



Province of Alberta

The 27th Legislature  
Third Session

# Alberta Hansard

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The Honourable Kenneth R. Kowalski, Speaker

## Legislative Assembly of Alberta

### The 27th Legislature

#### Third Session

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## Legislative Assembly of Alberta

1:30 p.m.

Tuesday, November 23, 2010

[The Speaker in the chair]

### Prayers

**The Speaker:** Good afternoon.

Let us pray. From our forests and parklands to our prairies and mountains comes the call of our land. From our farmsteads, towns, and cities comes the call of our people that as legislators of this province we act with responsibility and sensitivity. Grant us the wisdom to meet such challenges. Amen.

Please be seated.

### Introduction of Visitors

**The Speaker:** Hon. members, this year, 2010, marks the 10th anniversary of the School at the Legislature program. Its official launch was in November 2000. Ten years have now passed, and over those 10 years we've welcomed 281 classes and some 10,145 students, teachers, and parent volunteers in this particular program. Seated in the members' gallery today are several students and teachers who participated in the inaugural year of 2010: Mrs. Lorraine Williamson, a teacher; Mr. Dan Serdachny; and students Anthony Smith, Kairee Kirkwood, and Jaine McCorquodale.

With them as well are the community sponsors of the School at the Legislature program: from Priority Printing Limited Mr. Tim Downey, president; from Access Television Mr. Lloyd Lewis, vice-president and general manager, CTV Edmonton and Access Television; Mr. Eric Rice from Access Television; from CKUA Radio Mr. Ken Regan, general manager; Mr. Paul Moulton, chair of the CKUA Radio Foundation; and from the Rotary Club of Edmonton Mr. Jack Clements and Mr. Dan Matthys. We also would welcome Mr. Ron La Franchise, a horticulturist and volunteer to our program.

This program has existed for 10 years. We're absolutely overwhelmed with the success we've had in these 10 years, and I'd ask all of our guests today to rise and receive the warm welcome of the Legislative Assembly.

### Introduction of Guests

**The Speaker:** The hon. Member for Strathcona.

**Mr. Quest:** Thank you, Mr. Speaker. It gives me great pleasure today to introduce to you and through you to all members of the Assembly a fine group of students from Ardrossan elementary school in the Strathcona constituency. They're accompanied today by teachers Mrs. Arlene Dutchak, Mme Jade Jordan, Mrs. Trish McBride, and aide Mrs. Gwen Sikora, also parent helpers Mr. Paul Bodell, Mr. Ian Osbaldeston, Mrs. Lisa McInnes, Mrs. Glenys Boe, and Mr. Gerald Melloy. They're seated in both the public and members' galleries today. I'd ask them to rise and receive the warm welcome of the Assembly.

**The Speaker:** The hon. Member for Edmonton-Riverview.

**Dr. Taft:** Thanks, Mr. Speaker. It's a real treat for me today to introduce a class from St. Martin school if they're here yet. I'm not sure that they are, but I'll assume I can't see them up in the public gallery. I make a point of going out to as many grade 6 classes as I can, and over 10 years that's been a lot of classes. One class stands

out more than any other year after year after year for being extremely well prepared, and that's the grade 6 class at St. Martin Ukrainian bilingual school, and I think that's a tribute to the teacher there, who is with the class today, Mrs. Harasymiw. I would ask the entire class to rise – oh, there they are in the members' gallery – and receive the warm welcome.

Thank you.

**The Speaker:** The hon. Member for Edmonton-Decore.

**Mrs. Sarich:** Well, thank you, Mr. Speaker. It's my honour to introduce to you and through you to all members of this Assembly three Albertans closely associated with the aboriginal pride program in place at both the Calgary board of education and Calgary Catholic school district. The aboriginal pride program endeavours to emphasize for First Nations, Métis, and Inuit students a sense of value, connectedness, and engagement within the school community. Seated in the members' gallery are Trish Bond, director of the United Way of Calgary strategic initiatives, which include the aboriginal youth and education strategy; Lorianne Tenove, supervisor of instructional support and FNMI education for Calgary Catholic school district; and Chantel Large, a graduate of the Calgary Catholic school district in 2009, who is also now attending the University of Alberta here in Edmonton. I would ask that they now please rise and accept the warm traditional welcome of the Assembly.

Thank you.

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

**Mr. Horne:** Thank you very much, Mr. Speaker. I have two introductions today. First, I'd like to introduce to you and through you to all members of the Assembly Mr. Robin Hill and Mrs. Carla Cuglietta. Mr. Hill is my constituent in Edmonton-Rutherford. He teaches at Strathcona high school, and this year he was selected as a semifinalist for the Alberta excellence in teaching award. Mrs. Cuglietta is chaplain at the Austin O'Brien high school, also located in Edmonton. Earlier this year Mr. Hill and Mrs. Cuglietta were part of a group of six Canadian teachers sponsored by the Canadian Teachers' Federation that travelled to Sierra Leone to train teachers. I want them both to know how proud we are of their work, and I would ask them both to rise and receive the warm welcome of my colleagues.

Secondly, Mr. Speaker, it's my privilege to introduce to you and through you to all members Mrs. Michele Fidyk and Mrs. Lucie Wong. Mrs. Fidyk is also a teacher. She teaches at St. Teresa school, located in my constituency of Edmonton-Rutherford, and Mrs. Wong is a board member with the Change for Children Association, an Alberta-based charitable organization working to eradicate poverty and teach global citizenship to children. Earlier this year Mrs. Fidyk led a program at St. Teresa school with the Change for Children Association called fill the bus. Thanks to her hard work and that of the students St. Teresa school collected over 11,000 school supplies to be donated to students in Nicaragua, enough to fill the bus. I would like to ask them both to rise and receive our very, very warm welcome and congratulations.

**The Speaker:** The hon. Member for Athabasca-Redwater.

**Mr. Johnson:** Thank you, Mr. Speaker. It's an honour to rise and introduce to you and through you to members of this Assembly three very special constituents that are here today from Athabasca for the Alberta Schools Boards Association convention. From the school

board Aspen View, located in Athabasca, we have Brian LeMessurier, our very well-respected superintendent; Edgar Koehler, our long-time trustee and former county councillor; and Dennis MacNeil, former principal and new trustee, who is also a foster parent of four foster kids and has seen in excess of 30 children come through his home as a great caregiver. I'd like to thank them for their support and direction and hard work and ask them to please rise and receive the traditional warm welcome of this Assembly.

**The Speaker:** The hon. Member for Edmonton-Highlands-Norwood.

**Mr. Mason:** Thanks very much, Mr. Speaker. I'm pleased to rise today to introduce a number of Albertans from Edmonton and neighbouring communities: Tanja Allen, Denise Baillie, Lorraine Bodie, Brendan Fitzgerald, Eva and Karl Grantmyre, Somayya Kasani, Charan Khehra, Dagmar Lofts, Robert Price, Misty Schuster, and Aaron Thompson. They are among the many people in Alberta who live with multiple sclerosis or who are affected as family members and friends. Some of them are members of CCSVI Edmonton, a nonprofit advocacy organization. The daughter of my guests Eva and Karl Grantmyre was treated for CCSVI in Mexico with excellent outcomes. Tanja Allen would like to have the CCSVI treatment but is unable to afford the high cost of treatment and travelling to other countries. Denise Baillie was diagnosed with MS in 2007 and uses a walker to move around. Her health is deteriorating, and she would also like to see CCSVI trials available in Alberta. My guests would like to see Alberta join other provinces in timely approval of CCSVI research and treatment. I want to welcome my guests, who are seated in the public gallery, to this Legislature. I would now ask them to rise and receive the warm traditional welcome of this Assembly.

**The Speaker:** The hon. Member for Cardston-Taber-Warner.

**Mr. Jacobs:** Thank you, Mr. Speaker. I'm not sure my guests are here. If they are, they're in the public gallery, but I'm going to introduce them anyway. I'd like to introduce to you and through you to all members of this Assembly my wife, Linda; my daughter Paula; her husband, Brett; and four of my great grandchildren: Jenna, Keyrai, Anya, and Eilee. If they are here, would they please stand and receive the warm welcome of this Assembly.

1:40

### Members' Statements

**The Speaker:** The hon. Member for Edmonton-Decore.

### Aboriginal Pride Program

**Mrs. Sarich:** Thank you, Mr. Speaker. I rise today to recognize and celebrate the aboriginal pride program in place at both the Calgary board of education and the Calgary Catholic school district. Aboriginal pride programs endeavour to emphasize a sense of value, connectedness, and engagement within the school community. Children and youth who bond to their school environment are more likely to stay in school and more likely to succeed and have success with the programs of study in the Alberta curriculum.

Through an innovative partnership with the United Way of Calgary's aboriginal youth and education strategy pride programming has been implemented in eight different schools, Mr. Speaker, in the Calgary area. The aboriginal pride program shares a similar vision with the historic memorandum of understanding for First Nations education in Alberta, signed in February between the three treaty areas of Alberta, the federal government, and the government

of Alberta. It emphasizes the cultural aspects of education and recognizes that aboriginal students are only one part of a larger picture that includes parents, teachers, community administrators, and policy-makers. We've seen higher graduation rates in pride program schools, proof that the initiative is working.

Mr. Speaker, perhaps this could be summed up by a quote by Gail, a program participant from Siksika Nation, a Treaty 7 First Nation, who recently said: "Not too long ago I was going to give up on school, and now I want to be a psychologist. I know that I will stay friends with the other kids in the program after high school, and the program introduced to me to other, similar programs."

Thank you very much, Mr. Speaker.

**The Speaker:** The hon. Member for Calgary-Fish Creek.

### Caucus Discipline

**Mrs. Forsyth:** Yes. Thank you, Mr. Speaker. Yesterday was another black mark on Alberta's already tarnished reputation as a leader in democratic values. The Premier proved once again that he has no use for MLAs who do what they are supposed to, represent the issues and concerns of the constituents who elected them. Those who dare to step out of line and tell the truth about issues that matter to Albertans are met with swift punishment from the Premier, who obviously prefers to have a caucus of loyalists who protect his interests than a caucus of advocates who fight on behalf of Albertans. The Member for Edmonton-Meadowlark found out first-hand what happens to MLAs who commit the unforgivable sin of representing Albertans first, as did previously the Member for Fort McMurray-Wood Buffalo.

The message from the Premier to his elected MLAs is clear: fall in line, and keep your mouth shut. Mr. Speaker, I can honestly say that that is why myself and the Member for Airdrie-Chestermere are on this side of this House and not on that side. Over there the views of constituents take a back seat to the Premier's agenda, and if what your constituents want conflicts with what the Premier wants, you know who you answer to first.

This type of backward accountability continues to drive the wedge between everyday Albertans and the democratic process. We're in the middle of an emergency room crisis, and the government just fired its own emergency room doctor. Strict caucus discipline and heavy-handed leadership by the Premier have cost Albertans precisely the kind of honest and candid input that is needed right now. The bottom line is this. When it comes to democracy, this government and this Premier have failed Albertans time and time again.

Tomorrow our leader in caucus will announce the Wildrose plan to restore our democracy, to give Alberta back to Albertans. The Premier and this government have been slowly chipping away at the values and principles of democracy for years.

**The Speaker:** The hon. Member for Calgary-Montrose.

### Penbrooke Meadows School

**Mr. Bhullar:** Thank you very much, Mr. Speaker. It's my pleasure to rise today and speak about a very special school – its students, staff, and parents – that has a very special part in my heart. This school, Penbrooke Meadows elementary, located in Penbrooke, the community in which I was born, earlier this year received a community initiatives program grant, that I had the pleasure of presenting, for over \$90,000 to upgrade the playground and other facilities that serves the school and the entire community of Penbrooke Meadows. This fall the school was successful in obtaining a second CIP grant

for over \$40,000 for technology upgrades. These funds are being used to purchase laptops, Smart boards, and other technology, tools that will help students better realize their potential.

However, the real story here is the fact that these students have shown incredible academic progress. Not only have their provincial achievement tests been absolutely astounding in reading and writing, but they are above the provincial standards. This is a huge win for my area. Due to the complexity and diversity of families and learners in my area PAT scores have sometimes been low in comparison to other areas in Calgary. Specifically, in their reading scores they've shown great growth. In just a couple of years grade 6 reading scores have improved by 11 per cent, and the grade 3 students have been above the provincial average by at least 10 per cent over the last two years.

Although PAT scores are important, at the end of the day they're only one touch on the surface of what is significant in the role of an educator. The educators at Penbrooke Meadows recognize that each and every student's educational experience is about more than just scores. I would like to thank from the bottom of my heart the staff that work so hard to inspire and uplift these wonderful students.

**The Speaker:** The hon. Member for Cardston-Taber-Warner.

#### Remington Carriage Museum

**Mr. Jacobs:** Thank you, Mr. Speaker. On October 25, 2010, all of Alberta celebrated its annual tourism awards. One of the recipients of those awards was the Remington Carriage Museum in my constituency of Cardston-Taber-Warner. This award recognizes the incredible work that the staff and volunteers of the Remington Carriage Museum put forward during its unveiling of a statue dedicated to George Woolf.

For those who may not know, George Woolf was one of the greatest jockeys of all time, winning over 97 major races. He is perhaps best known as the rider of the legendary Seabiscuit, one of the famous racehorses in the history of the sport. On July 17, 2010, the Remington Carriage Museum, in George Woolf's hometown of Cardston, unveiled a statue of George riding Seabiscuit to widespread acclaim. Organizers of the event were hoping for 500 audience members but were pleasantly surprised when more than 870 spectators showed up. In addition, this event grabbed headlines around the world, in places as far away as India and Japan. The widespread success easily put them in the lead for the top marketing award for events under \$5,000.

I applaud the efforts of the Remington Carriage Museum staff and congratulate them on their well-deserved win. Thank you.

#### Oral Question Period

**The Speaker:** First Official Opposition main question. The hon. Leader of the Official Opposition.

#### Emergency Medical Services

**Dr. Swann:** Thank you very much, Mr. Speaker. When a patient is bleeding, you have to stop the bleeding. You also have to look at the entire person to restore health. Similarly, we have to deal with the bleeding in our emergency rooms with more staff and resources. That's clear. We also need to fix the whole system. We have a plan for an orderly transition to a structure that works. We recognize the need for local decision-making and clear, central accountability. To the Premier: will the Premier show leadership and establish a task force to begin an orderly, planned dismantling of Alberta Health Services?

**Mr. Stelmach:** Mr. Speaker, as I said yesterday with respect to the

ER waiting times, there was a meeting on Friday. Protocols were established. These protocols were established at the request of the minister of health. Over a hundred health care professionals came together, and we are going to begin implementing that plan with Alberta Health Services. I believe it is a good plan. From what I saw, it will be adding more beds and more physicians and more nurses to ease emergency waiting lists.

1:50

**Dr. Swann:** Mr. Speaker, every single health professional works tirelessly for his or her patients. These people are torn in two directions. One is to help patients; the other is to follow late, confused directions from the top, a recipe for professional burnout and medical mistakes. To the Premier: what are you doing to restore confidence among our health professionals?

**Mr. Stelmach:** Mr. Speaker, the number of people that were involved in drawing the protocols tells me – and I agree with the minister – that everyone does have a genuine desire to work together to not only reduce the waiting lists in emergency rooms but also to look at the other community-based programs. That's why so many of the allied health care professionals came together, to work with doctors and nurses to establish the protocols.

**Dr. Swann:** Right now everyone in the health system feels the chill. Will the Premier commit to introducing whistle-blower legislation so that people inside the system can identify problems and solutions without fear of losing their job?

**Mr. Stelmach:** Mr. Speaker, all staff have a professional duty with respect to the disposition of their professional duties, whether they be doctors or nurses, and if there is something inappropriate that is happening, whether it be in an emergency ward or any other delivery of service, I believe it is their duty to ensure that their profession is made aware of that.

**The Speaker:** Second Official Opposition main question. The hon. Leader of the Official Opposition.

#### Accountability in Health System Governance

**Dr. Swann:** Thank you, Mr. Speaker. There is a rebellion growing among the health care system professionals. Frustration was increasing for years, but suspending the Member for Edmonton-Meadowlark was the last straw. To the Premier: why did you kick out the dedicated, competent Member for Edmonton-Meadowlark and still keep the CEO for Alberta Health Services, who has failed to improve the delivery of health services for two years?

**Mr. Stelmach:** Mr. Speaker, the hon. Member for Edmonton-Meadowlark and I had a very good, long conversation, I think for two hours. We talked about, obviously, the pressures that he was facing as a medical doctor, pressures as a father, and also the difficulties of getting caught between performing his professional duties as a doctor and also some of the issues that he faced in terms of carrying out his duties as an elected member.

**Dr. Swann:** Well, Mr. Speaker, let me ask the Premier: do you have confidence in the CEO of the Alberta Health Services Board? Do you have confidence?

**Mr. Stelmach:** Mr. Speaker, I found the comments last Friday quite offensive. In fact, all Albertans found them offensive. It came at a time when there was a really good plan put in place, but all of that

good work was relegated to the back burner, and all of the focus was on what the comments were. There is a due process in place. I am not the employer; Alberta Health Services is the employer. As I said, due process will occur, and the board will make the appropriate decision.

**Dr. Swann:** Mr. Speaker, if the Premier has no confidence in the CEO, how can the front-line workers have confidence in the CEO? Take action.

**Mr. Stelmach:** Mr. Speaker, the board is responsible for the CEO. Part of the look at the protocol in terms of improving emergency room waiting times was put together by the professionals. This came up; it was agreed to by the person who was responsible, Dr. Eagle. Now they're disseminating that information to all of the health care facilities to make sure that the plan can be implemented by the end of December.

**The Speaker:** Third Official Opposition main question. The hon. Leader of the Official Opposition.

### Health Workforce Shortages

**Dr. Swann:** Thank you, Mr. Speaker. Well, health care professionals are frustrated by the lack of consistency by this Premier on health care. When priorities change day by day, there is no clear direction. Stopping the bleeding in emergency rooms is an important first step, but there needs to be a long-term commitment to proper staffing. To the Premier: will the Premier immediately open and staff all acute-care beds that have been mothballed and keep them open to avert another ER crisis in this coming six months?

**Mr. Stelmach:** Mr. Speaker, that is a good question. In fact, looking at the protocol, I believe that there will be – and I have to rely on the minister for the actual numbers – something like 500 new nurses hired as quickly as possible and about 300 beds or something like that. It's a large number of beds. It's almost like opening up a couple more hospitals. Again, that is being communicated. I want it to be put in place by the end of December.

**Dr. Swann:** Mr. Speaker, that's good news. Thank you to the Premier.

Our second question. Family doctors will help keep people out of emergency rooms. Will the Premier immediately commit to increasing the number of family physician graduates from medical schools?

**Mr. Stelmach:** Well, Mr. Speaker, we have. I made that commitment to Albertans in 2008. We're going to increase the number of spaces both for medical training and for nurses' training and also for LPNs. Now, with respect to family docs they're very important in terms of the health care system. However, what I'd like to see is more primary care networks established above the 38 that we have so that someone that has a chronic illness can come in and go to the appropriate person that's in the PCN without going to a doctor every time.

**Dr. Swann:** Mr. Speaker, this Premier spent \$24 million last year cutting 450 nurses, cutting 450 nursing positions. Will the Premier immediately commit to increasing the number of nursing openings in postsecondary schools so we don't have a staff shortage to respond to emergencies?

**Mr. Stelmach:** Mr. Speaker, I made a commitment that we will increase the spaces and train and graduate 2,000 nurses by 2012.

We're going to meet that target. With respect to the doctors I think we're on target for increasing by 295 by 2012. So we're well on the path.

**The Speaker:** The hon. Member for Fort McMurray-Wood Buffalo.

### Member Suspension from PC Caucus

**Mr. Boutilier:** Thank you very much, Mr. Speaker. Yesterday the PC caucus whip told Albertans that they voted to kick out the MLA for Edmonton-Meadowlark and that it was unanimous. We were also told that the Premier wasn't in the room. My question to the Premier is very simple. Did all 67 of your PC MLAs, including yourself, vote yes to kicking out the only emergency room doctor in government in the middle of an emergency room crisis?

**Mr. Stelmach:** Mr. Speaker, I will inform Albertans that I wasn't at the caucus meeting towards the end. I was here in the Legislature commemorating I think one of the world's worst atrocities; that is, the hunger, the famine. If you have somebody that has lived through that period, it is quite emotional. That's all I can say.

**The Speaker:** The hon. member.

**Mr. Boutilier:** Thank you, Mr. Speaker. Regardless of whether or not the Premier was in the room, Albertans know whose fingerprints were all over the decision. The Premier just last Friday made an important point of saying how much he needed the Member for Edmonton-Meadowlark's help in fixing the ER crisis, and then he simply fires him at the first opportunity. Given how fast you went back on your word, how can Albertans believe anything you say in the future?

**Mr. Stelmach:** Mr. Speaker, these are caucus decisions. I know that the Member for Edmonton-Meadowlark today made some comments on the radio in a way saying, you know, that he regretted what was said. I can tell you that we're focused on moving ahead with the protocols. Those are very important to get the plan in place. We can spin this thing for the next week. It's not going to improve in terms of rapid progress on the protocols.

**The Speaker:** The hon. member.

**Mr. Boutilier:** Thank you. Yesterday, Mr. Speaker, the Premier accused my colleague from Airdrie-Chestermere of being theatrical when he asked why he fired the Member for Edmonton-Meadowlark. Since then members of our caucus and radio shows across the province have received thousands – I repeat, thousands – of calls and e-mails outraged at the action of this caucus and this Premier. To the Premier: does he think that these Albertans are also being theatrical?

**Mr. Stelmach:** Mr. Speaker, one just had to watch the behaviour of the member yesterday and, in fact, well into the evening. If that isn't theatrics, I don't know what is.

**The Speaker:** The hon. Member for Edmonton-Highlands-Norwood. [interjections] Hon. member, you have the floor. Forget about what the guy beside you says. You're recognized.

### Emergency Medical Services

(continued)

**Mr. Mason:** Thank you, Mr. Speaker. There are two people in the health care system: one person closes hospital beds, lays off nurses,



creates a disastrous flu immunization program and a crisis in our emergency rooms; the other exposes broken promises by the Premier and his health minister and stands up for the patients and front-line health care workers. My question is to the Premier. Which one would the Premier get rid of?

2:00

**Mr. Stelmach:** Mr. Speaker, this government has met its commitments and will exceed, hopefully, the commitments of increasing the number of nurses, increasing the number of locally trained physicians, increasing the number of continuing care beds in the province. Also, much to the delight of people living in Grande Prairie and Lethbridge and Red Deer, they will have their own local radiation vaults for cancer treatment. That to me is a huge advancement in the delivery of health care in this province.

**The Speaker:** The hon. member.

**Mr. Mason:** Thank you very much, Mr. Speaker. Well, that's typical, but the real answer has already been given by the Premier since actions speak louder than words. The wrong person was fired. The reason for such a bizarre decision is not hard to find. One was doing the government's bidding, and the other was exposing the uncomfortable reality of this government's health care failures. Will the Premier admit that when Dr. Duckett closed acute-care beds, laid off nurses, and created a crisis in Alberta's emergency rooms, he was actually doing the government's bidding?

**Mr. Stelmach:** Mr. Speaker, something that no other government in Canada has done is give a commitment to a five-year funding agreement. It's the only jurisdiction in Canada. That gives us the opportunity to ensure that we can take care of many more Albertans, Albertans that continually move to the province of Alberta, many that don't come here with their hospital or their medical doctor. That is some of the pressure that we're facing.

**The Speaker:** The hon. member.

**Mr. Mason:** Thank you very much, Mr. Speaker. The message to health care workers, administrators, and politicians alike is now clear. If you cut, privatize, lay off, and generally create chaos in the health care system, you will be rewarded by this Tory government. If you tell the truth about this government's responsibility for the health care crisis, you will be punished. The facts speak for themselves. You can't trust this PC government on health care.

I have no more questions.

**The Speaker:** The hon. Member for Edmonton-Gold Bar, followed by the hon. Member for Rocky Mountain House.

### Provincial Deficit

**Mr. MacDonald:** Thank you, Mr. Speaker. Conventional crude oil production has increased by 47,000 barrels per day. That's above the government's production assumptions in the recent budget. My first question is to the Premier. Why are conventional crude oil royalties to the treasury \$326 million lower than was anticipated while we see an increase in production and, of course, an increase in price?

**Mr. Stelmach:** Mr. Speaker, I'll have the minister of finance and also the Minister of Energy respond, but this year we've had some difficulty, obviously. Oil was discounted considerably during a

difficult period of time, when we saw some interruption in the flow of oil to the south. I think it was discounted to about \$55 a barrel. I stand to be corrected on the exact amounts, but those are some of the issues that we've been facing.

**The Speaker:** The hon. member.

**Mr. MacDonald:** Thank you, Mr. Speaker. Again to the Premier. To be specific, that was conventional crude oil. It was not synthetic crude production.

I have another question for the Premier. Can the Premier guarantee that the books will be balanced in this province before an election writ is dropped, that we will have no more billion-dollar deficits before the voters go to the polls?

**Mr. Stelmach:** Mr. Speaker, just to inform the hon. member, all oil flows through the pipeline, whether it's synthetic crude or bitumen. We receive royalties on both, and that oil will continue to flow to our best market, to the United States. However, we're as a government tremendous supporters of a pipeline to Kitimat so that we can open up access to foreign markets, where we'll be able to stabilize the oil pricing well into the future.

**Mr. MacDonald:** Mr. Speaker, so are we.

Again to the Premier: can the Premier guarantee that the books will be balanced in this province before an election writ is issued? Yes or no?

**Mr. Stelmach:** Mr. Speaker, if the hon. member would just look at the books, in fact the operations of government are balanced, meaning that what we pay for teachers, for doctors, for nurses is all balanced in the year that the expense is created. Where the so-called deficit is – and, again, it's not debt. We're taking money out of the sustainability fund, taking a cash asset and converting it to infrastructure, and that is the infrastructure that the hon. members across there are asking for: more schools, more hospitals, and more roads.

**The Speaker:** I sincerely hope that as we continue to go forward, we'll have a little more attention, please, to what's going on, and I do apologize to the schoolchildren who see this.

The hon. Member for Rocky Mountain House, followed by the hon. Member for Calgary-McCall.

### Landowner Private Property Rights

**Mr. Lund:** Well, thank you, Mr. Speaker. My questions today are to the Minister of Sustainable Resource Development. Property rights are an issue that is very much like a birthright to Albertans and, I think, for that matter, probably to all Canadians. I'm getting a lot of concern expressed to me about the Alberta Land Stewardship Act and some of the sections that are in it, so I would like to quote section 11(1). "For the purpose of achieving or maintaining an objective or a policy of a regional plan, a regional plan may, by express . . ."

**The Speaker:** I'm sorry. We're going to whomever this is directed to. Please sit down, sir.

**Mr. Knight:** Well, thank you very much, Mr. Speaker. The hon. member is of course alluding to the Alberta Land Stewardship Act. What I will say at the outset is that there is nothing in that act that affects the title of anybody's real estate or freehold mineral rights. There are some inclusions in that legislation relative to statutory consent.

**Mr. Lund:** Well, Mr. Speaker, I would like to know how it is that the minister can protect property rights when a section would say that there is no right to compensation by any action under this act.

**Mr. Knight:** Well, again, Mr. Speaker, it relates to the same issue. In fact, if there is a statutory right that's affected by a plan under the legislation, what happens? It is very clear – it's very clear – that that legislation does not provide compensation, but it expressly states in the legislation that the compensation is housed in other legislation in the province currently in effect such as the Mines and Minerals Act or the forestry act.

**Mr. Lund:** Statutory consent could be a municipality approving a subdivision, and I'd like to know where that compensation is.

The other thing that really bothers my constituents is the fact that it says in 17(4) that "if there is a conflict or inconsistency between this Act and any other enactment, this Act prevails." How do you protect the property rights of an individual?

**Mr. Knight:** Mr. Speaker, again, ALSA does not invoke any notwithstanding clause regarding the Alberta Bill of Rights, nor does it expressly provide that any individual could be deprived of real property or mineral title without compensation. This section should be read as consistent with the Alberta Bill of Rights, and it cannot be construed in a manner so as to abrogate or infringe on one's right to the enjoyment of property without corresponding compensation.

**The Speaker:** The hon. Member for Calgary-McCall, followed by the hon. Member for Little Bow.

#### Home Inspection Industry Review

**Mr. Kang:** Thank you, Mr. Speaker. Homebuyers across Alberta practise due diligence by consulting a home inspector before making the largest purchase of their lives. A poor inspection may leave homebuyers with massive repair costs because in Alberta you can be a home inspector just by printing a business card. To the Minister of Service Alberta: given that the department said that it was consulting on this issue 15 months ago, why hasn't the minister released any findings on the home inspection industry?

**The Speaker:** The hon. minister.

**Mrs. Klimchuk:** Thank you, Mr. Speaker. With respect to the issue of home inspectors we did have an excellent consultation with a number of different stakeholders, from consumers and then from the real estate industry and from a number of people in the business. The point we're at is that we're still engaged in working out some final issues. Again, it's a very complex issue, but it's about informing consumers to make the right decisions as well.

**The Speaker:** The hon. member.

**Mr. Kang:** Thank you, Mr. Speaker. Is the minister dragging her feet again, like always, because accurate home inspections would increase pressures on the government to deal with shoddy home and condo builders?

**Mrs. Klimchuk:** Well, Mr. Speaker, with respect to the whole area of home inspectors under Service Alberta's portfolio there's a whole, very complex area with respect to shoddy building as well as with respect to the New Home Warranty Program and that area. My focus has always been to enable the consumer to make good

decisions, and we know that when you're purchasing a home, make sure that the home inspectors you are going to use are reputable and are going to give you the right information.

**The Speaker:** The hon. member.

**Mr. Kang:** Thank you, Mr. Speaker. I think the minister's focus is getting a little hazier by the day.

To the minister again: if British Columbia, which licensed home inspectors in January of 2009, can protect homebuyers, why can't Alberta do the same?

2:10

**The Speaker:** The hon. minister.

**Mrs. Klimchuk:** Thank you, Mr. Speaker. Indeed, there are other provinces that have done this. British Columbia was the first one to do so. I can assure the member this is something that we're looking very seriously at because, ultimately, we want to make sure that consumers, when they do purchase a property, have a reputable home inspector who does have the credentials to protect their decision.

**The Speaker:** The hon. Member for Little Bow, followed by the hon. Member for Calgary-Varsity.

#### Civic By-elections

**Mr. McFarland:** Thank you, Mr. Speaker. Yesterday I had the honour of attending a memorial service in Lethbridge for an outstanding husband, father, lawyer, and community contributor. As you're aware, Mr. Bob Babki garnered the second-highest number of votes in the recent city of Lethbridge municipal elections. Sadly and suddenly, two days before his swearing-in he passed away. A number of residents at the service are still asking what the system is for replacement.

**The Speaker:** The hon. minister.

**Mr. Goudreau:** Thank you, Mr. Speaker. First, I'd like to express my most sincere sympathies to Mr. Babki's family. Due to the unfortunate death of this alderman a vacancy did arise on council, and in accordance with section 162 of the Municipal Government Act in these circumstances a council must hold a by-election to fill this vacancy. This section further states that the by-election must be held within 90 days of that particular vacancy.

**Mr. McFarland:** Mr. Speaker, to the same minister: would this procedure have been different if Mr. Babki had officially been sworn in as alderman?

**Mr. Goudreau:** No, Mr. Speaker. The situation would have been the same because of the fact that he had been declared elected in accordance with the Local Authorities Election Act.

**The Speaker:** The hon. member.

**Mr. McFarland:** Thanks, Mr. Speaker. The other question I heard quite frequently was: why not simply give the aldermanic position to the next highest number of votes that were garnered?

**Mr. Goudreau:** Mr. Speaker, under the legislation I as the minister do not have the legislative discretion under the MGA or the Local

Authorities Election Act to appoint the highest unsuccessful candidate to the municipal council. They will have to go through a by-election.

**The Speaker:** The hon. Member for Calgary-Varsity, followed by the hon. Member for Livingstone-Macleod.

### Children in Care

**Mr. Chase:** Thank you, Mr. Speaker. The Minister of Children and Youth Services has stated numerous times in this House that budget cuts will not impact the quality of care. Well, Minister, the advocate begs to differ in his most recent report, and so do I. Youth are being forced out of the system before they are ready and before they've turned 18 because of budget restrictions. To the minister: how is this serving the best interests of vulnerable youth, who desperately need assistance with the transition to adulthood?

**The Speaker:** The hon. minister.

**Mrs. Fritz:** Well, thank you, Mr. Speaker. The member is incorrect. We are not taking services away from our children as they transition to adulthood. I can tell you, as I mentioned here in the Assembly yesterday, that \$72 million was added to the ministry's budget in August, and \$13 million of that funding was added to our family support for children with disabilities program, and that very much assists with the transition to adulthood for our youth.

**The Speaker:** The hon. member.

**Mr. Chase:** Thank you. It sounds a bit like robbing Peter to pay Paul.

How can the minister deliver services that meet the needs of vulnerable youth when the youth leaving the system aren't even given an opportunity to provide feedback on their experiences? Where's the accountability, the evaluation?

**Mrs. Fritz:** Well, Mr. Speaker, actually youth do give their feedback on their experiences regarding the system, and I can tell you, hon. member, that they give feedback through this ministry and also through the child advocate's office. I want to assure this member that in Children and Youth Services we look after youth up to the age of 18 and that as youth transition to other services that are necessary, we do that over a two-year period.

**The Speaker:** The hon. member.

**Mr. Chase:** Thank you. When the advocate argues that changes made 25 years ago have failed to develop an effective role for aboriginal communities in the children's services system, what makes the minister believe that the new round of consultation will be any more successful? We cannot simply revert to failed previous processes.

**Mrs. Fritz:** Well, Mr. Speaker, I know this member's interest in the aboriginal community and the resources and services for the aboriginal community, and I can tell you that the advocate, in commenting on 25 years ago, was not saying that today we aren't going to make progress through consultation with the aboriginal community as they assist with the model that should be in place in order for us to care for their children in need.

**The Speaker:** The hon. Member for Livingstone-Macleod, followed by the hon. Member for Calgary-Fish Creek.

### AHS Food Services Review

**Mr. Berger:** Thank you, Mr. Speaker. Today Alberta Health Services announced recommendations from the food services review. The review was in response to complaints about the quality of food and the variety of food served in our nursing homes and small hospitals in rural Alberta. My question is to the Minister of Health and Wellness. For residents of these facilities, especially long-term care, meals are a very special, anticipated time of the day. What is being done to respond to these concerns?

**Mr. Zwozdesky:** Mr. Speaker, it is a good question. The first thing that happened, of course, is that an independent consulting team of food service professionals was organized, and they travelled to 26 different sites across the province. They spoke with residents. They spoke with families. They spoke with cooks and other providers. Everyone involved from the staffing level was there. At the same time they came away with some recommendations, which have now been implemented by Alberta Health Services. More food choices, more sampling of menus, and more cultural favorites will be included.

**Mr. Berger:** To the same minister. In rural centres, particularly the smaller ones, facilities don't have the access to local suppliers that they had in the past. How will AHS be addressing this issue?

**Mr. Zwozdesky:** Well, in short, Mr. Speaker, facilities at the local level will now have more flexibility, with regard to the question being asked. At the same time Alberta Health Services will be investing in more on-site training so that the cooks and other people involved in preparing the food that comes out of the kitchen will have a more direct say in these things to be more effective in menu planning and in providing sample menus so that the families and the residents can actually taste in advance what they might be enjoying for the rest of the menu schedule.

**Mr. Berger:** My final question is to the same minister. The kitchen staff and the staff in these facilities are preparing food for the people they know. It's not a number in a remote area of Alberta; it's people they know. They know their likes, and they know their dislikes. How are we going to respond to that and prepare food that is locally acceptable?

**Mr. Zwozdesky:** Well, Mr. Speaker, I certainly agree that it is the kitchen staff, the cooks, and so on at the local facility who know these residents almost as well as the families know them themselves. That's why when they spoke out, we listened. A review was done, solid recommendations are coming forward right now. I can assure you that the nutrition will be there, the home-like meals will be there, and they'll even enjoy such things as – who knows? – holubtsi and perogy if they like.

### Health System Concerns

**Mrs. Forsyth:** Our seniors could be so lucky to get that.

We asked a number of questions to the health minister last week, of course, but we didn't get any answers, so I'm going to ask the same questions, and I hope he takes some time to provide us with some answers. To the health minister. We know that there are beds in Edmonton and Calgary sitting empty while our ERs continue to burst at the seam. Will you immediately conduct an audit of all hospitals so that we know how many empty beds there are?

**Mr. Zwozdesky:** Mr. Speaker, it's not a bad suggestion. In fact, some of that has already been done. I thought I had indicated

something to that effect last week. If I didn't, then I was remiss in not doing that. Nonetheless, some of those beds have already been open. For example – I think I gave this information out – there were a number of beds that were recently opened at what was previously the women's pavilion at the Royal Alex here in Edmonton. Perhaps there are other sites like that. The suggestion to take a look at which beds might be available that weren't closed all that long ago while new ones were opened to replace them is one that is being looked at.

**Mrs. Forsyth:** We need the audit, Mr. Minister. We want to see what beds are open and what beds have been closed. We want net beds.

Given that we informed you last week that it is up to you to direct the Health Quality Council to investigate serious issues like the tragic deaths occurring in the ER, have you called them in to investigate yet?

**Mr. Zwozdesky:** Mr. Speaker, the Health Quality Council has been consulted. I want to let everybody here know and all Albertans know that with respect to the large number of incidents that Dr. Parks identified in the Thanksgiving e-mail to me a month or so ago, quality assurance reviews are under way right now, and the Health Quality Council had some input into that.

**Mrs. Forsyth:** Well, I'd like to see him table the information he gets from the Health Quality Council.

Okay, Minister, I have a new question for you today. Given that seniors and others are being forced to go into their doctor's offices and clinics for simple refills and other things that could be handled over the phone, will the minister abolish the whites-of-the-eyes rule and allow physicians to bill for telephone advice?

2:20

**Mr. Zwozdesky:** Mr. Speaker, let me take that one under advisement because there are a number of things that are coming forward as part of our pharmacy drug review at the moment. I know that there are issues there with respect to prescription refills, prescription adaptations, consultation reviews, and medication reviews, and it's all part of the same scenario. I will get back to the member with the information.

#### **Kainai Community Correctional Centre**

**Mr. Hehr:** Mr. Speaker, the Kainai Community Correctional Centre, a facility mandated to deliver culturally sensitive, community-based programs to low-risk, minimum-security aboriginal inmates was saved from closure by last minute negotiations between Kainai and the Solicitor General. To the Solicitor General, Kainai was cited to close last March as a cost-saving measure, but you gave the facility a year's reprieve. What programs or strategies has your ministry implemented during the past eight months to improve the usage of this facility?

**Mr. Oberle:** Well, I'm not so sure, Mr. Speaker, that it's a question of what programs my ministry has put in place. The member correctly points out that we reached an agreement with the Kainai facility to extend their operation through this year. The commitment was that we would work together, particularly that the Kainai would work to talk about how they want to profile that facility, how it fits into their community. We certainly have our needs. We've been talking with the Kainai facility, and we're very pleased with the progress made there.

**The Speaker:** The hon. member.

**Mr. Hehr:** Well, thank you, Mr. Speaker. Recently the Solicitor General suggested that the Kainai correction centre was an asset to the community, as he indicated briefly there, and should be kept open. As such, correction officials were asked for input to ensure that the strategically tailored programs for low-risk, minimum-security aboriginals remain available. Has there been a result of these inquiries?

**Mr. Oberle:** Well, the member would or might know that our prisoner profile changes over time. We actually don't experience as many minimum-risk offenders as we have in the past, but we are working with the Kainai facility to figure out what we're going to do going forward.

**The Speaker:** The hon. member.

**Mr. Hehr:** Well, thank you, Mr. Speaker. I'd just ask the Solicitor General. The year is almost up. Do you have any indications as to whether we're going to be continuing with the programs at the Kainai centre, or have you made a decision on that front?

**Mr. Oberle:** Well, Mr. Speaker, the hon. member would know that he's now asking me to divulge budget decisions or contract decisions going forward, and I can't do that. All I can do at this point is inform the member absolutely truthfully and heartfelt that we're having some excellent discussions with the Kainai facility, and we're going to continue that.

**The Speaker:** The hon. Member for Bonnyville-Cold Lake, followed by the hon. Member for Lethbridge-East.

#### **Education Achievement Tests**

**Mrs. Leskiw:** Thank you, Mr. Speaker. In the spring of 2009 I brought forward Motion 503, which called for the government to do away with grade 3 provincial achievement tests in favour of an alternative assessment for learning. The Legislature voted in support of this motion, but 18 months later nothing has changed. My question is to the Minister of Education. Can he tell us when he is going to heed the advice of teachers and the desire of the Assembly to put in place testing that supports our students' learning?

**The Speaker:** The hon. minister.

**Mr. Hancock:** Well, thank you, Mr. Speaker. It's an important question. The Legislature will know that we've been engaged in a very thorough discussion of education going forward. It's important to have that foundational discussion. Coming out of that discussion and changes that we make will be changes to programs of study and curriculum and, obviously, alignment of assessment to that. In the meantime we have been investigating other forms of assessment, but until we find a cost-effective way and a more effective way of doing assessment, the PAT 3 tests provide us with important information.

**Mrs. Leskiw:** Mr. Speaker, my first supplementary is to the same minister. If you are changing the way we develop curriculum, why not do away with these tests in the interim?

**Mr. Hancock:** Well, Mr. Speaker, the tests are very effective for us both in terms of providing information for the accountability of the system and in terms of how we're doing. The school boards tell us that they can use the results very effectively and do use the results very effectively. It's important information. We shouldn't stop

doing something that provides good information, is a useful tool in the education system for accountability and for development of further educational opportunities for children until we have something better. We will hopefully have something better once we've aligned it with new curriculum development and new resources.

**The Speaker:** The hon. member.

**Mrs. Leskiw:** That's it.

**The Speaker:** The hon. Member for Lethbridge-East, followed by the hon. Member for Athabasca-Redwater.

#### Sale of Public Land for Commercial Use

**Ms Pastoor:** Thank you, Mr. Speaker. Food security is a growing issue internationally, and Alberta is not free of its challenges. We have lost a significant amount of our prime agricultural land to development, and it could get worse due to an increase in land grabs by corporations and investors, but the land-use framework remains stalled. To the Minister of Agriculture and Rural Development: this government recently illustrated its willingness to sell Crown land without a public process, so why should Albertans trust the government to protect our agricultural land?

**The Speaker:** The hon. minister.

**Mr. Hayden:** Thank you, Mr. Speaker, and thank you to the member opposite for the question. In fact, what happened with the proposed bid on the Crown land that the member refers to is that it was going through the system and did not happen, which proves to me that the system is working.

**The Speaker:** The hon. member.

**Ms Pastoor:** Thank you, Mr. Speaker. My second question to the same minister: given that there are limited protections in law, how is this government ensuring that other countries and foreign corporations are not grabbing Alberta's land for their own food security needs?

**The Speaker:** The hon. minister.

**Mr. Hayden:** Well, thank you, Mr. Speaker. We, of course, have agriculture as our second largest industry in this province, and it's a huge contributor. The agricultural sector has a great deal of input into the land-use framework. As well, Municipal Affairs and my ministry work very hard together over our concerns about fragmentation of land. About 85 per cent of our land base in this province is agricultural land or forestry.

**The Speaker:** The hon. member.

**Ms Pastoor:** Thank you, Mr. Speaker. Without completion of the land-use framework's regional plans, how is the minister able to ensure the protection of agricultural land for the long term?

**Mr. Hayden:** Mr. Speaker, we do have foreign ownership land legislation in Alberta that protects us and makes certain that we will continue to own the land and be able to control the food production. But we also have to be aware that we produce far more than we can consume. We export approximately 80 per cent of what we produce.

**The Speaker:** The hon. Member for Athabasca-Redwater, followed by the hon. Member for Edmonton-Centre.

#### Education Curriculum

**Mr. Johnson:** Thank you, Mr. Speaker. Inspiring Education set a high-level direction for what education in Alberta will look like in the future and what it will mean to be an educated Albertan 20 years from now. Albertans told us that the education system must reflect the growing changes of both our local and global communities. To the Minister of Education: with the high-level direction set, my trustees would like to know how the minister is putting theory into practice in implementing the directions outlined in Inspiring Education?

**The Speaker:** The hon. minister.

**Mr. Hancock:** Well, thank you, Mr. Speaker. We have had a very robust discussion. We've had Inspiring Education, which has led us to inspiring action, talking about how we connect the conceptual side to the action side, developing that vision. I want to thank the hon. member for his role in getting us that vision.

There are three pillars which we must relentlessly focus on as we go forward: teaching excellence, recruiting, preparing, inducting, and supporting the best and brightest in becoming and remaining teachers; curriculum that focuses on foundational literacy and numeracy starting in the early years and developing a deeper conceptual understanding in the later years; and the third and perhaps . . .

**The Speaker:** The hon. member.

**Mr. Johnson:** Thank you, Mr. Speaker. With the consultation on Speak Out, Setting the Direction, and Inspiring Education can the minister tell my trustees how he is ensuring that the School Act will align with what Albertans are telling us they want and need?

**The Speaker:** The hon. minister.

**Mr. Hancock:** Well, thank you, Mr. Speaker. As the hon. member will know, in his report he talked about an education system that produces students who are engaged thinkers, ethical citizens who have an entrepreneurial spirit. We're building on that and bringing it forward for discussion, and it's still in the discussion stage. There's lots of opportunity for people to continue to talk about the issues, but new education legislation will provide an enabling framework which allows for the kind of flexibility, responsiveness, and innovation throughout the province that's essential to realizing the vision. A legislative framework, then policy and curriculum will follow.

**Mr. Johnson:** Rural Alberta school boards have been innovative in creating a wide range of diverse programs to meet the needs of students during a period of declining enrolments. Can the minister tell my trustees how future funding will support innovation and the maintenance of these necessary programs?

**Mr. Hancock:** One of the things that essentially will have to follow is a review of the funding framework to see whether it's actually accomplishing what we need. We have put a lot of focus on that. It is one of the issues for us in declining enrolment areas. We have, as the member will know, small schools by necessity, enrolment decline and enrolment growth, rural transportation, small board administration, small class size initiative, and interjurisdiction grants, so a number of areas we're funding now. Obviously, as we move forward and talk about how we deliver educational programs

and options, both digitally and on-site, we're going to have to focus on how that gets funded so that every child has the opportunity to be successful.

**The Speaker:** The hon. Member for Edmonton-Centre, followed by the hon. Member for Cypress-Medicine Hat.

### Seniors' Education Property Tax

**Ms Blakeman:** Thanks very much, Mr. Speaker. The education property tax assistance for seniors program has been administered by the Seniors and Community Supports ministry since 2005 but not mentioned in any act, administered by any regulations, and is only mentioned as a line item in the annual report. The 72,000 seniors who qualify are supposedly automatically enrolled when they turn 65, except that some of them aren't. To the minister of seniors: why does the government administer a program with no regulations or legislation, providing no oversight from the minister?

2:30

**Mrs. Jablonski:** Mr. Speaker, I understand that seniors, when they are approaching their 65th birthday, do receive a letter from us outlining what our supports are and requesting that they apply for any of our programs. If a senior has missed that letter, I can understand that they may not be enrolled in the education property tax program, but we do send a letter out prior to their 65th birthday to let them know that we have programs and services available.

**Ms Blakeman:** It actually doesn't work quite that way. Back to the same minister: given that some of the seniors and specifically those who are living in condominiums or in mobile homes, say the department staff, are not automatically enrolled and that when they apply for retroactive enrolment, there is an inconsistent application of the back years they are entitled to, why is Seniors and Community Supports telling some seniors that they can only get the last two fiscal years of education property tax, but others get more if they fight for it?

**Mrs. Jablonski:** Mr. Speaker, I am aware that when a senior inquires about the education property tax program, we do supply them with the information they need to have some back payment of whatever is owing to them. There are a number of different rules around that. You have to be in a certain place. When you move from your original residence and you start in your new residence, that's when the new education property tax starts on that property. It's a little bit complicated, but I do know that we have an excellent staff.

**Ms Blakeman:** Actually, that's not written down anywhere, so if you have it, please send it.

To the same minister: given that the regulations for all of the other seniors' benefit programs say 11 months of retroactive benefits but this program has no legislation, no regulations, and no policies written anywhere, could Alberta seniors be given a definitive time when the government will create legislation around this program to ensure that policy directives are applied consistently and not changed arbitrarily and applied differently behind closed doors?

**Mrs. Jablonski:** Mr. Speaker, I know that we have an excellent staff that are very concerned about our seniors and deal with them very well on our voice and person-friendly information line. I will check into what this hon. member has asked and will take it under consideration.

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

### Southern Alberta Flood Disaster Relief

**Mr. Mitzel:** Thank you, Mr. Speaker. When the flood occurred in southeast Alberta late last June, there were a lot of meetings with officials and affected municipalities. After the disaster recovery program was announced, Alberta Emergency Management gave assurances that there would be a 30-day turnaround to complete evaluations. To the Minister of Municipal Affairs. My constituents are still asking: is the Alberta Emergency Management Agency meeting these goals, and why is it taking so long to clear up so many of these claims?

**Mr. Goudreau:** Mr. Speaker, as stated on page 11 of our RFP, and its also on our website, our commitment is to do an evaluation within 30 days of receiving an eligible application. We are meeting or exceeding that commitment a hundred per cent of the time. While we can't control all factors that lead to the closing of files, I can tell the member that more than 90 per cent of the residential applications have received an initial payment or are complete.

**Mr. Mitzel:** To the same minister, Mr. Speaker: given that it's been reported that the LandLink contract is potentially worth \$45 million dollars, will the minister please tell this House if this is indeed true?

**Mr. Goudreau:** Mr. Speaker, no, that's not true. The figure was incorrectly reported in the media. Again, I'm happy to share the correct facts. The current five-year contract to 2014 has a maximum funding amount of \$20 million, and that's to provide turnkey delivery of all assigned disaster recovery programs across Alberta. If there are no disaster recovery programs, there are no payments. The actual amount depends on the number and severity of all disasters in the province over the term of the contract.

**Mr. Mitzel:** To the same minister: given that there seems to be a disconnect with the disaster recovery contract agency, how does the minister plan to monitor this contract to ensure that it delivers the required services as it has been nearly six months now?

**Mr. Goudreau:** Mr. Speaker, we have many checks and balances in place. One, our senior staff monitor the contracts very closely, including all invoices; two, the work has to be auditable by two levels of government, our provincial and federal governments – in fact, we randomly review a minimum of 15 per cent of all files prior to payment; and three, as has been stated all along with regard to a program of this size, we will be conducting a third-party review of the process, including LandLink processes.

**The Speaker:** The hon. Member for Edmonton-Ellerslie, followed by the hon. Member for Calgary-Mackay.

### Pre International Baccalaureate Program

**Mr. Bhardwaj:** Thank you very much, Mr. Speaker. Highly motivated grade 10 students are eligible to enter the pre international baccalaureate program at many high schools in Alberta. Eligible courses for IB include French and Spanish. To the Minister of Education: I agree that learning other languages is very, very important, but why only specific languages like Spanish and French?

**The Speaker:** The hon. minister.

**Mr. Hancock:** Well, thank you, Mr. Speaker. Actually, we support provincially quite a number of languages in the province, French as our official language being important but also Spanish, Mandarin, Japanese. Many languages are supported. But when it comes to international baccalaureate programs, those programs are not provincially mandated. They're locally developed courses offered by some school jurisdictions to students in grades 11 and 12. Some schools have created their own international baccalaureate middle years program. Pre-IB is a way to encourage grade 10 students to enter into the full IB program in grades 11 and 12.

**The Speaker:** The hon. member.

**Mr. Bhardwaj:** Thank you very much, Mr. Speaker. My first supplemental to the same minister: what is the process to get other languages and other courses included as part of the pre-IB?

**The Speaker:** The hon. minister.

**Mr. Hancock:** Well, thank you, Mr. Speaker. As I said, decisions around pre-IB course offerings are local decisions made by individual schools and school boards. They're locally developed courses which require approval. Choice is one of the important principles that we have in Alberta's educational system. We encourage that type of development of courses, enrichment of programming for those students that need it and want it. But, as I say, they're optional. They're based on student interest and teacher availability. Students and parents who have an interest in these types of programs usually arrange that through their local schools.

**Mr. Bhardwaj:** My final supplemental to the same minister: is the minister contemplating allowing students to take either IB or Alberta diploma rather than forcing them to take both?

**The Speaker:** The hon. minister.

**Mr. Hancock:** Thank you, Mr. Speaker. I have been in discussion with the IB program co-ordinators and leaders across the province over the last little while. I had the privilege of attending their annual meeting about a month ago to talk about some of the requests that they have, including whether or not students should be exempted from the provincial diploma exams if they've taken the IB examination, whether they have a choice to do that, how we can acknowledge their results on the transcripts for students, and how, in fact, we can recognize the role and function of courses like theory of knowledge.

**The Speaker:** The hon. Member for Calgary-Mackay.

#### **Prepaid Home Contractors**

**Ms Woo-Paw:** Well, thank you, Mr. Speaker. I have heard concerns from constituents regarding the overt and predatory behaviour of some fly-by-night and dishonest contractors. These questionable businesses are harmful to all Alberta consumers and the reputation of the excellent businesses and contractors in our province. My questions are to the Minister of Service Alberta. How are you protecting consumers from disreputable contractors working in this province?

**The Speaker:** The hon. minister.

**Mrs. Klimchuk:** Thank you, Mr. Speaker. Service Alberta has very strict rules for prepaid contractors who take money before the work

is completed and solicit work outside of a regular place of business. The prepaid contractors are licensed with Service Alberta. They also must post a security. So it's very important for consumers, when they are making a decision to renovate or whatever, to make sure they are licensed if they are being prepaid.

**The Speaker:** The hon. member.

**Ms Woo-Paw:** Well, thank you, Mr. Speaker. To the same minister: it is good to have rules and share information, but what actions are you actually taking to stop these scams?

**The Speaker:** The hon. minister.

**Mrs. Klimchuk:** Thank you, Mr. Speaker. There are severe penalties under the Fair Trading Act, which include fines of up to \$100,000 and up to two years in jail. Also, in extreme cases we lay charges under the Criminal Code. Lastly, this summer we worked very closely with the Calgary Police Service to deal with a repeat offender who was preying on Calgary seniors. Indeed, this department does take action.

**The Speaker:** The hon. member.

**Ms Woo-Paw:** Well, thank you. Again to the same minister. My constituents actually think that these offenders are getting off with a slight slap on the wrist. Are there any real consequences?

**The Speaker:** The hon. minister.

**Mrs. Klimchuk:** Thank you, Mr. Speaker. It's really important for Service Alberta to hear from consumers about what they are experiencing with respect to our consumer contact line. Some of the penalties that have been handed out by the courts include fines in excess of \$80,000, restitution of \$70,000, and jail of up to six years' time.

**2:40**

**The Speaker:** Hon. members, 20 different members were recognized today for questions, and there were 117 questions and responses.

In 30 seconds from now we'll continue with the Routine, Members' Statements.

#### **Members' Statements**

*(continued)*

**The Speaker:** The hon. Member for Edmonton-McClung.

#### **Eid al-Adha**

**Mr. Xiao:** Thank you, Mr. Speaker. Assalamu Alaikum. I'm pleased to rise today in recognition of the celebration of Eid al-Adha, otherwise known as the festival of sacrifice. I would like to thank you for putting on this important celebration in the rotunda later today.

Eid al-Adha is a Muslim celebration that recognizes the story of Abraham and Ishmael. This is a story shared by three of the world's major faiths: Judaism, Christianity, and Islam. As the story goes, Abraham, after spending his entire life asking God for a son, was finally blessed with Ishmael. After his son grew up, God came to Abraham and commanded him to sacrifice his son's life. Abraham obeyed this commandment, but as he was about to bring down the knife, God stopped him and told him to sacrifice a ram in Ishmael's

place. Abraham had passed the test and showed his commitment to his God.

Traditionally, Mr. Speaker, members of the Muslim faith recognize this event by making sacrifices to Allah by offering a sheep, camel, or goat and dividing the meat from the slaughtered animal into three sections. The first section is eaten by the immediate family, the second is handed to close friends, and the third delivered to the poor. The festival of sacrifice works to bring the entire community together in celebration of faith.

Mr. Speaker, I would like to wish all Muslims in Alberta a happy and successful Eid al-Adha. [Remarks in Arabic]

**The Speaker:** The hon. Member for Calgary-Buffalo.

### Transgender Day of Remembrance

**Mr. Hehr:** Thank you, Mr. Speaker. Last weekend I attended an event celebrating the Transgender Day of Remembrance. Even today the transgendered remain among the most misunderstood community in our province. Unfortunately, members of this community are often victims of physical and mental abuse, prejudice, and outright discrimination.

Recent events have shown that hate crimes remain a very real problem for our province. Intolerance, ignorance, and blind, unreasoning fury have no place in Alberta, yet these hateful actions continue. One of the speakers at the day of remembrance, for example, was working as a teacher, born female, when he was fired last year because he informed his school board that he was transitioning from female to male. Even this government showed a complete lack of tolerance and understanding when it stopped covering gender reassignment surgery, picking on an unpopular group because they knew they could get away with it.

It is astounding that even in the 21st century people can still make a big deal over trivial issues such as skin colour, disability, sexual orientation, or gender identity. Having spoken with the good folks who attended the day of remembrance, I can tell you that they share the same hopes and dreams of any Albertan. There is nothing strange or scary about that. To paraphrase the great civil rights leader Dr. Martin Luther King Jr., I dream of a day when people are judged not by the configuration of their gender identity but by the content of their character.

I hope that we can all show some empathy and support for the transgendered Albertans who have faced violence and discrimination because of their gender identification. All citizens deserve an equal measure of respect. That should be the Alberta way.

Thank you, Mr. Speaker.

### Tabling Returns and Reports

**The Speaker:** The hon. Minister of Health and Wellness.

**Mr. Zwodzesky:** Thank you very much, Mr. Speaker. I would like to table the requisite number of copies of the following annual reports: the 2009 report from the Alberta College of Speech-Language Pathologists and Audiologists, the 2009 report from the Alberta College of Combined Laboratory and X-Ray Technologists, the 2009-2010 report from the Alberta Mental Health Patient Advocate, the 2009-2010 report from the College of Dietitians of Alberta, the 2009-2010 report from the College of Alberta Psychologists, and finally the 2009-2010 report from the Alberta College and Association of Chiropractors.

Thank you very much.

**The Speaker:** The hon. Minister of Employment and Immigration.

**Mr. Lukaszuk:** Thank you, Mr. Speaker. A couple of tablings for the House today. I'd like to table five copies of the Alberta Land Surveyors' Association report of proceedings of the 101st annual general meeting that was held April 22 to April 24, 2010.

The second tabling is five copies of the 2009 annual report of the College of Alberta Professional Forest Technologists.

Thank you.

**The Speaker:** The hon. Member for Little Bow.

**Mr. McFarland:** Thank you, Mr. Speaker. I'd like to table the appropriate number of copies of a petition received in my office. This petition states:

We, the undersigned residents of Alberta, petition the Legislative Assembly to urge the Ministry of Transportation of Alberta to include the paving of Secondary Highway 529 from the Little Bow Provincial Park intersection to the intersection of Secondary Highway 845 to the 2010/11 - 2012/13 Tentative Major Construction Projects.

Thank you, Mr. Speaker.

**The Speaker:** The hon. Member for Edmonton-Calder.

**Mr. Elniski:** Thank you, Mr. Speaker. I'm pleased today to table five copies of the program from this year's ASTech awards. The ASTech awards focus on the outstanding achievements of Albertans involved in research and science. It's a great opportunity to recognize the outstanding and talented leadership in Alberta's science and technology community.

Thank you.

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

**Mr. Chase:** Thank you, Mr. Speaker. My first tabling is the special issue of the English Express the Solicitor General used as an important teaching tool for immigrants and foreign work guests working on their literacy to learn about crime and protection in Alberta.

My second tabling is five copies of the teaching notes for the English Express special issue, Help for Victims of Crime, allowing learners to learn new vocabulary, understand our basic legal system, and discuss feelings and emotions about crime.

My third tabling is a letter from Ann Goldblatt to the Minister of Advanced Education and Technology asking that he reverse his decision to defund the English Express because "the multiplier effect of this publication is enormous," making a difference to community adult literacy and learning and to thousands of Albertans.

My second set of tablings is from people opposed to Bill 29. From Alberta Rita Werthmann, Felix Camire, Jacques Thouin, Mike Jones, Joyce Griffiths, Rebecca Ellis, Lynda Thiessen, Donald Davidson, Paula Corbeil, Elliot Borisenko, Christine Desjardins, Christina Brown, Cayley Orton, Paula Stein, Lyndon Thiessen, Ray Norman, Lillian Cook, Kevin Brown, Theresa Hannah, Gay Erickson, Candace Hills, Barry Manchak, Darcy Christo, David Rowed, Basia Okoniewska, Ross Dabrusin, Katherine McCawley, Paul Armstrong, Angeles Mendoza Sammet, Kelley Wilson, John Holmes, Don Kenyon, Gabriel Wong, Cecily Mills, Stewart MacDougall, Laura Williams, Alex Taylor, Holly Weber, Melissa Trono, Fred Fountain, Sylvie Jago, and Fred Martin; from outside Alberta Kyle de Hrusoczy-Wirth, Rob Wilson, Stephanie Wood, Elaine Suessmuth, Ralf Buckley, Garret Boyd, Dani Loewenstein, Deborah Krasnicki, and Monica McMahon.

Thank you, Mr. Speaker.



**The Speaker:** The hon. Member for Edmonton-Highlands-Norwood.

**Mr. Mason:** Thank you very much, Mr. Speaker. Today I would like to table the appropriate number of copies of over 700 letters from supporters of the Canadian Parks and Wilderness Society. These Albertans have written to oppose Bill 29, the Alberta Parks Act. The first letter is from Jim Dutton of 3235 Beach Drive, Victoria, B.C., and that's the only one I'm going to mention. They're asking that the Legislature protect and conserve the parks for Albertans today and for generations to come.

Thank you.

**The Speaker:** Thank you, sir.

Hon. members, the chair is also pleased to table five copies of the School at the Legislature report card 2009-2010.

2:50

**Orders of the Day**  
**Government Bills and Orders**  
**Committee of the Whole**

[Mr. Mitzel in the chair]

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

**Bill 17**  
**Alberta Health Act**

**The Deputy Chair:** Are there any comments, questions, or amendments to be offered with respect to this bill?

**Dr. Taft:** Mr. Chairman, can I just ask a procedural question? Are we just beginning? I should know this; I'm sorry.

**The Deputy Chair:** No. We've been debating this already.

**Dr. Taft:** Yes. That's right. Of course. We spent two hours on it last night.

Actually, I will rise this afternoon to propose an amendment, Mr. Chairman, and I have the appropriate number of copies here.

**The Deputy Chair:** Okay. We'll ask the pages to distribute those, and then you can proceed. Hon. members, we'll call this amendment A1.

**Dr. Taft:** Mr. Chairman, that's appropriate because this is an A-one amendment; I can tell you that.

Just to read it into the record, I move that "Bill 17, Alberta Health Act, be amended by striking out section 10." That's the entirety of this proposed amendment. It's quite straightforward that way, but I think it's important to take the time to consider this. I'm going to begin by reading section 10. It's just one paragraph. It's titled Proceedings Not Subject to Review, and it proceeds like this.

A decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court by way of injunction, declaratory judgment, prohibition or mandamus or otherwise to question, review, prohibit, restrain or compel the Minister, the Health Advocate or any employee or agent of either of them.

Our concern with this particular paragraph, Mr. Chairman, I think should be a concern to anyone who respects the rule of law, who

believes that we are all equal before the law. The remarkable intent and effect of this particular paragraph is, in our view, to put the minister and the health advocate and any employee or agent of either of them above the normal law. Clearly, in our view, Mr. Chairman, that's completely inappropriate. I think we all need to be very, very cautious as legislators about putting anybody above the law, putting anybody beyond a challenge by any court or beyond a challenge by any individual who wants to proceed against the minister or against the advocate or against any agent.

Now, it doesn't take a lot to imagine a situation where this could quite quickly get out of hand. Let's say that the health advocate, swamped by all kinds of complaints, appoints an agent and that agent conducts some kind of review which may or may not be appropriate, which may or may not be conducted by an agent who has any particular training. Who knows what the qualifications of those agents may be? That agent files a report, recommends an action. The action is then taken against somebody. That somebody who is being acted against may say, "Well, this whole process was off base. The agent of the health advocate didn't consider all the facts or wasn't qualified to come to a particular conclusion or in some other way did not conduct things properly. I want to stop this proceeding through an injunction, or I want to seek a court declaration, or I want otherwise to take some legal action."

Well, the effect of this paragraph would preclude that. It would seem to us to cut off the normal legal recourse that's available to people if there is a misconduct or if there is a dispute. That's just not reasonable, Mr. Chairman. We believe that everybody should be equal before the law. I think that this is the kind of legislation that actually begins to erode one of the fundamental values of a modern civilization, which is the rule of law. The rule of law means that the law applies regardless of who you are and regardless of the circumstances. This would seem to be a short-circuiting of that particular principle.

When section 10 states that "a decision or action of the Minister . . . shall not be questioned," I think we have to ask ourselves: how extreme is that? "Shall not be questioned": I mean, that's pretty extreme. Surely, we want individuals to have the right to raise questions or to apply for a court to review a decision.

So I would urge all members of this Assembly to support this amendment. At least I would ask somebody in here, maybe the Minister of Justice, to explain and justify for us why paragraph 10 in the Alberta Health Act should not be tossed out as this amendment proposes. What's the point of going to such extremes in this legislation? If it isn't an absolutely compelling point – and I will wait for the Minister of Justice to try to make that point – then I think, you know, my amendment as proposed is a no-brainer.

3:00

I will take my seat and see if somebody on the government side – and there are many capable members who understand the law in depth. I look at the Member for Wetaskiwin-Camrose. Maybe he can explain why we need to put such remarkable provisions in such generally useless legislation.

Thank you.

**The Deputy Chair:** The hon. Member for Calgary-Fish Creek.

**Mrs. Forsyth:** Thank you, Mr. Chair. I'm pleased to rise today and speak in support of the amendment from the hon. Member for Edmonton-Riverview. It's one of the amendments that we had already proposed and had gotten approval for from Parliamentary Counsel, so it's nice to see that there are a couple of people thinking on the same level.

I, too, have probably very similar questions that the hon. Member for Edmonton-Riverview has. I guess what's striking to me is that under that section it says that

a decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise . . .

Then it goes on.

. . . and no order shall be made or process entered or proceedings taken in any court by way of injunction . . .

And it continues on.

I guess I'm having difficulty trying to figure out why. I'm not a lawyer. Maybe my colleague from Airdrie-Chestermere, because he is a lawyer, can explain to people in the Assembly. Or, for that matter, the Minister of Justice, who is responsible for the justice of this province, can stand up and tell us why this would even be considered in the Alberta Health Act.

I go back to the fact that I'm still trying to rationalize why we are even debating an Alberta Health Act when, quite frankly, Albertans are fed up. I mean, we've seen report after report. We've seen consultation after consultation. I listened to the member who chaired this consultation process to come up with the Alberta Health Act say that he was listening to Albertans. Mr. Chair, one of the things about being a member of the opposition and the health critic, actually, for the Wildrose that I've learned since January is the fact that all of a sudden we get inundated with phone calls, e-mails, letters, and sometimes, quite frankly, it's hard to keep up.

I guess one of the privileges that we have had is all of the health care professionals in this wonderful province that have come forward to talk to us. I sometimes feel that I probably know every hole in the cities of Calgary and Edmonton because people are still concerned about the code of conduct that's under Alberta Health Services. Quite frankly, while the minister and the CEO say that they have the ability to speak up, they don't see that as the opportunity to speak up.

Yet again, we have very clearly written in legislation under section 10 that a decision or action of the minister or, for that matter, the health advocate or any employee or agent shall not be questioned. I'm trying to think of anywhere on this Earth where someone shouldn't be questioned about anything, because ultimately they're responsible to Albertans. If someone sees something that they feel is questionable, then they should have the right to question.

With those short remarks I am going to support what the Member for Edmonton-Riverview has brought forward. He wants to strike out the whole of section 10. Until the government or even the author of this report, the Member for Edmonton-Rutherford, speaks out, is able to stand up in this Legislature like he did when we had the emergency debate and told the members of this Assembly that he didn't see a crisis in health care whatsoever – obviously, he believes, or seems to believe, that there is no crisis in health care. I would love to understand or hear what he has to say on why this particular section was put in this piece of legislation. Otherwise, until we hear from the Minister of Justice, the minister of health, or the member for Edmonton-Rutherford, I will continue not to support this legislation.

I'd look forward to any members of government standing up and speaking to this amendment and why they don't support it. I know that there are many members, including the one from Calgary-Egmont, that are lawyers and understand the law much better than I do, so I look forward to them standing up and speaking in support.

I'll continue to listen to the debate, Mr. Chair, and hear what others have to say.

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

**Mr. Hehr:** Thank you, Mr. Chair. It is indeed a privilege to speak in favour of this amendment brought by the Member for Edmonton-Riverview. I enjoyed listening to the debate so far. When you see this type of legislation that comes through, where it says in section 10 – and this is right in the act. I think this sort of frames exactly what I'm going to talk about, where we go into the rule of law, what democracy stands for, the ability of the ordinary citizenry to challenge the power of the state and to have their day in court and to see if their rights and privileges under statute are being affected or have been interfered with.

Let's just start with reading section 10. Section 10 states that "a decision or action of the Minister, the Health Advocate or any employee . . . of either . . . shall not be questioned, reviewed or made the subject of a proceeding in any court by application for judicial review." It also states that no order shall be made or writ of mandamus, which is defined as a writ that is "issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly."

If you look at the wording of that, that gives the government tremendous power, a tremendous ability not to be questioned. Really, the government should reconsider this as a real priority, a real infringement of the rule of law, as I see it, that we here in Alberta and the people of Canada actually have come to enjoy, have come to believe in.

If you look at this type of legislation, which is only meant to quash a citizen's right to appeal a government's behaviour or appeal what a health advocate or employee has done, whether it has merit or not is not the question. It's whether they have an opportunity to do so. It should be judged on procedural fairness but on substantive fairness as well.

These things appear in this section 10 of what is admittedly an inconsequential bill. I described it earlier as being a lot of feathers, not a lot of chicken. Actually, my cousin David Vanrobaeys in Lethbridge did.

**3:10**

Nevertheless, I think it's an innocuous bill because it really doesn't have much power. It really doesn't say anything. It really doesn't do anything. The government is sort of saying in this section, tacitly admitting by implementing this: "Yeah, this is a waste of time. These people – the minister, the health advocate, or employee – really shouldn't be doing anything, so we won't allow people to go to the courts. Really, the minister, the health advocate, or the employee in regard to this bill shouldn't be doing anything, so we'll just make sure of that by bulletproofing any decision they do make so that we won't be embarrassed in a court later on, that these guys actually tried to do something." That might be a reason why. I'm not sure, but if you're looking for some reason, that could be it. This could be an admission that the act is meant to do nothing. Okay? That's why they put this in here.

Really, in terms of this act the minister is not supposed to do anything. The health advocate really isn't supposed to do anything. Neither are the employees of this health advocate really supposed to do anything. So let's just make sure that if for some reason they wake up and do decide to do something, we're not embarrassed by what they did because this act is not meant to do anything. I think this is just basically an admission of that. Nevertheless, it should not be there.

Although they're probably not supposed to do anything, which is basically – let's face it here, let's look each other in the whites of the eyes and say: guys, this act is merely puffery, merely an act that claims to do something, that does do nothing, that takes a little heat off of us, that is for political purposes only but not really to deliver

anything better in terms of health care. Okay. I get that. You guys get that. Everyone here basically gets that. But people out in Alberta may not understand it. They may actually go to a health advocate or something to this effect and try to get some information or ability.

Guess what? There could be a circumstance where, God forbid, the health advocate gives poor advice, an employee takes advantage of an individual who seeks the health advocate's advice. A whole host or a number of situations could occur, and they should have the ability to follow up on that bad advice, an ability to go into some sort of tribunal and then follow that up into a court of law.

A government should really be loath to make this type of law. The hon. minister of housing is a lawyer, and he should be able to explain this. The hon. Minister of Education. They're both here.

**Mr. Hancock:** You should be able to explain a privative clause.

**Mr. Hehr:** No, no, no. I need some real expertise. I think that if they remember back from their lab classes, governments should be loath to make this overarching type of ruling, where the citizens are unable to go to a court. Governments should be loath to bring this type of act. I'd like to hear their comments about why this is there, and maybe that would be an excellent opportunity.

Nevertheless, I'm very concerned that our governments are seemingly seeking protection from the courts or from rule of law, the rule of law that this country is founded on, that our governments and our politicians are not above the law, that they can be held accountable by their citizenry, that they can take the actions of their government to court and get a ruling on that. That's been enshrined in our Charter of Rights and Freedoms back as far as our nation has been formed.

Going through this, it is simply wrong, and we see this government doing it not only in this bill but other bills where they tend to hide behind ministerial authority. We saw that in the Parks Act. We see it in many acts where this government just doesn't seem to like to let citizens have their day in court or their day in the Legislature, or their day to really question anything this government does. This is a further example and a really egregious example of this government going to extremes to quash any dissent, to quash any problems with a system that right now appears to be broken, and they're just ensuring that that dissent doesn't come up in any embarrassing way.

I thank you very much for allowing me to make those comments. I believe this is overreaching at its worst, and the government should go back and should accept this amendment and possibly redraft this bill to allow for some sort of recourse for the people of Alberta.

Thank you very much, Mr. Chair.

**The Deputy Chair:** The hon. Member for Airdrie-Chestermere.

**Mr. Anderson:** Yes, Mr. Chair. Good afternoon. I'm standing today, and we're going to talk about this Bill 17.

**The Deputy Chair:** On the amendment.

**Mr. Anderson:** On the amendment. I have a very similar amendment that I'll propose later on, but I'll deal with this amendment. It is to strike out section 10, which, of course, just says:

A decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court by way of injunction, declaratory judgment, prohibition or mandamus or otherwise to question, review, prohibit, restrain or compel the

Minister, the Health Advocate or any employee or agent of either of them.

You see a version of this clause in a lot of different legislation, of course. Generally speaking, it insulates the minister from legal liability. There's a liability clause in section 11 which does that further, but this insulates the minister from, actually, any proceedings that might come against them by way of any action that they take under this act.

Here's the problem. Again, I mean, it's like a bad record. Every day we're in here talking about legislation that either gives too broad powers to the minister or takes them off the hook somehow for their decisions. You know, I remember when I was a new member sitting on this side of the House still but in the other party, the governing party, listening to hours and hours of late-night debate, and this hon. Member for Edmonton-Riverview and other hon. members from that caucus as well as from other opposition parties would constantly bring this subject up.

At first, being new, I said: what's the big deal about that? You know, come on. It's ministers, right? I mean, they have a job to do. Let's just make it easier for them. But as I started listening a little bit more, they started bringing up some good points. The fact is that ministers do need to be accountable, and they do need to be accountable to this Legislature and, by extension, the people. We talked a lot yesterday when we were talking about Bill 29, the Alberta Parks Act, that giving ministers too much latitude can invite some very bad decisions later on.

This is kind of the same thing, in my view. Although we're not talking about giving the minister unilateral authority to do things through regulation, we are talking about giving them the ability to essentially not be held responsible. We're basically absolving them of all responsibility with regard to their decisions under this act.

3:20

I don't think that's wise. I don't think, of course, that a minister should be sued personally for something that they do as a member of government. They shouldn't have, you know, their bank accounts raided for something that they said as a minister, obviously, unless it's criminal, but that's different. Assuming it's not criminal, they shouldn't be personally liable for their decisions. I don't think anyone disagrees with that. Where I have a problem with section 10 is the fact that it's so broad. It says that any decision of the minister or health advocate or any employee or agent of either shall not even be questioned with something they do in this act.

I think about some of the things that I've experienced even in these last three years. Well, let's think about this emergency room crisis. If this thing lingers on much longer – and it appears that it does – then there might be a situation that comes where the minister needs to be questioned about his handling of the health care crisis. If this were to be passed – and there's obviously a patient bill of rights that's included in this. If the minister obfuscates his responsibilities and refuses to carry out his responsibilities under this act with regard to that bill of rights – say that they were to do so negligently or intentionally or incompetently or, you know, for whatever reason – you would think that we should be able to call in some kind of inquiry, some kind of body that would come and be able to question the minister on their handling of that situation.

I mean, people are dying. I thought this new charter that I read through was very broad. I mean, there are a whole bunch of motherhood and apple pie statements in there. It's kind of impossible to disagree with a lot of them. Nonetheless, there are situations – I know there'll be amendments forthcoming – where we could add in some stronger elements to that charter, whether that be legislated wait times or whether that be, you know, something like that, and

that could really hold the minister's feet to the fire to get some things done, as it should.

To absolve them of all responsibility to actually do what this act says is just wrong. Again, we're not talking about making sure that there's personal liability attached to the minister. We're talking about making sure that we can get to the truth of the situation of a tragedy or something that occurs where the minister has been negligent or has handled the situation very poorly, that they can be questioned and made the subject of a proceeding.

Now, do you necessarily want them in front of a judicial body? Probably not. What about some kind of quasi-judicial body like a quasi-judicial public inquiry on the subject? Why would we absolve them from that responsibility? You see, the problem with this government is that they don't like to be questioned, and it's constant. They don't like to be questioned by anybody. They don't like to be questioned by their own caucus, even by people who clearly know more about the subject than anyone in their caucus, like the Member for Edmonton-Meadowlark did about health care and emergency room health care in particular. They don't like to be questioned, so it gets them very nervous when there's a situation that might occur where they would be called to the floor, called onto the mat to defend and to justify their actions or their inactions. I cannot support allowing them to have the ability to get away from ever being questioned on their handling of public health under this act.

The other issue I have – and I'll bring this forward later, when I put out one of my other amendments on it – is that it says that a decision or action of the minister, da, da, da, da, da, “shall not be questioned, reviewed,” even reviewed. Let's talk about that. What does that even mean? It says: “Reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise.” Correct me if I'm wrong, but couldn't “otherwise” mean an Auditor General? Does that apply to the Auditor General? Can the Auditor General not come in and review this because it says “or otherwise”? It's not just judicial review. If the whole point of the Auditor General is to come in to make sure that a department or something in Health or Education or anything is being run efficiently, is above board, that there's no unnecessary waste, that the duties under the act are being carried out, et cetera, if that's the whole point of having the Auditor General there, why would we absolve the minister from any kind of review of that Auditor General by this section in this act?

Again, if we're talking about, strictly speaking, court proceedings, I understand that we don't want the minister to be sued every two seconds because someone thinks that the minister didn't do his duty under a piece of legislation. I understand that. I do. But there are other avenues in government like the Auditor General, like a public inquiry, some of these other things where it is appropriate in certain circumstances, where there has been gross mismanagement or negligence or whatever it be, that we have the ability to review the processes and review the minister's actions and review whether their actions and whether they have in fact complied with the legislation that they are bound to enforce and bound to uphold. So that's another part of the section that I have a very large issue with.

**Mr. Hancock:** It's the standard privative clause.

**Mr. Anderson:** Well, you know, if it's the standard . . . [interjections]

**The Deputy Chair:** Hon. members, the hon. Member for Airdrie-Chestermere has the floor. Through the chair.

**Mr. Anderson:** Well, the Minister of Education brings a good point. We have privative clauses in most legislation, in fact in all legisla-

tion, I would say. Well, almost all legislation. That's right, but I think section 10 goes beyond, as opposed to section 11, which deals with the liability and the action.

No action lies against the Minister, the Crown in right of Alberta, the Health Advocate or any employee or agent of any of them for anything done or omitted to be done by that person in good faith while carrying out that person's duties or exercising that person's powers under this Act or the regulations.

That I agree with, section 11, no doubt. You need to have that in there. But I think section 10 goes well beyond that. Section 10 actually absolves the minister from any kind of review by anybody if you look at it. I mean, it even says “questioning.” You can't even question because it says “or otherwise.” It says: “Application for judicial review or otherwise.” What does “otherwise” mean?

**Mr. Hancock:** In any court.

**Mr. Anderson:** But that's not what it says. It doesn't say: in any court. It says: “in any court by application for judicial review or otherwise.” I mean, we don't know what type of proceeding we're talking about here. [interjection]

**Mrs. Forsyth:** He needs to get up and speak on the record.

**Mr. Anderson:** Well, in a few minutes he can speak on the record, and maybe he can clarify that.

I think that this is too broad of a clause. I don't think this is a basic privative clause. I think that it goes well beyond that. Again, it goes back to the issue of ministers being held accountable for their actions and for how they uphold or don't uphold the law. We're talking about people's health here. We're talking about, essentially, passing a patients' bill of rights or charter of rights or whatever you want to call it. If you're going to put those types of measures in, the minister should be held accountable. Judicial review: does that include judicial inquiries? “Judicial review or otherwise” doesn't include a judicial inquiry? I don't know. That's fuzzy. You'd think it could.

3:30

Anyway, it would be nice to at least have some clarification because the real thing I'm trying to get at here is that we need to make sure that ministers are held accountable for their action or inaction if it becomes gross mismanagement or negligence. Obviously, those ministers should not be sued personally, but should a situation arise where they have been negligent and people's health has been affected and their rights under this act have been violated under this new charter, there should be recourse for that individual to come forward and either go to the Auditor General or ask for a public or quasi-judicial inquiry or whatever to review the situation and call the minister to account. That's really the crux of it.

It does speak, Mr. Chair, to a rather long line of legislation proposed by this government whereby they continually try to insulate their ministers from having to come back to this House and try to bring their legislation and changes to legislation through the House. They're always trying to centralize power in the minister's office, (a), and (b) if they can't do that, they try to absolve them of responsibility. You know, maybe that's why I think we see over time that the sessions get shorter and shorter and shorter and shorter. I don't know. Maybe the Member for Edmonton-Riverview can tell us, in his long political career here in the Legislature, whether he has ever seen a session or a year where we have had as few sitting days as we've had this year. We were told that it was the lowest since the 1970s. Anyway, we'll have to look that up.

**The Deputy Chair:** Through the chair, please.

**Mr. Anderson:** On the amendment, that's right. Through the chair, please. Obviously, I look forward to having that question answered. Maybe he can remember.

The point is that these sessions are certainly getting shorter, broadly speaking. The days that we are sitting are certainly getting fewer. I think one of the reasons for that is that there are so many decisions that can be made unilaterally in the executive branch through executive orders, et cetera, that there's no reason to come to the House on so many different things. I think that's wrong, and that type of disrespect or lack of faith in the people's House, in the people's Legislature is disturbing. I think, you know, we see that not only in this act but in many different acts.

I think all Albertans are aware now. It brings this kind of feeling of, you know: who's running the place? Look at the confusion, the utter confusion in health care with regards to giving such broad powers to ministers and absolving all of their responsibility. There's this feeling of distrust, like: "Who's running this thing? Who's running the asylum? Are the inmates running the asylum, or are the politicians?" I guess maybe the politicians are the inmates. I don't know. It's very uncomfortable to know that in health care, for example, we don't know who's running it. We don't know if it's the bureaucracy that's running it or if it's the minister that's running it. The story changes every single day and in almost every single news story depending on if it's good for the government or not.

**Mrs. Forsyth:** It's the left hand or the right over there.

**Mr. Anderson:** Right. If it's positive to blame the bureaucracy, the bureaucracy gets blamed. If it's a victory, then the government takes credit for it, you know, even though it was a decision by that same bureaucracy. "Oh, we made that decision." Well, which one is it? Again, it goes back to this idea that there's just too much power being given to our centralized, mammoth bureaucracy and not enough responsibility, like under this section, given to the elected House. The more we allow them to absolve their responsibilities to the bureaucracy or through legislation like this or a section like this, I think that it gets very . . . [interjection] Oh, really? That's interesting. Well, now, congratulations to the Member for Edmonton-Rutherford on being the new parliamentary assistant for health. Good for him.

You know, we have to come here, and we have to be able to debate different things as they come forward, and giving too much power, concentrating too much power in the office of any one minister is a mistake.

Thank you, Mr. Chair.

**The Deputy Chair:** Any other members who wish to speak? The hon. Government House Leader.

**Mr. Hancock:** Thank you, Mr. Chairman. I'll be very brief. The amendment seeks to delete section 10 of the act. Section 10 is what's normally known as a privative clause. It's quite a normal clause to have in an act. Notwithstanding all the waxing eloquent that we've heard from members opposite, the section is very clear. It refers to "proceeding in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court by way of injunction." It's very specific to court actions. It's very specific, and it's quite normal to say that legislative processes and public policy should be dealt with by a Legislature and officers of the Legislature, including the ombudsmen, including Auditors General, those sort of things. If the Legislature orders an inquiry, that's a perfectly valid thing for a Legislature to do. The privative clause is a standard privative clause

that talks about review by the court. Obviously, you cannot have a minister of health being taken to court on actions of public policy.

Section 11, that the Member for Airdrie-Chestermere indicated, is a normal liability clause and is a usual companion clause. These two clauses go together. I'm sorry, but the comments by the members of the opposition with respect to the extent and breadth of this clause are way off base.

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

**Mr. Kang:** Thank you, Mr. Chair. It's my pleasure to rise and speak to the amendment put forward by the Member for Edmonton-Riverview to strike out section 10. Section 10 states that a decision or action of the minister, the health advocate, or any employee of either shall not be questioned, reviewed, or made the subject of a proceeding in any court by application for judicial review. It also states that no order shall be made or writ of mandamus, which is defined as a writ that is issued by a superior court to compel a lower court or government official to perform mandatory or purely ministerial duties directly.

This is a very broad and overarching section, Mr. Chair. Under this section the reality is that if there's a decision which is not acceptable to Albertans or if any organization, for that matter, disagrees with a decision by the minister, they have no legal recourse to dispute the decision or actions of the minister or their appointed employees. The rule of the law should be applied equally to everybody, and this section is putting the minister of health or any employee above the rule of the law. Even the Auditor General could not question the minister or his or her appointed employees.

3:40

With this section in place, one cannot question the minister on any decision they make, and cannot be held accountable. It would be good to have some clarification from the government side on why this section 10 should not be yanked out of the bill. The bill is useless anyway. I think we should get rid of the whole bill.

From experience the government likes to concentrate power in just one hand, as they did in dissolving the health regions into one superboard. They just keep on experimenting back and forth under the guise of providing good health care service to Albertans, which is not happening, Mr. Chair. It has been going downhill for the last 16, 17 years because health care is being kicked around like a football. It's been a political football, kicked around back and forth between the minister and the AHS. It's not doing us any good. Every day health care is going downhill. Wait times are going up. We have red alerts, and we've got yellow alerts. By giving that much power to the minister, I think we will not be able to question them on anything.

This is very, very broad and overarching, like I said, and it provides too much leeway to the minister and the advocate. I think we should have some legal opinion on this. This entire section seems to be granting a large amount of immunity to the minister and the advocate, and any decision that is made will not be allowed to be reviewed by any means. This is giving lots of power to the minister, and the minister is becoming above the law, Mr. Chair.

Even with the cookie comments they could do whatever. We couldn't question them. You know, he could be eating his hamburger, or he could be eating his fries, or he could be over at Joey's Only having his fish and chips, and people could be dying in the emergency rooms.

**Dr. Taft:** He could be at the bakery getting cookies.

**Mr. Kang:** Getting cookies. We couldn't question him.

Mr. Chair, the reality is that if Albertans already recognize and disagree with the decision by the minister, as we have seen, there is no legal recourse to dispute the decision or the action. For those reasons, I'll be supporting the amendment, and we should just quash section 10.

**The Deputy Chair:** The hon. Member for Calgary-Fish Creek.

**Mrs. Forsyth:** Thanks, Mr. Chair. I just want to say a couple things if I may. I actually appreciate the Minister of Education from Edmonton-Whitemud for speaking up and clarifying that. I think he said that section 10 is something that's in all legislation. While I appreciate where he's coming from, I guess here is the question that I have. We've been listening for months to the government in regard to this health charter. It's innovative, and it's new, and it's a first in Canada, and nowhere else has it been done. So all of a sudden we have this charter of rights in regard to patients, and it recognizes and says what it must do. The health charter must recognize this. It acknowledges the person's status. It must not be used to limit access to health services.

While that's admirable, it goes in here – you know, I've been with the government and I sat on the legislative committee in regard . . .

**The Deputy Chair:** Hon. member, we're on the amendment.

**Mrs. Forsyth:** I'm speaking on the amendment.

I sat with the Legislature lawyers, who I think are unbelievable, good lawyers. What I don't understand is the fact that all of a sudden we're taking a decision or action of the minister and saying that it can't be questioned. On one hand, we talk about a piece of legislation that's innovative, that's new, that's providing a health charter, and then all of a sudden we want to usurp a decision that's been made not only by the minister but the health advocate. I can understand where the Member for Edmonton-Whitemud is coming from because, obviously, being a former minister of the Crown for two portfolios, the Solicitor General and the ministry of children's services, yes, you don't want to be dragging the minister into every court case, especially if the government or the department is being sued. I've been sued frequently in both portfolios and had representation where I haven't even been to the courtroom or even known what's going on other than the briefing notes that I get from my department people.

Now we're talking about a charter, and I liken that to the federal Charter of Rights and Freedoms, and I would wonder if they have this. To me, quite frankly, it's confusing. If you want to have something new and you want to have something that's innovative and you want to give patients what they consider a charter and it tells in the charter what the charter must do, then I think everything in this piece of legislation must go from "may" to "must." We plan on bringing some amendments forward to deal with that in particular because you can't say "must" in one breath and then "may" in another or "shall," for that matter.

Like I said, I'm not a lawyer. My colleague from Airdrie-Chestermere talks about absolving the minister or the health advocate from any review. Yet, you know, in this piece of legislation the health advocate currently is reporting to the minister and not reporting to the Legislature, so that means he is absolved, too.

I'm going to listen, and I'm going to continue to hear. I want to thank the Member for Edmonton-Whitemud for trying to clarify what he considers something that's normal in any piece of legislation.

Thank you.

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

**Dr. Taft:** Thank you very much. I appreciate this. I appreciate the debate, and I wish more of the government members would participate because we really need to see what the possible justification for paragraph 10 in Bill 17 really is. Otherwise, this amendment should pass through. Now, we've heard the Minister of Education say that this kind of paragraph is standard, a boilerplate almost – he didn't use that word, but he might as well have – in all kinds of legislation. I want him to prove it. I'd like to see, for example, how much of the legislation that we've debated this year has that particular paragraph.

As the Member for Airdrie-Chestermere pointed out, yeah, paragraph 11 is standard, and I don't think we have a problem with that, that any of us would. But paragraph 10 does seem to me to be a strange piece of legislation.

**Mrs. Forsyth:** It's not in the Parks Act.

**Dr. Taft:** As I just heard the Member for Calgary-Fish Creek point out that she can't find it in the Parks Act, Bill 29. Frankly, I'm questioning the claim from the Minister of Education, and I'd like him to prove his case, so let's see it. When I think about this and I study it more closely and I try to imagine myself as a lawyer – I'm not a lawyer, and I never intend to be one, but I'll admit, you know, they have their place, Mr. Chairman. Being surrounded by lawyers at this moment, I have to concede that.

I do want to point out here that it says, essentially, that this means that no action by the minister of health will be questioned and so on. It doesn't limit it to the parameters of this act. It simply says: no action by the minister. Given that the scope of this act is extremely broad – it's the Alberta Health Act – it kind of sets a framework for other legislation covering the whole health system. We're talking about an enormous scope here. I want to be very clear. The way I read paragraph 10, it says, in effect, that no employee or agent of the minister of health will ever be questioned.

Well, Mr. Chairman, there are 90,000 employees under the health system in Alberta, public service employees paid by the tax dollars distributed by this Legislature. Ninety thousand. Are they all in due course of their jobs above the law, then? Are they all exempt from being taken to court or questioned? Are they exempt from a court declaration?

3:50

I wonder if some of the lawyers present might want to think about class-action suits, if there was to be a class-action suit against the minister of health. Let's say that the minister of health fails to properly protect people and a Walkerton case breaks out. Public health standards are under the purview of this minister. One thing leads to the next, and eventually the victims organize a class-action suit against the minister. Well, how does this act affect that sort of course of events? Or does it? And if it does, why? Certainly, the way I would read it, it would seem that it could.

There are any number of those kinds of examples that could arise, and I just don't see the point of this legislation. It seems to me that there's a principle in law about fair application of laws, that there's a whole business of administrative law which gets opened up here. Again, are we saying that this minister and all his agents, which presumably includes the board of Alberta Health Services, all kinds of other organizations, are all above that sort of behaviour?

I wonder if there isn't a bit of a concern here about the success, the very dramatic and clear success, of a court declaration going back a few years. The teachers used the method of a court declaration several years ago when they were in a contentious bargaining situation with the Minister of Education. The Minister of Education

at that time was Lyle Oberg, and the president of the ATA was Larry Booi. The teachers concluded that the minister was not bargaining properly, and they sought a court declaration, and they got the court declaration, which forced the minister to back down.

What's interesting in this current paragraph: court declarations are specifically mentioned. It seems to me that when I read that the minister of health shall not be "made the subject of a proceeding in any court" – and it specifically refers to declaratory judgment of a court – maybe they're concerned that, well, they lost once. They don't want to lose again. What happens in these kinds of situations? We may be seeing some anticipation of future problems.

I also want to return to a point that was briefly mentioned by the Member for Airdrie-Chestermere, a fundamental principle of parliamentary democracy, which is ministerial accountability. Like it or not, every cabinet minister is accountable for what their department does, and if things go too wrong, they take the hit. They're questioned every day in question period because of that principle. At times – it doesn't happen very often ever in this government but in more democratic, dynamic Legislatures or in the Parliament in Ottawa – ministers resign because something goes wrong in their department. That's the idea of ministerial accountability.

Well, suddenly we have here the principle of ministerial nonaccountability built right into the legislation, Mr. Chairman. It makes me begin to wonder if after 40 years the ministers of this government have begun to imagine they have a divine right to govern, that they are above the law, that they are above the courts. We're not prepared to go along with that, and we don't want to see a piece of legislation that starts etching that into precedents or into law. Very, very dangerous.

I was also struck about another case – the Member for Calgary-Fish Creek might remember this; I don't know; she might have even been the minister at the time – but my memory needs to be firmed up. There was a case brought, I believe, under the AISH program where a large number of AISH – or maybe it was PDD – recipients were not paid what they were due over the course of a few years. This was discovered. [interjection] The Member for Calgary-Buffalo is confirming my hunch that it was AISH. They actually sued, took the government to court, took the minister to court, and won. The government had to pay up, and it was, I think, well over a hundred million dollars the government had to pay out under that.

Well, let's imagine that something similar happens in the health care system, that there's a widespread error and people are not given their due benefits. You know, it's not hard to imagine, whether it could be, as I mentioned earlier, a Walkerton situation or even employees of the department not getting properly treated. Maybe they're not properly paid benefits or maybe subcontracting like we saw at Bee-Clean. All of these issues could end up in court, and the minister or the health advocate or the deputy minister or a regional health authority or some other body may be named in these.

Why do we need this legislation? Nothing I've heard from this government has given me any confidence that this is needed. You know, I have a sinking feeling that this amendment is not going to pass, but we're going to go down with guns blazing, as it were, Mr. Chairman. I think that paragraph is a bad, bad piece of law, and I'm not hearing anything from government members that changes my mind. I invite the Minister of Justice: tell us differently; justify what is otherwise an extreme looking paragraph, please.

**The Deputy Chair:** The hon. Member for Airdrie-Chestermere.

**Mr. Anderson:** Thank you, Mr. Chair. I was listening very intently to the minister's comments, the Minister of Education, the hon.

House leader, when he was standing up, and he kind of just waved his hand and said: ah, those are in every piece of legislation. Well, we've been looking through the legislation of this government, similar legislation where broad ministerial powers are being given, and there is no such clause in at least the ones that we've looked at. I'm sure that somewhere out there there are similar clauses.

With Bill 29, for example, which is in some ways a similar bill because you're giving broad powers to the minister to do certain things and to have certain responsibilities, et cetera, that's not in there. The liability clause is in there, as we mentioned. It definitely is in there. It's in several other of the bills, but there's not such an expansive privative clause, as he calls it. There isn't at all, and I'd be curious to see what is in other acts. Again, that's the point of debate in this House. We've got to work through these things.

**Dr. Taft:** It seems like this is meaningful debate.

**Mr. Anderson:** Yeah. It would be nice. It would be nice to have meaningful debate, for sure, but, you know, still waiting. Through the chair, it was good to see the hon. House leader, who stood up and talked about it for a little bit.

The other thing people have to understand is that when we're in the House debating, actually it's funny because it's important what is said on the record. When our justices in our courts interpret a piece of legislation, they actually take into account not only the words of the bill – that's obviously something they take into account – but they also take into account what's said in *Hansard*, in the Legislature, which is important. So when you get that kind of clarification from the minister on the record, it's a good thing. Clearly, he has put on the record that in his interpretation this clause does not insulate the minister from a judicial inquiry or a review by the Auditor General for their actions or inactions as pertaining to Bill 17.

4:00

I think even having that debate on the record is worth having. Now we at least know there will be a better chance that if this ever did become the subject of a legal case, clearly, from the Minister of Education's comments, a justice would say: a judicial review can be called on this minister as could any kind of review by the Auditor General. Now, unfortunately, of course, that's not who decides whether or not there's going to be a judicial review. That's kind of something that has to be brought in by the executive branch or by the Legislature. Anyway, that is now on the record, so that's good. That's good that that's his interpretation.

I would say again that the reason I think that this is still a very clouded issue is because it says:

A decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise.

Judicial review or otherwise: could that not include a judicial inquiry? Again, I restate the point that, obviously, you can have a judicial review in a court of law, but I think it's very fuzzy to say that that wouldn't include a quasi-judicial inquiry. Maybe no, maybe yes. So it is important that we have this debate on the record.

I would like to see personally – and maybe we will bring forth an amendment on that, hon. Member for Calgary-Fish Creek. We'll have to think about it. It might be nice to have some kind of clarification of what this does and does not apply to; for example, having that you can't have somebody sue the minister for something they did here, but there can be a judicial inquiry or the Auditor General can review it. All of these things would be very helpful to have in there. It would clarify the bill further.

And it's good that the minister is on the record there. Again, I would never think to call that hon. member arrogant by any stretch, so I'm not going to, but just the way in which, "This clearly doesn't say this; this is pretty standard; this is in every piece of legislation like this; you know, we've pointed out three bills," goes back to the larger idea that: "You know what? This is just our standard way of doing things." Well, yeah. We know it's your standard way of doing things, Minister. Everything you do is to insulate your ministers from responsibility and to make sure that they have as broad a power as possible and as broad an authority as possible to unilaterally change legislation. So, yeah. We know that might be the standard operating procedure of this government, but it's sure not acceptable to me and to the constituents of Airdrie-Chestermere, and it's not acceptable to many others in this province. But it is acceptable to government.

You know, just because something is, according to a minister and House leader, quote, unquote, standard operating procedure does not necessarily mean that that's the way we need to do things forever. Things do change. Things are changing now. This is an interesting time in Alberta political history, for sure. We're going to have to start looking at clauses like this, and we're going to have to start thinking very hard about: is this is the way we want to do things? Do we always want to do it this way? Do we always want to insulate the ministers and give them broad regulatory powers and let the bureaucracy run the government as is currently being done? Is that the way we're going to do democracy in this province on a go-forward?

Well, our party clearly does not believe that. We clearly believe that on a go-forward the bureaucracy should not be running the government, but the people's representatives should be running the government, that good, solid public employees have a place, and we value their input and we value the work that they do, but there's a very clear line between supporting the legislative process and taking over the legislative process. I think that line has been clearly crossed on so many different levels.

I mean, I think of the chief of staff to the Premier and how he has incredible influence over the decisions that are made in this Chamber by the governing party. That worries me a lot because, frankly, he doesn't have any special abilities or knowledge that I know of that should give him that kind of sway. That is very concerning to me, and I think it's very concerning to Albertans.

I think that we need to look at ways in all of our legislation going forward that we can enshrine as much responsibility as possible on the House to pass our laws and not through regulation, government by bureaucratic fiat, as I like to call it. That is the hallmark of the Premier's current government. It is all about command, control, and government by bureaucratic fiat, and that, I think, is not healthy. So I would like to see us take a long look at clauses like this to make sure that we are in fact respecting our democratic processes and so forth. I think that's very, very important.

One of the things that this alludes to, that I wonder about, is the Proceedings Not Subject To Review, as the clause says. It kind of calls into question what will be reviewed. I think that when we look at a charter – if you flip back, we were talking about the charter in Bill 17 and how this clause affects that charter – they have all these motherhood and apple pie statements; then they've got the definitions; then they've got the health charter. Obviously, you know, it talks about:

The Minister shall establish a Health Charter to guide the actions of regional health authorities, provincial health boards, operators, health providers, professional colleges, Albertans, and any other persons specified in the regulations.

Holy. That's terrifying. Good grief. Did you hear that? We'll have

to go over that one again: "The Minister shall establish . . . to guide the actions" of Albertans. In other words, you've got that the minister shall establish a health charter to guide the actions of Albertans. I'm not really sure what that means.

**The Deputy Chair:** Hon. member, we're speaking to the amendment.

**Mr. Anderson:** Well, what we're talking about, Mr. Chair, is how section 10 is going to affect the enforcement of the health charter, which is section 2. I think that what I'm trying to do here is go over section 2 and see how section 10 is going to affect whether section 2 can be enforced and whether or not a minister can be called to the floor for not enforcing it or enforcing it too vigorously or whatever. I think it's important. You know, if we want to talk about whether or not we should allow this type of protection for a minister to be questioned or reviewed under section 10, we need to understand exactly what that minister is being asked to enforce and to oversee. I think that's extremely relevant. The whole clause would be meaningless without knowing that.

Then it says:

- (2) The Health Charter must
  - (a) recognize that health is a partnership among individuals, families, communities, health providers, organizations that deliver health services, and the Government of Alberta, and
  - (b) acknowledge the impact of an individual's health status and other circumstances on the individual's capacity to interact with the health system,

but the Health Charter must not be used to limit access to health services.

Okay. I think there are some positive elements to what is said there.

**4:10**

Let's flip to section 10, then. Under section 2(1) the minister shall establish a health charter to guide the actions of regional health authorities, provincial health boards, operators, health providers, professional colleges, Albertans, and any other persons specified in the regulations. The health charter must recognize all these things, and it must not be used to limit access to health services. So the minister is given charge of that responsibility – okay? – and let's say that they blow it. Let's say that they do not do this part here: "But the Health Charter must not be used to limit access to health services." Let's say they do something that, in effect, limits access to health services. Let's say whatever. I always ask myself: what would the NDP caucus do?

**Mr. Mason:** And then you do the opposite.

**Mr. Anderson:** That's right. And then I do the opposite, but maybe not in this case.

In this case let's say you had a crazy minister that came in and said: "You know what? We want to have a different style of health care system. We're going to do such and such, and we're going to charge these fees, and we're going to make it private and all that stuff." We wouldn't want that at all. That would be terrible. Under this act you would think that that would be used to limit access to health services for certain people – right? – because certain people can't afford to pay for it. Let's say there was only that system and there wasn't the public system, then there wouldn't be anybody who could afford it. There would be a lot of people that would have to buy their own insurance. It would be like the system south of the border, and nobody wants that. It would contravene this charter.



Okay. The minister is responsible for that, so he comes in and does something that contravenes the charter. Then we go over to section 10. Say he does it for the reason that – oh, I don't know; what would be a reason? – there's a big company out there. We'll call it big health. I know you like that one. Let's say there's a big health company that comes out, and they want to establish their own hospital or something like that and charge people for it. It just so happens that on their board of directors there are a few friends of that minister. Let's say we have a minister that's kind of, you know, a little shady. Not the current health minister; let's pretend that there's a future health minister that does something shady. That shady thing they do to enrich themselves: they don't technically break any law. There is some conflict-of-interest stuff. It's not technically illegal, but it puts money in the pockets of their friends and their donors to the party that they represent.

I mean, that would never happen. Certainly not. That would be an irresponsible, corrupt party that would do that, not right, left, or centre. It doesn't matter. It's just not the right thing to do. But let's say that that happened. I couldn't see that. It would be very difficult to see happening, you know. Ahem, Bill 50. Those things can happen from time to time.

Section 10 clearly says that it absolves the minister from any responsibility for doing something. So it absolves the minister from contravening the Alberta health charter here under this legislation. I just look at that and say: "You know what? That's not right." If there needs to be a judicial inquiry into a minister who uses his powers under this act to enrich his friends or the donors to his party, we should have the ability to call a judicial inquiry. There is a grey area as to whether or not this act allows for that.

Now, what happens if we go a step further? What happens if there's fraudulent misrepresentation? Something fraudulent has occurred, so there's a civil case or maybe even a criminal case, which, of course, is different; it's through a criminal court. But let's say there is something that is so grossly negligent that it goes beyond what is proper. Should we not make it clearer in this legislation that if the action of the minister is done with negative intent, it should be the subject of a proceeding in a court or, at the very least, a judicial inquiry? Isn't that a reasonable thing? I would think it is.

That's an example, I think, of how section 10 could be misused or could be used as not a get-out-of-jail-free card but kind of – what's the word? – a get-out-of-trouble-free card by a health minister that is abusing the health charter and does so intentionally in order to enrich others, maybe themselves but, certainly, maybe their friends or maybe the donors to their party, the governing party. Obviously, we're talking about a hypothetical situation. We're not talking about the current governing party; we're talking about a hypothetical future situation, which is what we do when we debate things. We need to think about hypotheticals and see how the legislation would stand up under those hypothetical situations.

Another example. You look under Health Charter in section 2 again to see the effect of section 10 on the health minister trying to enforce section 2:

- (3) A failure of a person to act in a manner consistent with the Health Charter may be dealt with by the Health Advocate in accordance with sections 4 and 5 or by the Minister under section 8 or 9.

And then

(4) A failure of a person to act in a manner that is consistent with the Health Charter does not in itself give rise to and then it goes again into

- (a) a cause of action or other legal enforceable claim, or  
(b) proceedings in any court or before any body or person having the power to make decisions under an enactment.

Well, jeeppers, doesn't that sound like the exact same clause we're debating?

So that's the other thing. It seems to me that it's almost like there's a lot of duplication here. Maybe I'm wrong, but you have:

A failure of a person to act in a manner consistent with the Health Charter . . .

so would include the minister, obviously, and

does not in itself give rise to

- (a) a cause of action or other legal enforceable claim,  
or  
(b) proceedings in any court or before any body or person.

So there seems to be some duplication there, Chair.

**The Deputy Chair:** The hon. Member for Calgary-Glenmore on amendment A1.

**Mr. Hinman:** Thank you, Mr. Chair. It's an honour to get up and speak on amendment A1 by Dr. Taft, amending by striking out section 10.

**The Deputy Chair:** Hon. member, it's the hon. Member for Edmonton-Riverview. You called his name.

**Mr. Hinman:** Oh, I'm sorry. I'm reading here. I apologize, hon. Member for Edmonton-Riverview.

The amendment strikes out section 10. I just want to bring it up again. I know that it's been brought up several times.

A decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, reviewed or made subject of a proceeding in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court by way of injunction, declaratory judgment, prohibition or mandamus or otherwise to question, review, prohibit, restrain or compel the Minister, the Health Advocate or any employee or agent of either of them.

This is a major concern in a democratic country, where it is supposed to be one law, one people. Nobody should be above the law in Canada.

I know that when we look around at some places in the world and we see the litigious lifestyle that they're leading, that's fearful for many. They say: oh, you know, we don't want to do that. I absolutely agree. We do not want to do that. We do not want to have more court cases going forward, more problems being covered. What we need to do is make sure that the people who are doing those things are doing a good job. Whenever you tell somebody they're free to do what they think is best and, "Just so you know, there is no accountability," it just puts the scales of justice out of balance. As good-hearted and as well-meaning as someone might be, when there's no accountability and they say, "Oh, we're above the law," you create a position that there's going to be a problem with.

4:20

We need accountability. The most important thing in a democratic society is to have that accountability. When someone does something wrong, they need to be held accountable and not be above the law or absent from the law. That's what this is about. This is saying that whatever they do, we're not going to be able to take them to court, we're not going to be able to question them, we're not going to be able to review the subject or what they've done. We're going to take these proceedings out of the courts. [interjection] The Minister of Education is spouting off again. I'm not sure what it is. It's probably not making any sense because they're saying this is standard. Can't you hear him? Can't the chair hear him?

**The Deputy Chair:** Talk to me. Ignore him. Talk to me.

**Mr. Hinman:** I'm asking the chair a question. Can you hear him spouting off?

**The Deputy Chair:** No. Talk to me.

**Mr. Hinman:** Well, sometimes they need to be addressed through the chair. Mr. Chair, the Minister of Education seems to be spouting off about the judicial system. I know he's a lawyer. Perhaps he thinks that he's above the law, too, and that's why he wants this clause everywhere. I know he spoke earlier to it, saying that this is standard. [interjection] I'm speaking to the chair. How much better can I do?

It's not right for someone that's been in that position to say that we need to be above and beyond the law. It simply isn't acceptable. Again, this is speaking in favour of this bill coming from a minister of this government. We understand that they're in support of this bill. They've looked at it, obviously, in their cabinet and said: this is what we want to bring forward. But the question is: is this in the best interests of Albertans? Is this in the best interests of our health care system?

I know that the hon. Member for Edmonton-Meadowlark is going to want to bring in legislation to legislate accountability for people working in the health care profession. That's exactly what this government doesn't want. It's one of the reasons, I believe, he's been turfed from the government. It's because he wants accountability. He's struggled for two and a half years inside that caucus, wanting changes.

**The Deputy Chair:** The bill.

**Mr. Hinman:** Yes. We're talking about section 10, Mr. Chair.

**The Deputy Chair:** Yes.

**Mr. Hinman:** What section 10 is saying is that we're not going to be held accountable, that no one can ask a question. I mean, it's right in there on the second line: "shall not be questioned." So I'm speaking on why this needs to be struck, and part of that is an example of what's been going on. We had a report that two and a half years ago was given to this government on the condition of our emergency rooms. But they're not allowed to be questioned. They're not allowed to be held accountable. That's a problem. What this section will say is: no, we can't be questioned. Again, this is what regimes do in other places of the world so that they're able to squash the information. There's not public information. "You can't know about this. It's okay to keep these reports from the Legislature, from the people. We're not going to be questioned."

This is unacceptable if, in fact, we want to move forward. If we're going to have a great health care system, Mr. Chair, it's because there is accountability. It's because people know that I'm not above the law, that I can be questioned, that this is an open and honest . . . [interjections] We're trying to be efficient here and answer the minister's questions at the same time.

It is interesting the way this government wants to protect itself. What we want is to have the government accountable. What we want is to have health care officials accountable. The creation of the superboard, again, distanced all of those people from accountability. It's interesting, you know, that we have some members now calling for the head of AHS, but the whole process is what's wrong. It's not just who's at the head. It's the process of what that person at the head can do, and it's unacceptable.

Bill 17 in its current condition is not going to serve the public interest, and to say that the people that are put in those positions cannot be questioned is just wrong, Mr. Chair. What we need to do is to continue talking about this, debating this, and going over it and over it until we can come to an acceptable agreement. This section needs to be struck.

The hon. Member for Edmonton-Riverview would not have brought this forward just to have debate time. He's been in the health profession. He understands these things far better than I do, but this . . . [interjection] Yes, but he did do some research under health, I thought. Maybe I'm . . .

**The Deputy Chair:** The hon. member.

**Mr. Hinman:** Sorry, Mr. Chair. I'm being easily distracted here because there's so much to talk about, and it's so critical that section 10 get struck from this – I don't even want to call it a bill because all it is is just a bad bill. It's a bill that when you cannot deliver, what you do is you deliver in words. Worse than that, though, you deliver in words, but you put in a clause like clause 10 that says that we're not going to be accountable.

My hon. colleague talked a great deal about the health charter and section 2 and the impact that section 10 has. It negates. My father always says that in a contract the large letters giveth, and the small letters taketh away. Read the details at the bottom of the page. At the start of Bill 17 they give wonderful admonition and wonderful ideas on what they're going to do to fix our health care system. All it is is words.

It's not going to deliver anything that they shouldn't and couldn't already be delivering if they were given the authority to actually act in their respective hospitals and able to fully use their facilities as well as to fully use their staff. They're not allowed to do that, and that's what this should be about. Do we want to hold our people accountable that are in health care? Yes. Do we want just litigious cases going forward? Absolutely not. I think that that's something, though, that can be addressed in the courts, accountability, by actually having to pay for frivolous cases that might be coming forward. That is not what we're trying to accommodate here. What we're trying to do is ensure that the health minister, the health advocate, any employee, or any agent is accountable to Albertans, that they can be questioned.

Again, the hon. Member for Edmonton-Meadowlark brought this into question. It's fine if the government wants to kick him out for questioning them, but he should be able to continue questioning what's going on and to ask those hard questions. In here the proceedings are not subject to review; that's what section 10 is. These are the proceedings that are not subject to review. I just find it amazing that we have put these clauses in. I would actually think that if you were to take it to proper lawyers, they would say: "Well, no. That clause, even though it's in there, can't trump the Charter of Rights. It can't trump the Bill of Rights." Yet they put that in there, and it's just not what I call good legislation.

If, in fact, the words in the charter that "the Minister shall establish a Health Charter to guide the actions of regional health authorities, provincial health boards" are to have any effect – it's interesting that that's in there. Provincial health boards. Does that mean that they are listening to us and they're going to back off from where they are and go to regional health authorities? What is a regional health authority? Why is that still left in here under section 2? When they say that we're staying with the provincial health board, does that mean that they're going to have several boards that are all above the law and not going to be able to be questioned or, again, taken to court over neglect? That's what this bill in section

10 points to. Perhaps the Minister of Education will get up to clarify. I would be interested to hear his words in clarification, if that, in fact, is what he thinks that he can do on this, that I'm misunderstanding the purpose of this. But it just seems to me to be pretty plain English to say that we want no accountability in the court of law with our health care officials, right from the minister down to any agent that they have asked to carry out their actions.

4:30

Again, I think that it's most clear for us with the superboard that they're given the directions on those agents and what they should be doing. They've got protocols to say: "This is when you can actually open up extra beds in a hospital. You can't do it in seven hours and 45 minutes; it's eight hours." So if you had a loved one that was there and they waited for seven hours and 45 minutes – I'll show the loop back, trust me – the protocol and the administrator that has what I want to call just ridiculous protocol in place says: "Oh, no. We were within our limits. We got you in there before the eight hours." If we can't question that, what are we going to achieve?

This is being set out in the Premier's new protocol that he's so thrilled to talk about. It allows eight hours for someone to sit and suffer and not necessarily be treated underneath what's going to be part of their Health Act, and there's nothing that Albertans can do about it. They'll say: "Well, that's fine. It's within our protocol. That's what we've described." They can't question it. They can't have any course of action in the courts. What can they do on that? There are going to be so many cases and there are currently so many cases of individuals who have lost their quality of life, or they've taken their life, lost their life due to facilities that are being overrun, not enough workers in there, not enough beds being opened up in facilities to move people out of the way to allow new patients in.

You know, we hear mention that this is like a war zone, that there is so much that's happening, that it's just out of control, and they just line the beds up and say: well, the doctors will get there as quick as they can. It's also interesting to me that there's been a lot of discussion about doctors and whether or not we have enough. My understanding is that they've never cancelled a shift because the doctors weren't there but that it has been because the nurses are not there. Again we can see another hole in the system that without an actual administrator, that has the authority over the facilities and over the staff, can't be addressed. This again protects those authorities by saying: well, we can't be questioned. The authorities are handcuffed and they say, "Well, these are the parameters which you must function in. We don't want you to open up extra beds if someone has only waited six hours." We have to ask, "Is that good enough? Can we question it?" Section 10 says that, no, you shall not be questioned.

I just can't for the life of me understand why this government would bring this in and say it's a standard clause. You know, it reminds me of another standard clause that government has when it sells Crown land. The standard clause for years was that if you sell Crown land and there's swamp area on it or rocks or something that you can't actually use as a development or what you're buying it for, you don't have to pay for those acreages. In the same standard clause for years, though, it says: but if you are to drain the swamp or to upgrade it, then you have to pay for it. The government signed a contract with some developers around a city that bought some Crown land, and they struck that clause. So even if it is something they do for years and years, it's amazing when and how they strike clauses, again, at the minister's discretion.

This is just not acceptable, Mr. Chair. We need to take some steps back. We need to do some better consultation and ask: Should not the people have the right to ask questions? Should not health care professions be held accountable?

You know, we've had some sad tragedies in our health care system, and rather than hold people accountable, what we do is pass new protocols. There was a tragic death two or three years ago with a senior who was boiled to death in her bathtub. We had a review. We looked at it. The cost to the system was enormous. But most sad was the cost of life to that individual. Now we've put protocols in place. It's amazing the steps that we have to go through because common sense and accountability were never pursued in that case, in my opinion.

This again allows for such neglect. Whether it's wilful or by accident, neglect is neglect. When we have an accident, we're held accountable. Accidents are supposed to be just that. This was an accident. It wasn't intentional. Nobody intentionally drives into the person in front of them, yet we have a court of law where when that happens, someone can be and is held accountable. We can ask questions. We can refer to the courts for compensation. That's what our system is.

In our Charter of Rights and Freedoms it says right there that we will respect the rule of law. This does not respect the rule of law. This says that we're above the rule of law. We're government. It's okay. We don't have to abide by those rules or regulations because we're of good intent. It doesn't matter whether the intent is out of neglect, whether it's out of sheer selfishness, whatever that intent might be. Although we don't realize the motives behind it, it says that it's okay. We're not going to question. We're not going to take them to court. We're going to look the other way because, oh, this is the health minister or the health authorities, and they've appointed that individual. You know what? Accidents are accidents, and we're not going to hold them accountable, nor are you going to be able to be compensated for an accident.

The sad thing, to try and wrap this up, is that if you don't protect the individual's rights with the rule of law, whether they've been wronged or not, when an accident is not allowed to be followed through, we in fact don't protect our society as a whole. We need to protect a society. The way you protect a society is by protecting the individual. When an individual has been wronged, whether it's on the road, whether it's in our hospitals, wherever it might be, they need to be able to go through the due process of the courts to try for the best, again, with the balance of justice. We talk about it trying to be balanced out. It cannot always be, but we try to accommodate those people.

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

**Mr. Mason:** Thank you very much, Mr. Chairman. I am pleased to rise to speak to this amendment to Bill 17, the Alberta Health Act, moved by the hon. Member for Edmonton-Riverview, that Bill 17 be amended by striking out section 10. Now, section 10 is entitled Proceedings Not Subject to Review, and it says that

a decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, . . .

I can't believe that that's actually there.

. . . reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court by way of injunction, declaratory judgment, prohibition or mandamus or otherwise to question, review, prohibit, restrain or compel the Minister, the Health Advocate or any employee or agent of either of them.

Now, Mr. Chairman, I want to sort of address this in two ways. The first one is a question which I have raised with the Attorney General. The question is whether or not this section is limited to any action or decision made specifically under this act or whether,

because it seems to be written this way, “a decision or action of the Minister, the Health Advocate or any employee or agent of either of them” means anything they do under any authority given to them by any other act.

4:40

In my view, if the intention is that their decisions and actions cannot be questioned, reviewed, or made the subject of a proceeding in any court for anything they do under this act, then it should say that very specifically, but it does not. I think there’s a real question of how this would be interpreted by a court. I am assuming that it is not the intention to give the minister this kind of protection for anything he might do. I could be wrong. Maybe that is the intention, in which case it’s a horrendous exemption from due process and accountability.

Regardless, Mr. Chairman, I think that even if it was clearly written to limit scrutiny to functions the minister of health, advocate, their employees, or agents performed under this act only and that was really, really clear in the legislation, it would still be a very bad section, in my view. So for that reason I’m going to support the amendment brought forward by the hon. Member for Edmonton-Riverview, that this section be struck out. Frankly, I think that this is a very, very wide exemption from scrutiny that shouldn’t exist. I think, for example, that if the minister makes a decision which might cost someone their life or result in permanent, ongoing loss of ability to earn a living, the person who is affected or their family, their survivors, should have right of action against the minister. I think that we owe people that.

I also, you know, want to question the wording here. It’s one thing to protect a minister from a court action for political decisions that they might make, but what this says is that they “shall not be questioned.” I don’t know whether that means they may not be questioned by a court or they may not be questioned by anyone. I guess this reinforces my point, Mr. Chairman, that the language in this section is particularly sloppy and unclear and should, at the very least, be clarified by the government. I would suggest that even if this were to go ahead, the language should be reviewed and tightened up and made very, very clear because its not clear at all.

I’d like to just talk a little bit about how this affects the act in general because the entire act is written in a way that makes sure that nothing has to happen. There’s a health charter, and it is not enforceable in a court. There’s a health advocate, and the health advocate doesn’t have to investigate any breaches of the charter. He or she can or may, and if they do, they can’t enforce anything. They have no authority whatsoever. All they can do is write a report and send it to the minister, and even if there’s a complete breach of the provisions of the health charter and the advocate writes a strong report saying that Alberta Health Services, for example, is violating the health charter, the minister doesn’t have to do anything about it.

It leaves us wondering why the government thinks this is such a great step forward in terms of the health system. I don’t think that it’s designed to be effective in any way. I think it’s for show. I think this is something you put in the shop window to try and pretend that you’re doing something.

By including section 10 in the act, we have exempted the minister or the health advocate or any employee or agent of either of them from real accountability. This particular section reinforces the lack of effectiveness of this particular bill. It’s written deliberately and obviously designed to ensure that this act means nothing. There’s nothing enforceable. There is absolutely nothing that anyone can do if the minister doesn’t choose to act or the health advocate doesn’t choose to act no matter how egregious the breach of the charter is. Of course, this doesn’t even address the question that the health

charter itself may in fact not be anything that defines clearly people’s rights.

We’ve had some discussion in the last couple of weeks about national standards for emergency room wait times, and when the emergency room doctors’ letter was first made public, it became apparent that these concerns had been raised nearly two years ago with the Premier. The Premier had promised to do certain things about them and, of course, did not, so that created quite a political problem for the government. The health minister rushed in within a couple of days of the letter, had a meeting with the doctors, assured them that everything would be fine and that they were finally going to act on their concerns.

One of the things that the minister then did was say: I am enforcing national standards in terms of emergency room waiting times on the health system, and we’re going to meet those targets. Of course, it soon became apparent, within days, that that was a joke and that because of the negligence and the failure to act nearly two years before, they were in no position to meet those targets.

At that point someone might have said: in the interests of accountability these standards should be enforceable. We should have been able to take the government to court two years ago to get a court order requiring them to meet those standards. If we had a charter with teeth, a charter that meant something, and if it included those sorts of things, then indeed people would have had recourse against the negligence of this government nearly two years ago and could have obtained, potentially, a court order directing the government to meet the standards that they had set for themselves, but we didn’t, and of course the chaos in the emergency rooms in our major cities has continued to grow unabated, and the suffering and even the dying, Mr. Chairman, have continued because there was not a charter that was enforceable.

4:50

Now, I’m not convinced that the charter is the right approach, but, Mr. Chairman, if we’re going to have a charter, then it seems to me the minister and all of his officials need to abide by it and respect it. This act is designed to let them not do that. It’s specifically designed to exempt them from any responsibility and thus, I think, renders the charter and the health advocate and the entire act virtually meaningless.

I think there’s a possibility that we could bring some relevance and meaning to this entire act by deleting section 10 so that, as I read it, this would imply that decisions or actions of the minister, the health advocate, their employees or agents could be questioned, could be reviewed, or even made the subject of a proceeding in any court by an application for judicial review or otherwise. I think that that gives and that places in the hands of the patient or the patient’s family or ordinary citizens, the people who use the health care system of this province, some rights to actually require the government and require the minister to do the things that they promised to do.

This has emerged, Mr. Chairman, if I may, as one of the defining hallmarks of this government, and that is to say that it makes promises and it makes commitments over and over and over again, and it does not keep them. The people should have some rights to enforce on this government the requirements of meeting the standards that they set out, meeting the promises that they’ve made, especially with respect to things like standards in health care. Had that existed, then I think we could have prevented some deaths and some very serious suffering that’s taken place in our emergency rooms.

Here’s an opportunity for this Assembly to actually put a little bit of teeth into an act that otherwise is just all gums, Mr. Chairman.

You know, it's got no teeth to enforce anything. It could slobber on you a little bit, but it cannot bite, and it cannot be used to make the government accountable, to make the government keep its promises with respect to health care, and to ensure that patients do get the care that they are entitled to under our health care system.

I think the hon. Member for Edmonton-Riverview has made a very good amendment, one that I think the House should seriously consider. Failing that, then at the very least the language in this particular clause needs to be made much clearer and more certain so that anyone in the future that has to interpret this particular section or interpret this act can do so with a very clear understanding of what this Legislature meant to do. I don't think that with the current wording that's going to be entirely possible. Perhaps a court might interpret it as it's intended, but I wouldn't guarantee that that would be the outcome. I think we're better off to clarify the language so that it's very, very clear that we're not intending a blanket exemption for the minister and the health advocate with respect to any decisions that they might make under any authority that they might have aside from this act.

Mr. Chairman, if I may conclude, this act as it stands is virtually useless. There is no right here of anyone in the province to be able to enforce the health charter so much touted by this government and by the MLA for Edmonton-Rutherford, who was today appointed the new parliamentary assistant for Health and Wellness. Congratulations to him. Good luck to him, I would say. I do think that if we take out section 10, then there's a little bit of accountability that's injected into this act. I think that if you're going to establish a health charter to set out the rights of patients, then you should make it possible. [interjections]

**The Deputy Chair:** Hon. members, the hon. Member for Edmonton-Highlands-Norwood has the floor.

**Mr. Mason:** Thank you very much. Obviously, the hon. minister of finance has got lots of extra energy, you know, which often comes from eating a lot of salmon, Mr. Chairman, and he's obviously got a lot of energy today.

Getting back to this amendment, it really does seem to me that it's clear that a charter that is not enforceable, that doesn't have to be enforced by the health advocate or doesn't have to be investigated by the health advocate, who doesn't have to recommend anything, where the minister doesn't have to act on any report, is a charter that is worse than useless because, Mr. Chairman, it gives false hope. It gives false hope to people who think that they've got rights when, in fact, they don't have any rights at all.

This particular clause makes sure that they don't have any rights, and for that reason I think that we should support the amendment put forward by the hon. Member for Edmonton-Riverview because I think that he has shown us a way that we can strengthen this act, however slightly, and maybe make it something that's even worth having, which without this amendment and some of the others it's not.

Thank you, Mr. Chairman.

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

**Mr. Hehr:** Well, thank you very much, Mr. Chair. I appreciate the comments made by many of the members who have spoken on this bill so far. I too, like the hon. member who just spoke, believe that this is a bill that does nothing, that prescribes a make-believe charter that may have an advocate who may involve themselves in the health of the citizenry and may have some employees do something on your behalf. That said, it's all "may." The bill has no real force to it, no real oomph to it. [interjections]

**The Deputy Chair:** Hon. members, if you wish to speak to someone here in committee, please sit down beside them rather than standing. Thank you. And that goes for both sides of the floor.

**Mr. Hehr:** In my view, it's a bill designed to do nothing. That said, despite the fact that this bill is set up to do absolutely nothing does not mean that the government needs to put in a prohibitive clause such as this, that is essentially taking a sledgehammer to kill a fly.

I was just going back – and it's been a while. Nevertheless, I just found this textbook down in the library.

5:00

**Dr. Taft:** Way to go. A little research.

**Mr. Hehr:** Yes. I found a library. Yes, I did. It says:

What is administrative law? It is the law that governs public officials and tribunals who make decisions that affect the interests of individual persons and whose authority to make those decisions is derived from statute. Administrative law prescribes the rules by which these authorities are expected to operate and, when these rules are not complied with, provides the complaint procedure and the remedies.

That's essentially what we're discussing here. We've had a minister and the hon. Member for Edmonton-Rutherford bring forward an act that apparently is going to have a charter, that is apparently going to have a health advocate, and that is apparently going to do a lot of wonderful things for Albertans.

**Dr. Taft:** If you believe them.

**Mr. Hehr:** If you believe them. That is always the thing. That is what it is.

Now, let's go to section 10, what is currently written in section 10. Section 10 states that a decision or action of the minister, the health advocate or any employee of either shall not be questioned, reviewed, or made the subject of a proceeding in any court by application for judicial review. It also states that no order shall be made or writ of mandamus. You get the meaning of that: nothing shall be done at a court of law.

Essentially, what this says is that there shall be no recourse for our citizens should this health charter, in fact, get up, should this health advocate office get going, should this health advocate have two or three employees. Basically, it says that these people are going to be held to no standard whatsoever. There is nothing I can see here that does this.

What is even more troubling to me, even so, is that this is a bill that may actually take the place of the Charter of Rights and Freedoms. Okay. We have a bill here that is describing a health advocate and people who work very hard, who are going to be dealing with the health system, things that deal with the right to life, liberty, and the security of person. Those are things which our Charter in section 7 holds very dear. Now, call me crazy, Mr. Chair, but a health advocate and his employees will be dealing with things such as the right to life, liberty, and security of person. Okay?

My reading is, at least, that if you've established this for any kind of purpose whatsoever, a health advocate would be dealing with those issues. Under a charter you have to have an ability, then, to go have a tribunal or a court system look at whether the decisions this health advocate is making or this charter is doing have implications on your right to life. It seems fair that if we have a health advocate and we're taking away – we are talking on the amendment, sir.

It's pretty clear to me that we're taking away these people's rights not only to basic administrative law, which I read from earlier, that first chapter in here. It's from *Administrative Law in Canada*, the

fourth edition, by Sara Blake. It actually got to the heart of the issue very quickly. I'll repeat that.

What is administrative law? It is the law that governs public officials and tribunals who make decisions that affect the interests of individual persons and whose authority to make those decisions is derived from statute.

That is the health advocate. That is this health charter. That is all that we're talking about.

Section 10 takes away that basic administrative law principle. It may actually be a Charter violation. In fact, I would go out on a limb and say that if this is challenged and if this health advocate actually does anything – I don't think it does, but let's give the extreme, extreme, extreme benefit of the doubt here that our health advocate is actually supposed to do something – it appears to be an infringement. Really, those are things governments should be loath to do. They should not take away people's rights and so callously throw them to the side.

The second thing. You know, even now, when I think about this even more, if they were just setting this up for shits and giggles – yeah, I'll say that: for shits and giggles – where they were just doing it to have some fun . . . I take that back. Okay? I apologize for using that term. For giggles, to amuse themselves, to say to themselves: hey, let's send these people to a health advocate where they can go rant and rave and do some stuff; it'll take them out of our offices, and we can all have a big joke out of it. I think that is grossly unfair to give this health advocate no power and no ability to do things. When you're dealing with people who have already been overrun by a system that they maybe don't understand and don't understand what is being effected to them and are going through a terrible sickness, terrible illness, or terrible disease, I think that's unfortunate and unnecessary.

If we look at this, back to the amendment on section 10, I stand by it that this is a good amendment that will at least allow people some recourse, allow people some ability to challenge the decision-making process, to have their day in court, to hold the government to account to see if their statutory and Charter rights have been taken advantage of. I think that's an important step. Governments should be loath to do things like putting in this section 10.

Nevertheless, sir, I'd just like to say thank you very much for allowing me the opportunity to speak on that, and we'll go from there. This is a good amendment on a bad bill, that makes a bad bill slightly better. Okay?

Thank you very much, Mr. Chair.

**The Deputy Chair:** Any other members wish to speak? The hon. Member for Airdrie-Chestermere on the amendment.

**Mr. Anderson:** Thank you. Thank you for respecting my democratic rights to stand up in this House and talk about the bill. [interjection] I am what, Mr. Minister? So disappointing to hear such language. So disappointing.

Obviously, I want to talk on section 10 again, just from different angles. There are just so many different angles to talk about this from because section 10 affects the rest of the bill. Really, I mean, the minister's job is going to be to clearly enforce this bill, enforce the provisions hereunder. So basically everything in this bill relates to section 10 in that if the minister fails to enforce the provisions here, you know, you've got a problem, and section 10 would protect that minister no matter how negligent they were.

5:10

We've gone over section 2, and I'm a little curious about it. I wouldn't mind getting the House leader's comments on this if he'd like to answer as he did the first time. Of course, he's been an MLA

far longer than I have and has far more experience with regard to legislation and writing it and going through it and sifting it and all that sort of thing. He's obviously very skilled at it. I guess my question is that with regard to this section 10 it seems to be somewhat repetitive of section 2(4) of the bill, which says:

A failure of a person to act in a manner that is consistent with the Health Charter does not in itself give rise to

(a) a cause of action or other legal enforceable claim, or

That kind of goes to section 11. Then it says:

(b) proceedings in any court or before any body or person having the power to make decisions under an enactment.

Now, this is very interesting. I really would like the House leader to clarify it. Maybe I'm just not understanding something. That's okay, but I want to understand. If you look at section 10, it says, as we've been discussing:

A decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise.

We've talked about how I think that that could be interpreted to disqualify something like a judicial inquiry. The House leader says that, no, that can't be used for that, clearly, and so forth.

Then it goes over. If you look at section 2(4)(b), it includes any proceedings in any court – okay; that's just like section 10, any court – or before any body, so it almost expands it: before any body or person, even a person, having the power to make decisions under an enactment. I guess the confusion is because 2(4) says, "A failure of a person to act in a manner that is consistent with the Health Charter." So if the minister fails to act in a manner that is consistent with the health charter, under that section it says that that does not in itself give rise to proceedings in any court or before any body – that could include the Auditor General; it could include a judicial inquiry; it could include any of those things – having the power to make decisions under an enactment.

That's troubling to me. If section 10 doesn't prohibit the minister from being responsible to a review of the Auditor General or a judicial inquiry, does section 2(4)(b) not do exactly that? Does it not prohibit the minister from being subject to a judicial inquiry or a review of the Auditor General?

That's my question. If the minister indicates that he would like to answer that question, I'll cede the floor. Otherwise, I can talk more about it. Again, the question that I have is that under section 10 the hon. House leader said this would not preclude a review of a judicial inquiry or a review of the Auditor General. Okay? He said that. But in section 2(4) it says:

A failure of a person to act in a manner that is consistent with the Health Charter does not in itself give rise to . . .

(b) proceedings in any court or before any body or person having the power to make decisions under an enactment.

Does that not preclude a judicial inquiry or anything like that should a minister fail to act in a manner that is consistent with the health charter? I don't know. Is that something that the minister would be willing to answer?

All right. Thanks.

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

**Mr. Hancock:** Thank you, Mr. Chairman. I'm always delighted to enter and engage in debate if it can bring something that's as simple as section 10 to a conclusion. Section 10 clearly talks about court reviews of matters happening under the act. Section 2 is about the health charter, and clearly the term "charter" has many meanings in Canadian law and Canadian usage. There's a lot of charter law that has been created since the development of the Canadian Charter of Rights.

This is clearly not intended to be a charter which provides for the courts to spend the next 50 years defining things. This is clearly intended to be a patients' rights or an Albertans' rights charter with respect to the health system and to define the goals and objectives and the responsibilities that people should have under that charter. It provides a process for a health advocate to review and for that process to be dealt with. Those are dealt with clearly in sections 4 and 5 by the health advocate and by the minister under sections 8 and 9. Those are the processes for dealing with issues under the health charter.

Subsection 2(4) is clearly about providing for the fact that this charter is not the kind of charter that allows for litigation for the rest of time but one which is clearly intended to set out a specific set of expectations for Albertans and responsibilities, possibly, when that's developed and then a mechanism for people to deal with issues that arise coming out of that without going through the court system or other processes.

So the act clearly sets up its own processes for review and provides for those processes, and I think that's very clear on the face of it.

**Mr. Anderson:** Okay. I appreciate that. That was very clarifying, and it's good to have this discussion. Basically, what I heard from the minister – and I'll go back and read his comments in *Hansard*, fair comments – seemed to say that this charter is not intended, obviously, to go through any litigation process and so forth.

Now, here's the problem. I agree we don't want health charter challenges blocking our courts unnecessarily. However, I guess the whole point of this bill, Bill 17, is to – well, maybe it's not the whole point. There are a couple of things in it that the government is trying to get at, but one of the main objects of this bill is this health charter. It's to enshrine the rights of patients, Albertans, with regard to their health care system and to try to raise the level of expectation, I guess, or quality that we can expect. I guess I would say that, I mean, if there's no mechanism of enforcement, we're just going to put words on paper and look at the words: "recognize that health is a partnership among individuals, families, communities, health providers, organizations," da, da, da, da, da, "acknowledge the impact of an individual's health status and other circumstances on the individual's capacity to interact with the health system."

The minister is going to establish this health charter, whatever it is, so they put this thing into place. Then let's say that the minister fails to do something, and that triggers subsection (4): "A failure of a person to act in a manner that is consistent with the Health Charter." Under this legislation there's absolutely no penalty or enforcement mechanism or anything. They can't ask anybody to review a situation. They can't ask for a judicial inquiry or the House can't ask for that no matter how egregious the failure to comply with the health charter is.

I guess I'm here left wondering why we are here – and maybe that is why we're here – in this House putting together something that, frankly, the Premier could put out on his blog and say: you know, we're going to put out a set of guidelines and policies that we're going to try to uphold. It's just like the minister of health with his kind of picked-out-of-the-air health targets. It's just kind of like: yeah, sure, we'll do this, and we'll respect patients' rights to get timely care, and we'll make sure that that happens. But if there's no mechanism to enforce it, if one of them says – I'll give you an example, and maybe I'll make myself more clear.

5:20

I had a constituent of mine – and it was in the news a lot – who went to a doctor. He was having all kinds of dizzy spells and

sensitivity to light, and all kinds of awful things were happening to him. He was just 14 at the time. His parents took him in to see a doctor at the Children's hospital. Now, doctors, of course, like everyone else, sometimes make mistakes, and that's what happened here. There was a severe misdiagnosis of this boy. Okay. So that happened. They said that, you know, he'll get over it, whatever, and they sent him home.

Time goes by, situation gets worse, and he's literally on death's door. It got worse and worse and worse and worse. So he went back to the doctor, and he wanted a second opinion because the parents said that they thought something was missed: "It's just not getting better. He's getting more sensitive to light. You have to tinfoil his room. He can't come out." They took him out of school. It ended up that for four years, eventually, they went through this ordeal, but for the first year they had to take him out of school. It just got progressively worse.

He went back, and the doctor said, "No; I won't see you; you're just making it up," da, da, da, da, da, for some reason. This is all documented. It's an absolute tragic case. So they went to try to go to another doctor. They set up the appointment, and just before they went in to that doctor – of course, the new doctor would phone the first doctor to kind of get an idea of what the diagnosis was, and the diagnosis according to that first doctor was that he was making it up. Okay. This happened two or three times to him, and this is over about a four-year period. They tried all kinds of naturopath stuff. I mean, they couldn't get a second opinion.

Eventually, it got so bad he was literally having seizures every day, and they took him down to the United States because there they didn't need permission to go get a second opinion; you just get one. They're not a wealthy family at all, but they raised some money locally, and they went down and got a proper scan. It turned out that he had a golf ball sized tumour in his head that the original scan had missed, and they refused to get him another one after that. So this was what they found. They found it, and they wanted to act upon it, but for whatever reason they still couldn't get back in to see a doctor up here. There was some kind of waiting application process that had to occur for them to be able to do it out of country, et cetera, et cetera.

Long story short – oh, just to give you an essence of how bad it was, I actually talked to the Member for Edmonton-Meadowlark about it. He actually came down. We actually went together to his house. He did a checkup of this guy and phoned a colleague in Edmonton to come see him. The appointment was booked. The colleague in Edmonton phoned the first doctor at the Children's hospital, and the appointment got cancelled. So even bringing government into this – it was just bizarre. It was like: where do I live? It's insane. In this whole time, by the way, the family doctor kept referring them back to different specialists, so the family doctor was clearly onboard, clearly saw something wrong.

My point is that under a charter I would like to see the right to a second opinion on a life-threatening – if the family doctor says that something life threatening is occurring and the specialist says no, there should be a right to at least get a second opinion. I think that's a very reasonable thing to do.

If someone says that you have cancer and you only have a year to live, I think that it makes absolute sense that you should be able to go get a second opinion on that diagnosis – I think that's only fair – if you feel inclined. Some don't. Some just trust their doctor, and that's fine. But some feel that it's necessary to get a second opinion. In this case the lack of ability to get a second opinion almost cost this little guy – well, he's now 18. It almost cost this boy his life.

If we were to put something like that in the charter – let's say the minister says: yeah, I'm going to put that in my charter under section

2. So he puts it in into the health charter, and then the minister proceeds to do something. In the future someone like that comes to him and says: "I've got a problem. I need you to look into it. I'm not getting a second opinion," and the minister drags his feet. He doesn't get his bureaucracy to do anything about it; he doesn't call the head of the physicians and surgeons and say, "Hey, what's the problem?" et cetera, et cetera, et cetera; he doesn't put the processes in place necessary to make sure that this little guy can get a second opinion, then he would be in contravention of his own charter.

Okay. So that all happens. He's in contravention of his own charter. But then there's no mechanism to enforce it. It doesn't matter. They can't go to their MLAs, because they come to their MLAs and we can't do anything. We can't call a judicial review. We can't call for anything. Under this act we can do jack squat. We can't sue them under this act. We can't do anything. We can't ask the Auditor General to review. We can't do anything to enforce. There's no mechanism of enforcement in this act, and that's according to the House leader's own words. It's not meant to be something that's actually enforced.

**Dr. Taft:** Heaven forbid.

**Mr. Anderson:** Yeah. It's just words, right? It's a health charter. You know, we're going to try to do our best. It's like Boy Scouts. Do our best: DYB, DYB, DYB; DOB, DOB, DOB. That's what it is and that's why it's . . . [interjection] Absolutely. I'm a chief Scout. You didn't know that, hon. member? You should have remembered that. But I still can't shoot worth a darn.

Anyway, there's no mechanism of enforcement. That's a problem. I get really tired of legislation that comes forward and there is no – if you're going to pass legislation, please put something in that makes it enforceable. Quit the feel-good legislation, you know, whether it's Bill 1, the Competitiveness Act – it's almost laughable, something like that where it's just meaningless. If what we're doing is going to sit here and make a health charter, which I think is a good idea – I like the idea of the health charter. It could be a very powerful idea if it's done right. If the necessary system is in place to make it viable and make it accomplishable, it's a good idea. But the problem is that you can't pass something that has no enforcement mechanism. It's not going to do anything. It's going to amount to a hill of beans. It's feel-good legislation. It doesn't make sense to me.

That gets us back to section 10, which started this conversation. Section 10 essentially seems to be repeating section 2(4)(b), and it takes away any chance that this will ever be enforced by anything. Section 10 says: yeah, sure, there are no courts; there is no judicial inquiry. Well, there are certainly no courts under section 10 according to the House leader, no review by a court, no questioning by a court. But 2(4)(b) says there's no questioning by anybody. No one. If he infringes this legislation, if he drops the ball on this legislation, if he does so intentionally, if he does so negligently, no matter how he does it, there is no mechanism of enforcement.

That's what has come out of this debate. But that's good because we need to know what we're dealing with here. We're dealing with a charter that is essentially a feel-good piece of legislation and nothing more than that. The House leader made that very clear.

Now, I'm not saying that we shouldn't have goals. We need goals. Goals are good, and it's not a bad thing to have a goal that you're going to have a healthier population and this, that, and the other thing. I just think it's a lot of work to sit here for hours and hours and hours and hours on end, as we're going to be doing over the next few days, on the Health Act, on various amendments and so

forth, and what we come out with is a piece of legislation that is good for nothing other than to use as kindling.

That, Mr. Chair, is my issue with this legislation.

5:30

**Dr. Taft:** So, Rob, we'll have a vote?

**Mr. Anderson:** Yeah, we'll vote on this right away. No worries. Have you spoken to this legislation yet, section 10?

**Mr. Boutilier:** No, I haven't, but I'm looking forward to it.

**Mr. Anderson:** Okay. You're looking forward to it. That's good. Then we'll have a vote on it right after. Don't worry. Before 6 for sure.

Anyway, we would like to see this legislation have some teeth. Section 10 defangs, makes this legislation essentially not worth the paper it's printed on, Mr. Chair, and that's unacceptable to Albertans.

Those are my remarks.

**The Deputy Chair:** Any other members wish to speak? The hon. Member for Fort McMurray-Wood Buffalo on amendment A1.

**Mr. Boutilier:** Yes. Thank you. On amendment A1. Certainly, I recognize the important comments that have been made by the Member for Airdrie-Chestermere, which really do capture the nonspirit of what is intended relative to this, quote, unquote, health charter. It is historic, quite clearly, in its rhetoric, but that's about the limit of what it has in it in terms of helping patients and helping Albertans, helping those who are in ERs. Clearly, it fails on all accounts. In doing so, that's what our fundamental concern is.

We are looking for a real dialogue with real legislation. This is not real. This is nothing more than a concocted type of discussion that goes on in a private caucus meeting of the governing party of over 39 years or 40 years, whatever. It'll be nothing more than a footnote in a few months' time, that's for sure.

What is disappointing is that there is an opportunity to be able to better serve Albertans. It is my hope that the amendments that are put forward right now are amendments that truly need to reflect the spirit and the will of Albertans. Albertans, in my judgment, want change. They recognize that this, quite simply, the noncompliance of what has been taking place, is just not satisfactory, and we saw that this week.

I was listening to the radio on my way over tonight relative to the amendment. In fact, a gentleman was making reference to Bill 17 and the amendments that are going forward. That was Mr. Layton on 630 CHED. He made reference to the important amendments that need to be placed to give real teeth, as the Member for Airdrie-Chestermere stated earlier tonight. I think it is so important that these amendments reflect something that has real teeth. We want to be assured that since this bill and these amendments are being proposed to this Legislature, as MLAs, be it with the government or not with the government, there is a judicial responsibility for us in terms of our spirit, in terms of what we believe is important. I don't think there's any member in this Assembly that would feel good about what is taking place today regarding the health care crisis that this government is in. Really, it is in our interest for all of us to have the best health care system possible.

But the dialogue is not real. On these amendments the dialogue is not real because, quite simply, no one is guarding against self-deception. It's not a real discussion. The gap continues to widen,



and the gap continues to widen because of the fact that this amendment is failing in many ways, as much as the spirit is intended to be able to capture what Albertans are looking for. Each of us as MLAs, when we speak for or against amendments, tries to bring forward what our bosses have been telling us.

We saw this week a member of the governing party speak out, and it ultimately related directly back to this amendment because this amendment that is being put forward, I think, is really trying to capture the spirit of what Albertans have been telling us. We're not afraid to talk about that. That's why I stand this afternoon as the proud Member for Fort McMurray-Wood Buffalo to be able to share with you what citizens in my community have talked to me about. They've talked about the absolutely unacceptable situation that we are facing in a city of over a hundred thousand people. The emergency rooms are clogged.

Consequently, as we go forward, we believe that the community that I represent contributes a lot to this province in terms of royalties, and the funding that is absolutely necessary should not be squandered on rebranding theories of \$25 million but should be going into the front-line troops of men and women who are serving Albertans. That's where it really is. It's not about more money. The issue of this amendment is about a charter that will really, really capture the spirit of what Albertans have been telling all of us. They are watching and they are listening, and I believe that it would be foolhardy if the government were to continue to ignore what they are saying. We know who the bosses are, but the question is: do the authors of this?

I think the people and the members have put forward the amendment . . .

**An Hon. Member:** We can't hear you.

**Mr. Boutilier:** Well, there may be a few on the other side who may not want to hear me, but democracy shines brightly in Alberta, and I know that certainly the Member for Innisfail-Sylvan Lake is listening intently to all of my words, hanging on to the end of his seat.

I must say that this afternoon we had a good health care discussion, and I appreciated it because it assisted me in answering some important questions of clarity this afternoon. Those types of things are directly related to this amendment, that the Member for Airdrie-Chestermere spoke earlier about. I want to say that I'm beginning to clearly be able to capture that spirit of speaking to amendments, how often we talk about the amendment. It's almost instructional. It's almost like listening to Professor Dr. Taft at the University of Alberta. Consequently, this amendment . . .

**The Deputy Chair:** I'm sorry, hon. member. Names. The hon. Member for Edmonton-Riverview.

**Mr. Boutilier:** Edmonton-Riverview. I seem to always make that mistake, actually, just acting like a person who is in a Tim Hortons or a doughnut shop. I actually call them by their names because when I'm home in Fort McMurray, no one calls me Fort McMurray-Wood Buffalo. They call me Guy.

**An Hon. Member:** They call you lots of things.

**Mr. Boutilier:** In fact, they call me lots of things during elections. In fact, I am certain they will call the government lots of things during the elections.

What's important is to have a real discussion on what is true. What is true is this. We can do better, this Assembly, all members from all parties, in terms of a health charter, a health charter that can be historic. This amendment, I think, will help in moving forward. It will help. The question is: why the authorship of the original frame of this amendment? Why are there so many gaps? We don't want more gaps. We actually want it narrowed down to connect with what the good people across Alberta and in our coffee shops are saying.

Hon. Member for Edmonton-Riverview, I want to say that it's been quite instructive, as we speak to amendments, in terms of: school is in. I think it's important for all of us in terms of life-long learning, when we talk about "school is in" on amendments, to clearly be cognizant of the important spirit and principle of what this actual amendment is trying to achieve.

Mr. Chairman, I would say to you that my citizens are saying that Bill 17 – they have asked me to come forward. I think that members are bringing forward amendments because of the fact that, without any question, this bill is flawed at this time and needs – it's more than just a work-in-progress. It is a work-in-progress and then some in order to widen the gap.

With that, Mr. Chairman, I will take my seat and say that it is my hope – and I welcome comments from others in terms of how we make this the best that it can be for Albertans because Albertans simply deserve no less.

Thank you, Mr. Chairman.

5:40

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

**Dr. Taft:** Yes. Thank you. To close debate. I hope to do that, Mr. Chairman. I want to comment on how extensively and how long the debate on this amendment went; it was longer than I expected. It's because it's such a good amendment. I don't need to repeat the arguments that have been made so often.

I'll thank the Member for Edmonton-Whitemud on the government side for engaging once in a while, but I do want to challenge him because he made a statement earlier in the debate that paragraphs like section 10 are standard boilerplate in all kinds of legislation. I don't think that's true. In fact, we've checked around and found a piece of legislation from New Brunswick that had a similar paragraph in it, but even that one was followed with a big exemption, so it was very tightly contained.

This kind of blanket exemption from court action I think is extraordinary. I think it's dangerous. Clearly, by moving this amendment, I'm strongly opposed to it. We've heard from several members of the opposition, from all three parties who are all strongly opposed to it, so I think it's time for us, Mr. Chairman, to have a vote on this amendment.

Thank you.

**The Deputy Chair:** Any other members wish to speak?

I'll call the question.

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

[Several members rose calling for a division. The division bell was rung at 5:42 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Mitzel in the chair]

For the motion:			Totals:	For – 12	Against – 30
Anderson	Hehr	Mason			
Blakeman	Hinman	Pastoor	[Motion on amendment A1 lost]		
Boutilier	Kang	Swann			
Forsyth	MacDonald	Taft	<b>The Deputy Chair:</b> The hon. Government House Leader.		
Against the motion:					
Ady	Fawcett	McFarland	<b>Mr. Hancock:</b> Thank you, Mr. Chairman. I'd move that we adjourn debate on Bill 17.		
Amery	Fritz	Morton			
Berger	Groeneveld	Olson	[Motion to adjourn debate carried]		
Bhardwaj	Hancock	Ouellette			
Brown	Horner	Prins	<b>The Deputy Chair:</b> Hon. members, we'll call it 6 o'clock. The committee stands adjourned until 7:30 p.m.		
Calahasen	Jablonski	Quest			
Campbell	Jacobs	Redford			
DeLong	Knight	Vandermeer	[The committee adjourned at 5:55 p.m.]		
Drysdale	Leskiw	Weadick			
Evans	Lund	Woo-Paw			

## Table of Contents

Introduction of Visitors .....	1397
Introduction of Guests .....	1397
Members' Statements	
Aboriginal Pride Program .....	1398
Caucus Discipline .....	1398
Penbrooke Meadows School .....	1398
Remington Carriage Museum .....	1399
Eid al-Adha .....	1407
Transgender Day of Remembrance .....	1408
Oral Question Period	
Emergency Medical Services .....	1399, 1400
Accountability in Health System Governance .....	1399
Health Workforce Shortages .....	1400
Member Suspension from PC Caucus .....	1400
Provincial Deficit .....	1401
Landowner Private Property Rights .....	1401
Home Inspection Industry Review .....	1402
Civic By-elections .....	1402
Children in Care .....	1403
AHS Food Services Review .....	1403
Health System Concerns .....	1403
Kainai Community Correctional Centre .....	1404
Education Achievement Tests .....	1404
Sale of Public Land for Commercial Use .....	1405
Education Curriculum .....	1405
Seniors' Education Property Tax .....	1406
Southern Alberta Flood Disaster Relief .....	1406
Pre International Baccalaureate Program .....	1406
Prepaid Home Contractors .....	1407
Tabling Returns and Reports .....	1408
Government Bills and Orders	
Committee of the Whole	
Bill 17 Alberta Health Act .....	1409
Division .....	1426

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