strikes out section 32(2) and substitutes a new section to deal with prior notice to ministers for registering a conservation easement. The amendment requires that the ministers of Infrastructure and Transportation in addition to the Minister of Municipal Affairs also receive prior notice of these plans to register a conservation easement. This amendment recognizes the Infrastructure and Transportation ministers’ responsibilities in planning major infrastructure and transportation routes.

9:00

Amendment F deals with section 42 and, again, concerns Métis settlements. In subsection (1) clause (g) is struck out, in subsection (2) clause (i) is struck out, and two new subsections are added after (2). The new sub (3) clarifies the ability of the general council to make a general council policy with respect to settlement patented land. The new sub (4) provides clarity that references in the act to regulations made under section 42 include these general council policies.

Moving, then, to amendment G. It addresses conservation directives. In section 43 the word “nothing” is struck out, and the words “except for section 36, nothing” are substituted. This change

makes it clear that municipal authorities are bound by conservation directives and regional plans.

Amendment H adds a new monitoring requirement. It is designed to improve monitoring and reporting on how regional plans are achieving their objectives. The amendment adds a new clause, (c.1), to section 57 of the bill. The new clause calls for the appointment of a committee at least once every five years to evaluate the objectives and audit the policies of regional plans. This type of check was requested both by industry and environmental groups, and the committee will provide an independent assessment of the progress of the regional plans and make a public report to the stewardship minister.

Finally, amendment I is consequential to the definition added in amendment A. Amendment I strikes out references to the Land Compensation Board and substitutes “Compensation Board” in sections 37(2), 40(1) and (2), 41(1) and (2), and 42(1), again, to account for the Métis settlements’ special status.

Mr. Chairman, we all know that Alberta is one of the most beautiful places on earth. Our plains, foothills, mountains, parklands, Canadian Shield, and boreal forest support a prosperous society and a magnificent array of wildlife and fisheries. They also provide an abundance of energy, forestry, and other natural resources that have provided generations of Albertans with good jobs and economic opportunity. Our challenge is to manage and develop our lands in a way that sustains the prosperity of Albertans without undermining the beauty and ecological health of our province.

Bill 36, the Alberta Land Stewardship Act, will help us strike this balance. It will help us define the future of our province so that it will be as good for future generations as it has been for us, which is the definition of stewardship. Accordingly, I would ask all members to support these amendments. I look forward to our debate.

Thank you.

The Deputy Chair: Any comments on amendment A1? The hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you very much, Mr. Chair, for allowing me to speak on this most important bill and on these amendments that are now before us. If we look at this bill and how these amendments will affect the bill, there is no doubt that we have been waiting for some time for a bill like this to set the land-use framework into policy for beginning to, I guess, divide our province into a more manageable state, like I’ve mentioned before, that the land-use framework references. Rightfully so; we may have reached the tipping point in this province.

We’re all hopeful on this side of the House that this is the start of good things to come, where our environment and our land and our water are all headed in the right direction, that creates a balance between human needs and our environmental needs. I know this has been a difficult task. This is a very large bill that affects a great deal of other bills in this province.

If we look, in particular, at amendment A, what it specifically does is clarify what compensation board means. It’s really rather seemingly small, but it could mean quite a bit. It adds in the words “the economy” and “a community” to the list of the effects as defined in the subsection that is amended.

Currently the definition of effect in Bill 36 includes:

- (i) any effect on the environment, human health or safety, a species or an objective in a regional plan, regardless of the scale, nature, intensity, duration, frequency, probability or potential of the effect, and
- (ii) a cumulative effect that arises over time or in combination with other effects.

The government's intent in adding "economy" I see as maybe to deal with the potential backlash that comes from various groups who say: the regional plans are affecting me, my business economically. Of course, this is going to be a concern. It's a concern for us in the Legislature. It's a concern for Albertans in general. The economy is always a question for us in this House to be concerned about as we want Albertans to thrive in that matter.

Yet I do feel somewhat concerned in this the land-use framework that this organizing amendment in Bill 36, which is going to see the Alberta Land Stewardship Act create the land-use framework, seems to be pointing this out at a rather late stage. That does give me some cause for concern. I know the hon. minister is a very smart man. I'm not saying anything untoward, but this is really just one of those changes that gives me some measure of concern in that: where is the balance here? My understanding of what this act is going to do is to look at a better representation of how we've dealt with our land and our water and our resources. By adding the word "economy" – and I am skeptical – I think this adds more of a pressure that's already existing on our environment. We're already at a tipping point.

Now, when we have this added word, that is going to be of equal assessment with much of the stuff that is going on in the bill, it really is troublesome. There are many cases of economic gratification on land-use decisions. I guess that's the nature of it. We've already seen those decisions made here in this province, and we've seen them before my time in the Legislature.

I read about the Balzac racetrack, the moving of water there, and all that sort of stuff that the land-use framework is going to deal with. Hopefully, in those types of situations of, I guess, chicanery – I don't know whether it was that or not – we're going to err on the side of caution with the land-use framework. That kind of situation is not going to happen. We're going to recognize that water transfers and water areas, you know, you're not supposed to monkey with. I realize I'm just pointing that out as an example. As an example, I believe the Alberta Land Stewardship Act has been brought in to sort of rectify those situations that have come in. I believe this act is going to rectify a lot of those or has been brought in to rectify a lot of those things that have happened, possibly up in the oil sands region and other places.

9:10

Yet when this word "economy" comes down, I can't help being, nonetheless, a little more worried, a little more – well, this is all well and good. Yes, it got everyone excited that we've turned the path here to really recognize that we are at that tipping point, that we may already be living beyond our means as a society. We may already be using more water than we should. We already may be using more land than we should. We already might be polluting the air more than we should and all that stuff.

And we're continuing now. We're going to do it. We're going to add more people. We're going to add more economy and all that stuff. I know that's going to happen, nevertheless; those are just the demographics of our world. We're adding more people, and we're a place to have jobs – and I know that – where people are going to come to work and come to settle and all that stuff.

Yet this word – and maybe it's just me being a nervous Nellie or what have you – gives me some concern. Maybe if I am being a nervous Nellie, well, I hope I'm bringing up a situation that we can't support this amendment. If it comes true sometime in the future that everything is all about the economy – this somehow at a late stage in this bill is going forward after much time and much work put into it. All of a sudden we get pressured into putting forward this word, and it changes the balance. Although this is somewhat of a centralization of power, it's an act that people have been calling for and wanting to protect our environment.

I guess those are my comments in regard to this amendment, and I leave it to others to talk about it if they wish. Thank you very much.

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

Mr. Zwozdesky: Thank you very much, Mr. Chairman. I appreciate this opportunity to make a few comments regarding the Alberta Land Stewardship Act. I want to begin by saying that I fully support the minister and what he's trying to do with respect to the principles and objectives of the Alberta Land Stewardship Act. The establishment of this kind of an integrated approach and in particular the amendments that are before us are of very significant consequence to the aboriginal communities in this province and in particular to the Métis settlements, which I'll get to in a moment.

I think we all know that an integrated approach like this is really necessary to address the cumulative effects of land management and resource development decisions and what a vital step that they are to ensuring a sustainable future for Albertans. But, again, I want to focus in on the amendments as they impact the Métis settlements in particular.

This is a broad framework document, as we all know, and when it was first brought forward there were some areas that caused some concern to me and, in turn, to Métis settlements in particular. I should say to First Nations as well. But the minister was very amenable in listening to the concerns that I had raised, and we had a good discussion. That culminated in an immediate meeting with the Métis settlements and with other aboriginal people. The result of those meetings is now reflected in these amendments that are before us, Mr. Chairman.

Just a couple of points here. We know the importance of land and land management to all of us, but I think it goes without saying that there's an even deeper appreciation primarily because of the ages of history that surround aboriginal people for the respect that they have for these lands: for the land, the air, the water, and everything else connected. As I studied these amendments and discussed them, I found some comfort in knowing that the concerns had been addressed. My concerns were focused primarily on the implementation of the Alberta Land Stewardship Act and how the act might affect the principles and objectives of Métis settlements, of the Métis Settlements Act, which is our own legislation. As we know, the Métis settlements and their lands are unique. In fact, we're the only province in Canada that has specially designated lands set aside. So the amendments which the hon. minister mentioned – and he specifically referenced Métis settlements in his comments – are critical to maintaining that balance that we have and the respect and recognition we have for Métis settlements in our province. I have to recognize that the Alberta Land Stewardship Act is, of course, outside the federal jurisdiction with respect to First Nation reserves. Nonetheless, these amendments will address the major concerns.

Let me just say that the proposed amendments are the result of a number of discussions that I've had with the minister and that the Métis settlements' representatives have had with the minister, and I was privileged to sit in on those meetings and to help arrange them. These amendments reflect the unique relationship that Alberta has had and wishes to continue having with Métis settlements for many, many years to come.

These amendments ensure that the overarching policy objectives that Alberta agreed to in 1985 and in 1989 remain intact. We should all be reminded that the Legislature passed a unanimous resolution in 1985 agreeing to transfer land to and to bring forward new legislation for Métis settlements. This was a historic moment for our province, and we're now improving, if you will, on that history while we're also improving the quality of life with respect to land

management in general, I hope, for all Albertans. This is a critical part of Métis settlements achieving greater local autonomy and greater economic self-sufficiency. The proposed amendments to the Alberta Land Stewardship Act ensure that Alberta's commitments under this unique legislation will continue to be honoured and improved upon.

Amending the act in this manner will allow the Métis Settlements Appeal Tribunal to hear matters related to land compensation and to ensure that through these amendments those decisions are consistent with the Metis Settlements Act, which, by the way, already gives authority to the Métis Settlements Appeal Tribunal to hear matters such as loss of cultural value related to land. The Métis Settlements Appeal Tribunal is a culturally appropriate quasi-judicial tribunal whose decisions are appealed to the Court of Appeal directly.

The other amendment to the Alberta Land Stewardship Act, as has been referenced, ensures that the Métis Settlements General Council, which is their governing body, can continue to make laws within their own geographic area, in particular laws related to land, without having regional plans made or amended and without any impact on Métis settlements' ability to make such laws.

I find these amendments to be consistent with our relationship with the Métis settlements and to be consistent with our commitments in the 1989 accord, which was all about helping achieve local autonomy and so on, and to the corresponding legislation that was passed in 1990.

Mr. Chairman, I'm going to take my seat in a moment. But I just want to say thank you to the minister, who has wrestled with these issues now for I think about two years, if not a day more or less, for the numerous meetings that have been held that result in these particular amendments that will help benefit our relationship with the Métis settlements, in particular, but I hope also with aboriginals in general and hope for a speedy resolution and implementation.

My last comment is to suggest that there will still be opportunities for additional input to be given with respect to the implementation of this particular act. We still have some regional advisory councils that will have a role to play. Aboriginals will feature prominently in those as well. Therefore, I'm very supportive of these amendments before us.

Thank you, Mr. Chairman.

The Deputy Chair: The hon. Member for Calgary-Varsity to amendment A1.

Mr. Chase: Thank you. Yes. Speaking directly and somewhat generically to the amendment, I want to compliment the hon. Minister of Sustainable Resource Development. I know how hard he has worked. The words that the Minister of Aboriginal Relations brought into it were words like integration and collaboration, and I want to second those comments.

9:20

This may appear slightly off topic, but it has to do with the amendment, and it has to do with Alberta land stewardship. I just want to pass out a very large thank you to the Minister of Sustainable Resource Development, the Solicitor General, and the Minister of Tourism, Parks and Recreation. That is because they demonstrated land stewardship over the May long weekend. Through their collaborative integration we had a very successful weekend, and I see that as a terrific example of Alberta land stewardship. The people who wanted to be out to have a good time were able to have that good time. For example, the off-roaders who followed the laws and stayed on the path had a thoroughly enjoyable time, and even those who wandered slightly off didn't seem to be opposed to the

finer they got. They realized that they had overstepped their bounds. I'm hoping that this enforcement, this integration, this collaboration that was so successful on this long weekend will be carried on into the future, that this wasn't a one-shot effort.

With regard specifically to amendment A1, the only area that we have trouble with of all the series of alphabetized amendments is section A, and it's kind of a philosophical concern. We do not believe that the environment should be playing second fiddle to the economy. We do not believe that short-term gain that produces long-term pain is acceptable. I know how hard the minister has worked to achieve the balance between the environment and the economy, and I am very appreciative of the five-year review clause that was built in because that will give people a chance to evaluate the success of the plan.

There's no doubt at all, no one would argue the absolute need for a land-use framework in this province. I appreciate, again, all the effort that has gone into the preparation and the moulding and shaping that the amendments to Bill 36, which have just been presented, attempt to do. As I say, I will be voting with my colleagues in favour of all of the amendments with the exception of section A because I do not believe the economy should take priority over long-term sustainable environmental conservation and protection.

Thank you.

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

Ms Blakeman: Thank you very much, Mr. Chairman. As my colleagues have made clear, we have reviewed the government amendments to Bill 36 and, for the most part, are willing to support them. I've been quickly trying to go through and sort of do a fast comparison about what's being proposed. Yes, indeed, we think that in many ways this is an improvement on the bill as first presented. The sticking point, of course, is that definition that is appearing under section 2, specifically clause (g), which is giving us a sort of list.

I've come to understand that the Minister of Sustainable Resource Development understands effective language very clearly, and I take him seriously. So I know that when he has ordered it with the economy first and the environment second, followed by the rest of the list, that's the prioritization. That's not a mistake. It's not alphabetized or put in that order randomly. That is deliberate, and that is where I have trouble with what is being anticipated in this bill.

This whole bill has been a struggle for me. As the Environment critic for the Official Opposition I'm supposed to be, you know, reviewing acts of legislation to see if it has an undue effect on our environment, proposing alternatives, et cetera, et cetera. Overall, we hear from a number of sources, and in our own minds we understand that we need this bill. We need an overall plan about how we are going to use the land in Alberta. We need some kind of a framework that is going to allow the increasing number of competing demands coming from different sectors: from the municipalities, from the agricultural community, from the oil and gas development and exploration community, from forestry. You know, there are just so many different competing sectors right now that are trying to get their piece and get dominance, frankly, over how the land is going to be used and get the land framework and the use of that land to what is going to help them the most and is going to give them the most advantage. So it's clear that we need some kind of a plan.

This is a sticking point for me, and it causes me great concern. I'm an Albertan. I understand that a good deal of the wealth that I enjoy, that funds the things that are important to me – like the arts,

like education, like health care – flows from our industrial sector, particularly oil and gas. I get that. We've certainly talked about royalties and endowment funds and all of the rest of that for a very long period of time. But I think it's a mistake to write a land-use framework that gives the number one position to the economy. That's what we've got. Under section 2(g) – and these are the definition sections that appear at the beginning of the bill – what we have now is:

“effect” includes

- (i) any effect on the environment, human health or safety, a species or an objective in a regional plan, regardless of the scale, nature, intensity, duration, frequency, probability or potential of the effect, and
- (ii) a cumulative effect that arises over time or in combination with other effects.

What we're looking at now, given the government amendments, is a list that reads: “effect” includes (i) any effect on the economy, the environment, a community, human health or safety, a species or an objective, et cetera, et cetera. So as you hear the minister talk about trying to achieve a balance between the environment, the economy, and the social sector, we've now had a prioritization. I read this as a prioritization. Having watched this minister for some time, I don't think this was accidental. I do see it as a prioritization, and that is the problem for me.

It's not because I happen at this point in time to be the Environment critic. Six months ago I was the finance critic. You know, these things come and go. I'm not doing this just because that's the position I'm holding at this time but because I've become increasingly aware as I look at choices that other countries have made. In some cases they get up and look out the window and go: “Okay. I've got a bank account, but – guess what? – there are no leaves on the trees outside,” or “I have to take my children to an indoor facility to play because their asthma is so bad they can't go outside, and given the number of particulates in the air that we have in this particular region, you know, they can't go outside and play or they'll have an asthma attack.”

It's that same argument about health and money. Money means nothing if you are dying of something. It means nothing. I mean, you might have fluffier pillows and more people standing around your bed. You're still sick. You still feel like crap. You're not enjoying life, and you're dying. So all that money isn't doing you any good. It's the same issue here. I don't think we have achieved much if what we do is say that the economy always gets priority and first position and preference as we start to make decisions about allocations of things here.

Now, I understand that we needed to put the word “economy” into this section, because there was already some signalling that those people that felt that they had an economic interest could claim that the framework had no impact on them because there was no right, no ability in the bill to make a decision based on an economic decision. People were signalling that they weren't going to co-operate because the bill didn't have the power to do that or the bill was not giving itself that power.

9:30

It's already getting late. This is the second night I've been in here for a long time. I won't belabour the point. We will have an opportunity to come back and talk about this some other time. It would be nice if we didn't have to do this all tonight, but I suspect the government is going to make us do it all tonight.

I think that is the concern. I think we make a mistake if we prioritize or signal that our preference is that the economy comes first in a list of prioritized considerations that we make as we look at land-use planning.

Thank you for the opportunity to put that on the record. I'm certainly willing to support all of the other sections in this government amendment, but I cannot support the section named A in the government amendments. Thank you.

The Deputy Chair: Any other members wish to speak? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Thank you, Chair. I might just respond to the comments that have been made about amendment A. Basically, I appreciated some of the compliments – thanks – from members opposite, but I think you're making a mountain out of a molehill here on the adding of “economy.” If you would go back and look at the land-use framework document, the final version that was released in December, it talks of objectives of economy, environment, and social objectives. That kind of triad is used pretty consistently.

I know that the Member for Edmonton-Centre thinks I'm crafty when it comes to language, but I think that in this case it's quite innocent. I'd point out that in several other sections – like, if you look at section 7 of the act, in section 7(a), talking about information, the wording is “economic, environmental and social characteristics.” If you look at section 7(b), again it talks about “economic, environmental and social opportunities.” In fact, most of that sequencing is just alphabetic, not anything else.

I think I can also say with some certainty that while there are a number of rules of statutory interpretation that apply to specific trumping in general and more recent trumping, less recent, and so forth, sequencing doesn't have any legal meaning at all when you have a series of things like that. I may not be innocent, but in this case the sequencing there is innocent and, I think, legally irrelevant.

I'd point out that there are four components bundled into section A. One of them is adding “environment.” The other three all deal with some of the accommodations for the Metis Settlements Act. It seems to me that it would be a mistake for your caucus to be on record voting against the accommodations that were requested by and made for the Métis settlements.

In light of what I've said about the irrelevance of sequencing and the importance of the Métis settlement components, you might want to reconsider voting against A.

Thank you.

The Deputy Chair: Any other members wish to speak to amendment A1?

I will call the question. Hon. member, you had asked that all the votes be severed on this. Is this correct?

Ms Blakeman: Yes, please.

The Deputy Chair: Okay. We will go ahead with the voting on amendment A1. We'll be severing them all.

[Motion on amendment A1A carried]

[Motion on amendment A1B carried]

[Motion on amendment A1C carried]

[Motion on amendment A1D carried]

[Motion on amendment A1E carried]

[Motion on amendment A1F carried]

[Motion on amendment A1G carried]

[Motion on amendment A1H carried]

[Motion on amendment A1I carried]

The Deputy Chair: We are now speaking on Bill 36. The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you, Mr. Chair. We have some amendments on section 3(1), that I would like to distribute at this time.

The Deputy Chair: Hon. members, this will be amendment A2. We'll pause for a moment while these are being distributed.

Hon. member, please proceed.

Mr. Hehr: Thank you, Mr. Chair. This amendment is really one of those simple things. It is just changing two words, from "may" to "shall." But it has a larger context to it in the fact that we could have done this in many situations through the act. As you are aware, there's some concern from this side of the House that there is a tremendous centralization of power that we have seen throughout this bill. We've seen many departments, many acts, many individuals – in fact, the whole province of Alberta divided up now into seven sections with one controlling minister and one controlling decision-maker, a cabinet with very little scrutiny to it at the end of the day.

This minor thing we are trying to do here by changing the language from "may" to "shall" is quite obvious. Instead of having some of that power always residing behind closed doors, always residing in the power of the cabinet, all the power located not in this Legislature, all the power not discussed and debated out there in public, well, this is one of those things that we believe and we're making a symbolic stand here a couple of times – well, it's more than a symbolic stand – a real stand that this type of language should have been more present in the act.

For instance, in this situation it should be happening. You can see that it's very simple, that the Lieutenant Governor in Council "may" establish integrated planning regions under this section, to the Lieutenant Governor in Council "shall" establish integrated planning regions. I assume that this is going to happen. In fact, it would be nonsensical for me to believe that this is probably not going to happen under the act.

9:40

However, just some of the stuff in the act that creates this, the overlying central power, is causing me some concern – actually, more than some concern, a lot of concern. I think there's a loss of democracy, a lot of control. Very few people have power over the course and direction of the province of Alberta for a long time. Let's face it, the governing power always has a certain amount of ability to do that. However, in this case it appears that some of this power is not being, I guess, wielded in the manner it was before or wielded differently now in that it goes to the Lieutenant Governor in Council. This is a significant change. We've seen it, I guess, now as a theme throughout, over the course of my Legislature time. I think it will be something new.

For many of the members who were elected here last March 5, maybe we will spend our – hopefully not. Let's not think that. Maybe that is the way things will be for time eternal, this type of legislation, and that's just become a matter of course. Maybe some day in this Legislature we'll forget that at one time things didn't always happen behind the front bench and that at some time things

were different in Alberta, that more things were discussed in an open and honest fashion. Maybe that's just me reminiscing about the good old days, which were really not that good. We're maybe not that old, anyways.

Nonetheless, these are the worries we have as a caucus and the worries that I've heard expressed already by the third party. I was going to discuss it in question period, but the hon. minister was right, that we had a chance to discuss this tonight, and I feel glad that he corrected me on my faux pas this afternoon. I had the opportunity to get things out tonight.

That is primarily what the amendment is about. It was a pleasure to be allowed to speak on the amendment. You can gather from my comments why this amendment was made. I open it up to other people if they would wish to comment.

The Deputy Chair: Do members wish to speak to amendment A2? The hon. Member for Edmonton-Centre.

Ms Blakeman: Thank you. I'm pleased to be able to rise and support my colleague the Member for Calgary-Buffalo in the first of his amendments, which appears before the Assembly as amendment A2. Yes, I think you'll see that a number of the amendments that we're putting forward tonight are changing "may" to "shall." In this case we're looking to establish that the cabinet shall establish these integrated planning regions. We think that this is an important component of what's being considered under this, and we would like to see this amendment supported by all members of the Assembly.

Thank you.

The Deputy Chair: Any other members wish to speak? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Thank you, Chair. The Member for Calgary-Buffalo indicated that he's concerned that "may" leaves too much discretion for cabinet. In a legal or technical sense he's correct. But the Member for Calgary-Buffalo also said, and I quote: it's nonsensical to believe that this is not going to happen. End of quote. And he's right. This is going to happen.

The hon. member said that he wants more accountability. Well, our definition of accountability is political accountability, and one of the ways we get that is for the opposition parties to hold us accountable. Changing the word from "may" to "shall" simply moves it from a political forum into the courts. On this side of the aisle we think there's more democracy in elections than there is in appointing judges. We think it's actually more democratic to have political accountability. So I'd encourage people to vote against this amendment.

The Deputy Chair: Any other members wish to speak? The hon. Member for Calgary-Buffalo.

Mr. Hehr: Yeah. I understand the minister's point that there's a certain amount of democracy in having the cabinet being ultimately responsible, and it's a fair argument. I think at the end of the day, though, there has to be an apparatus or a body that can evaluate some of the decisions that are going to be made that deal with plans and things on the economy, the environment, the social nature – and I've already forgotten the last one – whereas I think decisions can be made that are outside of these best-laid plans and can go against, I guess, maybe the best interests of what the initial land-use framework was. It can get caught up a lot of times in the political rather than the best use or the best intentions of what this legislation was established to do, which I believe was really to balance things

because we are reaching that tipping point. I do commend the minister on using that language again and in his report, the tipping point, which is here and is now and can't be ignored any longer.

Simply having some apparatus like the courts ensuring that, you know, these best-laid plans are followed – I'm not accusing anyone here or anyone in the future, but there have been in the past governments that have done things that have been untoward and gerrymandered with the best-laid plans. Hence, the court is one of those institutions that tries to act as a check. I'm not telling the hon. minister anything new. He has taught classes on this and developed his own theories on what is best, and I have some of my own.

So instead of going around in a circle, I'm going to leave it at that. I think I've made my point, and the hon. minister has as well. I appreciate him taking the time to answer that.

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

Mr. Chase: Thank you. Just a very brief comment. Neither the hon. minister of sustainable resources nor I have a background in law. The hon. minister has a very admirable background in political science based on his years of teaching and having lived on both sides of the border and having seen the application of politics. But I do not believe that changing "may" to "shall" takes it out of the hands of the government and puts it into the hands of the court.

Thank you.

The Deputy Chair: Are you ready for the question?

Hon. Members: Question.

[Motion on amendment A2 lost]

The Deputy Chair: We're now back to the bill. The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you. I would like to move another amendment just to double-stamp the point here. I will be quick, as I know we're in a long evening. If we could just pass out the amendment.

The Deputy Chair: Okay. We will pause for a moment. This will be amendment A3. Is this amendment to section 7?

Mr. Hehr: Yes.

The Deputy Chair: Okay. This will be amendment A3, and we'll pause while it's being distributed.

Please proceed, hon. member.

9:50

Mr. Hehr: Well, thank you very much, Mr. Chair. I thought that this was a brilliant move when I did this earlier today. In hindsight now this might not be best. I already made my argument on this amendment, and just to say it again: this is a symbolic move that says there is a lot of power being centralized in this bill, and we on this side of the House are worried about this centralization of power. You can refer to the rest of my earlier notes in *Hansard* if you want to hear my arguments again, but I'll spare the hon. members that indulgence in the House at this time.

So those are my comments.

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

Mr. Kang: Thank you, Mr. Chair. It's a great honour to stand up and speak in favour of amendment A3, striking out "may" and

substituting "shall." Substituting "shall" will definitely bring more certainty and more affirmative action. All of the information relevant to the history of the planning region, its geography, and its demographics must be taken into account and used in the development of regional plans. As an example, information on water supply is essential to any regional plan, so we need to ensure that these elements are considered. With "may" it may or may not happen, so I think with "shall," you know, we are ensuring that it will happen.

I would urge all members to support amendment A3 so that we can bring certainty, and that will bring clarity as well and some affirmative action in this. For those reasons I urge all members to support amendment A3.

Thank you.

The Deputy Chair: Any other members wish to speak? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Thank you, Chair. I would oppose this amendment for the same reason that I opposed the last amendment. As the Member for Calgary-Buffalo said, and I quote: it's nonsensical to believe that this is not going to happen. It is going to happen. Changing "may" to "shall" is not going to change anything except, again, open the door to judicial review.

If you want accountability, I think Albertans would prefer political accountability rather than judge-made law, so I would encourage people to vote against this.

Hon. Members: Question.

[Motion on amendment A3 lost]

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

Dr. Swann: Thank you, Mr. Chairman. I'd beg the indulgence of the Legislature to stand and speak for the first time to this bill and to get some comments on the record with respect to this bill, which in many respects is progress for Alberta and represents a much-needed dimension to planning in the province after many years of recognizing excessive demands on the land, unfettered development, especially in areas of intense growth and development like the oil sands. It's an area that we have been pressing for years for a bigger plan on.

Failing to plan is a plan to fail, and I think this government is recognizing that. In these times, particularly when we're seeing limits placed upon developments by infrastructure, by social impacts, by limits on the environment, and indeed by climate change, we have to take very seriously the commitment to a broad-based, integrated land-use framework. I applaud the minister and this government for moving forward on this, a challenging and important initiative that has had some consultation. Obviously, some of the consultation has been taken into consideration with the development of this bill, the land-use framework, otherwise known as the Alberta Land Stewardship Act.

I just want to be clear on the record that the principles are vitally important; the practice is also vitally important. For many of the individuals and groups who have reviewed this with us and, certainly, in my review of it, there are some very positive elements and some real concerns, obviously, in the details of how this is implemented and in the regulations. Some of the issues have been raised before in this House. I simply have a need to put on the record some of those concerns, chief of which are the broad discretion of the cabinet and the lack of accountability.

It's clear to us that without a very strong alternate view and an option to appeal and to address some of the political influence that

essentially can interfere in land-use decisions, there is a vulnerability to a plan which places so much power behind closed doors. We want to be very clear on record that without more checks and balances and an opportunity for transparency of these decisions – who is benefiting, who is paying, how these issues are going to be honouring the spirit of the land-use framework, that look at cumulative impacts, that look at long-term impacts, that look at not only the economic bottom line but at some of the serious implications for balancing this province in the way of social, environmental, and economic sustainability that Albertans expect of us and demand of us – we have no excuse for not ensuring some checks and balances that protect our future and our children's future.

The guiding principles are there. The implementation raises real concerns. We will be watching closely, as many of the groups in the province will be. There are obviously municipalities, rural districts, industries that also want to see their children and their grandchildren taken care of and want to see a mechanism in which the implementation of this plan is clearly in the long-term interests of the province and is not compromising some of the good principles that have been expressed but are not represented in the actual implementation.

From our point of view, the need to limit the control of cabinet, a political body which has limited science, limited access to thinking in terms of the longer term, based on political interests: we have serious concerns that the checks and balances may not be what they could be, and we hope that some of the amendments that are being recommended will be considered seriously to not only do the right thing but to be seen to be doing the right thing in terms of the public perception.

Albertans want to share in this plan. Albertans have a deep and abiding commitment to the long term and need to have very substantive input into the regional plans, which are very well based upon river systems and watersheds, as they should be. What isn't as clear and isn't as accountable to local citizens and other interests is how their input can truly be reflected in the ultimate decisions that are made for their region.

So I hope that in putting some trust in this government and supporting the essential thrust of this bill, we will see the realization of some of these checks and balances and that, indeed, we will honour the spirit and the reality of the democratic process by ensuring that people do have access to significant influence on how this will be implemented.

With those comments, Mr. Chairman, I will take my seat and continue to listen to further amendments which are constructively designed, again, to ensure not only the spirit of accountability but the reality of accountability.

Thank you, Mr. Chairman.

10:00

The Deputy Chair: Any other members wish to speak to Bill 36? The hon. Member for Calgary-Buffalo.

Mr. Hehr: I'd like to make an amendment to 52(1).

The Deputy Chair: Hon. member, what section are you talking about?

Mr. Hehr: Section 52(1). Sorry.

The Deputy Chair: Okay. Hon. member, we'll pause for a moment while this amendment is being distributed.

Hon. members, this will be amendment A4, as moved by the hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you, Mr. Chair. This amendment comes straight from the Environmental Law Centre. They've recommended it, so I believe it. It made sense to me at the time. They did some work on this front to try to better this bill. I'll actually even just read into the record what their suggestions are. These amendments would make additional "may" action items into "shall" items. There's no reason why each of these items should not be mandatory.

Bill 36 makes many elements of the process structure discretionary. It is not mandatory that Cabinet establish land-use planning regions, in spite of the detailed descriptions and maps of the intended regions in the LUF document. Nor is Cabinet required to develop land-use plans for any regions that may be created. All aspects of how planning should take place, from the scope of the process to the roles of the governance bodies to the forms of public consultation and communication, are left to be determined by Cabinet.

These are actual suggestions from the Environmental Law Centre. Something to this effect: cabinet is required to make planning regions.

On this one in particular:

A regional planning process must set out the roles of the various governance bodies, establish the terms of reference for the process, specify the required public and stakeholder communication and consultation, and require the development of provincial land-use policies to guide regional land-use decision-making (changing "may" to "shall" for [this] section).

Anyway, this amendment would add the requirement to follow through with this component, so that's why I put this forward. I know that it's very similar to what we had before.

I'd invite some other hon. members to speak out on this issue.

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

Dr. Swann: Well, thank you, Mr. Chair. I'm glad to rise and support this amendment. Again, the challenge to the minister and to this government is to shift from discretionary to required action, especially when this government has so much control over the regional planning councils and, indeed, the secretariat. There is a real conflict between the kind of control that this government is taking over the process and what Albertans are telling us they want to have in terms of not only the spirit of participation but the fact of participation.

Without more clarity and with the power vested in the cabinet, it's clear to many of us that we are vesting in a few people without evidence of their capacity to make these kinds of decisions in the best interests of a particular region way too much power. We on this side feel very strongly that there is far too much control left in the hands of elected representatives, to be sure, but not necessarily representatives of particular areas where regional plans are going to be made.

This is, again, an area that raises questions about the sincerity of this government with respect to democracy, democratic process, appeal processes, accountability, transparency. These are words that we bandy about, but we're looking for evidence in the legislation that we are serious about that. I would urge the minister to consider this afresh and look for ways to send a very strong message that people are welcome, that people's views and people's influence on this process are going to be required, and that there are checks and balances on this government and its arbitrary use of decisions that may or may not be in the long-term public interest.

Thank you, Mr. Chairman.

The Deputy Chair: Do any other members wish to speak? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Yeah. I'd, again, encourage members to vote against this amendment. I doubt it'll come as any surprise to the members opposite that for the one regional advisory council that's already been appointed and met, we have already created terms of reference. Section 52 is about terms of reference. We've done terms of reference for the first regional advisory committee, and we're in the process of doing them up for the South Saskatchewan. So, again, this is unnecessary, and I'd encourage people to vote against it.

The Deputy Chair: Do other members wish to speak?

Dr. Swann: To the minister. The terms of reference have been created. The question is: who created the terms of reference? How much participation did the local individuals have, and to what extent are they able to make the changes that may well become necessary to those terms of reference?

The Deputy Chair: Do any other members wish to speak? The hon. Member for Lethbridge-East.

Ms Pastoor: Yes. My question would be along the same lines perhaps as the leader. I'd like to have it clarified why the terms of reference would be different for each region.

Dr. Morton: There'll be some similarities in the terms of reference for the different regions, but there'll be differences as well because the different types of environmental challenges that face the different regions vary from region to region. In the lower Athabasca you're dealing with oil sands. There are no oil sands in the South Saskatchewan. In the South Saskatchewan you're dealing with some fairly serious water scarcity issues. Again, while there are some water issues in the lower Athabasca, they're of a very different type. So there'll be some similarities in the terms of reference but also differences that reflect the differences in the challenges that face different parts of the province.

The Deputy Chair: Any other members wish to speak?

Mr. Hehr: I'd like to move an amendment to 50(1)(c).

An Hon. Member: We're still voting on this one.

Mr. Hehr: Oh. Sorry about that. I apologize, hon. member.

The Deputy Chair: If no one else wishes to speak, I will call the question on amendment A4 as moved by the hon. Member for Calgary-Buffalo.

[Motion on amendment A4 lost]

The Deputy Chair: Back to Bill 36.

Mr. Hehr: I'd like to move an amendment. It's on 50(1)(c).

10:10

The Deputy Chair: We'll pause for a moment while that amendment is being distributed.

Hon. members, this is amendment A5. The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you very much, Mr. Chair. To officially move the amendment and read it into the program: in section 50(1)(c) by striking out "describe the public and stakeholder communication and

consultation required" and substituting "describe the public and stakeholder communication and consultation that must be undertaken during the development of each regional plan."

The hon. minister of sustainable resources pointed out the need to have unique plans for unique regions. He talked about different issues, different challenges; for example, how the oil sands of the Athabasca region are different from the drought-parched areas of the South Saskatchewan. What amendment A5 attempts to do is to give the people who are on the ground in those locations an opportunity to have direct input.

Now, I've noted in previous comments that I appreciate the fact that there will be five-year reviews built into the system. But if you have people onside to begin with, the chances of successful reviews are going to be that much better. In other words, if you plan correctly in the first place, then evaluating the plan should produce the results that were your objectives and priorities. And it's absolutely essential that the people in the region have significant input.

This further clarifies the public and stakeholder consultation to take place during the development of regional plans. It ensures that the public will have a chance to be involved in the regional planning process by including the words "that must be undertaken."

I don't believe that the word "must" requires a court intervention. What it does require is that the people who are most affected by the plan in their region have the opportunity not only to be consulted but to be collaborative participants in the development of the plan. That is the reasoning behind amendment A5.

The Deputy Chair: Any other members wish to speak? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Thank you, Chair. Again, a well-intentioned amendment but one that's unnecessary. There are ample provisions already for the public in each region to participate in the development of the regional plans. The regional advisory councils include 15 to 17 members of the communities, that represent a broad cross-section of sectors and interests within each region. Again, looking at the lower Athabasca region, that regional advisory council is already holding forums and open houses in the communities in the lower Athabasca to solicit public input. It's not a question of what might happen; this is already happening. So the amendment is unnecessary. I'd urge members to vote against it.

The Deputy Chair: Any other members wish to speak?

We'll call the question on amendment A5 as moved by the hon. Member for Calgary-Varsity on behalf of the hon. Member for Calgary-Buffalo.

[Motion on amendment A5 lost]

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

Dr. Swann: Thank you, Mr. Chairman. It's my honour to rise and make an amendment under section 15.

The Deputy Chair: Okay. We'll pause while that amendment is being passed out.

Please proceed, hon. leader.

Dr. Swann: As it's proposed, the Member for Calgary-Buffalo moves that Bill 36 be amended in section 15 by striking out subsections (3), (4), and (5). This will remove sections of the bill that prevent a person from bringing an application or proceeding

before the court. As it is currently in the bill, section 15 is, frankly, undemocratic, and clearly we on this side believe with many Albertans that there needs to be more accountability and access to the courts, as there would be under any significant issue in this province. We need a system of checks and balances. Albertans must be given that freedom and that opportunity to challenge decisions that are blatantly wrong. To remove that flies in the face of what this government says that it stands for.

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

Ms Pastoor: Thank you, Mr. Chair. This is the first time that I've actually had the opportunity to stand up and speak to this bill. I would like the opportunity to say that I realize that the work required to put together a bill of this magnitude was enormous and was certainly very overdue, as we all know. I compliment the Minister of Sustainable Resource Development for shepherding this bill through the multiple other ministries that were involved. I think it's been an impressive show of focus and ability. Is it perfect? No, but it is a good start.

As with everything new it takes time for actions to prove themselves, but I don't think that I see enough latitude for correction outside of the centralized power of the ministry. Despite the explanation by the minister of his differencing between politics and the judicial – I agree that that's the ideal. However, as I see what I believe to be an increasing democratic deficit in the province, I look more and more to the courts for openness and fairness. This is not how the process should end; however, it appears that that's what's happening.

10:20

Should this bill be tweaked? Absolutely, and that's why these amendments are being brought forward, certainly, one by one. This particular amendment falls right into the remarks that I just made, that I really believe that there isn't enough outside latitude. Bill 36 has limited avenues for Albertans to challenge cabinet's power and decisions that may be inconsistent with the regional plan. If they're inconsistent, it still allows that power to override, actually, the regional planning groups, that the minister has referred to. Bill 36 has effectively shut the door on Albertans' ability to challenge decisions by judicial review. Judicial review is an important tool because it allows the courts to review laws and decisions made by the government to determine whether they were made fairly, in accordance with required procedures and authority.

Bill 36 also expressly prohibits any individual or group from bringing an application for judicial review as well as any other cause of action related to noncompliance with the regional plan. Instead, all judicial review applications will be channelled through a government representative, the stewardship commissioner, who will determine whether or not the matter may be brought to the courts. That is a tremendous amount of power in one person's hands. I believe that it is way too much. I think that it is overpowering. I also think it would be very intimidating for anyone who would challenge that particular stewardship commissioner. That commissioner will determine whether it would go to the courts, but since the stewardship commissioner would be appointed by the province and will be a member of the provincial civil service, it's unlikely that he or she would bring an application for judicial review against cabinet or a provincial government department or agency for noncompliance with the regional plan.

I think that in a case like this the expression "follow the money" is one that could be used. I think the question again is: who signs the paycheque? That's where the power lies. Who really signs the

paycheque here? We can often determine what people's behaviour would be.

Only the courts should be permitted to determine whether an application for a judicial review has merit. This is not the role of a government appointee as it undermines the check-and-balance function of the judicial review process. As my words, I hope, have indicated, I feel very strongly that always the elected political side should take precedence over the courts. I think that when the BNA Act came back to Canada, a lot of that was shifted to the courts, and I think that the power should be in this House. However, I also firmly believe that there must be an open process whereby people can challenge those decisions and not feel intimidated and not feel that they have to knuckle under or, in fact, back off. As I've said before, I think that this is a question of following the money. Who signs the paycheque? You can figure out what their behaviour would be.

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

Mr. Hehr: Well, thank you very much, Mr. Chair. I, too, would like to add to the comments by the hon. Member for Lethbridge-East. Simply put, this is an example of the power grab, of cabinet's power and authority in not allowing the traditional judicial review process. This is an important tool, and it would allow courts to review these laws and decisions made by the government. These laws and decisions are made by the government, hopefully, in the best interests of the people, and they should be interpreted by the courts. Sometimes if we leave these things in the hands of politicians, there are external pressures that come up from time to time that impact their decisions that may not be within the spirit in which they originated the initial legislation.

That's what judicial review was created for. It's tried to take that temptation out of the hands of politicians who want to gerrymander or monkey with the system to create things. We're all human beings here. We all have pressures. We've got people yelling at us about this, yelling at us about that. It's pretty easy to say: "All right. We'll make this decision this one time. Yeah, it might go against the general principle of things, but it's only one time."

[Mr. Cao in the chair]

Once you start doing those things, once you start not allowing for judicial review, well, that's not very good. At least, that's the perspective I'm putting forward. Many people I've talked to about this bill are worried about that concentration of power and lack of judicial review available to people who are using this framework.

Anyway, those are my comments. I appreciate the chair's time.

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

Mr. Chase: Thank you. Very briefly, this mistrust of the judicial system is a concern to me because that's at the heart of a number of amendments that we're putting forward.

We've just had an hon. member – and I can name him now – Ron Stevens, appointed to the Court of Queen's Bench. I would assume that whether it's a federal government appointee or whether it's a provincial government appointee, these people are chosen based on their capabilities.

When we're talking about the seven watersheds, the DFO, the Department of Fisheries and Oceans, is going to have input into a number of the decisions that will be made, and hopefully it will be of a collaborative, collegial nature. But whether it's, for example, the long-anticipated completion of the southwest ring road going over the Weaselhead through successful collaboration of several

government levels, including the band council of the Tsuu T'ina and the Tsuu T'ina Nation voting on the agreement, there is a collaborative process that provides input.

With regard to the judicial process decisions are going to be made, and to suggest that judges have their own intent, that their intent somehow is different and selfish in interpretation – these are people who are chosen from amongst the ranks based on their legal background. They are appointed based on their capabilities. So to suggest that somehow the judicial system is going to operate in opposition to an established government, I don't see that as a problem.

It's checks and balances. We have elected politicians, and we have appointed judges. But who appoints them? It's the politicians. So it's a closed loop, and both have to be there. That's why this particular check that is being proposed in amendment A6 is of such importance. It's a matter of trust. Do we trust the people we appoint?

The Chair: Any other hon. member wishing to speak on amendment A6? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Thank you, Chair. What was only hinted at in the earlier amendments is now out in the open for everybody to see. The opposition members would like to see as much of this as possible pushed over into the courts.

Dr. Swann: It's freedom.

Dr. Morton: It's not freedom. It's loss of control. It has nothing to do with the impartiality of the judges. Judges have no training whatsoever in the scientific and statistical analysis that's typical in this type of policy. To move those kinds of decisions over to the judges is to move it into a forum where there's, frankly, no expertise. Judges are trained to make legal decisions. These are policy decisions. They'll be made by responsible ministers working with civil servants who are trained in the various biological and environmental sciences. That's where it should be.

10:30

Frankly, I think that if we're just doing political self-interest, confusing who's responsible for public policy by making this all judicially reviewable, that would probably be in our self-interest because then we couldn't be held accountable for it. What we're doing in this piece of legislation is saying that the government of Alberta, at least in this first iteration, in this first 10 years of land-use will make the decisions, and you can hold us accountable. There won't be any confusion about whether it's judges that are making the decisions or not. Frankly, I think this shows a certain amount of courage on the part of the government, and I'd urge members to vote against this amendment.

Dr. Swann: Again, Mr. Chairman, nobody is saying that politicians shouldn't be making policy decisions. What we're saying is that all citizens should have access to the courts when they feel they are being violated, when fundamental values and principles and planning of a community are violated by a particular plan. It's a check and balance. I think most citizens in a civilized, democratic society need and recognize the need for an option. We're not saying it would be used frequently at all, but it has to be there.

The Chair: Any other members wish to speak on amendment A6? Seeing none, the chair shall now call the question.

[Motion on amendment A6 lost]

The Chair: On the bill, the hon. leader of the third party.

Mr. Mason: Thank you very much, Mr. Chairman. I have several amendments that I'd like to put forward, and I'll start with the first one.

The Chair: This amendment is now known as A7.

Hon. leader of the third party, please continue on A7.

Mr. Mason: Thank you very much, Mr. Chairman. This amendment has several parts. The essential intent of it is to require the government to be committed to its own policy and to require a number of things that currently are optional to become mandatory.

In the first instance, section 5, the entire section, which is entitled Lieutenant Governor in Council Not Constrained, will be struck. Essentially, it now says that a regional plan may be made or amended whether or not a regional advisory council has been appointed for a planning region to which a regional plan or an amendment applies, a regional advisory council or other person has provided advice, or that the secretariat has provided advice with respect to a regional plan. These are all requirements. This section allows the cabinet, essentially, to make or amend a plan regardless of whether or not those steps have been followed. We think those steps ought to be followed, so we're proposing to strike section 5.

Section 50 is amended as well. In this particular case there's a long list of things under section 50 that the Lieutenant Governor in Council may do. This takes the first several, (a) through (e), and makes them mandatory on the part of the government so that the government must authorize the commencement of a regional planning process, a process to amend a regional plan, or a process to review a regional plan. It must set the terms of reference. Part (c) has already been voted, I think, in a Liberal amendment, so you'll see that that part is whited out. But it also requires the description of the role and function of a regional advisory council and the direct recognition, consideration, or development of provincial policies and guidance on how they are to be respected and so on. Those become must do things.

The remaining sections are put in a subsection (1.1) and retain the current status that they have; in other words, that the Lieutenant Governor in Council may do those things.

In section 8 of the bill a similar process is done where section 8(1), which is already a must, adds a number of portions from sub (2) where it currently says that a regional plan "may" do these things. This amendment would make it a requirement to provide for one or more thresholds for the purpose of achieving or maintaining an objective; to name, describe, or specify indicators to determine or to assist in determining whether an objective or policy in the regional plan has been, is being, or will be achieved; and for describing or specifying the monitoring of thresholds, indicators, and policies and so on. All now are moved into section 8(1), that is requirements. The remaining clauses there are moved into section 8(2) and retain the status of "may."

Mr. Chairman, basically, this amendment is designed to increase the mandatory requirements on the government with respect to the planning process. So much of this bill is optional. So much of it gives a wide discretion to the government, wide powers to the government, centralization of authority but also a great deal of latitude and freedom on the part of the government to do what it wishes, when it wishes, and how it wishes to do that.

We believe that the process that has been set out here is generally good, but we believe that municipalities, individuals, landowners, all of the stakeholders need to have greater certainty that these plans will in fact actually be carried out as they are intended and not just

turned on a dime or abrogated because the government decides. These are by way of additional constraints on government power under this plan, and I know that many members of different philosophies in this House believe in having constraints on government power.

I would hope that members would see fit to support this amendment. I think that it strengthens the planning process, constrains government power, and democratizes the process of planning in this process.

Thank you.

10:40

The Chair: The hon. Member for Calgary-Varsity on amendment A7.

Mr. Chase: Thank you. Speaking specifically to A7 and supporting it, I would refer to this as the do as I say, not as I do amendment because what it does is require the government to follow through. It requires the government to commit to carrying out its stated policy. It requires the government to live up to Albertans' expectations.

Now, I'll wait, obviously, to hear the hon. Minister of Sustainable Resource Development's reply, but what I see is the intent of amendment A7 is to remove the wiggle room. I don't think that in the wording it brings the judiciary into the enforcement. It clearly points out that the government is responsible to not only itself but to the people of Alberta who elected it to carry out its stated policy.

We do have arm's-length individuals who attempt to keep the government on track. We have our Auditor General, who looks at the financial aspects, and we have the Ombudsman, who looks at the fairness aspects. Basically, I see this as actually empowering the government to live up to its stated policies. If anything, I see it as empowering rather than restricting. It's saying: you've said you're going to do this; live up to your stated policy.

Therefore, I support amendment A7.

The Chair: Any other hon. member who wishes to speak on amendment A7? The hon. Minister of Sustainable Resource Development.

Dr. Morton: Thank you, Mr. Chair. Again, I'd urge members to vote against amendment A7. It's at best unnecessary and at worst pernicious. It's unnecessary because we're doing all these things anyhow, and it's pernicious because it basically takes away the discretion and flexibility that's appropriate in a policy exercise of this scope and novelty. As I said in question period yesterday, there's no off-the-shelf recipe book from some other jurisdiction that has already done something like this. This is uncharted territory. It makes sense to leave discretion and flexibility for the first iteration, or first generation.

I don't see too many youngsters over on the other side there, but there's another generation of political leaders who will probably be here in 10 years on our side. Maybe once we've had a decade of experience with this, some of the changes that the members opposite would like we can firm up, change the may's to musts, but for this first go-round I think the "may" is a much more appropriate approach.

Again I'd urge people to vote against the amendment.

The Chair: Seeing no other speakers on amendment A7, the chair shall now call the question.

[Motion on amendment A7 lost]

The Chair: The hon. Member for Edmonton-Centre on the bill.

Ms Blakeman: Thank you very much. I would like to move one of the amendments on behalf of my colleague the Member for Calgary-Buffalo, and that is amending section 61(6). I'll wait for that to be distributed.

The Chair: We'll pause a few moments for distribution of the amendment. It is now known as amendment A8.

Hon. Member for Edmonton-Centre, please proceed.

Ms Blakeman: Thank you. I'm moving this amendment, which would be A8, on behalf of my colleague the Member for Calgary-Buffalo. This amendment is amending the Alberta Land Stewardship Act in section 61(6) by striking out "or without."

Section 61(6) reads:

If the secretariat is satisfied that there is clearly non-compliance with a regional plan, the stewardship commissioner may refer the matter, with or without a report.

In other words, we would be taking out the "or without," so it would say that the stewardship commissioner may refer the matter, with a report or recommendations, to either or both of the following who have jurisdiction or authority with respect to the matter: (a) a Minister or government department, or (b) a local government body.

The point of this is to require that reports would be provided for cases of noncompliance as compared to reports being optional. I think what this does, ultimately, is give an audit trail, a clear record of where there has been noncompliance. It's a fairly small amendment but, I think, one that would be helpful overall in the bill, and I urge my colleagues to accept this amendment. I think it increases the accountability of the process.

Thanks very much.

The Chair: The hon. Member for Calgary-Varsity on amendment A8.

Mr. Chase: Thank you. We're awfully reliant in this province on self-reporting. If someone hadn't basically externally blown the whistle on 1,500 dead ducks or hadn't blown the whistle on human waste being released from one of the sites in the oil sands, chances are we wouldn't have found out about them.

Now, there aren't sufficient personnel in either Sustainable Resource Development or in Environment to do the tracking, so what this says is that when there is a case of noncompliance and it has been pointed out, the government is required to follow up on the circumstance. The government has the capabilities to prioritize the reporting, but there's an expectation in this particular amendment, A8, I believe, that the government act upon all reports. If the government doesn't feel it's important to act, then what's the point of the government?

The Chair: Are any other hon. members wishing to speak on amendment A8?

Seeing none, the chair shall now call the question.

[Motion on amendment A8 lost]

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

10:50

Mr. Mason: Thank you very much, Mr. Chairman. I have another amendment, which I'll provide.

The Chair: This amendment is now known as A9.

Hon. leader of the third party, please proceed.

Mr. Mason: Thank you very much, Mr. Chairman. I move that Bill 36, Alberta Land Stewardship Act, be amended as follows: section 4(1) is amended by striking out “may make or amend regional plans for planning regions” and substituting “must make a regional plan for each planning region, and may subsequently amend any regional plan.”

Mr. Chairman, the intent here is similar to the previous amendment that I raised. The introductory clause, entitled How Regional Plans are Made and Amended, says that “the Lieutenant Governor in Council may make or amend regional plans for planning regions.” Again, we want to hold the government’s feet to the fire with respect to its commitment to establishing regional plans, so we are simply saying that it must make a regional plan, and it may subsequently amend any regional plan. A very simple change, a significant one, and I urge members to support it.

The Chair: The hon. Member for Calgary-Varsity on amendment A9.

Mr. Chase: Yes. I think it must have something to do with the fact that we’re amending an environmental bill, but I’m going to refer to A9 as the daisy-petal-picking amendment. What the hon. member of the third party is requiring of the government is commitment. As opposed to I may or I may not, he is saying: I must. It’s that type of commitment that our relationships are. Whether they’re our relationships with our significant others or our relationship with our constituents, there is an expectation, a requirement, a commitment. Thank you.

The Chair: Any other hon. member wishing to speak on amendment A9?

Seeing none, the chair shall now call the question.

[Motion on amendment A9 lost]

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

Mr. Kang: Thank you, Mr. Chair. I’m rising to put an amendment from my colleague from Calgary-Buffalo on Bill 36, Alberta Land Stewardship Act, in section 18(3)(b) by adding “who is non-compliant,” after “person;”. I’ll wait till they pass it out.

The Chair: Right. We’ll pause for the pages to distribute the amendment. This amendment is now known as A10.

Mr. Kang: This amendment focuses on the power of the court around the conduct of a person. The very broad granting of power in Bill 36 is also evident in relation to compliance and enforcement matters. While it is most common to create offences and penalties in either statutes or regulations, the bill enables cabinet to create offences and establish penalties through regional plans. This distances the penal aspect of the land-use planning system further from this apparent legislation, Bill 36, and makes it more difficult for those who may be subject to land-use plans to determine the legal requirements they must meet to avoid a penalty. Further, the Court of Queen’s Bench is empowered to issue orders dealing with noncompliance with Bill 36, a regulation, or a regional land-use plan.

Under section 18(3) the court’s powers include the ability to make any order to manage the conduct of a person without further limitations. These compliance powers should be enforced in areas of noncompliance and need not be overly broad. The court’s powers in issuing orders to deal with noncompliance should be modified to limit it to addressing conduct causing noncompliance.

I think for those reasons I urge all members to support the amendment to section 18(3)(b). Thank you.

The Chair: The hon. Member for Calgary-Varsity on amendment A10.

Mr. Chase: Thank you. What A10 provides is the rules under which noncompliance would be determined. It spells them out clearly so that a person realizes under what circumstance they’re not being compliant. It takes the mystery out of it, it puts the regulations in rules, and it also requires enforcement. Just simply stating, “you’re noncompliant and, therefore, we’re taking your land or we’re redirecting the usage of that land,” without having the rules is not acceptable. So what, as I say, amendment A10 attempts to do is clearly define the rules of noncompliance and clearly define what the enforcement measures for noncompliance will be. It creates a level playing field, and it creates the rules by which the game will be played on that field.

The Chair: The hon. Minister of Sustainable Resource Development on A10.

Dr. Morton: Yes, Mr. Chair. I have trouble saying this, but I actually think this amendment might make sense.

Mr. Mason: It’s just late, Ted.

Dr. Morton: Yeah. Yeah.

All the other subsections to 18(3) – (a), (c), (d), and (e) – talk about noncompliance. This one is open-ended. I think, actually, this would be an improvement, so I encourage people to accept this one.

The Chair: Seeing no other to speak on amendment A10, the chair shall now call the question.

[Motion on amendment A10 carried]

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

11:00

Mr. Mason: Okay. Thanks, Mr. Chairman. I have another – no, Mr. Chairman. I’m not going to make that amendment at the moment.

The Chair: Any other hon. member wishing to speak on Bill 36? Seeing none, the chair shall now call the question on the bill.

[The clauses of Bill 36 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 34 Drug Program Act

The Chair: Are there any comments or amendments to be offered with this bill? The hon. Member for Calgary-Varsity.

Mr. Chase: Yes. Unfortunately, Bill 34 with regard to drug programming has limitations. I do appreciate the fact that the

government has, for example, increased funding to recognize I believe it's Avastin for fighting cancer. That's a very important recognition. However, this particular Bill 34 doesn't go far enough in terms of approval of recommended treatments that other provinces have noted, and it doesn't sort of reach out in terms of bringing in at least the other provinces – B.C., Saskatchewan, and Manitoba – and making it a more inclusive program and, therefore, a less expensive program, which would benefit Albertans because of its inclusive nature. Bill 34 just basically does not go far enough in terms of the approval.

Also, within Bill 34 we see sort of vestiges of the concerns with regard to seniors and funding for Blue Cross aspects. Yes, we're pleased that, for example, 60 per cent of Albertans are going to pay nothing or next to nothing, but unfortunately that tab is now being forced on the remaining 40 per cent. Those seniors who have contributed to such an extent all of their lives, contributed both in the aspects of their work and also in their contributions to the economy, are not recognized within Bill 34.

What has happened is that the government has basically done away with health care premiums, which all of us were required to pay, and I'm very grateful that those health premiums have been done away with. There has been some discussion that had we had that extra billion dollars from those fees, we might not be facing the imposed cuts. However, I do believe that health care is a universal benefit. By keeping people healthy, whether it be through proposals like Bill 34 in terms of drug programs or recognizing the preventative, proactive care, keeping seniors in their homes longer, a whole variety of support systems, we'll end up with an improved health care delivery.

There is no doubt that the most expensive increase in health care delivery is in drugs. The sooner we as a province collaborate and co-ordinate our drug purchases and push for a national pharmacare program, the better off we'll be. Unfortunately, Bill 34 doesn't take us sufficiently far in that direction, and therefore we are unable to support it.

Thank you.

The Chair: Any other hon. members wish to speak on the bill? The hon. leader of the third party.

Mr. Mason: Thank you very much, Mr. Chairman. I want to say a few words with respect to this. The bill establishes a drug program, but it doesn't specify the contents of it, so it gives enormous latitude to the minister, almost a blank slate, to develop something as he wishes.

Now, I know that the government is concerned about the growth of health care costs. Health care costs grow in significant part because of the rapid increase in the costs of new drugs. There are a number of reasons for this. First of all, some of the biggest companies, with the greatest cash flows and some of the highest profits in the world, convinced the Mulroney government about 15 years ago to extend patent protection for drugs. This was strongly opposed by the generic drug industry, which is largely a Canadian-based industry. But the large and international pharmaceutical companies prevailed on the government to essentially increase patent protection for new drugs from 10 to 20 years.

Now, the effect of that was essentially to provide a monopoly on new drugs for the company, the pharmaceutical corporation, that developed them in the first place for more or less the full marketable life of that drug. By the time 20 years are up, there are usually new drugs on the market, and the drug becomes obsolete. That essentially means that there's no effective competition from some of the smaller Canadian-based generic drug companies. So generics have

declined in significance as a result of that. Giving monopolies to the international pharmaceutical companies, of course, has an impact on prices, has an impact on the costs, therefore, to the health care system. Now, that's a federal issue, but I think it was a very, very negative development. Of course, the pharmaceutical corporations promised to do more research and development in Canada, but I think that that promise has largely been unmet.

Now, we buy a great deal of drugs in our health care system. As I said earlier, it's one of the major cost items that we have. We took a look at this a few years ago, and we took a look at different systems that are used, for example the formulary in British Columbia, and so on. But one of the most interesting examples of a drug administration in the western world was in New Zealand. Now, New Zealand is a small country, but it has a population of about 3 million. It's about the size of Alberta in that sense. They were able to make very substantial changes to their costs by introducing a system where all of the drugs for the entire health care system were purchased in bulk, and they used the negotiating power that they had as a bulk buyer to negotiate lower prices with the big drug companies. Of course, they do use generic drugs wherever possible, as well.

11:10

We thought that that was an interesting approach and one that might be useful here in Alberta. The research that we did indicated that in the first year this type of system in Alberta could save the health care system \$110 million. Those numbers are a few years old now, but we thought that the research was very solid on that. So the question we had was: if you have a choice between reducing your health care expenditures by cutting services to people or charging them more or paying less to big companies that supply you with drugs or some other input for your health care system, which would you choose? We certainly chose and would choose and would urge the government to choose paying less to the big pharmaceutical corporations for our drugs.

In fact, we did a little bit more research in terms of solving the problem that the government is tackling here of the seniors' drug program. The problem had been for some time that prescriptions for seniors were capped at \$25 per prescription. Of course, lots and lots of seniors have multiple prescriptions, and as we talked more and more to seniors, we found that it was quite common for seniors to have eight or 10 or a dozen or even more prescriptions, each one capped at \$25 a month. But eight prescriptions at \$25 per month is still \$200 a month.

If you took the saving that you could find and applied it to seniors' drugs, you could in fact reduce the copayment that seniors pay to \$25 a month for all the prescriptions that they had, not cumulative but just \$25 a month, if they had one or a dozen prescriptions. You could do that using the savings from the bulk purchasing program, and you'd be able to improve the seniors' drug program substantially with absolutely no increase to the taxpayer, simply from the savings that you'd achieved by purchasing your drugs.

Now, I know that the minister is struggling to find some other way to do that. He doesn't want to do it our way, and I guess that's not a big shock to us. Nevertheless, we think that this approach is one of the innovative ways of finding savings in the health care system. I don't think people pay their taxes in order to pay premium prices on drugs.

I think one of the problems that we have with this is not only that there's a group of seniors who now will pay premiums which are geared to income. We continue to believe that a universal system is preferable to an income-tested system. In our view, there is already a very complex bureaucracy established for testing income, and that

is, in fact, the income tax system. Of course, in Alberta that's a little different because we have the flat tax. Nevertheless, income-tested programs add bureaucracy and don't add a great deal of equity, in our view. So I want to just indicate that we object to the proposal that this be income tested, and we particularly object to making the drug program optional because we feel that some seniors who feel they cannot afford the premiums will opt out, and I think that that will produce very unfortunate results.

I think there are some positive things. I think the establishment of a single government-sponsored drug plan with a common drug list is a good thing. Currently there are five ministries that provide that coverage, and I think that that consolidation is probably a good one.

Mr. Chairman, I want to say that we're not going to support this bill because we believe it leaves too much power with the minister to determine the program and because of the things that we are aware of about the proposed seniors' drug program not being as equitable or, in our view, as efficient as it should be. The focus, as we say, needs to be first and foremost on cutting costs and negotiating favourable prices with pharmaceutical suppliers and to do that on a comprehensive, system-wide basis. That's the approach that we think fits the bill, and this bill doesn't.

Those are my comments, Mr. Chairman. Thanks very much.

The Chair: The hon. Member for Calgary-Varsity on Bill 34.

Mr. Chase: Thank you. Speaking specifically to Bill 34, the Drug Program Act, I'll be succinct. Society is judged by how it protects its most vulnerable. Seniors, when they're in a hospital circumstance, are frequently referred to in a derogatory fashion as bed blockers. Why would we not want to keep seniors in their homes as long as they possibly could ensure their quality of life? Seniors shouldn't be forced to choose between the cost of a drug or the cost of groceries or the cost of maintaining their homes. There should be support for seniors within their homes. Part of that support is what the government took away in 1994, and that was the educational portion of the property tax that was supposed to be eliminated for seniors once the good times came in, and we've had 14 years of good times leading up to this recessionary period.

The most expensive part of our life, unfortunately, is the end and treating people with dignity and being proactive. The costs of subsidizing all seniors' drugs is considerably less than the cost of daily treatment in hospitals at a cost of approximately \$1,800 a day or the palliative care that is only available to seniors who have the extra means to afford that kind of care. We need to allow seniors to not only live with dignity but in their final days to die with dignity, and part of that process – and it becomes increasingly so – is drug support.

My concern is that Bill 34, while it does create a province-wide drug program, which has the potential for saving, puts too much of that expense onto seniors themselves, and it's for that reason that I'm unable to support it.

11:20

The Chair: The hon. Member for Calgary-McCall on Bill 34.

Mr. Kang: Thank you, Mr. Chair. I also want to speak on Bill 34, the Drug Program Act. I also have concerns with the bill. For seniors the fact is that their income is based on line 150 from the income tax form and the total income instead of line 236, which is net income. For seniors who do not make enough money to pay income taxes, this is not applicable, but income thresholds need to be higher. The fact is that in effect this is an increased tax on seniors and is against the provincial 10 per cent flat tax, and it is primarily sick seniors who will end up paying more.

The fact that what seniors will have to pay will be based on income, they believe, goes against the principle of universality, and seniors believe that it is an invasion of their privacy that they will in fact be revealing their income, whatever they make. Mostly seniors plan their retirements around what they believed would be stable pharmaceutical costs, and with the economic downturn many seniors had major losses on their retirement funds. This plan will mainly affect middle-income seniors while having little effect on low- or high-income seniors.

Changing the Alberta Blue Cross nongroup coverage. There are currently more than 145,000 Albertans who are enrolled in nongroup coverage with Blue Cross, and the premiums for the nongroup Blue Cross have not been adjusted since 1993. Coverage is available to any Albertan and also to the individuals with pre-existing conditions.

Currently the nongroup premiums are \$20.50 for singles and \$41 for families. Proposed changes in the pharmaceutical strategy would be to increase the premiums for singles to \$41 and \$82 for families by July 1, 2009. There will be another increase for singles to \$63.50 per month and for families to \$118 by July 10, 2010. This is a 200 per cent increase from the what premiums currently are. The government has said that a subsidized premium rate will be available and that rates would be released in the coming weeks, in December most likely, yet this information has not been released.

The main reason that the government gave in the pharmaceutical strategy for increasing premiums for nongroup coverage was to achieve alignment with employer and private health insurance premiums, but this is not going to help the people who are vulnerable. They probably will be pushed to the sidelines. Maybe they will end up paying more with bad health, and it will be costing Alberta health care more if the people are not taking their medications if they cannot afford to buy them.

There are other reasons for concern here. Why is the government trying to align government-provided programs with the private insurance companies? The government is not supposed to be looking out for the best interests of the insurance companies; they are supposed to be looking out for the best interests of Albertans. How much money is Blue Cross losing before the premiums will be increased? How much money does Blue Cross stand to make with an increase in premiums?

The government estimates revenues from the supplementary health benefit premium to increase from \$25 million to \$34 million, an \$8 million increase. This is hitting seniors in their pockets. I think seniors shouldn't be paying anything because they paid their dues all their life that they worked. I think we're penalizing the seniors who have saved up some money for their golden years. I don't think it is right to even have any means test put in place for seniors.

An Hon. Member: Who's going to pay for it? Me.

Mr. Kang: Well, somebody's going to pay for you when you're old, so I think we have to show a moral responsibility to look after, you know, the seniors, the vulnerable, the poor.

The Chair: Hon. member, we have a chair here, so please address the chair.

Mr. Kang: Sorry, Mr. Chair. I apologize for that. I think I got thrown off track here. I got interrupted.

Under the old plan 60 per cent of seniors paid less or nothing for drugs, the same as the one announced on April 23, 2009. Single seniors who make between \$12,000 and \$24,000 will pay more on this plan as opposed to the old one. This is still burdensome to

seniors in Alberta. They shouldn't have to pay for the fiscal mismanagement of this government. The middle-income seniors did not see any relief from this change in plan; only a small minority of low-income seniors will benefit.

By being able to opt out of this program, the government is allowing a greater share of the market to be opened to private insurance. I think the government is encouraging the private insurance to come in and fill the void. If they make the government-sponsored drug plan program bad enough, they make it more expensive, it makes private health insurance look good. I think people will fall into that trap, and they will be buying private insurance. Before too long they won't be able to afford it, and I think that they will lose all the benefits they have.

By changing the plan from a deductible system to a premium and copayment system, the government is making it more difficult for seniors to analyze whether they will be any better off with this new system. I think it's causing more confusion among seniors.

For those reasons I don't think I can support this bill, Mr. Chair. Thank you very much.

The Chair: Any other hon. members wishing to speak on Bill 34? Seeing none, the chair shall now call the question on Bill 34.

[The clauses of Bill 34 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 35

Gas Utilities Amendment Act, 2009

The Chair: The hon. Member for Calgary-Varsity on Bill 35.

Mr. Chase: Thank you. I'll be brief, given the hour. I thought I would provide a historical vignette in the form of a brief bedtime story. NOVA, prior to its being called NOVA pipelines, was Alberta Gas Trunk Line. I had the opportunity in 1967 to work for Alberta Gas Trunk Line out of Rocky Mountain House, got a chance to see some wonderful central Alberta area because we covered an awful lot of territory and had some interesting adventures painting the posts, marking the pipelines orange and white. It's always a good idea before you paint the inside of a corral's fence posts to check what's in the corral. That's a good safety move.

11:30

In 1968, again working for Alberta Gas Trunk Line, I moved south to Fort Macleod, and we again covered a significant portion of southern Alberta. Just for the record, Alberta Gas Trunk Line was a wonderful Alberta company. It didn't lose any of its brilliance when it became NOVA. While I'm somewhat sad to see the regulation be federal, it does make sense that it be incorporated as part of the existing TransCanada PipeLines.

Therefore, after that brief but hopefully entertaining historical vignette, I'll take my seat.

The Chair: Any other hon. member wishing to speak? The hon. Minister of Energy on Bill 35.

Mr. Knight: Well, thank you very much, Mr. Chairman. I just want to make a couple of very brief comments relative to this piece of

legislation. Of course, I think that it's fair for me to put on the record that, in fact, the legislation became necessary because of an application that was made by TransCanada to move their jurisdiction from the Alberta Utilities Commission to the National Energy Board. The National Energy Board, of course, is the proper constitutional jurisdiction when any of these types of utilities would move product or services across borders, either interprovincially or internationally.

With the advent of a lot of activity in northeastern British Columbia and the possibility of product from that part of western Canada to come into Alberta in order to use the services of the Alberta hub and the systems that we have in place here to process natural gas and the tremendous connections that Alberta has to the North American gas markets, I think it is a piece of business that TransCanada is looking at that will, at the end of the day, Mr. Chairman, certainly benefit Albertans a great deal. TransCanada, of course, has been a very responsible investor in the province of Alberta for many, many years. We believe that their continued support relative to gathering and moving natural gas around the province of Alberta, now in and out of the province of Alberta and certainly into the North American market, is something that we should look forward to and certainly support.

With that, Mr. Chairman, I thank you very much for the opportunity.

The Chair: Seeing no other speakers, the chair shall now call the question on Bill 35.

[The clauses of Bill 35 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 41

Protection for Persons in Care Act

The Chair: The hon. Member for Lethbridge-East.

Ms Pastoor: Thank you very much, Mr. Chair. This act has been worked on, and I'm very pleased to support it. There are a couple of amendments I'm going to bring forward because there are a couple of areas that I think I would like tweaked on it. This bill completely repeals the former Protection for Persons in Care Act. It provides greater detail to the process that happens when a report of abuse is filed as it goes from the complaints officer to the investigator to the director and the director's decision. The maximum amount for fines levied on individuals and service providers is greatly increased from the former act. The only concerns with this bill, as I have mentioned already, are in regard to the regulatory power and to the access, use, and disclosure of personal health information by complaints officers, investigators, and the director.

This is a very important bill. It has been a long time coming. The Protection for Persons in Care Act, the one that it's repealing, certainly was old. Many of the horrific tales that I heard as a member of the MLA task force in 2005 have triggered part of the thinking behind this bill and why it's important that we work with it.

I also believe that this bill goes hand in hand with a voluntary procedure which is called, of course, the personal directive, which

I personally believe is one of the most important documents that people can sign. I also believe they should be signed at the age of 18. A quick example I would use is that many young people are hurt in car accidents, and because there is no signature on who would look after them, it then falls onto the parents, but in fact it isn't really a legal obligation because these directives haven't been signed. Often, unfortunately, the decision may well have to be made to take someone off life support. If that person's wishes have been made in that personal directive, then that's where this would fall in. So I really believe that that voluntary process falls in line with this Protection for Persons in Care Act because under this that personal directive is recognized and actually is protected.

There has been a lot of criticism about this bill, and it's based on some very real, horrific episodes from the past. I think that some of the people feel that this bill isn't strong enough and that, in fact, when people are declared incompetent, they will lose everything and there isn't anything to protect them. Again, as I've said, the personal directive would cut in, and they could be protected.

But I think that as with all new acts they need time to be evaluated. They need time to be worked through, and there is an evaluation process included in this bill. It is a good bill. As I said, I would like to tweak it for the couple of concerns that I had already mentioned, so if I could have my amendment passed out, please, I could address it in a moment.

The Chair: The amendment shall now be known as A1.

Hon. Member for Lethbridge-East, please proceed.

Ms Pastoor: Thank you, Mr. Chair. Yes. I would like to move that Bill 41, the Protection for Persons in Care Act, be amended as follows: in section 1(1)(m) by striking out "or" at the end of subclause (vi), by adding "or" at the end of subclause (v), and by striking out subclause (vii). The second part of that would be in section 26 by striking out clause (a), and I will get to that one.

The section states with regard to the definition of a service provider: "Any person designated by the regulations as a service provider." This section needs to be taken out because the definition of who this act applies to, I believe, should be written into legislation and not left up to regulations.

11:40

The government's rationale for having this provision is that continuing care is changing rapidly, and therefore they need to be flexible to change the definition of service provider to keep pace with the changes. However, my stance would be that any changes that happen to the way that continuing care is provided should be done in a measured way so that legislation is allowed to keep pace with the changes to the service that seniors receive. By putting it into the regulation, I think it still provides a focus that these changes can be made around. They can all be made under that legislation. It doesn't have to be left up to regulations that can actually be changed, of course, as we all know, by order in council.

I think that with the umbrella that is over what we know as continuing care, that covers long-term care, designated assisted living, enhanced lodges, et cetera, et cetera, we need something that people can hang their hats on, that is absolutely steady. With regulations they change too much.

For that reason, I would ask support for this amendment A1.

The Chair: The hon. Member for Calgary-Varsity on amendment A1.

Mr. Chase: Thank you. Speaking to amendment A1. Our hon. Member for Lethbridge-East, our shadow minister for seniors, has

noted that Bill 41 is kind of 92 per cent of the way there. What clause (a) is trying to do is add 4 per cent, and clause (b) will add another 4 per cent and bring the score for this particular bill up to 100 per cent, providing that the House is supportive of the amendment. What it tries to do is what we have frequently argued in this House, and that's to put the information into legislation so that the rules and the application of those rules are clear-cut so that everyone knows what they are. The alternative, putting them into regulation, hides them.

In the interest of transparency and accountability, which is always our main interest in keeping things in legislation as opposed to moving them into regulation, I would urge my fellow colleagues, Members of the Legislative Assembly, to finish their support for seniors that they've begun in Bill 41 and support amendment A1.

The Chair: The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you, Mr. Chairman. I simply want to put on record why we're not able to support the amendments recommended by the hon. Member for Lethbridge-East. I recognize that she has some knowledge and expertise in this area. But, very briefly, if we were to follow her first amendment with respect to deleting section 1(1)(m)(vii), which reads that service provider means "any person designated by the regulations as a service provider," we would substantially alter the definition, obviously, of who a service provider can be. I don't think we want to do that because a lot of thought has been put into that definition already.

With respect to the request to amend section 26 by striking out clause (a), I appreciate what the opposition members are saying, Mr. Chair. They don't want the Lieutenant Governor in Council being given the ability to make regulations that would designate a person or a class of persons as service providers, but that, too, is fundamental to the operation of government. I don't think we've had any problems with that in the past, and I don't foresee any problems in the future, quite frankly, with it. The regulations are there. They're very public.

Therefore, unfortunately, I would ask members to not support these amendments.

The Chair: Seeing no other speakers, the chair shall now call the question on amendment A1.

[Motion on amendment A1 lost]

The Chair: The hon. Member for Lethbridge-East on Bill 41.

Ms Pastoor: Yes. Thank you, Mr. Chair. I will be very brief with the next amendment that I would like to bring forward, so if I could ask you to have it passed out.

The Chair: This amendment is now known as A2.

Hon. Member for Lethbridge-East, please continue.

Ms Pastoor: Yes. Thank you, Mr. Chair. I would like to move that Bill 41, Protection for Persons in Care Act, be amended as follows: in section 1(3) by striking out "or" at the end of clause (d) and by adding "or" at the end of clause (c) and by striking out clause (e); in section 26 by striking out clause (b). The thinking behind this amendment is that section 1(3) sets out the circumstances when an act or omission does not constitute abuse, and 1(3)(e) states that an act or omission "in the circumstances prescribed in the regulations" would not constitute abuse. My argument for this is that a definition which is so fundamental to the operation of this legislation should

not be left to regulation. The determination of what does or does not constitute abuse should be written into the legislation, where there is some ability for oversight by the public. If the government is envisioning circumstances that would not constitute abuse arising in the future, they should anticipate that fact now and put it into legislation or amend the act in the future when the circumstances do arise.

I think it's very important that we all understand clearly what constitutes abuse. The many horrific stories, sad stories that we heard when we served on the MLA task force could be as basic as the fact that someone isn't being fed. It can be because, as we've heard from the third party with some of the letters that they have tabled, there simply isn't enough staff to toilet people properly, to get them out of bed properly, to in fact insist that they are fed.

My contention, based on my experience, is that abuse can be as a result of not having enough staff. You can't just keep pushing your staff as far as you can, because the mantra that's out there right now is that there's time to do the work, but there's no time to care. That is what bills like this are so important for. There must be the time that people are cared for but with respect and with dignity, and unfortunately those two things do require time.

11:50

I think that abuse should be clearly defined on how we would get around, as I've said, abuse being as a result of not having enough staff. That kind of abuse doesn't necessarily have to be verbalized in the legislation, but certainly I think that it has to be recognized that if someone isn't toileted, if they're not being fed, if injuries that they have are not being reported in a timely manner, that is clear abuse. I think that it would be very easy to put it into legislation.

With that, Mr. Chair, I will ask for support for this amendment.

The Chair: The hon. Member for Calgary-Varsity on amendment A2.

Mr. Chase: Thank you. Speaking to amendment A2, what the hon. Member for Lethbridge-East is attempting to accomplish, as I say, is completing the circle on the intent of Bill 41. In 2005 the hon. Member for Lethbridge-East along with the hon. Member for Calgary-Foothills and the hon. Member for Lacombe-Ponoka were part of a fact-finding mission that toured the province because of concerns raised with regard to long-term care by Auditor General Fred Dunn. He found that in just a third of the areas that he was able to surveil, there were a number of problems, from individuals who were not professionally trained passing out medications, the lack of patient-to-caregiver ratios, the lack of upholding of professional standards. It was for that reason that the task force toured the province and heard horrendous stories. As the hon. Member for Lethbridge-East pointed out, the abuse in many cases was not intentional. It was out of neglect. Again, the neglect was not intentional. It was due to the fact that there was not sufficient staffing available to provide the care necessary.

Now, as of a year ago January I lost my mother. For the most part she had a very good experience in Cedars Villa in Calgary, very close to the Spruce Cliff area. But even though she was treated for the most part well, if my dad hadn't come in every single night to help get her ready for bed, she would have been up that much longer because there were not sufficient people to get her ready. Because in the latter stages of her life she required a lift and a sling in order to lift her from her wheelchair into her bed, if my father hadn't come in and assisted with that care, again, she would've been very late not only getting up in the morning, potentially, but at night.

My father tried to make it easier for the caregivers, and myself and my wife and my daughter, my sister, and my brother all tried our very best to come in and support not only our mother but the staff in

terms of the care for our mother. We would do such small things as setting aside outfits that were of a co-ordinated fashion so that my mother, who had been throughout her life a very meticulous dresser, could continue to have the dignity of having co-ordinated outfits. When, due to failing health, those garments were soiled, we made sure that there were accommodations. In other words, skirts now became more of an apron with little ties in the back.

We did everything in our power to support the system, but that isn't the case for a number of seniors who don't have advocates, who have lost their spouse or have either had no children or do not have children living in the area. They're left to the best intentions of care within the long-term care service providers. What amendment A2 attempts to achieve is to add to that guarantee of dignity, add to that guarantee of respect, add to that guarantee of care. It indicates that it recognizes the shortages as opposed to the shortcomings, and it attempts to address them.

It is my hope that my colleagues in this House will see fit to support amendment A2 and, in so doing, recognize the vulnerability of seniors and the needs for their extra support. Thank you.

The Chair: The hon. Deputy Government House Leader on amendment A2.

Mr. Zwodzesky: Thank you very much, Mr. Chairman. I've studied the amendments proposed by the Member for Lethbridge-East, and I've listened to the comments from the Member for Calgary-Varsity very carefully. I want to just say quickly and briefly that I used to be responsible for the protection of persons in care in a previous ministry, and in that respect I'd just like to make it known that I and everyone that I've met in this Assembly over the years I've been here all care very deeply about people who are in care. However, you simply cannot write into legislation every single thing that needs to be done or every word that has to be incorporated, nor can you write into legislation every definition that you would like. It's just too complicated to try and do.

In many cases some things are actually better dealt with or more appropriately dealt with in regulation, and that includes this case in point. You need flexibility to deal with changing circumstances, and you have to be able to do it oftentimes very quickly, efficiently, expeditiously, and in a manner that, of course, is dignified and in honour of the people being served. That's why it's important to retain the sections in this amendment and not strike them out. I appreciate the spirit with which they were given, but the practical experience that I've had with it and other members here might have had with it would suggest that, unfortunately, we're not able to support this amendment, and we should in fact leave it in.

The Chair: Seeing no other member wishing to speak on amendment A2, the chair shall now call the question.

[Motion on amendment A2 lost]

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

Mr. Mason: Thanks very much Mr. Chairman. I'd like to make just a few general comments with respect to this bill and want to indicate that in general this is a positive development, a positive change. It's essentially the old act of the same name, but it creates an expanded legislation regarding reporting of abuses involving clients who are in care. I want to just indicate that section 10, which lists the duties of a service provider, has expanded significantly on what is currently in the legislation. It lays out steps the providers must take in order to protect their clients from any sort of abuse as well as to make it necessary to provide clients with information on what to do when

such cases occur. It also clarifies that a service provider will take all steps necessary for client safety. Generally, I think, the act – and I won't get into the details; I have a number of things here in my notes to talk about, but given the hour, I'm going to go over it.

12:00

There are a couple of concerns, and here's one of them. The change in this act, or the previous act, says that

“abuse” means an act or an omission with respect to a client receiving care or support services from a service provider that

- (f) results in failing to provide adequate nutrition, adequate medical attention or another necessity of life without a valid consent, resulting in serious bodily harm.

They've added “resulting in serious bodily harm.” So, then, the question is: does somebody have to be badly injured in order for it to be abuse? I think this is a concern, and I would hate to think that you couldn't deal with this or intervene in some way until somebody is badly hurt.

Mr. Chairman, we've tabled around 250 working-short forms from unionized employees working in long-term care facilities in Alberta during this session alone. The problem, of course, is levels of staffing. In our view, in our experience the vast majority of people working in these facilities are caring people who sincerely try to do the very best for the people under their care, and they're so severely short-staffed that they can't adequately bathe people, change people, toilet people, much less make sure that they get all of the companionship and emotional support and so on that they might require. That is the basic problem that we're dealing with.

This act deals with a different kind of abuse, active abuse, and that certainly is far too prevalent, more prevalent, I think, than we believe. As such, it's a positive step, but I would just ask the minister who is responsible tonight about the whole question of including the clause “resulting in serious bodily harm” and whether or not the government would be prepared to consider amending that or taking a serious look at that. I think that it moves a lot of abuse out of the purview of the act. At least, that's my interpretation, which may not be correct, but I'd like to hear otherwise.

Mr. Zwozdesky: Mr. Chair, I'd be pleased to forward that on to the minister who is now responsible, but I wouldn't want it to preclude our concluding the debate in committee on the bill right now. There are always ways to look at things later and address them, and I'll undertake to make sure that the point raised by the hon. member of the third party does get addressed.

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

[The clauses of Bill 41 agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Opposed? Carried.

The hon. Deputy Government House Leader.

Mr. Zwozdesky: Yes. Thank you, Mr. Chairman. It's been an excellent evening of debate, and on that note, I would move that the

committee now rise and report Bill 29, Family Law Amendment Act, 2009; Bill 30, Traffic Safety Amendment Act, 2009; Bill 34, Drug Program Act; Bill 35, Gas Utilities Amendment Act, 2009; Bill 36, Alberta Land Stewardship Act; and Bill 43, Marketing of Agricultural Products Amendment Act, 2009 (No.2); and that we also report progress on Bill 32, the Alberta Public Agencies Governance Act. I hope I got them all.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Johnson: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bills: Bill 29, Bill 30, Bill 43, Bill 34, Bill 35, Bill 41. The committee reports the following bill with some amendments: Bill 36. The committee reports progress on the following bill: Bill 32. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

The Deputy Speaker: Those in agreement with the report, please say aye.

Hon. Members: Aye.

Mr. Mason: Sorry, Mr. Speaker. On a point of order.

Point of Order
Reporting Bills from Committee

Mr. Mason: I don't believe the motion from the Deputy Government House Leader included Bill 41, so it couldn't now be reported.

The Deputy Speaker: I believe it is on the list.

Mr. Mason: It's on his list.

The Deputy Speaker: Well, we heard the report.

Mr. Zwozdesky: Yes. Mr. Speaker, just to clarify the point, according to my very thorough and complete notes I did mention Bill 41.

The Deputy Speaker: All right.

I'll put the question again. Those in agreement with the report, please say aye.

Hon. Members: Aye.

The Deputy Speaker: Opposed, please say no. The report is concurred with.

The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you, Mr. Speaker. I would now move that the House stand adjourned until 1:30 this afternoon.

[Motion carried; the Assembly adjourned at 12:08 a.m. on Thursday to 1:30 p.m.]

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