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The Honourable Kenneth R. Kowalski, Speaker

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Legislative Assembly of Alberta

7:30 p.m. Monday, November 23, 2009

[The Deputy Speaker in the chair]

The Deputy Speaker: Please be seated.

Government Bills and Orders
Second Reading

Bill 61
Provincial Offences Procedure Amendment Act, 2009

[Adjourned debate November 3: Mr. Lukaszuk]

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

Mr. Taylor: Thank you very much, Mr. Speaker. It is my pleasure to rise on behalf of the Member for Calgary-Buffalo tonight and join in second reading debate of Bill 61, the Provincial Offences Procedure Amendment Act, 2009. I look forward to this debate and seeing how it goes. I think this is, on the face of it anyway, on the surface of it, a pretty noncontroversial bill.

I do find it interesting that we're dealing with a Provincial Offences Procedure Amendment Act in advance of the report, at least the making public of the report. The Provincial Offences Procedure Review Steering Committee was set up to examine the Provincial Offences Procedure Act, and they're not expected to report to the minister until the spring of 2010. In a sense maybe we're getting the cart before the horse a little bit, but maybe we're not.

On the surface it looks like a pretty straightforward bill. It seeks to make the following changes. It would permit an accused to submit a plea via registered mail.

It would provide for greater reliance on affidavit evidence when prosecuting a Provincial Offences Procedure Act offence, for example speeding, where you have three officers participating in a speed trap. One of them is operating the machinery, one is eyeballing the cars, and one is flagging down the offending automobiles. This should allow the members who are not operating the equipment to offer affidavit evidence.

It provides greater waiver powers regarding time to pay applications. Some language changes allow for considerations based on a reasonableness standard. There's some cleaning up of terminology so that the Provincial Offences Procedure Act is congruent with the Interpretation Act. If people fail to pay their fines, it would also allow for their access to motor vehicle licensing services, hunting licences, fishing licences, municipal licences to be restricted. In addition, bylaw fines would be added to property tax assessments rather than requiring individuals to serve default time in jail.

Certainly, Mr. Speaker, at this stage of the debate I think we can support the bill in principle and perhaps get down to a little more detailed examination of it at committee stage. At this point I'll be voting in favour of it and would recommend that my colleagues do the same.

Thank you, Mr. Speaker.

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

Mr. Chase: Thank you. At first look, as the hon. Member for Calgary-Currie pointed out, it appears to be sort of a cleanup, a generic get it all together into one act, although there are a series of offences or misdemeanors that are gathered together and mostly of the traffic nature, as was previously brought out.

The changes that are sought within this amendment include the fact it will permit an accused to submit a plea via registered mail, and that makes it somewhat easier to deal with. Obviously, if it's a not guilty plea, there will be a follow-up, but if there's a guilty plea, that speeds up the court processing because a court date can be provided.

It also is to provide for greater reliance on affidavit evidence when prosecuting a POPA offence, as the hon. Member for Calgary-Currie mentioned, the speeding concerns. It provides greater waiver powers regarding time to pay applications. Some language changes allow for consideration based on reasonable standards. Terminology was cleaned up so that the Provincial Offences Procedure Act is congruent with the Interpretation Act. As I say, it's an attempt, almost like an omnibus bill, to bring all the bits and pieces together under one heading.

If the accused fails to pay their fines, it would also allow for access to motor vehicle licensing services, hunting, and so on, as the hon. Member for Calgary-Currie pointed out. It lists right off the bat that there are several ways that we are going to come after you if you don't pay your fine. So those individuals who are driving around with a glove compartment full of tickets, whether they be parking tickets or speeding tickets, know that at some point, every time they attempt to register their vehicle, et cetera, they're going to have one whopping bill to add to that registration.

In general, this is a positive approach, and I would like to at this point thank the hon. member. This will be twice within the same session that I've thanked the hon. member for bringing this forward.

The Deputy Speaker: We have Standing Order 29(2)(a), five minutes of comments and questions.

Seeing none, does any other member wish to speak on the bill?

Seeing none, the chair shall now call the question.

[Motion carried; Bill 61 read a second time]

Bill 62
Emergency Health Services Amendment Act, 2009

[Adjourned debate November 19: Mr Liepert]

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

Mr. Chase: Thank you. It's obvious that we need Bill 62 to bring the health services – ambulance, EMS, and so on – from the fragmented circumstances they had throughout the province. In Lethbridge, for example, EMS, fire, and so on were one service. In Calgary we had a separation between the city running the EMS. Now it goes back to Alberta Health Services, which makes tremendous sense.

The question that came up arose from Frank Work, the individual in charge of FOIP. He expressed concerns, which I would appreciate hearing the hon. minister of health discuss or, for example, the hon. House leader, given his legal background. Frank Work expressed concerns about details being revealed of a personal nature that might interfere with a person's civil rights. He also, if I recall his argument correctly, indicated that a lot of the information sharing already exists, and therefore, after a fashion, that portion of the sharing of information was redundant. So he questioned it on two accounts: one, on the civil rights aspects of it, the rights to privacy. And if we already have a health bill that deals with this, why are we then repeating ourselves?

The bill purports to clarify a paramedic's ability to share informa-

tion from the scene of a dispatch call to a peace officer for reasons of investigation. The Information and Privacy Commissioner has publicly stated, as I indicated, that this is not necessary. He also raised concerns about whether or not this information should be collected in the first place when it has to do with injuries being treated.

Now, we had a bill that had similar concerns. It was the crime bill where a person who is injured while undertaking a crime ends up having to pay their own medical bills. In this case it was a doctor's requirement at a convenient point, which wasn't quite specified, that they had to provide this information to the police, and again there were privacy issues with relation to this.

7:40

Now, the government's position is that this bill clarifies and legislates the ability of paramedics to share observational information with police to assist with an investigation. It also suggests that without this change there would be confusion as to whether this sharing of information would be in contravention of the HIA, which paramedics will come under when the Health Information Amendment Act comes into play. Obviously, it's important that we get this right so that when individuals are on the street and dealing in emergent situations, they're not saying: well, does this fit under the HIA, or does it fit under FOIP? They've got to know because, regardless, they're going to act immediately. They're going to do the best they can, but the degree to which they follow up or share the information with police officers will have to be explained to a greater degree so that there's no doubt about the expectation and compulsion of information sharing.

The IPC highlighted the fact that the HIA allows for information to be shared with police when there is a need to avert imminent harm and to protect public safety. So this proposed amendment is not only unnecessary but actually interferes with the HIA and the FOIP. That's the concern, as I say, that the individual in charge of personal information has put forward.

I'm not going to take up a whole lot of time at this point in debating the bill, but I'm hoping that the clarification will be provided that the hon. member, for whom I have great respect, in charge of FOIP has raised about the legality of the sharing of the information and the necessity. Hopefully that discussion and that information will come forthwith.

Thank you, Mr. Speaker.

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

Ms Pastoor: Yes. Thank you, Mr. Speaker. I just wanted to get a few remarks on the record about this. It's a little bit of a tangent off, which is what this bill is directly speaking to, about the ability for paramedics to be able to share information with police officers. I still believe that the dual fire-paramedic emergency system will prove in the end to have been the most effective, certainly cost efficient. Most importantly, it will prove to be the fastest response, it will be the highest level of care outside of the hospital, and ultimately it will have saved many lives. I wanted to make sure that I can get that plug in for the dual system, our fire and emergency. It worked very well, and I believe it could have been probably initiated through this province under that system; however, that's not what the government has chosen to do.

By shifting the emergency health services to Alberta Health and Wellness – they weren't really legally considered sort of health service providers, and now by putting them under, they are. However, I think that was just, well, I guess, a legality because they may not have been legal. But, certainly, any of our dual systems were very, very effective in responding quickly to any emergency, be it motor vehicles or fires. All of the personnel that they needed on-site came together. I also think it's effective to have someone who is dually trained, where, in fact, they can fit into that emergency.

The other has already been mentioned. There's a section in this legislation that states that the proposed provisions of this legislation would override the Health Information Act and the Freedom of Information and Protection of Privacy Act. I think that that's a very serious change in how people can expect to have their privacy respected. I realize that some of this is about helping the police solve crimes, and certainly I would not want to hamper that ability, but often in the heat of the moment, particularly in an emergency, information could be gathered and spread before it really could be determined that, in fact, that would be a legal way of doing it.

I think that people are at the mercy of this bill in many ways. As I say, I understand why they would want to pass on this information. I know that they do share some information, but paramedics would have to be trained over and above what they are trained to understand how it would impact a person's privacy when they share that with the police. Certainly, the police would have the understanding of if it would stand up in court, if that was what they were going to need, or if they needed information from blood tests, which would have been taken sometimes without the knowledge of the person that they are treating. The person could be in a coma or just unable to respond or to give their permission for that. So I think that there are a number of things in here that should be addressed to alleviate that concern that people's privacy, in the end, actually would be at risk.

The Deputy Speaker: Any hon. members wish to use the five minutes under 29(2)(a)?

Seeing none, does any other hon. member wish to speak on the bill? The hon. Member for Edmonton-Strathcona.

Ms Notley: Thank you, Mr. Speaker. It's a pleasure to be able to rise and join in debate on Bill 62, the Emergency Health Services Amendment Act, 2009. I was just frantically flipping through *Hansard* – unfortunately, I didn't quite get all the way through it before there was the opportunity for me to get up to speak – to try to find out exactly what the rationale is from the government for bringing forward this piece of legislation.

Mr. Liepert: You should talk to your researcher.

Ms Notley: Well, you know, we've only got so much time in the day.

Nonetheless, having gone through it, I see that the Privacy Commissioner has indicated some clear concerns and suggests that there is actually no particular need for this bill because the information can actually be shared in the interests of ensuring public safety and also in the interests of ensuring that there is no imminent danger allowed to take place. So then the question becomes: why is it necessary in this case to override either the Health Information Act or the Freedom of Information and Protection of Privacy Act? These are important issues. We brought in both those pieces of legislation in order to ensure that people's privacy is protected. There may well be a sound rationale here, but it's not entirely clear.

Organizations that work with and represent emergency service workers are themselves not entirely clear as to why this was brought into play, and certainly not all of them have been consulted. In addition, my understanding is that the Privacy Commissioner himself was not given the opportunity to meet with the drafters of the legislation before it went ahead. As I say, it may be something

that's necessary, but I'm trying to get a sense of what it is that has changed that this has to be brought in now and what it was that wasn't happening previously that this bill is now trying to correct.

One of the outcomes I see of this bill is that the person who is attended to by an emergency service worker, who then has that emergency service worker share his information with the police, no longer has the ability under the Health Information Act or the freedom of information act to find out what information was actually shared with the police, nor do they have the ability to have the Privacy Commissioner review whether that information was appropriate. So again one asks: why is that? You know, certainly, in most cases you could see that it wouldn't be a big issue, but conversely there are other places where the accident itself is subject to litigation either criminal or civil, and the sharing of that information and the degree to which the information has been shared between parties is something that a person ought to have access to and information about. The fact that their ability to get access to that information through the Health Information Act is now being undermined by this act is a matter that we should be concerned about.

7:50

Now, again, I'm not necessarily saying that we don't support the act. We need to have more opportunity to review it to get a clearer understanding from the sponsor of the legislation about what particular problem this act is designed to correct and to get a clearer understanding of what other options were considered and rejected that might not have required us to once again undermine our privacy and protection legislation, as we seem apt to do these days with quite a bit of frequency.

With those introductory comments in place I look forward to hearing further debate, information about this legislation.

The Deputy Speaker: Standing Order 29(2)(a) allows for five minutes for comments or questions.

Seeing none, does any other hon. member wish to speak on this bill?

Seeing none, the chair shall now call the question.

[Motion carried; Bill 62 read a second time]

Government Bills and Orders
Committee of the Whole

[Mr. Cao in the chair]

The Chair: The chair shall now call the committee to order.

Bill 50
Electric Statutes Amendment Act, 2009

The Chair: We are on amendment A1. Are there any comments or questions to be offered with respect to amendment A1? The hon. Minister of Energy.

Mr. Knight: Well, thank you, Mr. Chairman. I'm pleased to start the debate with respect to the amendments that we have before us in the House on Bill 50. Of course, Mr. Chairman, I think it's been very widely recognized not only by our colleagues here in the Legislature but certainly by most Albertans that we have an extremely important and serious piece of business in front of us with respect to the transmission infrastructure in the province of Alberta.

Mr. Chairman, we came forward, of course, with a piece of legislation, that was tabled in this Legislature in the spring, and let it sit over the summer in order to give Albertans – and by Albertans I mean all Albertans, including all of the stakeholders relative to the transmission infrastructure – the opportunity to look at the legislation, to make comments on the legislation, to question it, and to propose alternative methods of transmission infrastructure and what might be done with respect to this piece of legislation that would perhaps make it more palatable to all concerned.

Mr. Chairman, we now have, I think, the results of a summer's worth of consultation with Albertans relative to the issue. I must say that AESO had around 40 open, public meetings over the summer with respect to the issue, and the Department of Energy conducted an additional 20 hearings around the province. From those hearings we gathered and coalesced a lot of information relative to this issue, so we came forward with a number of amendments. The amendments that we tabled last week include the opportunity here for us to clarify the issues and concerns that people had brought forward relative to the Alberta Utilities Commission's mandate to operate in the public interest.

Mr. Chairman, amendment A1 deals with that issue. What we have done is clarified the wording to make it very distinct that this piece of legislation deals only with the need that had been demonstrated by AESO for these pieces of critical transmission infrastructure. The amendment indicates that the need will not be heard by the Utilities Commission; however, everything else relative to these pieces of infrastructure will be heard by the AUC, and they must make their decision with the public interest in mind. Public interest would include things such as the economics around the issues, the issues of health if they arise, issues of environmental concern, and the like.

I think that this amendment is a good amendment that allows us to bridge a concern that has been expressed and expressed here on the floor of the Legislature relative to the issue of being sure that we are not – and I would repeat that, Mr. Chairman: we are not removing the AUC's mandated requirement to do their work and come to their conclusions, bearing in mind the public interest.

Mr. Chairman, I think that for the purposes of amendment A1 I would leave my remarks at that and look forward to continued engagement by all members of the Legislature. Thank you.

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

Mr. Taylor: Thank you very much, Mr. Chairman. Yes, debate will ensue now on the government's amendments to Bill 50. I see that the minister is trying to make some changes to a bill that we on this side of the House feel is very flawed. I see that he has addressed some of the concerns that he has heard, that the AESO has heard, that the Department of Energy has heard, that all government backbenchers, I'm sure, have heard from their constituents and from various people who have weighed in on this very public debate over Bill 50, certainly concerns that we've heard on this side of the House as well.

But these amendments don't address all of the concerns. They are quite specific in not addressing, I think, the concern at the heart of this whole debate. That concern, the heart of the argument on Bill 50, is very simply this: do you want to bypass the independent regulatory needs identification process or not? We do not want to bypass the regulatory process. The people who have been talking to us do not want to bypass the independent regulatory process.

8:00

A number of people, both ordinary Albertans and people who could be deemed to be authorities on the issue of electricity, electrical generation, electricity transmission have spoken out and

made convincing arguments in recent weeks that the independent regulatory process is vital at both the needs identification stage and later on in the siting process. If all you do is wait till later on, after the cabinet, the government, a group of people in this House who are by no means expert in issues of electricity transmission have said, "Well, we're deeming this as critical transmission infrastructure, and it must be built," if you then bring the AUC, the Alberta Utilities Commission, into the process and have them do their due diligence and operate in the public interest as they're supposed to, while that remains important, bringing in the AUC to rule in the public interest on whether the pylons should go in your backyard, Mr. Speaker, or my backyard or Old Man Johnson's backyard after the cabinet has already approved construction is pretty much like closing the barn door after the horse has bolted. You may feel really good for having done that, and you may feel like you've made a difference for the future, but your horse is still missing. That's why it's key that the needs identification process be subject to the full independent regulatory process that it is up until such time as Bill 50 passes or Bill 50 passes unamended.

An independent regulatory process is good, Mr. Chairman, because it takes this whole thing with all the different points of view, all of the different arguments, puts it in front of people who have experience in weighing the relative merits of the different arguments, being able to bring some historical awareness and some background information to bear on the decision that they're about to make and being able to draw on expert opinion and determine whether this expert opinion is relevant or not and then making a ruling, a decision, a written decision, in which they have to lay out their rationale for making that decision. It makes it considerably less likely that the approval or not of the project and the conditions attached to the project or not, to that approval, will be driven by short-term interests, whether they're business interests or whether they're political interests.

The AESO is full of experts, Mr. Chairman. Unfortunately, those experts are essentially on the government payroll. They are not independent, in my view, or arm's length enough to be the only ones charged with making a recommendation – remember, I referred to this before – based within the constraints of their mandate, which basically says: if you detect any congestion whatsoever, the only answer that you're allowed to pursue is to build transmission infrastructure and then make a recommendation to a cabinet that is made up of a bunch of people from different walks of life, not expert in either the regulatory process on being the quasi-judicial weighers of the relative merits of arguments or knowing all that much, really, about electricity.

The heart of the argument is: do you want to bypass the independent regulatory needs identification process or not? The amendments that the government has introduced, I think, Mr. Chairman, make it clear that they do want to bypass the independent regulatory needs identification process, at least the minister does. We do not, so at this time I would like to move a subamendment to the government amendment which addresses this issue. I will give the pages these amendments to pass to the table and then pass around to the members present.

Thank you.

The Chair: We will pause for a few moments for the pages to pass the subamendment out.

Mr. Taylor: Mr. Chairman, if I may ask for a piece of advice. This is a relatively long amendment. Do you want me to read it all into the record when we come back? [interjection] I'm asking the chairman, not the minister of health. I don't take the minister's advice.

The Chair: We will just call it subamendment SA1.

Hon. Member for Calgary-Currie, please continue.

Mr. Taylor: Thank you very much, Mr. Chairman. I hereby move subamendment SA1 to Bill 50, the Electric Statutes Amendment Act, 2009. All members of the House have it in front of them now. I will not read the entire subamendment at this time, but I'm sure that over the course of debate here I'll address the various parts in it.

Now, this subamendment may look fairly complex. Such is the arcane nature of legal linguistics and parliamentary procedure when we come to making law. But the intent and effect of this subamendment is very simple, remarkably simple, remarkably direct. It goes directly to the relevant question up for debate around Bill 50: do you want to bypass the independent regulatory needs identification process or not? The clauses of this subamendment pull out the sections that scrap the regulatory process, so let's debate this right now.

To start with, part A is struck out, and the following is substituted: section 1(3) is struck out. We want to strike out this section, Mr. Chairman, because it prevents the AUC from assessing whether or not the critical transmission lines are necessary for this province. We don't want to build unnecessary lines. We don't want to stick consumers, whether they be individual residential consumers or big industrial power users or anybody in between, with unnecessary bills. The AUC, in our opinion, should be holding hearings. That is what an independent regulator does. Those hearings are what allows Albertans to have their say. This is what proper consultation looks like.

Part B is struck out, and the following is substituted: section 2(6) is amended by striking out the proposed sections 41.2 and 41.3 and substituting "Staged development of CTI referred to in Schedule 41.2(1)." Mr. Chairman, from that point on, if you refer to the government amendment, you will find that the wording is exactly the same as in the government amendment. All we have done here is in effect change the numbering of the section by striking out the proposed 41.2 and 41.3 from the bill, which explicitly bypassed the needs identification process for critical transmission infrastructure. These sections would impact the Electric Utilities Act where it states that needs identification documents must be submitted to the AUC for transmission line applications. Our amendment would ensure that that must still happen for critical transmission infrastructure.

The new 41.2 on staged development comes from the government's own amendment. We would be keeping it, i.e. adding it to the bill, but we need to renumber it to 41.2 from 41.4 because we pulled two sections from the bill, as discussed just a moment ago. So this part remains in.

It would be interesting, as we go ahead and debate this: what does the minister have in mind for a staging time? We can't assess the impact of this proposal without knowing that. For example, a month-long gap between when these different stages start is pretty much the same as no staging whatsoever. A three-year-long gap, on the other hand, between stages starts to urge the question of why forcing these lines through without needs hearings was necessary in the first place.

Part C is amended in the proposed clause (v.5)(B) by striking out "or 41.3." This is a consequential change. The fact that in part B we've scrapped 41.3 is coherent across the rest of the government's amendment.

Part D is amended in clause (a) in the proposed section 1(2) by striking out "section 41.4(1)" and substituting "section 41.2(1)."

Another consequential change, Mr. Chairman. In part B we've changed the section 41.4(1) into 41.2(1) because of the removal of sections 41.2 and 41.3 from the bill. Our amendment here ensures that this again is coherent across the rest of the government's amendment.

It is a bit arcane. It's probably going to be very boring to read tonight's Blues back tomorrow as I described that, but it is necessary and necessarily complex to express, again, a remarkably simple and direct intent and effect, which is that we're pulling out the sections that scrap the regulatory process.

8:10

With that in mind, there is one more section. Part E is struck out, and the following is substituted: section 3 is struck out. Section 3 basically deals with one thing only, that critical transmission infrastructure should bypass the current needs identification process in the regulatory system. The easiest thing to do, Mr. Chair, and the cleanest and simplest thing to do is just pull the entire section as there are no other impacts.

So there it is. On this side of the House I don't think that we have any problem in principle with the government seeking to designate some transmission infrastructure as more urgent than others, some transmission infrastructure as perhaps more critical than others. I think that's their right, their prerogative. If they in their judgment accept the AESO's argument that it is critical to build a new line or two new lines, you know, with the capacity to carry up to 2,000 megawatts each of electricity, perhaps even more, between Edmonton and Calgary, okay. If they wish to designate a line or two going to Fort McMurray as critical transmission infrastructure – in other words, this is their top priority or one of their top priorities – no problem with that. Governments have to prioritize things; individuals have to prioritize things all the time.

In an odd sort of way, Mr. Chair, the minister, through his own amendments with the staging amendments, the staged development of critical transmission infrastructure referred to in the schedule in the bill, has pretty much acknowledged that the sky is not falling, the lights have not gone off, we are not hours away from rolling blackouts. In fact, we have some time to do this all. It has sort of put a question to the word "critical." It sort of puts a question to the whole notion behind this bill that this is so vital and we are so far behind that we have to do this all at once. Well, by the government's own admission now we don't have to do it all at once. We can take our time to do it, which I think gives the sense that we also have some time, through the AESO to transmission facility operators, to organize this thing better.

If it went off the rails a few years ago, and I think we can probably say that it did – I think the minister might agree that it did a few years ago and that we haven't kept up with the pace that we really should have although, parenthetically, Mr. Chairman, we need to re-evaluate that in light of the economic downturn and the fact that the rate of increase in electricity consumption is not going up the way it was – then fine. But we need to send a message to people who are in charge of building this stuff and planning this stuff and proposing this stuff that there is a process which starts with a needs identification hearing and a process leading up to that hearing in front of the AUC, which it properly should in all cases. If that stage of the process of getting a new high-voltage transmission line built takes six months or 24 months or whatever, then you'd best get going on it now if you think you're going to need that line to start construction in two or three or four years.

Mr. Chairman, this is a bill that, as I said in second reading, is flawed in principle. It's a bad bill in principle. I don't argue, I don't know if anybody in this House would argue that we need to start upgrading our transmission infrastructure. Some of it's getting old, not nearly as much as we've been led to believe by the ads on television and on the radio and in the newspapers, but some of it is getting old, about 40 per cent. We need to upgrade that because the older it gets, the more it's going to cost to maintain. We have had growth in population. We have had growth in our economy. We have had growth in electricity consumption. We need to keep up with that.

But we also need to remember, Mr. Chairman, that this is a bill that proposes a very old-school solution to any problems that we might have currently or might be anticipating in the years to come. This old-school solution says that we are going to continue to burn coal, pretty much the dirtiest way there is to generate electricity, to generate electricity in vast quantities west of Edmonton, and then we're going to ship that electricity all over the province. We're not going to even consider under Bill 50 the possibility that it might be in the public interest, in the consumers' best interests to generate that power a lot closer to where the people live who are going to use it.

I refer back to the report Transmission Policy in Alberta and Bill 50, published by the University of Calgary's School of Public Policy, co-authored by economist Jeffrey Church, electrical engineering professor William Rosehart, and doctoral student John MacCormack of the University of Calgary a couple of weeks ago. I refer back to the study that they did, where they compared the anticipated cost from 2013 through to 2028. Of the two high-voltage power lines between Edmonton and Calgary – and I recognize the minister now wants to stage construction of that so that we wouldn't have them both right off the bat; still, they made the comparison because that's what was being proposed in Bill 50 before the government amendments came down – they compared that against an alternative that locates gas-fired generators in southern Alberta, close to the southern Alberta consumers who are using the power and getting that power from the generation plant to the consumer on the existing grid.

There were variables: the amount of wind power produced, the cost of greenhouse gas emissions, yada yada, line loss, that sort of thing, but they found, in taking those factors into consideration, that the cost of going with Bill 50, with the gold-plated Lexus transmission grid, is anywhere between $1.1 billion and $2 billion more than locating generation in southern Alberta. More. Both provide adequate electricity supply, both keep the lights on, both keep the sky from falling, but one costs up to $2.2 billion more. Now ask yourself, Mr. Chairman, and ask yourselves, hon. members: why would we spend $2 billion more, $1 billion more than we have to spend? Is it because there is no cost to generators, no cost of doing business, if you will, of actually getting the power that they generate from wherever they generate it to wherever it's going to be consumed? Essentially, they are charged nothing to be able to sell their power and transmit it from where they generated it to where you're going to turn your lights on, Mr. Chairman, in Calgary-Fort in a few days' time, when you're back home.

It's interesting. You know, we claim we've deregulated electricity. We've got Big Brother out of the way. We've got the public sector out of the way. We've got government out of the way. We're going to let the market take care of this, and the market is going to produce cheaper power for us. We're still waiting for that to happen, and one still wonders if Bill 50 is yet another attempt to try and make lemonade out of lemons, but I won't go there right now, Mr. Chairman. The odd thing is that deregulation as it's practised in this province so far only seems to work – and, by the way, it works great for the people who are generating the power – when the rest of us, the poor schlemiels of Alberta, and the poor big industrial schlemiels are subsidizing this thing.

The arguments have been made that, you know, if you go to

another model, generating the power close to load, then you're creating zones in the province again, and you end up having different prices for electricity. Well, there are already different subsidies. The farther away the stuff is generated from where it's used, the greater the subsidy, in effect. Guess who's paying the subsidy? Us, the consumers, you and me and the big industrial consumers. We're going to be paying the freight if this whole grid is built and we start exporting power down to Vegas to keep the lights on and the casinos humming and the slot machines going all night long. I mean, let the people in Vegas generate their own power.

Thank you, Mr. Chairman. I look forward to more of this.

8:20

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

Mr. Chase: Thank you very much. For anybody who is sleep deprived, I would suggest that what we're doing tonight is a cure for that deprivation.

What it boils down to is that the government is saying: "We don't need an Alberta Utilities Commission. We bypass it. We have the information. We have the expertise. We know what's right." We're going to do it our way, as the song goes. What I see ourselves doing, whether it's the government or whether it's the opposition, is the equivalent of daisy petal picking, but instead of a daisy, if you can imagine the various steel blades of the old-style windmills that were either used for pumping water or for generating a degree of electricity to an outbuilding. What we're doing is we're picking off a blade at a time, and we're saying, "Nyet, da," or we're saying, "Oui, non" or any other series, "Jawohl, nein," you know, a whole series of languages.

Mr. Denis: Keep the German going.

Mr. Chase: Das ist gut.

Another analogy is that it's the equivalent of a card game. We're each trying to trump each other. With our latest subamendment we're basically trying to return us to where we started from, which was the fact that we need an independent regulatory agent, and that's the Alberta Utilities Commission. We need a referee because without that referee the government will just roll over, whether it's steamrolling or any other type of rolling, individuals who don't agree with their concerns.

I'll give the government credit for this. With the amendments that the hon. Minister of Energy introduced, there's a degree of acknowledgement of the need for staged construction, for potentially sequential project development. I think how that came about is that the government realized this was too big a monetary mouthful for Albertans to swallow at any time. The notion of somewhere between $14 billion and $20 billion was just too much to be one large project. What the government has done is basically taken the spoonfuls of electrical energy and tried to sweeten the process by saying, "Well, in the end it may cost this amount, but we're going to do it in a series of one-offs, and the one-offs aren't going to hurt your pocketbook nearly as much." But the cumulative effects stay the same.

Another analogy that comes to mind is the end run, trying to go around the Alberta Utilities Commission or, with the government's amendment, basically running on the spot. Nothing is new; nothing has changed. You're still avoiding prioritizing. You're still avoiding the Alberta Utilities Commission and their expertise. I don't know whether the current members of the Alberta Utilities Commission are going to be discontinued, as was the case with so many of our former health CEOs. I don't know whether they're going to get bonused when they're laid off. But it makes no sense that we have a commission that is absolutely powerless.

What we're attempting to do with our subamendments to government amendment A1 is to piece by piece give back the Alberta Utilities Commission the authority to not only decide on the need for the placement of lines but also, as has been pointed out, the size of the line, varying from, I gather, 240 kilowatts all the way up to 2,000 kilowatts. Of course, when we go from that 240 to above the 500, my most recent electrical understanding is that the opportunities to bury the lines are severely reduced. I don't pretend to know all the reasoning, but I gather the ground serves as an added insulator, and with the amount of electricity that would be generated in an underground circumstance, no matter how well we attempted to insulate it, convert it when it came up to the above ground lines, if it's over 500, that possibility scientifically and according to physics no longer exists.

So we find that, like a person who's running on the spot, we generate little bits of spark and electricity, but there's no constant current developed, and suffering from the same problem as windmills, running on the spot, as soon as we stop, the energy ends with our ceasing to move. If anybody hasn't made that connection tonight, that's where we're at, a ceasing-to-move situation.

We're looking for the expertise that the government claims that the Lieutenant Governor in Council, or the cabinet, has, and the government does not have any more expertise, given their membership, than we have as opposition members. This is far beyond the grade 12 physics that I had such difficulty in dealing with, and that's why we need the independent judgments that hearings through the Alberta Utilities Commission provide.

What our amendment attempts to accomplish – and I'll go through the bits and pieces and try not to repeat what the hon. Member for Calgary-Currie pointed out. But because of the technical nature of the subamendment it's hard not to go over similar territory, keeping in mind that we want the Alberta Utilities Commission reinstated and that the government wants to bypass it.

Speaking specifically to the various parts of our amendment, we're suggesting that part A is struck out. We want to strike out section 1(3) as it prevents the AUC from assessing whether or not critical transmission lines are necessary for this province. We get into the definitions of what is critical, what is the priority, and unless you can start off with some basis of understanding, how can you go forward in terms of determining what's critical?

As the hon. Member for Calgary-Currie mentioned, that independent referee or the independent judge is extremely important, and without that balance that a judge organization like the Alberta Utilities Commission provides, how do you weigh the benefits? The government's answer is: "We'll do the weighing, and we'll tell you, you know, how many kilograms or, in this case, kilowatts are necessary. Thank you very much. Rest assured, you know, that the lights will be there in the morning." We're past the point of just open trust.

Part B is struck out and the following substituted: section 2(6) is amended by striking out the proposed sections 41.2 and 41.3 and substituting

> Staged development of CTI referred to in Schedule
>
> 41.2(1) The Independent System Operator, with respect to the critical transmission infrastructure referred to in section 1(1) of the Schedule, shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to . . .

In other words, it's simply saying that the Independent System Operator has a responsibility. It is outranked by the Alberta Utilities

Commission; therefore, the Independent System Operator has to take its marching orders, or its connecting orders, from a higher body of greater authority.

8:30

One of our problems with Bill 50 is that the so-called Independent System Operator isn't so independent. The bonusing for the independent members on the Independent System Operator was dependent on a particular approval of a set of lines and directions that the government had put forward. So any notion of independence went out the window because they were expected to approve what the government had laid out before them.

"The transmission facilities referred to in section 4 of the Schedule shall be developed in stages in accordance with subsection (3)." Now, that appears to be something that the government believes in within its own amendment, that doing things in stages, dealing with things in sequence, creating a so-called chain of substations and bringing power online as needed makes sense, and we're grateful to the government for realizing that this thing doesn't all have to be done at once. But when it is done in its various pieces, there has to be a plan. That plan, which we have maintained all along and most recently through our subamendment, has to begin and end with approval by the Alberta Utilities Commission.

Section (3) of part B of our subamendment to government amendment A1 suggests:

> The facility referred to in section 4(a) of the Schedule shall be developed first, which may initially be energized at 240 kV, and the Independent System Operator shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to determine the timing of the development of the facilities referred to in section 4(b) and (c) of the Schedule.

Put simply, you've created a needs assessment through an independent regulatory process. It says, "Start here," and then before you get the approval for the next stage, you have to again go through the hearing process. There is a check and balance required. You can't simply just put up as much infrastructure wherever you want to carry whatever load you wish. The process has to be thought out.

Now, what's significant in our amendment is the striking out of the proposed 41.2 and 41.3, which basically give the government a carte blanche on the needs identification process for critical transmission infrastructure. This is rather important, that rather than the government saying, "Here a transmission line, there a transmission line, here and here and there and there," an Old MacDonald had a transmission line song in terms of where things are placed, it's calling for a plan. I know that the government's predecessor Premier was not fond of plans, but our latest development has talked about transparency and accountability, and we would suggest that that involves actually having a plan and, taking it one step further, sticking to it section by section.

Part C is amended in the proposed clause (v.5)(B) by striking out "or 41.3." This is a consequential change to ensure that the fact that in part B we have scrapped 41.3 is coherent across the rest of the government's amendments. In other words, we're doing in our subamendment what we've asked the government to do in its bill, and that's to have a connected relevance, whether it be developing priorities, placements of infrastructure, or the size of the load that is going to be carried by the line. Again, it's planning, and basically what we're asking the government to do is connect the dots, connect the towers, connect the lines.

Part D is again part of the interconnectedness of our subamendment. Part D is amended in clause (a) in the proposed section 1(2) by striking out "section 41.4(1)" and substituting "section 41.2(1)." Again, without reconnecting to the government's original Bill 50 and its amended A1 circumstance, there would be a gap in the connection, so we're trying for coherency with this D part.

Then we have part E. That's rather simple. We're just saying strike it, lose it. Section 3 basically deals with one thing only, that critical transmission infrastructure should bypass the current needs identification process in the regulatory system. The easiest thing to do is just pull it because if the government isn't going to recognize the need for an independent regulatory process through the Alberta Utilities Commission, then section 3 basically becomes redundant.

At the risk of appearing redundant, I'm going to sit down and let other members engage in the process.

The Chair: Any other members wish to speak on subamendment A1? The hon. Member for Edmonton-Strathcona on subamendment A1.

Ms Notley: Thank you. It's a pleasure to rise to speak in favour of this subamendment to amendment A1 put forward by the hon. Member for Calgary-Currie. This subamendment would of course further amend the amendment put forward by the government, which is an attempt to address the significant problems that have been identified in Bill 50 by a number of stakeholders throughout the province from all sides of the political spectrum, interestingly, most of whom are simply raising concerns because they see the potential for government quite generally to just simply go off the rails without anybody ever knowing about it or getting a full sense of reporting on what's happened.

This subamendment, as has already been stated, would amend the government's amendment to essentially eliminate completely those portions of Bill 50 that would limit the opportunity for public consultation around the construction of what the government has characterized as critical infrastructure. It would also as a result negate the concerns that exist as a result of the amendments proposed by the government last week that we commenced debate on this evening.

Just to talk a little bit, then, about the amendments that were put forward by the government and why, as a result, this subamendment that would eliminate those amendments is worth while. In particular, the government is suggesting that it can address the many and wide-ranging concerns that have been put forward by Albertans with respect to the lack of a public consultation process around the need for these huge capital investments. They believe that we could get around those concerns through the amendments that the government has put forward.

8:40

Just at the outset, one of the concerns that exists for me in the amendments put forward by the government, which would be eliminated were the subamendment to be passed, is this very amorphous notion of suggesting that hearings could go forward on matters relating to whether the project itself meets the public interest, but we would continue as citizens to be turned away at the door, if you will, should we want to raise issues about whether the transmission lines themselves are necessary for serving the needs of Albertans.

I have to say that I think that were that amendment to go forward without the House adopting the subamendments that have been put forward by the hon. Member for Calgary-Currie, we would basically succeed in creating quite an effective cottage industry for that part of the bar which focuses on administrative law. To me, I cannot for the life of me begin to imagine how many applications we would get to sit through at all levels in the courts while the courts try to decide

whether public interest, which by the minister's own admission can take into account economic considerations, is something that is or is not exactly like needs. So when you get into a consideration of what meets the needs of Albertans and whether that critical infrastructure is actually something that Albertans need and you talk about that, how is that different from where you're talking about public interest if, as the minister himself suggests, public interest also includes arguments around economics?

What we've basically done is we are on the verge, should the government's amendment go forward, an amendment that is a half-hearted attempt to quell political rumblings amongst Albertans who believe quite rightly that this government has gone off on its own little journey and completely forgotten that every now and then they have to look back at the passengers who theoretically elected them – in essence what we are going to do is we are going to create really bad legislation that most people are not going to be able to interpret or apply. We're going to spend a lot of time at the courts asking whether this particular issue that stakeholder A or B or C tries to raise at a public hearing is actually an issue relating to public interest or whether it's an issue that actually goes to the heart of whether or not the transmission line itself is needed by Albertans.

We basically, then, end up with a situation where nobody knows what's going to be going on, where the only people that are really pleased with this amendment are, as I say, the lawyers. Basically, we just wait around for a long time or don't wait around for a long time, depending on whether the government decides to go forward, while this issue is adjudicated over and over and over and over again because the government has decided to go ahead with such a poorly, poorly constructed piece of legislation.

The subamendment that was put forward by the Member for Calgary-Currie would deal in part with that issue by simply trying to get away from this silly distinction that the government is making, where they think they can quell the political unrest by allowing for hearings that consider public interest while still ensuring that Albertans never get to have a transparent assessment of whether or not the transmission lines in question are actually needed. I think that ultimately what we need to do is, you know, if there are transmission lines that represent a critical infrastructure that are necessary to go ahead, still go back to the original question, which is: what is it that the government is so scared of?

In the last three weeks, I believe, we've had three or four respectable, informed, engaged organizations put forward reasoned arguments around why these particular transmission lines are not actually something that are desperately needed right now. That's fine. Maybe they're right; maybe they're not right. But what's happening is that the government is going through this process where they're simply, you know, putting their hands over their ears and closing their eyes and humming really loudly, saying: "Can't hear you. Can't hear you. Don't want to hear you." I don't understand why it is that anyone would think that it is a mark of good governance that you wouldn't want to take that kind of issue that is so important and test it against the transparency and the rigour that would be available through a full public hearing process as is currently in place within our province. It simply doesn't make sense.

Then you get into a situation like this. It is so against common sense to suggest that we don't need to test these arguments notwithstanding that every day we have yet another reputable source suggest that the government's arguments are not accurate, that their science is not accurate and their predictions are not accurate and their economics are not accurate and their forecasts are not accurate. We have so many people suggesting that. The reasonable thing to do would be to say: "Well, you know what? We have a public, comprehensive, transparent regulatory process. We're not going to answer these issues. We're going to put it to that process, a process in which all Albertans can have complete faith. We will use that process to decide how to go forward." Instead, the government appears to be scared. They appear to be very scared of subjecting their arguments to any kind of substantial testing.

Then that leads one, quite rightly at that point, to question: "Well, what's going on here? It doesn't seem to make sense. What's the issue?" Well, is the issue that in the course of those regulatory hearings they're going to hear that what's really needed is the capacity to export power and that Albertans are going to be asked as consumers to pay for an infrastructure that facilitates and ultimately subsidizes export notwithstanding that they are not consuming good portions of that which will be exported ultimately? Is that something that the government is concerned would come out through a public hearing process?

Of course, at that point Albertans might say: "You know, we subsidize business left, right, and centre in this province. We're doing it all the time, and we're not really interested in having our utility bills go up to do even further subsidization of business. We don't like this." The government is not interested in having that piece of information come out through a transparent, principled, unquestionably ethical regulatory process, so as a result we have this bill in front of us. I don't know. Is that it? Is that not it? I don't know. Again, the only thing we can do is ask: why would the government resort to taking such an authoritarian and antidemocratic step, as they are taking in this case, that would be ameliorated were the subamendment that has been put forward here this evening to pass? You know, we have this issue.

Now, the government itself, of course, has suggested that through their little consultation process, their little committee, cost issues would be addressed. But, Mr. Chair, I have to say that I really have some serious concerns with that issue. Here the government told us that we didn't need to worry about consumers being gouged around power bills because they were going to set up a Utilities Consumer Advocate. Then they set up an advocate, and the advocate went off and got an expert report prepared. That expert report, in fact, concluded that we don't need these transmission lines, that they are excessively expensive, that they are not in the best interest of consumers across Alberta. The government has ignored their own Utilities Consumer Advocate.

If they're prepared to ignore their own Utilities Consumer Advocate, what in heaven's name is the value of yet another committee that's simply going to review bills every now and then and will be appointed by the government and, knowing this particular government, will never be allowed to make anything public, and if they do, it will, of course, come in the form of another brown envelope? Needless to say, the committee that the government is proposing to set up does not in any way address any of the concerns that so many people across the political spectrum and across the province have raised about this piece of legislation.

8:50

Again, that is why this subamendment ought to be passed, because the subamendment would simply eliminate the government's desire to bypass the transparency that comes from a public hearing process such that Albertans are not in a position of having to rely on the brown envelope, which has become the primary and, in fact, I would suggest in many cases, the sole means of ensuring that Albertans are ever given a clear outline about what this government is really trying to do.

As well, the subamendment would get rid of that part of the amendment that talks about the whole staged development issue

under the government's initial set of amendments. Nonetheless, we have good reason to believe that the whole issue of the staged development is, again, another effort on the part of this government to engage in window dressing activities to hopefully, in their eyes, minimize the political problems that this bill is creating for them amongst even their own supporters. I would suggest that it's not going to minimize it because, again, the whole staged development issue is primarily window dressing. Most people argue that at the very least it might reduce costs to consumers in the very short term, but it's very unlikely to make any kind of difference in the long term. In fact, the Consumers for Competitive Transmission have noted that even if there's a reduction in the early years, the remaining cost impact is still very large and will further exacerbate the uncompetitive electricity cost situation.

That is, of course, yet another problem with the government's very communications-focused set of amendments, which I think are, again, as I said, an ineffective attempt to address political opposition to this bill, that do not substantially in any way change what the government is doing, which is to simply move billions and billions and billions of dollars of investment behind closed doors. Whether you're talking about any particular element of the government's amendments, while they do show that the government must be feeling a little bit of political heat, perhaps brought on by the fact that their own membership was tied on whether or not to simply scrap Bill 50 altogether, nonetheless this attempt to turn down the political heat is simply window dressing and from a substantive point of view is not going to address the many concerns we have with respect to the government's decision to move this process so clearly behind closed doors.

The subamendment, as I stated before, would basically take the critical infrastructure piece and subject it once again to the public hearing process, which many Albertans expect should be in place. Again, until such time as the government can give any kind of rational explanation for why it is that in the face of so many competing expert opinions about the need for this type of investment, until they can give any kind of rationale for taking that and moving it behind closed doors, there's just simply no way that we can support that bill, that we can support the amendments, which do not ultimately alter that primary element of Bill 50. As a result, we must support the subamendment in the hopes that we can convince the government to do the right thing and simply manage these kinds of issues in an open, transparent, ethical way that reflects good governance, that is entirely justifiable and not requiring extensive explanation to people who can't help but notice the close relationship between the political arm of this government and the companies which stand to benefit greatly from Bill 50 going forward.

Ultimately, our view is that we need to ensure that Alberta consumers get the best deal possible and that the best infrastructure system is set up to most efficiently and inexpensively and responsibly from an environmental and health point of view provide them with the electricity that they need. It is not our view that it's government's role to move these kinds of decisions behind closed doors so that they can adopt strategies which result in huge subsidies to businesses that stand to make potentially large profits on the export of electricity that would be enabled through the construction of transmission lines, which at this point we can only question the need for given the broad diversity of expert opinion which is out there on the public record notwithstanding the government's desire to ignore it. With that in mind, we'll be supporting the subamendment.

The Chair: On the subamendment, the hon. Member for Calgary-Glenmore.

Mr. Hinman: On 29(2)(a)? Just a question.

The Chair: No. There is no 29(2)(a) at Committee of the Whole.

Mr. Hinman: No questions on that?

The Chair: Not in committee.

Mr. Hinman: Oh, okay.

The Chair: Is there any other hon. member wishing to speak on subamendment A1? The hon. Member for Calgary-McCall on subamendment A1.

Mr. Kang: Thank you, Mr. Chairman. It's an honour to stand up and speak in favour of the amendment brought forward by the Member for Calgary-Currie. I'm going to do a little comparison here between the amendments from the government, from the Minister of Energy, and the subamendments brought forward by the Member for Calgary-Currie. The Minister of Energy is proposing that section 1(3) is struck out, and the following is substituted:

> (3) Section 17 is amended by renumbering it as section 17(1) and by adding the following after subsection (1):
>
> (2) The Commission shall not under subsection (1) give consideration to whether critical transmission infrastructure as defined in the Electric Utilities Act is required to meet the needs of Alberta.

The concern here is this particular section. However, the change being proposed here by the government does not actually do anything to address the concern.

The concern is that the bill is bypassing the needs identification process. The original wording of the bill is that the existing 17(1) in the Alberta Utilities Commission Act does not apply to critical transmission infrastructure. This amendment is changing that wording, for sure. By specifying that it is the needs identification process in particular that the commission cannot undertake with regard to critical transmission infrastructure, this amendment is trying to clarify that other hearings do still remain, such as for the siting of these lines, but that is not what section 17(1) addresses. This particular section is dealing only with the AUC's role independent of government to assess the need for the transmission lines, and if the commission cannot give consideration under 17(1) to whether the critical transmission infrastructure is required to meet provincial needs, then 17(1) no longer applies. It's as simple as that.

9:00

The amendment makes absolutely no substantive difference to Bill 50. It makes no substantive difference to one of the parts of the bill that does most of the damage to the current regulatory system. Therefore, that is why the Member for Calgary-Currie is proposing that part A be struck out and the following substituted: section 1(3) is struck out. We'd like to strike out this section as it prevents the AUC from assessing whether or not the critical transmission lines are necessary for this province. We don't want to build unnecessary lines.

The AUC should be holding hearings, and they should be going through the public consultation process. That would be the right way to go so Albertans have input as to whether we need certain transmission lines or not. That is what an independent regulator does. We don't want to take the independence of the AUC, which Bill 50 does. Those hearings are what allow Albertans to have their say, and this is what a proper consultation would look like.

Part B. Section 2(6) is amended by adding the following proposed section 41.3. This is coming from the amendments from the Minister of Energy, and that is addressing

Staged development of CTI referred to in Schedule

41.4(1) The Independent System Operator, with respect to the critical transmission infrastructure referred to in section 1(1) of the Schedule, shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to determine the timing of the stages of the expansion of the terminals referred to in section 1(1)(a) and (b) of the Schedule.

(2) The transmission facilities referred to in section 4 of the Schedule shall be developed in stages in accordance with subsection (3).

(3) The facility referred to in section 4(a) of the Schedule shall be developed first, which may initially be energized at 240kV, and the Independent System Operator shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to determine the timing of the development of the facilities referred to in section 4(b) and (c) of the Schedule.

This amendment by the government is trying to set out a staged approach to building this transmission infrastructure. This includes bringing the lines between Edmonton and Calgary up to half-capacity first and to full capacity later. Given the government's previous statements about how quite urgent all of the transmission infrastructure is, for them to now say that everything can be staggered over time doesn't make sense. After all, Bill 50 is calling this infrastructure critical. How critical can it be if it can all be staged over time? Why can't it just go through the regulatory process? There are no blackouts, and there are no brownouts there. We haven't had any so far, and there is no urgency to bypass the Alberta Utilities Commission.

The timeline that will be imposed on this staging is not revealed here. With stages that are only a month or so long, this supposedly more steady and measured approach to the critical transmission construction would be mere window dressing. If the stages are in fact substantial, then the question becomes: why is the government claiming that the infrastructure is so critical? Without an understanding of what the stage duration will be, the amendment doesn't appear to make any significant changes to the original bill.

That's why we are having this part B struck out and the following substituted in the amendment proposed by the Member for Calgary-Currie. Section 2(6) is amended by striking out the proposed sections 41.2 and 41.3 and substituting the following:

Staged development of CTI referred to in Schedule

41.2(1) The Independent System Operator, with respect to the critical transmission infrastructure referred to in section 1(1) of the Schedule, shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to determine the timing of the stages of the expansion of the terminals referred to in section 1(1)(a) and (b) of the Schedule.

(2) The transmission facilities referred to in section 4 of the Schedule shall be developed in stages in accordance with subsection (3).

(3) The facility referred to in section 4(a) of the Schedule shall be developed first . . .

Mr. Hancock: We've got it here, actually. We have it already in front of us.

Mr. Kang: I'm just comparing them both.

In section B here we are keeping some of the proposals from the Minister of Energy.

(3) The facility referred to in section 4(a) of the Schedule shall be developed first, which may initially be energized at 240kV, and the Independent System Operator shall, subject to the regulations, specify and make available to the public milestones that the Independent System Operator will use to determine the timing of the development of the facilities referred to in section 4(b) and (c).

The important part of the amendment here is striking out the proposed sections 41.2 and 41.3, which explicitly bypassed the needs identification process, which is very important to have the Alberta Utilities Commission do that. These sections would impact the Electric Utilities Act where it states that needs identification documents must be submitted to the AUC for transmission line applications. This amendment would ensure that that must still happen for the critical transmission infrastructure.

Part C is amended in the proposed clause (v.5)(B) by striking out "or 41.3." This is just a consequential change to ensure that the fact that in part B we have scrapped 41.3 is consistent across the rest of the government's amendment.

Part D is amended in clause (a) in the proposed section 1(2) by striking out "section 41.4(1)" and substituting "section 41.2(1)." This is another consequential change. In part B we have changed the section 41.4(1) to 41.2(1) due to removing sections 41.2 and 41.3 from the bill. This amendment ensures that this is consistent across the rest of the government's amendments.

Part E is struck out and the following is substituted: section 3 is struck out. Section 3 basically deals with one thing only, that critical transmission infrastructure should bypass the current needs identification process in the regulatory system. The easiest thing to do is to just pull this whole section out so there is no impact on the bill.

What the amendment is trying to do is to put some teeth into the Alberta Utilities Commission so that the needs assessment is done before any work proceeds.

For those reasons, I'm supporting this amendment, sir. Thank you very much.

The Chair: On the subamendment does any other hon. member wish to speak? The hon. Member for Calgary-Glenmore on subamendment SA1.

9:10

Mr. Hinman: Yes. Thank you, Mr. Chairman. It's a privilege to stand up and to speak to this amendment on Bill 50. Although I understand, you know, the idea of trying to take this from the independent systems operator, the critical point of this – this is only a Band-aid, at best. I'm going to speak to it, though, and some of the other things that I feel that we really should be doing over and above this amendment, but this is all that we have before us at this point, so we'll speak on that.

You know, the problem that this bill is creating more than anything else in this amendment is trying to address the idea of critical. This government has taken the idea that if we can buffalo the people into thinking that this is critical and that the lights could go out any day – and of course any accident could happen which could put out the electrical grid here in Alberta but no higher risk tomorrow than yesterday. And that's part of life as we go forward. But what really is critical and what this House needs to look at and why we need to have some amendments – and, again, I'm going to keep reiterating that, really, this bill should be tabled for six months. What's critical is to at least wait to see what's going to happen in Copenhagen. It's critical on what the world's agenda is and whether or not they're going to pass a carbon tax. The problem here and what's not being addressed – what's going on here is a push to try and get this through, and it just isn't the right thing to do. So taking the critical area from AESO and putting it back to a regulatory system is vital.

The major difference between a government public hearing process and that of a regulatory hearing where relevant experts are

brought in, where history is looked at, the whole position of the grid is brought in: that is what's critical for Albertans. We can't afford to spend billions of dollars on an infrastructure that really isn't needed, that isn't going to serve any purpose other than the speculation that down the road, perhaps, the Minister of Energy wants a nuclear facility in Grande Prairie. We can't spend billions of dollars on those things. Even in the dream of the PCs we need to look at what are the real needs of Albertans and what is the proper regulatory process that we should be going through.

It's interesting to look at the Netherlands and the system that they've got going there, where contracts with a counterparty have to be there before they enter the market to put bids in. Our whole system needs to be looked at. Why we need to really put a halt on this is so that we can take six months to see what the world's view is on a carbon tax, so that we can look at the problem that the parameters and the guidelines that were given to AESO aren't in the best interests of Albertans anymore.

We don't want this unconstrained power line throughout the province in case there's a nuclear facility that wants to go up somewhere or so they can put in another coal plant or two. That, in fact, is only going to add more gridlock, not help it. It's also interesting when you look at the overall picture, the analysis is that down south there is the possibility for 2,000 or 3,000 megawatts of wind-generated power, yet the constraint from the lines coming south up is there. If, in fact, we add more critical coal production in Genesee 3 and Genesee 4, that does add to the problem of being able to put reliability into our system.

[Mr. Marz in the chair]

So if we're really going to look at some of the points that have been brought up, the hon. Member for Livingstone-Macleod has referred many times to the wind generation that's down there, that that's an area that we need to look at building up and at a much more cost-effective analysis than these high-voltage DC lines. They're just not going to serve us well. It's interesting to also look at the fact that if we're to put more coal production up north – and I don't believe those companies are willing to step up to do that at this point until we know what the carbon tax is going to be and the outlook – by putting local generation close to the demand, specifically speaking, in Calgary, that actually helps the wind generation in the south. If we add more coal – and they like to have an 85 per cent capacity – that deters any opportunity for more wind to come on down in the south. But if, in fact, we put dispatched energy in the Calgary area, that actually allows for more wind generation to come online in the south. We need to really look at those areas and realize: do we have an opportunity to do that?

It's also interesting when we talk about the critical need and where this government has pushed and said: well, we have to do it now. The industrial users of Alberta and their association, IPCCAA, has identified 2,000 megawatts of industrial demand and that they would be more than happy, my understanding is, to work with AESO during the critical peak periods and to come online and offline and to get some breaks in order to work with that. There are so many areas where we should and could work to increase the efficiency, the cost base, and ensure that we have a grid that is reliable, that does transfer the power that we need, and that industry has the advantage of an efficient, effective system and isn't burdened with $14 billion of new infrastructure that really doesn't allow for any new efficiencies or growth in any real way that we don't already have.

I often have heard from some of my rural people who say, you know: when we go to town and we need to pick up some parts, we jump in a pickup and head to town. But this bill is the equivalent of saying: oh, we need to go to town; we're going to go buy a semi and get triple trailers on behind to get it there. This high-voltage DC line: all of the experts that have no connection with AESO, no vested interest, whether it's the Fraser Institute, the University of Calgary, the UCA, the commission, the report, say that these lines are not necessary. They would be the last link that would be put in if, in fact, there was power generation in the billions of dollars that was going forward in northern Alberta. If, in fact, those things were coming online, once the commitment was there, the export connections were made, the licences put up for bid, much as we see TransCanada is putting bids in in Montana and Wyoming right now, they could do the same up through Alberta.

The fact of the matter is that if the goal of this government is to export a pile of electricity or a lot of electrons, then let's be open and honest with Albertans. The situation right now is that we have our lines. When there's excess production and we don't need it – and like I say, the peak hours actually show through the night that when they're peaking their generation, we don't need it – they want to export it. They get a good deal on that, and we want that, that they can generate and produce here in the province. We get some money back, and they get a good deal on their cost of export because the lines aren't being used. But to spend $5.6 billion on this new critical infrastructure that needs to come forward critically and now, it just isn't so unless we're linking up, like I say, to massive power generation that's new and coming online that this government isn't forthright in bringing to the people of Alberta.

We need to do a better job. We need to be open and honest with Albertans. We need to show a long-term plan. Is there, you know, hydroelectric in northern Alberta or in the Territories that we're trying to bring down and want to be part of? Is there a nuclear facility going up in the Grande Prairie area, and therefore we need the high-voltage DC lines? Those are all questions that need to be brought up in a regulatory hearing.

Again, I'm going to go back to this idea that it's critical and that the government needs to go forward. I'd honestly ask the questions to not only the Minister of Energy but to cabinet and caucus. Do they really think that they understand and know all the ins and outs of the electrical grid and can make a better decision than the Alberta Utilities Commission? I don't believe so. Well, I know so, that the Alberta Utilities Commission is in a much better situation, and to take it out of their hands and to put it into the Minister of Energy's hands is not in Albertans' best interest. It's not in the best interest of our business. It's not in the best interest of consumers. We're going to add billions of dollars to the cost of our electrical system.

Once again, our Premier has said that there are going to be no new taxes. Well, then, that means no unnecessary new spending because if there's spending and if there's debt of $5 billion, $10 billion, $15 billion, that's going to reflect on the people of Alberta and the businesses of Alberta. We've been losing businesses in this last year down to the States. I believe that's partially because of the high taxes that are here. The property taxes in our cities have made it such that these companies are no longer viable here. Our dollar is strengthening to the U.S.

All of these things we need to stop. We've got to take a few steps back and realize where we might be in two years from now. Chances are that there will be a lot more problems with a higher dollar, with loss of industry, and again the population growth will slow. For us to spend up to $15 billion in the next 20 years – and they're saying in the short term just $4 billion or $5 billion – just doesn't make sense for Albertans. There is just no reason to pass this through and say that it's critical and that we can and will push this through for Albertans.

9:20

There are just so many disadvantages in taking these first two steps and, like I say, starting with these two high-voltage lines. It just isn't going to serve the purposes that we need. We haven't even looked at some of the many other various areas that we could look at. One of the other ones is the industrial producers. Are we working with them? The Netherlands. Iceland isn't a great example any more; their economy is in trouble. We want to be there for business and for business to realize that we have the lowest cost electrical production possible and are not putting extra pricing into the transmission that isn't necessary. Prebuilding the transmission in advance of these generators that are just possibly coming online isn't right.

I want to go back again and hit on the fact that our policy right now is a congestion-free policy. That isn't good. We've got to go and look at that and realize that the cost of delivering electricity can be substantial, and we need to bring it in line on a needs test. It's just wrong to take this out of the Alberta Utilities Commission and say: "You can't determine the needs. The Minister of Energy is in a far better position, and he's going to do that." The reduced regulatory oversight is going to cost Albertans billions of dollars in the future; again, not in our best interest.

We need to realize that the existence of constraints on the transmission grid isn't the problem that they're saying it is. It happens at 2 or 3 in the morning. We need to absolutely make sure that we go through a process, a regulatory process, not just a public hearing process, to in fact scrutinize all of these demands that this government is saying that industry and the people have here. It just isn't there. So with those and the many other flaws of this bill I would hope that we would continue discussing and realizing our short-sightedness and our desire, it seems like, for a quick political fix when, in fact, a long-term economical fix needs to be looked at.

Once again, I just want to reiterate the importance that if we're looking at spending this kind of money, realize that's going to be a real black mark on business in the province here. We can't afford this infrastructure upgrade. It isn't necessary. We need to remain within the current limits and realize that to redispatch energy locally is far more efficient. Again, it gives us the breathing room to look at what's happening whereas if we jump and start giving, as this government has already given the okay for the engineering of these two high-voltage lines, we're going to get to a critical situation: can we afford to have these industrial businesses here in the province with the added tax of this supercharged infrastructure that's going to be turned over to industry or else, ultimately, as industry is driven out, to the consumers here in the province, which really only use 16 per cent of the electricity that is being produced? So those are all concerns.

I would just like to kind of paraphrase a paragraph here from Transmission Policy in Alberta and Bill 50 by the School of Public Policy, that

> there are advantages to using an independent regulator to assess whether a transmission project is in the public interest. It is less likely that project approval and conditions will be driven by short-term political interests and more likely that the regulator's perspective will reflect long-term benefits and costs to the province. Regulatory agencies typically draw on relevant expertise, historical awareness and background knowledge to understand, evaluate and adjudicate complex issues. A public process allows for greater scrutiny of alternative points of view and provides a forum for public debate. The process also requires the regulator, through written decisions . . .

And this is important, "through written decisions."

> . . . to provide their rationale for each decision. This is an important constraint on the potential for collusion between the decision maker and private interests.

[Mr. Cao in the chair]

So I would ask that we look at putting this to the side, that we keep looking at these amendments but realize that this is just not in the best interests of Albertans. We need to have a needs process. There's been nothing filed by AESO to the AUC. We need to realize that. Again, it's just not going to work for Albertans. If this government pushes forward with Bill 50, it's going to hurt industry. It's going to hurt the people of Alberta and put us at a disadvantage, when what we want to do is to leap ahead during these tough economic times. Realize that if we need some temporary fix and some more electricity, locally dispatched is a great way to go. More important, though, by using the generation with natural gas, we can and will increase our wind production because it can balance that whereas if we go to more coal and then we're still in this area where we're wondering whether or not there's going to be a carbon tax, it'll be a real detriment to our future.

We need to look short term at this time, realize that we're not in a critical situation. Let's wait and see what the governments around the world are going to sign into as well as our own government because it is going to have an impact on us. Sometimes the prudent thing to do is to wait, to analyze, and to objectively look at the market and where it's going.

With the new technology of the tight gas, it has changed the market. Two years ago the panic was that we can't afford to have gas-driven turbines; it's going to be a disadvantage. That's now changed. We actually now are in the situation of: are we going to be able to demand enough use of the natural gas here to keep a floor price up that's of value? It's far cheaper and more efficient to pipe gas to a local generator than to put up these massive high-voltage lines.

Yes, we do need some upgrades on some of our AC lines. I'm not saying that everything is bad and not necessary, but we need to, like I say, take a fairer look at this because it just seems that the bias is uncontrolled here. It's out of order. Again, we need to back up and realize that we're not in this critical situation, which is the storm that this government seems to want to declare, that the lights are going to go out and industry is going to leave, when it's going to be just the opposite. If this bill passes, if billions of dollars are put forward on these high-voltage lines, we're not going to be able to back out of this.

Again, we're increasing the debt to the Alberta taxpayers, to business. So I'd ask for this government to rethink. I challenge the MLAs that you need to get out and read these independent reports and to get up to speed because we haven't been given all the facts by this government. It's critical on this decision that we take a broader view than the narrow one that's being taken right now.

Again, we really have to question what the real plan is that's in there. What are they going to do? Is it a nuclear facility in the Grande Prairie area? Is it a merchant line that's going to be paid for by taxpayers' dollars? I see many people sitting over there amazed. What's he talking about? You can mark my words that they'll be coming through. If those high-voltage lines go through, it will be to the detriment of the people of Alberta, and it's not going to be in their best interest. We're walking into this. The government is walking into this with blinders on. It's not healthy for the Alberta taxpayers.

The Chair: Any other hon. member wishing to speak on subamendment SA1? Seeing none, the chair shall now call the question on subamendment SA1.

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

[Several members rose calling for a division. The division bell was rung at 9:29 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Cao in the chair]

For the motion:

Chase	Kang	Pastoor
Hinman	Notley	Taylor

9:40

Against the motion:

Berger	Hancock	Olson
Blackett	Jablonski	Prins
Campbell	Jacobs	Redford
Dallas	Knight	Rodney
DeLong	Leskiw	Sherman
Denis	Liepert	Tarchuk
Drysdale	Marz	Weadick
Fawcett	McQueen	Webber
Forsyth	Oberle	Woo-Paw
Groeneveld		

Totals:	For – 6	Against – 28

[Motion on subamendment SA1 lost]

The Chair: Now we are back to amendment A1. The hon. Minister of International and Intergovernmental Relations.

Mr. Webber: Thank you, Mr. Chair. I'm pleased to participate in Committee of the Whole for Bill 50, the Electric Statutes Amendment Act, 2009, and, in particular, the amendment A1 proposed by the hon. Minister of Energy. As we all know, this legislation, Bill 50 with amendments, will approve the need for critical transmission infrastructure projects, core projects, one of which is the Edmonton to Calgary project, which I will speak to later.

What I want to talk about now is how Alberta is outgrowing its electricity system. On one point I think we can all agree, that electricity is so important to sustaining our economic well-being and our high quality of life. Our system is aging. It's inefficient, and it's congested. It hasn't kept pace with growth in the province. We've come to a place where we need to act immediately.

Mr. Chairman, the hon. Member for Calgary-Glenmore earlier stated: "We don't need that much power here in the province. We're meeting our current needs." I think he said that last Tuesday. It's page 1822 of *Hansard*, anyways. Well, I'm not sure what "that much" means to the hon. member, but here are some of the numbers for the rest of the Assembly. Alberta's peak demand in 2008 was 9,806 megawatts. That was a record peak demand even in the midst of an economic crisis. Not only that, our off-peak demand is relatively flat. Our average hourly low is about 8,000 megawatts. That's information that's available to anyone on the Department of Energy's website.

Putting that into context, Saskatchewan's total generating capacity is about 3,641 megawatts. That means that we'd need almost three Saskatchewans' worth of power on our coldest, darkest day. Mr. Chair, Alberta's growth in demand has been unprecedented. While the rest of Canada is looking at about 1 per cent growth in demand, Alberta's forecast is 3 per cent. That's the two Red Deer size cities analogy that we so often hear about.

That growth means an additional 11,500 megawatts' worth of generation in the next 20 years. We have more than 20,000 megawatts' worth of generation proposals, both thermal and renewables. The challenge for this province is: how do we make sure new generation can connect to the grid? That's where Bill 50 and the critical transmission infrastructure projects come in.

Now back to the hon. Member for Calgary-Glenmore's comments that we're meeting our current needs. Hon. member, I do agree that we are meeting our current needs, but the question before us is: are our needs being met in the most economical way? Are Albertans getting the best priced, competitive electricity supply, and will we continue to receive reliable electricity service in the future? We've heard so much about costs as they relate to transmission rates. What we don't hear are the costs that relate to energy rates, the amount consumers pay for the energy they use.

Albertans' wholesale electricity market is based on the principles of free, efficient, and open competition. A congested transmission system works against these principles. Congestion is when the Edmonton to Calgary grid is at full capacity and a generator has to be told to produce power because of its location, not because of its competitive price. Remember that in Alberta lowest cost electricity is dispatched first. As demand increases throughout the day, higher priced electricity will come online. With congestion, Albertans are not getting the best price for their electricity. Instead, they are paying a premium for the location of a generator. In addition, imported power may have to be used to meet demand. Alberta is a net importer, and the value of imports last year was about $266 million.

Now, we've heard some arguments for local generation. What gets left out of the debate is the impact that congestion and local premium-priced generation can have on the price Albertans pay for power. What this comes down to is unconstrained access to a transmission system which is required to facilitate development of new generation. That's the 11,500 megawatts we'll need in the next 20 years. That generation will come from a diverse list of sources: from coal, from natural gas, from hydro, wind, biomass, and cogeneration. New generation encourages competition, which in turn encourages competitive prices, which is a benefit to all consumers. The independent power producers will make decisions about the most economically efficient and innovative ways to add power to the grid.

Let's be clear: customers pay for congestion on the transmission system in the short term by paying higher energy costs. We need new generation and new transmission. The longer we delay, the greater the potential for unreliable service and higher prices.

Mr. Chairman, it is the job of the Alberta Electric System Operator, or AESO, to take a look at the demand for electricity, the forecasts and data from internal and external sources, and the proposals for generation and then come up with a long-term plan for meeting the electricity needs of Albertans. The AESO also consults with Albertans about the social, environmental, and land-use impacts of new transmission.

The Edmonton to Calgary project included in Bill 50, the two high-voltage DC current lines, is one of the projects identified by AESO as critically needed. The two high-capacity, high-efficiency lines in the Edmonton to Calgary project are a central feature of the AESO's long-term plan. This project will address the increased demand for power in southern and central Alberta. The project will also help to alleviate the congestion I spoke about earlier and will facilitate the addition of renewable and low-emission electricity sources like wind and hydro, biomass, and cogeneration. These two lines will connect to other parts of the province, strengthening a key

piece of our electricity infrastructure. The estimated cost for this project is $3.1 billion, which is about $3 extra on the average residential consumer bill.

Now, we've heard many comments here in the House and outside on the steps of the Legislature about the cost of HVDC and the misconception that this is an overbuild. There are many benefits to choosing high-voltage direct current technology. Mr. Chairman, using this technology is about prebuilding and reinforcing the foundation of Alberta's economy. When it comes to cost concerns, HVDC gives us the option of staging the construction to meet the grid demand. In other words, you can build the linear piece now and add capacity to it as you need it. You don't have to build it all at once. It can be done in stages. This ensures that cost-efficiency and reliability are taken into account.

9:50

The second benefit is the reduced footprint of HVDC. This technology reduces the rights-of-way and easements needed. We know that the size of the existing towers is an issue for many landowners, and we believe HVDC will address some of those concerns.

Another issue that causes a great deal of concern for landowners is this business of having the power company come back through your land every time it's necessary to add another alternating current line. What landowners have said to us is: if you're going to come onto my land, put up the tower, do it once, and don't bother me again. That was a comment heard over and over again, Mr. Chair, during the consultations that AESO held on its long-term planning and the Edmonton to Calgary project.

While HVDC helps mitigate ongoing disruptions, HVDC is also more efficient, and the line losses are much smaller than they are with high-voltage AC lines. Reinforcing this central piece of infrastructure will have a cost impact. These costs are regulated, Mr. Chairman. In fact, transmission is fully regulated in this province.

One last point, Mr. Chairman. Albertans pay for the electricity service they use. It's consumer based, and those rates must be just and reasonable. If the lines are used to export power, the exporters pay a tariff. Those export payments can help offset and even reduce transmission costs to Albertans.

Bill 50 reflects the long-term planning that has been done. We know we need these lines. We know we need to offer Albertans the opportunity to have a say if they are directly or adversely affected. We also know that we need to act quickly. Delays will only incur higher energy costs to Albertans and the threat of unreliable power service.

On that note, Mr. Chair, I ask that all members support these amendments suggested by the Minister of Energy.

I also ask that we adjourn the debate, Mr. Chair.

[Motion to adjourn debate carried]

Bill 53
Professional Corporations Statutes Amendment Act, 2009

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

Mr. Weadick: Thank you, Mr. Chairman. I rise today to table a series of amendments to Bill 53, the Professional Corporations Statutes Amendment Act, 2009, which extends nonvoting share ownership of professional corporations to immediate family members.

As you know, there has been constructive debate over Bill 53 in this House, and I know we're all on the same page when it comes to how the tax planning will work and who can benefit. There's been discussion over the interpretation of the current wording of the trust provisions. Under the current wording of Bill 53 there is some confusion that under certain trust structures the child of a professional could continue to be a beneficiary even after that child turns 18. That's not the intent of Bill 53. The inclusion of the trust provision was to provide a legal mechanism for minor children to own nonvoting shares, not to allow children to continue to be a beneficiary once they become adults. The current wording of the bill is that shares can be held by the children of the professional, shares of children could be held in trust, and shares must be transferred once the child turns 18.

The new proposed wording will make it clear that shares can be held by the children of the professional and that shares can only be held in trust for minor children. To achieve this, House amendments are proposed for the four respective acts ensuring that the word "minor" is added before children along with adding clarity that a professional corporation has 90 days after a child turns 18 to comply with the requirement that only minor children are beneficiaries of the trust.

These amendments, Mr. Chairman, should make the intent of Bill 53 abundantly clear to all those affected by the legislation.

Thank you.

Mr. Chase: I'm just seeking a little bit of clarification with regard to the minor children. When they reach 18, hon. proposer of the amendment, does that mean that they no longer qualify for shares in the corporation because they've reached adulthood? If you wouldn't mind answering, that would help me.

Thank you.

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

Mr. Weadick: Thank you. No. What it means is that at 18 they can no longer be held in trust, and those shares would have to be transferred to the adult child in his name.

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

Mr. Chase: Yes. Thank you. I appreciate that clarification. It makes it considerably more understandable. It does indicate that the sharing continues to go on into adulthood, and that was one of the concerns we had, as to who qualified: which members of the family and how much of the extended family could potentially benefit from the incorporated status?

One of the concerns that came up – and I sort of suggested that I was trying to balance the positives and weigh them against the negatives – is that people who are in these tax brackets, doctors, lawyers, accountants, are among the upper echelon of the tax regimes. They're not at the CEO state or quite at that point, but it would be safe to say that their take-home salaries are in the $200,000-plus category. Then we look at what's happening in Alberta at this point, where I think one of the more recent figures that I heard was over 75,000 Albertans unemployed, like the song: "The rich get rich and the poor get poorer. In the meantime, in between time, ain't we [had] fun?" In terms of the balancing, are we doing our economy and our general population a disservice by allowing people who are already at the upper tax brackets to maintain more of their wealth reserve for their family members but not necessarily then contributing to the well-being of Albertans as a whole?

I suppose what that brings into account is a discussion that I don't want to get into in any great detail on the nature of the flat tax and

the nature of the breaks that we're already giving to people. We know that with the flat tax, for example, the people at the lowest end get a reasonable break if it's a family that's earning under $23,000. There's a break if there's an individual earning under $13,000. There's a break, but that break is basically funded by the middle class, that pays the majority of the taxes, and the middle class does not fit into that category of $200,000-plus. By reducing the tax impact, as I say, in the upper echelons of the upper middle class, we're putting more of a burden onto where most individuals fit in terms of the middle class; in other words, earning under $200,000. I'm talking about a family's salary, combined incomes as opposed to individuals.

I support the amendment, but I think it brings forward further discussion on the bill as amended, and possibly I'll save my concerns on the bill as amended. I think that this is a good clarification, and I support this particular amendment.

The Chair: On amendment A1, any other member wish to speak? The hon. Member for Lethbridge-East.

10:00

Ms Pastoor: Yes. Thank you, Mr. Chair. I wonder if I might ask the Member for Lethbridge-West just for a clarification on part of this amendment. It would be on the first page, A, section 1(b)(v), striking out "or breakdown of the common-law relationship" and substituting "breakdown of the common-law relationship or a beneficiary of a trust attaining the age of 18 years." I'm not sure I've got that part through my head.

Thank you.

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

Mr. Weadick: Thank you very much. In this place we're keeping the breaking down of common-law relationship but adding the beneficiary of a trust reaching the age of 18. That's when the shares would have to be transferred.

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

Ms Pastoor: Yes. Thank you, Mr. Chair. So then this is just cleaning up the part to be able to add the minor child.

Mr. Weadick: That's right.

Ms Pastoor: Thank you.

The Chair: Is there any other member wishing to speak on amendment A1?

Seeing none, the chair shall now call the question on A1.

[Motion on amendment A1 carried]

The Chair: Hon. members, on the bill. The hon. Member for Calgary-Varsity.

Mr. Chase: Yes. Thank you. Just briefly on the bill as amended. I appreciate the hon. Member for Lethbridge-West sort of dealing with the potential loopholes of the minor children and their inheritance and what happens in the event of the unfortunate death of a minor child, the breakdown of a common-law relationship. These are all definitive, helpful definitions that have been provided, and they're much appreciated.

I would be interested in the Member for Lethbridge-West or any other members in this House discussing the advantages and disadvantages of allowing families and professionals to establish corporations in terms of the lost tax revenue and if there is a belief that while we may lose in the tax revenue, there is the potential of greater expenditure and investment of the wealth as opposed to it just sitting in a trust account. I'm open to that discussion and debate.

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

Mr. Weadick: Well, thank you. I appreciate the question that has been brought forward. The real tax advantages in the legislation fall at the federal level. With the ability to share the shares in the company with members of the family, that allows, when any dividends are paid, those dividends to be paid to those shareholders. So a spouse or a child could receive the benefits of the dividends and create a tax-sharing perspective. It's a very small amount provincially because, of course, we have flat tax. It would bring a few more people in, but it's really trying to create a level playing field.

Other professionals in British Columbia, Saskatchewan, Manitoba, and Ontario have similar provisions to share this. Alberta is one of the only provinces in Canada not to have it. So this will allow us to have a more level playing field with those companies but also within Alberta. Any other professional – engineers, architects – can have professional corporations and can fully share that with their children, with their spouses. They're even allowed to have trusts and other things in there. This doesn't go as far as the other professionals, but it brings it closer. We want to make sure we can attract and keep professionals in Alberta, so we didn't want to create a situation where there is so much disparity that professionals may be lured away from here to maintain their professional trusts.

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

Mr. Chase: Thank you. Mr. Chair, I appreciate the clarification. I certainly don't want to make this an argument between sort of a socialist, everybody benefiting and the capitalist, entrepreneurial circumstance, where, you know, you achieve every dollar you can possibly make and keep it close to your family and let the investments accrue interest, et cetera, et cetera. But I'm wondering if there's at some point a balance in terms of almost sort of a favoured status, where the average Albertan does not benefit from the investments accrued to selected professionals.

It's kind of a difficult argument because, you know, we're encouraging people to get the highest level of education and expertise they possibly can get, yet we want not only that expertise to be shared; we also want the economic benefits that have been generated to be shared. So, as I say, the quandary I have is that by allowing certain individuals with professional status to do better than other individuals who don't fit into those professional categories, are we potentially creating a special class of individuals at the expense of the sort of middle-class Albertan?

I know we're talking economic interests and Keynesian philosophies. I'd be interested in how we can see a benefit for all Albertans by providing special tax concessions to selected professionals.

Mr. Hancock: Mr. Chairman, I would encourage the hon. Member for Calgary-Varsity to look at it from an entirely different perspective, and that is that small business is the generator of our economy. Small business creates more jobs. Small business creates more economic opportunity in this province than big business ever did, and small businesses right across the board, unless they're profes-

sionals, have the ability to organize their affairs so that family members can be shareholders.

In fact, family-run corporations are where small business starts. An entrepreneur with a good idea starts their business. Typically they will bring their family into the business, and their family will be a part of it. That is the nature of Alberta business. That's one of the things, that the innovation and the success, the drive in Alberta, is Albertans getting involved in business, setting up their company, and moving ahead and making something and giving something back. Typically it'll be organized around the family.

If you're a professional, however, you are in a different group. You can't do that. All this really does is bring professional corporations into the same realm as all other small business in the province. It's not about giving a special break to professional corporations. Rather, it's about creating the same platform for professional corporations as already exists for every other small business in the province.

Why would we do that? We would do that because professional corporations, like other small businesses, generate economic activity as well, because it makes a very, very insignificant impact to the tax revenue to the province because we have a flat tax of 10 per cent. So it doesn't really matter whether you're taxing it in the hands of the professional shareholder or other members of the family at lower income levels or those sorts of things. It's not a break that's going to take money out of the provincial tax coffers.

It may take a little bit out of the federal tax coffers and retain it for spreading around again in Alberta because most of the money that comes in actually goes back out even for most small businesses in the province. And the fact of the matter is that most professional corporations are in the realm of small businesses. Lawyers or doctors or accountants are professionals that carry on business in the province. They spend their money the same way everybody else does, to encourage more things to happen. I would just put that perspective to the hon. member, that this isn't about extending a privilege to a certain group of people, being professionals. This is about creating the same platform for professional corporations as exists for all other small businesses in the province.

10:10

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

Mr. Chase: Thank you. I want to thank the hon. House leader for that explanation because it does help. I hadn't realized the extent that small business had breaks that professionals didn't.

A thought. My wife, myself, my daughter at one point were all teaching. Should this professional corporation be extended to teachers? You know, there are so many teachers, as you know from your own family, that several members of a family could in theory, if this were extended, be incorporated. Is that something worth pursuing, or should it be limited to the current professions that are now listed under the bill? Hon. Minister of Education, did you have any thoughts about the idea of extending the professional incorporation to, say, teachers, for example? Are there some natural extensions of the professional categories?

Mr. Hancock: It'd be a wonderful idea except that teachers are paid as opposed to earning income from selling a product or service. The paid professions don't quite fit into the same concept. There's not a similar opportunity. I mean, I would love to look for opportunities for teachers and nurses, for example, as paid professionals. But they do earn a salary as opposed to earning their income by selling services and products.

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

Ms Pastoor: Yes. Thank you. I'd like to ask the Minister of Education, too. If somebody became a nurse practitioner, when they would work in a primary health unit, they could in fact be a professional that would contract their service to that primary health centre, which in that case would open it up to having them incorporate themselves.

Mr. Hancock: Mr. Chairman, I think that as new professions come on and they're recognized in terms of their organization, if they required or if they could operate through a professional corporation, then you'd want to extend the same type of opportunity to them.

The only distinction between a professional corporation and other corporations is that professionals cannot hide from their personal liability for their professional advice by putting themselves into a limited liability corporation. That's the distinction between a professional corporation and another corporation. If you're a professional, you have to be responsible for your professional advice, and you have to retain your personal liability for that, but there's no good reason to require you to jump through any other hoops that other businesses wouldn't be required to do.

The Chair: The hon. Member for Edmonton-Strathcona on the bill as amended.

Ms Notley: Thank you for the opportunity to rise. I've already, I think, outlined our caucus's concerns with this bill. There's no question that the exchange between the two opposition members and the Minister of Education highlights, really, the reasons for our concern behind this bill, where the Minister of Education clearly states that you wouldn't consider having teachers enjoy the benefit of this because, of course, they're salaried employees. This sort of goes back to our basic presumption: why is it that you get fabulous tax breaks and income-splitting opportunities if you happen to be a corporation or a small-business owner, but if you are a salaried employee, you're a sitting duck, waiting there to pay whatever premiums and taxes and additional user fees this government can come up with at any time? It makes no sense. A lawyer who works on staff and receives a salary versus a lawyer who has a professional corporation. It makes no sense.

An Hon. Member: Income Tax Act.

Ms Notley: That's my point. My point is that for income tax we should be taxing people on the basis of the income that they actually bring home and they earn and that these little tax loopholes don't make a lot of sense because there's, of course, a disproportionate number of people who get the benefit of these income-splitting opportunities. I would expect that there aren't a heck of a lot of families that enjoy the benefit of these income-splitting opportunities who are making $25,000 a year. It's an opportunity to defer taxes for a group that represents, effectively, the middle and upper middle and the upper, upper middle class. You know, it just really doesn't make a lot of sense. You can talk about equity between corporation owners, or you can talk about equity within the profession, or you can talk about equity amongst the population as a whole. The boilermaker who makes $150,000 and the lawyer who makes $150,000 a year: why does one get to attribute $75,000 to their spouse while the other one does not?

Mr. Liepert: One's a corporation.

Ms Notley: Exactly. One's a corporation, and one's an employee, and we must grind down employees at all possible opportunities if we are a Tory in Alberta.

Apart from one being a corporation and one not a corporation, I don't quite see the rationale between them. Is there a suggestion that a nurse doesn't contribute to economic activity? Is there a suggestion that if you are an employee, you don't grow the province; you don't generate economic activity? I'd like to hear this government tell the employees across this province that they don't contribute to the economic growth of the province. I'm pretty sure they do. I'm pretty sure they think they do. So what's the difference, other than that one is an opportunity for a select group to defer taxes while another group does not get the opportunity?

Mr. Hancock: Well, Mr. Chairman, at the risk of prolonging this debate, I'd like to make two points. First of all, any time any person who owns a company wants to spend the money personally, they have to draw it out of the company, and it's taxable in their hands. So they pay taxes on it just like any other wage earner pays tax on it. If you leave money in your corporation to grow the business and to grow economic activity, then you're growing economic activity. If you take it out for your personal use, it's income and you have to pay tax on it. The hon. member knows that.

The other piece, however, that she mentions is a very important piece, and that is: why cannot wage earners have the ability to split their income with their family? And that's a very good question. Unfortunately, she's in the wrong House to address it because it has to be addressed at the federal level. In my humble opinion, simply as a member of the Legislature, not on behalf of the government, we should be advocating to the federal government to allow a family to file a joint return and share their income, but that would be an argument for another day and another time and another place. That's not in our hands to do. What we do have the opportunity to do is to create a platform for economic activity and the drivers of economic activity, which is small business, to do what they can do and not to get in their way when they're creating opportunities so that we can have those wage earners earn as much as they possibly can so that they can take care of their families.

The Chair: On Bill 53 as amended, any other hon. members wishing to speak on it?

Seeing none, the chair shall now call the question on the bill as amended.

[The clauses of Bill 53 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 58
Corrections Amendment Act, 2009

The Chair: Are there any comments, questions, or amendments to be made? The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you. It's interesting in this legislative fall session that we're having a number of bills that creep into the area of civil rights and sort of the potential loss of privacy, the loss of rights. If I were Stephen Jenuth, for example, I would have much greater informed reservations than myself as a former teacher. This bill makes changes to the Corrections Act in relation to the monitoring of inmate communications within correctional institutions as well as providing for earned remission in relation to provincial offences. Specifically, this allows for the passive recording of inmate communications. Those that are part of a privileged conversation, i.e. one with an attorney, will remain exempt.

10:20

Now, I'm a little bit mixed up by the terminology "passive recording." It seems that we're either recording or we're not recording. Then it gets a little bit more complicated, again, with the use of the word "passive." Obviously, the information is being actively recorded. But here's where it gets more convoluted. This bill will enable passive recording of inmate communications, which will be stored in a database, not to be listened to unless there are reasonable grounds to do so. You know, I taught English for a number of years. How do we define "reasonable"? Information that appears to threaten an individual: how do we know that that information appears to be threatening an individual if we haven't listened to the recording? Yet we've recorded it passively and are supposedly storing it, so at what point do we go down to the basement and pull out the tapes from November 23? What triggers the mechanism to play back the tape? That's the concern I have.

Various stakeholder groups have already referred to the use of these measures in Alberta remand centres as cruel and unusual. These aren't my terms. These are references that have been made. The Criminal Trial Lawyers Association has been vehemently opposed to the monitoring of remand inmates since similar changes hit the books in 2007. At that time Tom Engel, a well-known member of Edmonton's criminal bar, was in touch with us and encouraged the members of the opposition to make several amendments to the bill as it then was, including one that would have limited the use of communications monitoring to offenders rather than inmates.

I don't want to think that a person can use their jail cell to conduct crime operations and direct their individuals on the outside to perpetrate crimes, whether they be of a violent nature or a monetary nature. Yet at the same time because a person has been incarcerated doesn't mean that all rights are therefore suspended. I believe in restitution. I believe in an opportunity for reformation, which can only come through educational programs being offered in the jail. I do not believe – and I think maybe it comes from being a teacher for so long – that you give up on a person early on in the process. In the case of a repeat offender, obviously, they didn't get the message the first time, the second time, the third time. At that point do we simply say, you know: throw away the key.

It's a different circumstance when the crime is of a violent nature or of a pedophile nature or sexual assault circumstances, and a person will not accept either counselling or medical intervention. But how do we lump all these different offences and offenders into a situation and then talk in terms of terminology such as "passive"?

I see we have the hon. Member for Calgary-Egmont here. I know he's got a legal background.

Mr. Rodney: Through the chair.

Mr. Chase: Through the chair, of course. I know we've got a teacher across the way directing another teacher to follow appropriate procedure. Completely appropriate.

Could you share with us your legal expertise as to where civil rights and criminal rights collide?

Mr. Denis: Pay my retainer first.

Mr. Chase: Yeah. That's right. I'm looking for some free legal advice.

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

Mr. Prins: Thank you, Mr. Chairman. I pleased also to speak to the Committee of the Whole about Bill 58, the Corrections Amendment Act, 2009. This bill will expand the monitoring and the recording of inmate communications, and it will also allow offenders of provincial statutes and municipal bylaws to earn remission for sentences. This bill is designed to make our legislation consistent with other jurisdictions, to encourage good behaviour and program participation by inmates, and it will modernize our approach to recording and monitoring inmate communications. Providing incentive for good behaviour and program participation by provincial statute and municipal bylaw offenders will help make provincial remand and correctional facilities safer for inmates, staff, visitors, and, ultimately, the entire community.

When inmates participate in programs to help them get back on track, we all benefit. During the second reading debate the overall tone of the discussion on Bill 58 was quite positive, with very few issues being raised. A few questions were raised, even by the hon. member just speaking, so I'd like to provide some information and clarification around the few issues that did come up. If this hon. member would listen carefully, he'll see that most of his issues will be addressed in what I'm going to say next.

The Member for Calgary-Buffalo also spoke about monitoring and recording inmate communications of those awaiting trial. It's important to note that these communications will not be reviewed unless certain criteria are met. The director of a correctional centre must believe on reasonable grounds that the inmate communication will contain evidence, firstly, of an act that would jeopardize the security of the institution or the safety of any persons or, secondly, if a criminal offence or plan was being hatched to commit a criminal offence within the jail. That's when you would listen to these communications. Communications could also be reviewed if the communication is made to a victim or another person who would find the inmate communication threatening or intimidating to themselves. As well, communications could be reviewed to ensure the security of the institution and the safety of inmates, staff, and the public: everyone involved.

The Member for Edmonton-Centre raised the issue of privacy in light of rapidly advancing technology. As the Member for Calgary-Buffalo indicated, the Supreme Court of Canada says that there is a reduced expectation of privacy for prisoners who are incarcerated. I think that would just be common sense. If you're incarcerated, you've lost some rights. Again, it's important to note that there must be reasonable grounds to review these communications.

The Member for Edmonton-Centre also spoke about the collection and storage of recorded inmate communications. Regulations will be developed regarding the storage and retention of inmate communications.

The final area that was discussed during second reading was around privileged communications. The proposed amendments exempt communications between lawyers and their clients, so there are some communications that are exempt. The regulation which would accompany this proposed legislation may be expanded to include communications with other parties.

I trust this information will assist all of my fellow members in their understanding of Bill 58.

Mr. Chairman, passing the Corrections Amendment Act, 2009, will modernize our approach to inmate communications and align our legislation with other jurisdictions in Canada. This bill will also help to increase safety both in the community and in our correctional centres. These amendments will encourage inmates to participate in programs to help change their lives and to comply with the rules in our correctional centres. It will also give law enforcement another tool to intercept and prevent crime. Albertans deserve safe communities to live, work, and raise their families, and these amendments further support that goal.

Thank you very much, Mr. Chairman.

The Chair: The hon. Member for Calgary-Varsity on Bill 58.

Mr. Chase: Thank you very much, Mr. Chair. I do appreciate the hon. Member for Lacombe-Ponoka providing some background to questions that were asked. It's much appreciated. Part of the problem exists, as I've already suggested, in what is reasonable and to what extent is passive simply a collection of information which becomes active once it's actually being listened to.

Another concern that has been brought up is the almost interchangeable use of the terms "offender" and "inmate." Now, a person who is in a remand centre, for example, is an inmate. They can't truly be classified an offender until they've had a chance to appear before a judge and a hearing has been held. Obviously, if they're convicted, they're an offender, but until such time as they are, they're an inmate. The offender is a much more derogatory form of language, so we have to be careful how we're using it. That you're innocent until proven guilty, I believe, is still the case in Alberta. But these definitions have to be dealt with.

10:30

Section 1, definitions, is amended by adding (d.1), inmate communication. This is defined as any communication – oral, written, electronic – between the inmate and any other person. But it specifies, as the hon. Member for Lacombe-Ponoka pointed out, that this will not include any communication that is defined as privileged. Privileged information would include conversation with an attorney, for example. This is where concerns regarding the use of "inmate" rather than a term like "offender" arise. Note that "offender" is not a defined term in the Corrections Act as it is today. When we're sort of flipping back and forth between inmate and offender, we have to make sure that our language is the same throughout so that we're not getting into the definition concerns that I mentioned.

It is troubling that this legislation is written in such a way that it will not need to be revisited as new forms of communication begin to be used. These are concerns that I bring up. Other concerns that come out of this, without wanting to belabour the point: how and for how long will the recordings be stored? Are there circumstances under which recordings will be deleted or not stored at all? For example, a person in a remand centre is having conversations. They're recorded. Then that individual goes before a judge. For lack of evidence or whatever the circumstance may be, they are not held guilty. They're acquitted. Is there anything within the bill that says, now that they're proved to be innocent or, at least, not guilty, the tapes will be erased?

I brought this up with regard to issues dealing with child welfare, where an allegation is made against an individual, and that allegation, when it comes to a court hearing, is proved to be false, yet that record, that accusation, that allegation follows that individual for the rest of their life. Well, similarly, will these taped conversations have a nondetermined life? I would suggest that unless we deal with the person who is found not guilty and start to give them back the rights that were taken away from them, whether it was the loss of their

contact with their child or whether it's the fact they were inappropriately, incorrectly incarcerated, these are issues that are of concern.

I don't believe in a sort of generic, "Well, as long as we don't make too many mistakes on the average, it's okay if we keep these tapes for a lengthy time" or "It's okay if the person's slate is not wiped clean because there are probably more people that we're not catching than those that we're catching." We have to be aware of the balance between civil liberties, a chance to, as they say, be proven innocent and then not have the trappings of allegations or the taped conversations following the individuals. At what point does a person's privacy get restored? That would be a question I would have.

I see that the hon. House leader is back.

Limitations on recordings within this act. Are there any limitations, at which point the recordings would be erased? Do you or the hon. Member for Calgary-Egmont have any sense of that? I'm not doing this to prolong. I'm just wondering: anywhere in the act does it state the length of time that the evidence will be collected and set aside even if a person is proven innocent? Maybe that's not something that could be approached because it isn't qualified in this act, and if it isn't, then there's a problem.

The Chair: Any other hon. member wishing to speak on the bill? The hon. Member for Calgary-Egmont.

Mr. Denis: Thank you very much, Mr. Chair. Just briefly, earlier the Member for Calgary-Varsity had asked me for some legal advice. Tomorrow I can go down to the Law Society and reactivate my licence, he can pay me a retainer, and then I could just pay the fees to my professional corporation.

Thank you.

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

Mr. Chase: Thank you. Through the chair, if the hon. Member for Calgary-Egmont had a dental practice on the side, he could have two retainers.

The Chair: Any other hon. member wishing to speak on Bill 58?

Seeing none, the chair shall now call the question.

[The clauses of Bill 58 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 59
Mental Health Amendment Act, 2009

The Chair: Are there any comments, questions, or amendments regarding this bill? The hon. Member for Calgary-Varsity.

Mr. Chase: Thank you very much, and I'll be brief. This bill purports to clarify the role of psychiatrists in issuing and overseeing community treatment orders. The bill also clarifies the criteria used by mental health review panels when reviewing community treatment orders, and the bill expands the range of people that the mental health advocate can request information from.

As I mentioned with regard to Bill 58, we're delving more and more into the civil liberties aspects of individuals and the safety of the community versus the privacy of the individual. Psychiatrists are professionals, and I appreciate their professionalism. We have the circumstance where, for example, today we tabled in the area of 6,000 signatures calling for Alberta Hospital to remain open basically at the status it was at the end of September, as the prayer read. My concern is that the farther away we get from the professional, from the psychiatrist, when we get into the so-called community treatment and we don't have the same type of professional connection that an organization like the Alberta Hospital has, then the ability to treat and to deal with community treatment orders gets somewhat watered down.

I recall – I believe it was 2005 – when we debated about a person, for example, who suffers from schizophrenia and doesn't take their meds. We had an interesting debate as to under what circumstance that individual should be committed to an institution and therefore forced to take their medication. It's such a delicate balance, as I say, between the rights of the individual and the safety of the community.

Again, I'm going to reference the Alberta Hospital because a wide variety of needs are met at the Alberta Hospital. We talked in question period, for example, about treatment for pedophiles. That's a very specific problem that requires very specific professional intervention, so the notion of a committed pedophile being in some sort of loose community program without the oversight of a psychiatrist's community treatment order . . . [interjection] Well, this is where I get worried about it.

10:40

On the other hand, hon. House leader, I don't want everybody incarcerated; I don't want everyone institutionalized. But when an institution is providing the variety of services, for example, that Alberta Hospital is currently providing, I'm not sure that the same degree of oversight and professionalism can occur in a community setting. This is where the balance, the privacy, individual rights versus collective rights come into the discussion. I raise this because in general we're supportive.

I would note that Alberta is the only jurisdiction that allows for community treatment orders to be issued without consent when a patient has a history of refusing treatment. A community treatment order is considered necessary to prevent harm to others. Possibly that's a good thing that we're intervening because of the harm that could be done to others. Counselling, medication, supervision, professional oversight – there aren't singular solutions. That's why when an institution such as Alberta Hospital offers this wide range of service where people don't have to be necessarily confined overnight but can receive the guidance when things temporarily break down, as is frequently the case with lesser degrees of mental illness, when we have this one-stop shopping type of facility, my concern is that expanding it into the community without having it as a backup may be the wrong direction to take.

I look forward to others. I note that on deck tonight we do have a doctor who, I am sure, in his front-line emergent circumstances has dealt with the disorientation of individuals suffering from mental illness, and the ability to direct them to the appropriate area within the hospital and for extended treatment, I'm sure, must come up on a fairly regular basis. I know, for example, that in the drop-in centre in Calgary it's estimated that one-third of the individuals are suffering from mental illness. If you could enlighten us as to your experience, that would be most appreciated.

The Chair: Any other hon. member wish to speak on the bill? The hon. Member for Edmonton-Meadowlark.

Dr. Sherman: Thank you, Mr. Chairman. I would just like to thank the hon. Member for Calgary-Varsity for speaking to this bill. It's a very important bill. As a front-line health care provider I will say that our professional organization that represents the emergency doctors of the province was consulted a few years ago. The issue with the Mental Health Amendment Act in 2007 was that they changed the criteria for involuntary admission from danger to harm. When a patient presents to us in the emergency room and they've been in and out of Alberta Hospital and acute-care facilities for mental health reasons where they've actually presented a danger to themselves or others, family members will often bring them in and say, you know: they've stopped taking their medications. Now, on that criteria of danger, it says on the form that we fill out, the legal form to certify patients to a hospital, that they must present a danger to themselves or others, but that pertains to that point in time. At that point in time they may not present a danger, but two or three days later they may.

There have been instances when very sick people have come in very early in their illness. They weren't a danger at that point in time, but the next day they were, and bad outcomes have happened. So that has been changed to the word "likely" to present a danger or harm to themselves or others, or likely to present a deterioration in their physical or emotional well-being. It allows us to intervene early and intervene when the loved ones of the family member know that they do need help and they need to be compliant with their medications.

Part of the issue with the community treatment orders is that we are allowed currently to hold patients against their will, but we can't treat them. The community treatment orders aren't reserved for everyone who's admitted to hospital for the first time or the second time. It's for patients who have chronic psychiatric illness, who have been admitted for over 30 days, who have had more than a couple of admissions. Many of these patients are many of the homeless people and many of the very vulnerable. They get off their medications, they lose insight, and they are unable to have the wherewithal to know that they need to take the medication that works for them.

Really, this is about earlier intervention and prevention because if patients don't take their treatment and they go a long time without it, then they're very sick. Then they need to be admitted for a very long time. So this is really about improving treatment, improving care, and keeping people in the community if at all possible. As I said, this is about actually bringing you into hospital earlier in your illness so we can get you out sooner and, really, to improve the care. This is not about the safety of society and privacy of individuals. It's really about the safety of the patient, safety of the individual involved. That's the primary concern.

With respect to Alberta Hospital, right now patients are not forced to take their medications. As I said, we can hold you against your will, but we can't force you. This isn't about forcing everyone to take medications, just those who absolutely need it. It's not the vast majority of psychiatric patients. It's a small number. Really, many of them are, unfortunately, the ones who are in the revolving psychiatry door, and many of them are homeless.

With respect to oversight, that was a concern for many of my colleagues about civil liberties and oversight, and this is where the mental health advocate will have the ability to get more information, to speak up for those patients so that they do have a voice who advocates for them, an independent voice, independent of government.

Now, sometimes patients need to be apprehended, where the family members say: look, here's a big problem. They bring it to our attention, but we have no legislative tool to ask the authorities to bring somebody who is likely to present a danger to themselves or others to the facility for treatment.

These are some of the amendments that we've made. I hope I've answered some of the questions for the Member for Calgary-Varsity. I'd be happy to answer more questions on this very important issue and very important piece of legislation for mental health patients.

Thank you.

The Chair: The hon. Member for Edmonton-Strathcona on Bill 59.

Ms Notley: Thank you, Mr. Chairman. It's a pleasure to be able to rise to speak on this bill in Committee of the Whole. This is a very interesting bill, and it represents an attempt to balance against different issues. In considering my view of the bill as well as the remarks that I might make, I took the time to read over some of the remarks that were made when the legislation that this bill is amending was first introduced.

Of course, at that time, you know, members within this Assembly spent some time balancing their concerns against the need for treatment on one hand and the issue of civil liberties on the other hand. I believe, in fact, that in our caucus we ultimately expressed two different opinions on the merits of this bill.

10:50

However, it's interesting because I think that no matter where you get to in terms of the opinions, there was certainly one point that was made by the former Member for Edmonton-Strathcona, Dr. Raj Pannu. He was quite concerned about the civil liberties issues. He specifically said, you know, that this is the kind of bill that we need to have the capacity to bring back and review periodically because it gives such tremendous authority and there is, unfortunately, no ability to have a fully safeguarding mechanism of oversight. That was in no way a criticism of mechanisms of oversight that currently exist; rather, it was just a concern that because of the nature of the problem that's being dealt with, it was possible for there to be transgressions notwithstanding everybody's best efforts. So he made that point.

I think it's an interesting point that is relevant to this issue now. I think the key thing about this bill that I have some concerns about is the extension of the opportunity to order community treatment and/or medical treatment, which is sort of how it's characterized by the Member for Edmonton-Meadowlark, or the ability to apprehend patients to doctors who are not psychiatrists. I am a little concerned about this issue, particularly where it arises in very remote communities. It's because of this issue that I would really like to see this Legislature or through some other mechanism have the government report back on how this piece of legislation is actually being utilized.

The hon. Member for Edmonton-Meadowlark talked about his experience in the emergency room, and I've no question that in an urban setting – I've heard a number of tragic stories from people in my constituency about friends and family who needed to be subjected to treatment and kept in care because they weren't receiving treatment and that it was needed for their own best interests. I believe that to be the case, and I believe that there is some capacity here for that to happen in Edmonton.

My concern relates more to those rural areas where, for instance, earlier this fall I along with the leader of the third party travelled across the province and spent some time meeting with people in rural areas and hearing about the state of their health care. One of the most compelling bunch of submissions that we received was in the northwest part of the province, where we heard about the incredible lack of mental health services in the rural areas and in that particular part of the province. That, of course, just reinforced the

information that our caucus released in the spring, which, you know, we received in the standard brown envelope, outlining an internal government report which also identified a tremendous lack of mental health resources in the rural areas.

Here's my concern. I heard from some people who presented to our task force about rural hospitals that have significant numbers of people with mental health issues and in many cases seniors with mental health issues who are in hospitals there. They'd have a number of patients in there and not one person on staff with any kind of mental health expertise. None of the doctors had mental health expertise. None of the nurses had mental health expertise. They might have a community mental health worker that would drive into the town once a week and may or may not ever deal with the people that were actually occupying beds in those hospitals.

So then my concern becomes: to what extent do we find ourselves in the situation where we have overworked rural family doctors who have nowhere near the expertise or the opportunity to develop the expertise in mental health ordering treatment against the will of, often, seniors in these facilities? While everybody thinks they're doing the best that they can – and of course no one is questioning the motivation behind this type of order and this decision to pursue the treatment in that way – at the end of the day we can question whether they have the expertise necessary and required to move forward in that particular way against the will of the patient.

I know that there is the opportunity in theory under the legislation or, perhaps, even the obligation for the physician to consult with a psychiatrist. But if your closest psychiatrist is six hours south and is not ever going to meet the patients that you're calling about, well, then, you know, what kind of safeguards do we have that that family physician is really prescribing treatment in the way that is in the best interests of that patient?

This is a real problem because outside of Edmonton and Calgary there is a dramatic, dramatic shortage of mental health professionals. Within that subspecialty of the medical profession that deals with mental health, we know that the rules are changing and the parameters are constantly shifting, and what's best practice this week will not be best practice a few weeks from now. So it's a very evolving and, frankly, less black-and-white area of expertise than, say, you know, orthopaedics or something like that. There are new drugs always coming out and all that kind of stuff. What we're talking about here is giving to these physicians the opportunity or the obligation, in fact, in some cases to exercise this authority and, I would suggest, without adequate levels of support.

Another concern that I have, again, because we're talking about the rural areas: where somebody who is not necessarily a psychiatrist orders apprehension or orders a community treatment order, I'd really like to know what the success rate is in these rural areas in terms of being able to actually implement that order.

Again, we don't have mental health beds throughout most rural regions of this province, and we certainly don't have community treatment centres in most rural regions of this province. So often it becomes a case of either sending somebody down to Edmonton and disconnecting them from their family, or alternatively the doctor makes an order but nobody follows up on it because nobody has the capacity to follow up on it.

We don't have enough family physicians in our rural areas, and we certainly do not have the expertise and the support services, as well, with respect to mental health. It's not just a question of having somebody that knows how to read what the pharmaceutical companies latest description is of drug A, B, or C that they're marketing. We also need to have, you know, therapists and people that can provide mental health support in our rural areas. Again, we have one of the worst records in the country, if not the worst record in the country, in terms of substantive provision of mental health services throughout the province and in particular in areas outside of Edmonton and Calgary.

What we would like to see ultimately with a piece of legislation like this is some mechanism through which the government needs to report back to Albertans how often these community treatment orders are used and how effectively they are used and what challenges the professionals have, particularly outside of Edmonton and Calgary, to ensure that that kind of treatment is there. Again, I'm not convinced that we are providing anywhere near the support to professionals. We don't have enough professionals, and we certainly don't have enough beds, whether in the community or outside of the community, to ensure that these orders can be acted on in a way that was intended when the legislation was first drafted.

While I think that at the end of the day this is one of these balancing acts, one of the things that this legislation is trying to balance against is the failure of this government to provide adequate mental health services in most regional areas. I would say that by voting for it and giving to family physicians the ability to do that which psychiatrists ought to be doing, we are effectively admitting failure. While it may be a short-term solution that's better than nothing – and I think of those families who are desperately seeking some type of treatment for their loved ones, so it's for them that I can't quite vote against it – on the flip side I think all of us should know that having to go to this kind of strategy is a reflection of our failure to provide for adequate mental health services across the province.

Thank you.

11:00

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

Mr. Kang: Thank you, Mr. Chair. It's a pleasure to stand and speak on Bill 59, the Mental Health Amendment Act, 2009. I just want to get some clarification here from the Member for Edmonton-Meadowlark. It goes on to say that this bill will clarify the role of psychiatrists in issuing and overseeing community treatment orders. The next one goes on to say that this bill will also clarify the criteria used by the mental health review panel when reviewing CTOs. You know, how broad will the criteria be? What kind of fine line will we be walking here with civil liberties and keeping the best interests of the patient at heart? I have the personal experience of a patient with mental health problems, and it's very hard to handle the situation. This is a good bill. I'm sure the CTOs will definitely help to contain the situation of a patient, but my concern is the criteria. You know, how broad will it be

Those are the questions I have for the Member for Edmonton-Meadowlark.

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

Dr. Sherman: Mr. Chairman, thank you. I'd just like to address a couple of the concerns from the hon. members on the other side. First, for the hon. Member for Calgary-McCall, the criteria for community treatment orders. The three main criteria to hold a patient against their will are, number one, that they must be suffering from a mental health disorder; number two, that they are likely to present a danger to themselves or others; and, number three, that they cannot be treated other than as a formal patient. By that, I mean that other than filling out the legal form. Patients sometimes don't have insight and think they don't have a problem when, really, they are a danger to or are harmful to themselves or others. They have a

mental health illness. We have to fill out the legal form to treat them. Those are the criteria.

There are many patients who have a psychiatric illness or a mental health illness. This doesn't apply to anyone with a mental health problem. You have to be very sick to fulfill those three specific criteria. For the community treatment orders to be valid, you have to have been admitted to hospital on a number of occasions as a formal patient. If I was depressed or if any other hon. member here had any mental health issues, we cannot just do a community treatment order for them. So I hope that clarifies a concern of the hon. Member for Calgary-McCall.

Now, for the hon. Member for Edmonton-Strathcona, I appreciate her bringing up her concerns and her cautious support for the bill. I'd just like to say that in formulating this legislation, consultations took place with numerous stakeholders: the Alberta Alliance on Mental Illness and Mental Health, the Mental Health Patient Advocate, Alberta Health Services, the Alberta Medical Association, and the practising psychiatrists. These are the care providers who truly care for those who are vulnerable. Really, the idea here isn't to infringe upon patients' liberties. It's really to provide them the care that they desperately do require.

There are remedies. In fact, there is the Mental Health Review Panel. Secondly, there is the Mental Health Patient Advocate, whose role will be expanded to include the patients who are subject to the community treatment orders. Thirdly, patients can still access their own information even if they are a formal patient. They can get the help of the Privacy Commissioner to get their own medical records and information to help with their advocacy if they are a formal patient and they feel that they do not need to be there. So there are remedies for anyone who is certified as a formal patient.

With respect to rural areas I'm glad that the hon. Member for Edmonton-Strathcona brought this up. In fact, it's even more of an issue for those in rural areas. In all rural areas of Canada delivery of health care or any other service is a challenge. The hon. member is right: there aren't psychiatrists in every rural community. In fact, for community treatment orders to be valid, you would have had to have been certified on more than a couple of occasions to a hospital and be determined to have a significant mental health illness. Part of the legislation is that when a patient is discharged from a mental health facility, ongoing treatment recommendations be provided to that individual's family physician. That is a requirement of complying with these community treatment orders, so that way the physician or health care provider in that local rural community has some guidance from a qualified health care professional.

A requirement also is that the physician in the rural area must consult with a psychiatrist before exercising their authority under the act. So there is a psychiatrist, a specialist in the field, who is consulted. I will say that as somebody who was a family physician, we are trained in every field of medicine. We're sort of a jack of all trades, a master of none. All the family medicine physicians in the province train in all aspects of medicine, so they have had training. My first two-month rotation as a medical intern, in 1991, I spent on 9B south at Alberta Hospital. I've had a good chat with many of my colleagues at Alberta Hospital to discuss the issues that we're dealing with in mental health.

Lastly, with the advent of technology there is telehealth and tele mental health in order to improve access to care for rural areas, and that's a very good thing. Again, Mr. Chairman, I appreciate the very important questions from the hon. members from across the way. They're raising important issues, and I hope I've addressed some of these issues to answer some of their concerns.

Thank you.

Mr. Kang: My question is: what kind of teeth, you know, are we going to have with the CTOs? The mental health patients say that they are well. They don't want to be in the hospital although they are sick. And then the hospitals and doctors say: we cannot hold them against their will. They may not be harmful to themselves or to others, but once they are out of there, who knows what they could do? What kind of teeth are the CTOs going to have? Will the hospital be able to hold them against their will even if say they are fine and that there's nothing wrong with them? Will there be some sort of assessment procedure followed after that?

That's the concern I have, that most of the time the patients say that there's nothing wrong with them. They just got out of the hospital. You cannot keep them in the hospital. They don't even want to go home; they just want to go wherever. They don't know where they're going to end up.

Dr. Sherman: To the Member for Calgary-McCall, again, I don't like to use the word "teeth." But he does raise a very important issue. As I explained: the three criteria. Part of this act was already proclaimed in September. Originally, before that act was proclaimed, the criteria were that the patient presents a danger to themselves or others.

To give you an example, I had a mother who I talked to. She had brought her son in, and at that point in time he didn't present a danger. We didn't have the ability to hold him against his will. Then two days later he committed suicide. The mother was very concerned because she knew of his mental illness. She was quite concerned and she was quite frustrated because we did not have the legislative ability to hold him although she as his parent and care provider knew that he was going to deteriorate.

11:10

So of the three criteria, one is that you must be suffering from a mental health disorder. This is why new forms came out in September of 2009 – and they're already in the front lines – that they're likely to present a danger to themselves or others and to suffer from physical and mental deterioration. Had that criteria been there, as a front-line health care provider we would have had the ability to listen to the parent and the care providers and say: "You know what? You know this patient really well. This patient has had many issues with the health care system. You're absolutely correct. We need to bring them in." This gives the physician the ability to hold them against their will.

Now, that's just the formal patient. That has nothing to do with the community treatment orders. That's just the ability to hold somebody against their will to protect them so that they don't hurt somebody else or hurt themselves. I hope that answers the question.

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

Mr. Chase: Thank you. I very much appreciate having a professional bringing forward this bill and being able to provide such detailed and eloquent answers.

I want to give you a very specific circumstance without revealing the name. An individual who contacted me in Calgary was transported by the RCMP from St. Albert to I believe it was the University hospital for a psychiatric assessment. The person wasn't uttering threats. They weren't jumping up and down on the countertops, but the MP in St. Albert wasn't sure what to do about this person who was protesting within the office. It wasn't sit down, but she was putting forward a series of concerns. So she's transported to the hospital, and while she's in an observation room she rings the emergency call button. No one comes, so she's concerned

that she has been basically incarcerated within a hospital setting without any ability to have external contact.

In order to get attention, she takes her coat and stands up on the table and covers the camera. Well, that immediately brought a response, and from a security individual at the hospital the response was to toss this very diminutive person down onto the bed. Now, the individual was in that circumstance for three days. Would that fit into the category of a community treatment order? Under what sort of regulation would a person be held when they weren't uttering threats, when they weren't beating up on themselves? Basically, they provided a type of a nuisance to the individual, and I guess they didn't know what to do with them.

The RCMP came in on June 6. Then on June 9 the individual contacted Edmonton police and asked for a follow-up, an investigation in terms of the harm that was done to her when she was tossed down. In terms of dealing with the Edmonton police force, they indicated, for example, that her only avenue for seeking justice with regard to the rough treatment she had at the hospital was basically to get a lawyer and sue the hospital and sue the security service.

I know it's long and involved, but it's a true story. Would a community treatment order fit that circumstance? What other medical sort of reasoning would be allowed to hold a person for three days if not a community treatment order?

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

Dr. Sherman: Thank you, Mr. Chairman. I'd like to thank the hon. Member for Calgary-Varsity for that question. Typically when police bring a patient into the emergency department, they're brought in under what we call a form 10. If the person has done something, either it's criminal or the police have made a determination that they may be suffering from an emotional or mental illness, so they fill in a form 10 to bring them to us in the front lines. Now, that allows the emergency department to hold the patient until the physician sees them, at which time the physician makes the determination whether the patient – again, those three criteria, suffering from a mental health disorder, is a danger or harm to themselves or others, and cannot be kept other than as a formal patient. Once a physician has made that determination, we fill out the form. That allows us to hold them for 24 hours, and then a psychiatrist would see them. Then the psychiatrist fills out a 72-hour form, but that is not a community treatment order. That is just when a patient has been brought in for assessment.

I can't comment on the specific case, but no, that's not a community treatment order issue whatsoever. The community treatment order issue is that you've got a sick patient who has been admitted as a formal patient, who has been in hospital for a long period of time, usually over 30 days, on numerous occasions, and they're likely to suffer a deterioration. Usually they're brought in by a family member who's concerned. Sometimes the family member comes and tells the doctor, "Here's the problem," but the patient is at home or somewhere else. The community treatment order allows us to fill out an apprehension order so that the police can go bring them for care, for assessment, at which time the medical professional will make the determination whether they're medically and emotionally fit or not. So the issue that you describe is not a community treatment order issue.

Thank you.

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

Mr. Chase: Thank you. I appreciate the clarification.

With regard to the form 10, this person was basically held for three days, so it went beyond that. I guess there were some legitimate observation reasons. My concern is that there are a number of people whose major problem is poverty, and there may be shades of mental illness. But in the way they are sort of dealt with within the system, there seems to be a fair amount of flexibility within the system to hold them beyond the 24-hour period, where they haven't necessarily committed a crime other than to, you know, cause a mini ruckus. I mean by that a series of questions like: "Why are you doing this? Why are you doing this? Why are you doing this?" But they're not, you know, coming with a stapler or anything like this.

Anyway, do not feel that you have to prolong the discussion. This isn't the only case that I've heard of, and I just worry about people being kept within a facility for three days or longer without a community treatment order.

The Chair: Any other hon. member wish to speak on the bill?

Seeing none, the chair shall now call the question.

[The clauses of Bill 59 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 61
Provincial Offences Procedure Amendment Act, 2009

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

Mr. Denis: Thank you, Mr. Chair. I rise to move an amendment to Bill 61, which I would like distributed at this time.

The Chair: We shall pause a bit for distribution of the amendment. The amendment shall be known as amendment A1 to Bill 61.

Hon. Member for Calgary-Egmont, please proceed.

Mr. Denis: Thank you very much, Mr. Chair. The amendment that I've tabled is on behalf of the member of this Assembly for Edmonton-Castle Downs. It just is a couple of housekeeping amendments. In subsection 4(c) it simply adds "or another peace officer." It also adds after subsection 7(c) again "or another peace officer."

More importantly, it also deals with a new section after subsection (4), adding 4.1, which says:

> A person who, without lawful excuse, the proof of which lies on the person, fails to comply with any condition of an undertaking entered into before an officer in charge or another peace officer is guilty of an offence.

The term "offence" is defined under the parent statute, Mr. Chair.

Thank you very much.

11:20

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

Seeing none, the chair shall now call the question on amendment A1.

[Motion on amendment A1 carried]

The Chair: Any other hon. member wish to speak on the bill as amended?

Seeing none, the chair shall now call the question.

[The clauses of Bill 61 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.

The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Chairman. I would move that the committee now rise and report bills 53, 58, 59, and 61 and report progress on Bill 50.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Marz: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bills: Bill 58, Bill 59. The committee reports the following bills with some amendments: Bill 53, Bill 61. The committee reports progress on the following bill: Bill 50. I wish to table all the amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

The Deputy Speaker: Does the Assembly concur in the report?

Hon. Members: Concur.

The Deputy Speaker: Opposed? So ordered.

Government Bills and Orders
Third Reading

Bill 56
Alberta Investment Management Corporation Amendment Act, 2009

The Deputy Speaker: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. I would move third reading of Bill 56, the Alberta Investment Management Corporation Act, 2009.

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

Mr. Chase: Thank you. Given the hour and the onset of brain freeze and the desire to provide an intelligent response as opposed to just a simple response, the concern that we had, which I first discussed in Committee of the Whole, was that by removing the deputy minister of finance from the board membership of AIMCo, there was a potential of some of the oversight being lost.

The hon. Member for Edmonton-Gold Bar introduced an amendment which was, unfortunately, defeated. That amendment would have given greater voice to the individuals who are directly involved in the oversight of AIMCo. The hon. member had suggested that of the individuals appointed under subsection (1.1), one must have had experience with the Local Authorities Pension Plan Board, one must have had experience with the Public Service Pension Plan Board, one must have had experience with the Special Forces Pension Plan Board, and one must have had experience with the Management Employees Pension Plan Board. In other words, he wanted the people who were affected by the AIMCo decisions to be represented within the board. Unfortunately, I was not able to participate in the debate at that time, but I would think that we would want the people who are most directly affected involved in the process by which large sums of money are being invested.

For that reason, I am suggesting that our membership will be voting against this particular bill because of lack of representation on the board.

The Deputy Speaker: Any other hon. member wish to speak on Bill 56?

Seeing none, the chair shall now call the question.

[Motion carried; Bill 56 read a third time]

Bill 57
Court of Queen's Bench Amendment Act, 2009

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

Mr. Weadick: Well, thank you, Mr. Speaker. I've listened to all of the debate very intently in the House during the course of debate on Bill 57, the Court of Queen's Bench Amendment Act, 2009. I appreciate the positive support that we've had from all members of the opposition and from members of our party during debate on this very important Criminal Code amendment. This will allow, as you know, Court of Queen's Bench justices to also have justice of the peace power so that they can issue all warrants. I would ask the House to support this.

Thank you.

The Deputy Speaker: Any other hon. member wish to speak on Bill 57?

Seeing none, the chair shall now call the question.

[Motion carried; Bill 57 read a third time]

The Deputy Speaker: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. I would move that we do now adjourn until 1:30 p.m. tomorrow.

[Motion carried; at 11:28 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

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