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The Honourable Kenneth R. Kowalski, Speaker

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Legislative Assembly of Alberta

7:30 p.m. Monday, November 29, 2010

[The Deputy Speaker in the chair]

The Deputy Speaker: Please be seated.

Government Bills and Orders
Committee of the Whole

[Mr. Cao in the chair]

The Chair: The chair would like to call the Committee of the Whole to order.

Bill 27
Police Amendment Act, 2010

The Chair: Are there any comments or questions? The hon. Minister of Public Security and Solicitor General.

Mr. Oberle: Thank you, Mr. Chairman. It saddens me that now that we've arrived at the point where we're calling the question on Bill 27, the Police Amendment Act, 2010, I must rise this evening and offer an amendment to the bill.

If I could have the amendment circulated, please.

The Chair: We'll pause a moment for the pages to distribute the amendment. This amendment is now known as amendment A3.

Mr. Oberle: Thank you, Mr. Chairman. Through you to my colleagues in the House, I'll guide you through this. Essentially, at the request of the federal government, of the military police, we were asked to include the military police as a police force in Alberta falling under the jurisdiction of this act, most particularly with respect to ASIRT and the jurisdiction of ASIRT in investigations of serious incidents. Though it was at the request of the federal government, upon further review, for reasons that I'm afraid I can't share because I don't understand them myself, the federal government has now decided, at least at this time, that they do not want to fall under that provincial jurisdiction, so they have asked that we withdraw military police from consideration in this bill.

Therefore, the amendment that I've tabled before you first of all strikes out section 15, which reads in its entirety: "For the purposes of this section, 'police service' includes military police as defined in section 250 of the National Defence Act (Canada)." What this amendment does is that it strikes out the reference to military police. It makes no other changes provincially.

The second part of this amendment makes an amendment to section 22, and you can see the wording there. All it does is remove the reference to section 15, which is struck out under section A. So all we're doing here is, at the request of the federal government, remove military police from the provincial jurisdiction at this time. They may, in fact, at some later date decide to move forward, but that's the state of affairs at this point.

We've decided to move forward, and I propose this amendment for discussion, Mr. Speaker.

The Chair: Any other hon. members wishing to speak on amendment A3?

Ms Blakeman: I'd like to support the Solicitor General in this amendment because I don't really think it's appropriate that the government would have control over military police as defined in section 250 of the National Defence Act. So, yeah, I think it's very important that they're not in there, actually. I can't understand why they put themselves in there in the first place, but I'm glad they asked to be taken out, and I'm happy to co-operate with the government members in agreeing to do so.

The Chair: Any other hon. members?

Seeing none, the chair shall now call the question.

[Motion on amendment A3 carried]

The Chair: Hon. members, back to Bill 27. The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you, Mr. Chair. It is my pleasure to rise and again discuss Bill 27, the Police Amendment Act, 2010. As I mentioned briefly at first but will expand upon further through some amendments I propose today, this is a very important bill. Often when we go about our daily business, we take the police for granted. We understand that their role both to protect and serve is a very important one and that in the vast, vast majority of cases our police officers go above and beyond the call of duty. They go on to both protect our rights as citizens and keep us free from harm and the threat of violence and also the loss of personal property.

They're also there to uphold our democracy, for without the police and, by extension, the government there would really not be any real civil liberties because, sadly, we need the protection of the police officers and the protection of the government for us to live truly free lives. Without those two apparatuses and the rule of law, simply put, in my view, the world would be considerably less free. It would be considerably less free for most individuals. To start naming them would take too long. Needless to say, they play a very important as well as privileged role in our society.

It's on that note, because of the police's special duty both to us as citizens as well as to upholding the Canadian Constitution, that this act is very important. The police not only protect our powers; they protect our rights as citizens. They also have an ability to step in for the government and at times, maybe, go further than the power that we, the Legislature of Alberta and our federal government counterparts, have given them. When that happens, we need an apparatus that effectively deals with those situations, no matter how rare they are, no matter how unfortunate they are.

When these situations happen or when they're even perceived to have happened, it's very important that there be an avenue for individuals to go on to a complaints process that allows them, rightly or wrongly, to have had their day in court, shall we say, even though it's not in court, their day in front of the Law Enforcement Review Board or their day in front of whomever our panel of decision-makers is.

It's because of that that this bill has been changing some of those rules and regulations and, in my view, has been limiting some of those rights and privileges and, in fact, conferring far more of an ability for lessening people's ability to be heard in these situations. In my view that is the wrong direction not only for this province but for democracy in general.

Like I said, the police have a special duty, and when citizens have their rights really infringed or a perception that their rights have been infringed on by a person in a position of power such as a police officer, it's our duty to allow them to have a venue not only for their protection but for the protection of democracy, like I said earlier.

7:40

On that note, I would like to go through and offer some amendments tonight. Hopefully, we can hear and discuss, and hopefully I can engage people's attention to possibly consider these as, in my view, I believe the act will be better.

I left some amendments up there for Parliamentary Counsel, and if we could distribute the first one there at this time, that would be great.

The Chair: We shall pause for a moment for the distribution of the amendment. This amendment is now known as amendment A4.

Hon. Member for Calgary-Buffalo, please proceed.

Mr. Hehr: Thank you very much. If we take a look at this section 19.3, it reads as this: "The Board may dismiss an appeal if a direction given by the Board under section 19.2(3) has not been complied with by a party or if a party has not responded to the Board's direction." You can see I've amended that in section 5 by striking out the proposed section 19.3.

The reason for that, in my view, comes back to some of the things I was saying before. When an individual is making a complaint before a board or a tribunal such as the LERB, despite how frivolous or nonsensical or even minuscule you or I or even the police service sees it as or how unlikely it is to succeed, I believe it would be important to be able to allow them to hear the complaint, to give the party an opportunity to at least present their case at a hearing.

To dismiss what may be bona fide complaints without a hearing can really lead to problems in both our respect for police officers and respect for the rule of law and allow people to fall through the cracks. If you give them the opportunity to be heard, I think many times people will go to these proceedings and realize: man, that really didn't make sense, when they explained it to me or dismissed it, why it was dismissed or why this wasn't the most appropriate venue. It can become clear.

Incorporating this type of power for the LERB will jeopardize procedural fairness, principles of natural justice, and access to justice for those who make complaints. I don't know if many of you were in the House here last time when we discussed procedural fairness. It's one of the basic concepts of law. If a government body or an arm of the government, the police, is subject to a type of complaint, it is most scholars' view that they are given an opportunity to speak and at least to be heard. This is taking away that right.

This amendment was developed in response to, I think, many stakeholders who have said that this is not a good amendment, who indicated during the initial discussions surrounding these amendments that the dismissal process at the LERB on the listed grounds would water down the complaints process to a point where it just simply didn't serve the interests of the general public.

Those are my comments. I believe in this place we should err on the side of allowing people to be heard in this forum rather than shutting them down.

The Chair: The hon. Solicitor General and Minister of Public Security.

Mr. Oberle: Mr. Chairman, thank you for the opportunity to respond. I must with regret inform the hon. member that despite having favourably reviewed two previous amendments, this one I cannot agree with. The amendment proposes to strike out the proposed section 19.3, which says, "The Board may" – not shall; it's not a requirement – "dismiss an appeal if a direction given by the Board under section 19.2(3) has not been complied with by a party or if a party has not responded to the Board's direction." It doesn't require the board to dismiss an appeal; it allows them to. This is one of the central reasons for this bill: allowing the board to manage the flow of its business.

Now, we have had cases where respondents have moved out of province and refused to participate and the appeal is open because the board has no powers to dismiss it. All we're doing is providing them with the power. In this clause "may" does not direct that they shall. We're allowing the board to manage. I think the hon. member will agree with me that any court of law in the province is also allowed the same powers. Just because you've filed a complaint or a case doesn't mean you get your day in the sun no matter how you act from that point forward, right?

So there are some requirements here, but again I'll stress that the board may dismiss. It doesn't require them to dismiss. There are, certainly, always extenuating circumstances which the board or any court in the province could consider in the event that this clause is triggered.

I regret that I can't agree with the member and his comments. To me this is fairly central to the bill. We need to allow the Law Enforcement Review Board to manage the flow of its cases so that they move through and they're effective and they're seen to be effective and that justice is not only complete and effective but swift.

Thank you, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Centre on amendment A4.

Ms Blakeman: Thanks very much, Mr. Chairman. Well, I'm mindful of what the previous two speakers have laid on the floor before us. I think that what we're always trying to achieve is a fair balance. It shouldn't swing to one side or the other. I tend to err on the side of allowing people to be heard, to make sure that the appeal processes are in place for them to take advantage of them.

I understand what the Solicitor General is saying in that you can't take a process hostage through neglect, which is what he's actually describing here, if someone moves out of province. Yes, you can see that, but there are other reasons why somebody may not be complying with what the board has given directions to do. I think we have to be very, very careful here. We are playing with a very powerful force; that is, the police forces and the power that they hold over our lives. We give them that power. They govern by consent. They police by consent. But we do give our consent for that. We need to be careful that when we get into situations of dispute with the police, people are able to carry on.

I understand what the Solicitor General is telling me, but I believe there are other circumstances in which you may be wanting to take advantage of the amendment that is proposed by Calgary-Buffalo. I'm not going to agree with the Solicitor General, but I am going to give my colleague another opportunity to make his case.

Thank you.

The Chair: Any other hon. member wish to speak on amendment A4? The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you very much, Mr. Chair. I do understand the Solicitor General. The board and tribunal process needs to move along. It needs to move along with some speed and in some reasonable fashion. In this situation we're dealing with a police officer, who holds a very sacrosanct responsibility in not only protecting us but protecting the rule of law and as such has an extreme position of importance. They have a position that they can abuse. Although it happens rarely, they can and do abuse their

authority from time to time. That's why we have the LERB and other investigative tools, to allow for them to do a full and fair investigation.

I just find that if people have gone through the process, filed their thing, whether they've moved or whether they haven't or whether the commission – when you use the term "may", that always leads it into the commission's hands. I know many people in the LERB, and they're very good people. In most cases they're the most rational people in the world. In 99 per cent of the time, there's probably a valid reason why you would use "may," and they would only dismiss those cases that they would deem appropriate to dismiss.

7:50

The only thing here is that because this is such an important tribunal and such an important area, I think we have to err on the side of caution. In my view, you would eliminate "may," eliminate the human error factor, and allow people to get there. They show up, and they say: "Yeah. These are the crackpots. Here's how we're going to get rid of this case." Understandably, that's going to take five or six minutes, and it's going to set them back, and they may have to schedule a new thing. I understand that's going to happen a lot of times. In my view, because of the importance of the situation, I think we should err on the side of caution and allow for this procedural fairness to occur.

Thank you very much, Mr. Chair.

Mr. Oberle: Just a brief comment in response to the last speech by the Member for Calgary-Buffalo. I'll point out again that this is in respect of an appeal. The board may, not shall but may, dismiss an appeal. We're talking about people that have already made a complaint and had it investigated and adjudicated, and they may now wish to file an appeal with the board. So they've already proven themselves capable of going through the process, either themselves or with counsel, which they're allowed to have as they go through the process.

So all this refers to is whether or not a direction given by the board; that is, to produce certain evidence or those sorts of things, has been complied with or if the party has responded to the board's direction. The hon. member mentioned crackpot behaviour. Nothing in here says anything about behaviour. It's failure to comply with the direction of the board. You're talking about a person who's capable or has counsel that's capable of replying to the direction of the board. So what I'm asking for here is to allow the board to manage their process. This has nothing to do with behaviour or how one deports themselves during the course of said appeal. That's not allowed here, actually.

Thank you, Mr. Chairman.

The Chair: Any other hon. members on amendment A4?

Seeing none, the chair shall now put the question.

[Motion on amendment A4 lost]

The Chair: The hon. Member for Calgary-Buffalo on the bill.

Mr. Hehr: Yeah. Not to belabour this any further, but I do have another amendment. If we could pass that out to the hon. members of this House, that would be great.

The Chair: All right. We shall pause for the distribution of the amendment. This amendment is now known as amendment A5.

Hon. Member for Calgary-Buffalo, please proceed.

Mr. Hehr: Thank you very much, Mr. Chair. This is an amendment we've passed out, where it states as follows – and this is the original wording

9 Section 28.1 is amended

(a) in subsection (2) by striking out "or" at the end of clause (c), adding "or" at the end of clause (d) and adding the following after clause (d).

And then (c)(iii)(d) reads: "review the investigation conducted in respect of a complaint during the course of the investigation and at the conclusion of the investigation."

If we look at this act, what this act has . . .

The Chair: Hon. member, let's pause a bit here. I have in my hand amendment A5: "amended in section 9(c)(iii) by striking out the proposed section 28.1(3)(d)." Is that the one?

Mr. Hehr: Yes.

The Chair: Okay. Just to make sure.

Mr. Hehr: Yeah. Okay. I'm often confused, too, Mr. Chair, so I'm glad you got me on the correct page there. Thank you very much.

What this act has is a body in it called the public complaint director. So any complaint that is lodged under the Police Act can be subject to a public complaint director. If we look at this, one of the principal concerns or one of the principal mantras of policing is the independence of a police officer to carry out their investigation without any interference from political individuals, from other members of the force, from people outside the realm, from a person's neighbour. In other words, one of the core principles of policing is that the investigator has the ability to oversee the investigation from start to finish and to come to a conclusion of that investigation without being prompted by the political arm; in this case it looks like the public complaint director.

Actually, this came to me after a discussion with some people from the Calgary Police Commission. They were worried that not amending it in this fashion would allow the public complaint director to second-guess an investigator during the course of an ongoing investigation. The proposed change could result in the public complaint director overseeing and unnecessarily scrutinizing the investigator and the investigator's actions. They also expressed the concern that the complaint director could attempt to insert himself or herself into the investigative process.

In my view, it would be unwise to allow the public complaint director's own opinions or views of how the police process should go when an investigator is in the very middle of a police investigation. It goes against the core belief of policing, that the investigation should not be interfered with from a political arm. In my view, that extends to a public complaint director, who may be in contact with all sorts of people. You know, I don't know where the public complaint director could be getting his information.

Nevertheless, I think it would be wise for us to allow our police officers to investigate the process and go on that notion. I believe the police officers would be jeopardized somewhat in being able to do their investigations, and there would always be someone looking over their head who could interfere in actually finding out the true process of what is in fact going on. Our police officers must be trusted to do their own investigations, or else they should not be in that role.

It is with that in mind that I make this amendment. I urge all hon. members of this Assembly to support this amendment because I believe it leads to better policing and better results and less political interference.

Thank you very much, Mr. Chair.

8:00

Mr. Oberle: Well, Mr. Chairman, unless I'm missing something, this is, as I would read it, sort of a reversal of what the hon. member argued in the last amendment, which would be that oversight of police and the rights of the individual are paramount in the process. In here they are arguing that there should be no external examination of the investigation, and I find that curious.

The proposed clause does not allow the complaints director to inject themselves into an investigation. It does not ask them to investigate. It talks about reviewing the investigation – and I think that's fair – to monitor the flow of an investigation through the police force and to inform a complainant as to where we are in the process without injecting oneself into the investigation. I firmly believe that. So the intent of that clause is to have someone independent oversee the flow of that investigation. It does not say that that complaints director should investigate. They do not have investigative powers. They are not allowed to inject themselves into an investigation. I think that's a fair way of providing oversight without allowing the complaints director to interfere in an investigation, on which I certainly agree with the hon. member.

I might add, Mr. Chairman, that the clause in question – well, the bill itself. You know, we did consult with police commissions, and we received no complaints from police members or police commissions on this or any clause that I'm aware of. You'll understand what some of the concerns forwarded are, and some were mentioned in this House, but I have not heard from a police commission that they have a problem with this particular clause.

The Chair: The hon. Member for Calgary-Buffalo on the amendment.

Mr. Hehr: Thank you, Mr. Chair. I appreciate the Solicitor General's comments here. That actually helped me a little bit on the fact that you often get a call from the public that will say: what's the state of existence of my complaint? I understand that they should have an opportunity to hear that complaint. I'm just wondering if there's someplace in the regulations or someplace else where it sort of limits the power of the public complaints director in this regard.

I just see this "review the investigation conducted in respect of a complaint during the course of the investigation and at the conclusion of the investigation" as still being somewhat of a slippery slope where a public complaints director, when he is worried – or not even worried. Let's just say for optics that we could use the scenario where this individual may want to interfere. In my view, there's an opportunity for him in the middle of an investigation to get hold of a police officer and possibly interfere. I don't know if there's a place in the regulations or if it could be more defined in this act. Nevertheless, I still look at this at face value, and it says to me that the person could investigate during the course of an investigation. This leads me to being somewhat of a nervous Nellie or what have you on that note.

I also just want to respond to the first comments to make sure that these are two separate issues, what I'm talking about in this act and what I discussed in the first bill. I understand I'm asking for police oversight and for us to have an effective process. But this is one of those internal things where you can be for police doing their investigation while at the same time being for an oversight body, and I just want to make sure that, you know – I think I am reasonable and rational in having both those points of view in discussing this bill.

Mr. Oberle: Mr. Chair, I must rise and apologize to the hon. member. I'll begin by offering an apology. Your comment now clarifies for me what your concern with this clause is. It's a bit of a conundrum. You would agree that a public complaints director needs to be independent of the police. For an independent person, yourself, for example, or myself for that matter, if we were to phone the Calgary police to inquire about the progress of an investigation, we would be told quite short and sweet what we should be doing that afternoon.

Clearly, this public complaints director has to have different powers than an independent member of the public. There has to be some power specified where they can be involved in this investigation somehow so that they can monitor at least the flow through. So there's the rub. I have to grant that person some additional powers, and that's what this clause proposes to do.

The member is right. He referred several times to regulation. In my mind, this has to be nailed down further in regulation. While we've received no complaints from a police commission with regard to this clause, we've been rather well received out there by committing that once this act is passed, I will go back to the stakeholders with a regulation. I don't think there's any misalignment of intent at this point, but the proof is always in the pudding. We've already committed that to all of our stakeholders. We will go back with the regulation because, you know, there are a couple of pretty key points about police oversight and independence and those sorts of things that need to be nailed down when we get to the fine detail, and I've already committed to doing that.

Thank you, Mr. Chairman.

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

Ms Blakeman: Thanks very much. I don't have the benefit of the entire act in front of me – maybe the minister does – but I take it, then, that there is specific meaning assigned to the word "review" versus the meaning that is assigned to the word "investigate." Therefore, when the clause says, "Review the investigation conducted in respect of a complaint during the course of the investigation and at the conclusion of the investigation," review has a different meaning. Someone who is reviewing something would not – oh, this is why the specificity of language is so important.

For example, in a not-for-profit society you can have an audit, which means that it is conducted by a registered CMA or CA, and they go through that according to certain principles, or if you're a smaller agency, you can have a review, and a review is by two members who didn't prepare the books, who can look everything over and then sign off on it. Is that what I'm understanding is being contemplated here, that someone who reviews this is not taking the same actions as someone who would be an investigator? Can you explain that?

The Chair: The hon. Solicitor General and Minister of Public Security.

Mr. Oberle: Thank you, Mr. Chairman. That would be correct. To investigate would clearly be different than to review an investigation. The public complaints director has to be able to follow this process through to its conclusion to ensure that a complainant has had reasonable access to it, that the flow is reasonable, and that the complainant can get their questions answered at an appropriate time, without investigating because this clause does not allow them to investigate. They can be a police officer, but they cannot be from that force. They are an independent person. They cannot investigate. They are to review the investigation.

Thank you, Mr. Chairman.

The Chair: Any other hon. members on the amendment?

Seeing none, the chair shall now call the question.

[Motion on amendment A5 lost]

The Chair: Hon. members, I've gotten a note here. May we revert briefly to introductions before carrying on?

[Unanimous consent granted]

Introduction of Guests

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

Mr. Kang: Thank you, Mr. Chairman. It is with great pleasure that I introduce to you and through you to all members of this Assembly three guests in the public gallery. Their names are as follows: Doug MacDonald, Karen Sevcik, and Ray Pinkosky. I'd ask them to rise, and I'd like all members of the Assembly to give them the traditional warm welcome of the Assembly.

Bill 27
Police Amendment Act, 2010
(continued)

The Chair: All right. Now we'll get back to Bill 27. The hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you, Mr. Chairman. If we could just get to it, I'd like to pass out another amendment here.

The Chair: We'll pause briefly for the distribution of the amendment. It will be known as amendment A6.

Hon. Member for Calgary-Buffalo, please proceed on amendment A6.

8:10

Mr. Hehr: Well, thank you very much, Mr. Chair. The amendment, as you see before you, says that the Police Amendment Act, 2010, be amended in section 12(d) in the proposed section 43(11) by striking out "one year" and substituting "two years." You can see that that just refers to the ability of the police chief or the commission with respect to a complaint, that they

> shall dismiss any complaint that is made more than one year after
> (a) the conduct complained of occurred, or
> (b) the complainant first knew or ought to have known that the conduct complained of had occurred.

Mr. Chair, the reason for this amendment is, I think, fairly clear. It allows for more time for an individual to review the circumstances and to fully appreciate what may or may not have occurred to them and decide whether to go ahead with their case under the Police Act. If we look at this, this simply moves more in line with what other discovery principles in law are.

Recently in our courts of Alberta we now accept that there is a two-year discoverability principle when people knew or ought to have known when they had a claim against them or when their legal rights began to run in regard to a situation. It has been pretty much accepted that two years is the standard here in Alberta and, in fact, throughout Canada for this to happen. This first change came about in about 2000, and we recently, I believe, codified it in the *Rules of Court* in about 2006. Again, this is just to keep it more consistent with, basically, legal forums throughout Alberta.

I've read some things on the discoverability principle from different law groups, and in my view there's been an acceptance that two years is the standard course that this should run. Given what we've discussed earlier, the importance of police and their importance in looking after the rule of law and people's rights and how from time to time situations may come where police officers may or may not overstep their bounds and that there will be an opportunity for citizens to make their case heard, in my view it would be wise for us to use the two-year benchmark instead of shortened to the first year. In this situation I think we should give more opportunity for a person to bring a complaint.

There are often intimidation factors or a fear factor for a person to get over to feel comfortable filing a complaint. If we look at it, many of the people who are affected by our legal system or who could possibly have dealings with the police officers are often people who may be on the margins of society, who may not have a voice, who may not understand that there is a recourse for them, who may be outside the traditional person who would feel comfortable filing a complaint in these circumstances. We just should err on the side of caution and, because of the importance of this, allow people the two-year limit to file their complaints. I think it would be wise of this House in this situation to recognize that.

It most likely wouldn't affect very many complaints. If they didn't file it in one year, I'll tell you what: they're most likely not going to file it in two. But there may be three, four, five situations where it allows that person to gain the confidence or the comfort or to line up the witnesses or line up moral support to be able to do that.

I put that to us and would say that we would be wise to follow what many in our legal profession have already gotten to us. In this case, it makes even more sense to do it. Thank you very much, Mr. Chair.

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

Ms Blakeman: Thanks. I guess I'm coming at the same issue here but slightly differently than my colleague because I can recall several bills that have gone through this House in which we were trying to achieve that standard. I'm sorry. There is a word that's used where you're accepting a certain protocol or certain standard across the country. It is two years, so I'm a little surprised to see one year in here. That's certainly what came out in the Limitations Act. It tends to be mostly two years. We changed it in this House around reporting either violence or sexual assault against women to make sure that the two-year rule came into play.

The language that's used in this section is that the chief of police, with respect to a complaint referred,

> shall dismiss any complaint that is made more than one year after
> (a) the conduct complained of occurred, or
> (b) the complainant first knew or ought to have known that the conduct complained of had occurred.

That's pretty cut and dried. This is not a may situation or a might situation; it's "shall." I'm wondering if this just isn't a bit too narrowly focused. Why was this choice made over the two years, which is much more common?

The Chair: The hon. Solicitor General and Minister of Public Security.

Mr. Oberle: Thank you, Mr. Chairman. Might I begin by pointing out that the previous clause said that the chief of police "shall dismiss any complaint that is made more than one year after the events on which it is based occurred." There is no discoverability: ought to have known or should have known. One year is the window. So this is not a change from the previous bill. That clause has actually been in our legislation for some time. I'm unaware of any complaints that were made because the timeline had expired and a complainant was unable to approach the police.

Secondly, it refers to when "the conduct complained of occurred" – so there's still the one-year timeline from when the actual conduct occurred – or when "the complainant first knew or ought to have known that the conduct complained of had occurred." Now, that actually extends the timeline that was under the previous act because it brings in: how could I have possibly known that two days after this event occurred, the police officer illegally searched my name through the records system? If I don't discover that for a year or two years, I wouldn't be allowed to complain about it under the old act. Now I would be because I now have an additional one-year window. So it actually extends the timeline.

Just before we go there, both of the speakers alleged, you know, some form of criminal behaviour: what if an assault occurred? True, in many of our courts, actually, it allows two years as a limitation period. Under the Municipal Government Act it allows 90 days to sue a municipality for certain instances. So two years is not a standard window, but in serious things like a criminal assault, for example, a two-year window might be reasonable.

8:20

This clause would not kick in in the case of a criminal assault. Any case that involves that discreditable a conduct of a police officer, involving the injury or death of a civilian, any injury, requires an immediate notification of the Solicitor General under section 46.1 of the Police Act, and we can institute an investigation immediately without a complaint. We can investigate either by calling in ASIRT, by calling in a companion police force, or directing that particular police force to continue with the investigation. We can oversee it right there without any public complaint. You're not really talking about complainants having brought forward some alleged criminal activity or alleged criminal assault and then being unable to have it investigated because it was a year later. We'd be all over that one the night it happened.

We're talking about a less serious offence at this point. I think it's reasonable to put the limitation of one year. Again, it allows for a reasonable flow of complaints, and the way it's worded does extend the complaint period now because of discoverability.

Thank you, Mr. Chairman.

Mr. Hehr: I appreciate the comments of the Solicitor General, and I really thank him, actually, for talking about this. I realize that it does expand the rights that were given under the last act. That has to be a positive change, and I'm not denying that. But, you know, simply because an assault would always have the two years or something more serious would have the two-year window or an ability for the police to investigate the misconduct, I don't think it lessens the need to put the discoverability principle for something that might be less egregious.

In my view, it would be wise for us not only to give that protection and that larger window for individuals but also just for clarity of our legal proceedings. You know, obviously, that has an argument to it as well. Broadening the ability of people to be heard and to file their information with this type of organization is paramount to it at least being able to be seen as an adequate place where justice is heard. In my view, it would be wise for us to do this.

The second thing. Yes, although they put in the Municipal Government Act that you only have 90 days to sue the city of Calgary, the vast majority of people know that you can file with the court and they'll hear the whole thing, that it's a two-year discovery principle. In my view, that act should be changed, too. Because that act is wrong doesn't mean that this act should be wrong, okay? I don't think that was a valid recommendation.

I thank the Solicitor General, and if he wishes to talk some more, that would be fine.

The Chair: Any other hon. members wish to speak on amendment A6?

Seeing none, the chair shall now put the question.

[Motion on amendment A6 lost]

The Chair: Now we will go back to the bill. The hon. Member for Calgary-Buffalo.

Mr. Hehr: Thank you, Mr. Chair. If you could pass out my last amendment.

The Chair: We'll pause for the amendment to be distributed. This amendment now is known as amendment A7.

On amendment A7, the hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you very much, Mr. Chair. Section 45 is amended by adding the following after subsection (4): "(4.1) Where the chief of police disposes of a matter under subsection (4), the decision of the chief of police is final." What we have here is a situation where a matter has gone through its initial phase of review, and it could go up to another higher level of viewing either with the LERB or somewhere else, yet in this part of the act, so far as it's drawn, we have allowed the police chief to decide in his sole discretion whether or not this should be heard by the LERB. In my view, this is a horrible change. You know, this change is wrong. It can only jeopardize procedural fairness, the principles of natural justice, and access to justice for anyone who has made a complaint.

This amendment will enable the police chief to evade LERB scrutiny simply by characterizing the misconduct as not a serious matter. End quote. Lord knows I like our police officers. I love them to death. I think nothing but the most of our police chiefs, in particular the one in Calgary, Chief Rick Hanson. He's done an amazing job and has the respect of his troops. He has really presented both a tough-on-crime stance but an understanding of the roots of crime as well and an understanding that it's not an either/or, that there have to be all points discovered.

Nevertheless, I'm not comfortable with even him having this power to dismiss a complaint if, in his view, it is not a serious matter. We have examples of cases where, in fact, things would not have gone before the LERB, that we know would not have gone before the LERB, where chiefs have said that this is not a serious matter, but in fact the LERB saw that it was and dealt with it accordingly. There are incidents out there in the not-too-distant past where this has occurred, and in my view to simply say that the police chief, whoever that might be, is above board and should have this decision-making power is wrong. It's wrong in the fact that, simply put, it shouldn't happen for the sake of civilian oversight, for the ability of people to be heard, for people to have their day in court. To have a matter disposed of by the police chief, "Well, that is not of a serious matter" – let's face it; this bill is not only about whether it is a serious matter or not a serious matter. That's not what this bill is all about. It's the optics of procedural fairness, the optics of Caesar's wife rule, of not only being pure but seen to be pure. Okay?

In this case if someone gets a note back saying, "I would love to appeal this, but the police chief said that my concern wasn't a serious matter," can you imagine what that person feels like? They feel like they're not being heard. They feel as if the police have drummed it up, have said that no one can be heard, no one can see

what's in front of them. There's that big blue wall up there that no one gets past, and they protect their bone no matter what. In my view, that would be enforcing that unfair stigma instead of trying to break that down and giving people every avenue, every recourse out there to be heard. That's what we should have in this bill.

Even though I understand that sometimes there may be issues, that may not be of the highest priority, shall we say. That doesn't matter. They should have the opportunity to be heard. That's why I disagree fundamentally with this bill even though I understand that very good people are working in our police forces and in particular the leaders of our police forces.

I thank you very much, Mr. Chair, and I urge all members of this Assembly to support this amendment.

8:30

The Chair: Any other hon. members? The hon. Solicitor General and Minister of Public Security.

Mr. Oberle: Well, thank you very much, Mr. Chairman, for the opportunity to rise and address the comments of the hon. Member for Calgary-Buffalo. The member has certainly hit upon, I guess, what is the crux of the act, or some of the concerns about the act, in that it allows a police chief to dismiss a complaint, and when the chief does that, the decision of the police chief is final. I might point out that that's one of the reasons that it's useful to have a public complaints director reviewing the investigation as it goes along.

But at the end of the day the police chief does not operate independently, nor does he have pure and independent power. The police chief is accountable to his community and to his police commission. In the event that a police chief acts unreasonably in dismissing a complaint and calling it final, then the police chief's conduct itself is subject to review by the police commission, either upon recommendation of a complaints director or by a complainant filing a complaint about the police chief. "You didn't think my complaint was serious? I don't agree with you. I'm filing a complaint about you." So it's not as if the police chief is independently able to decide, "That's it. This is a stupid complaint. We're not proceeding from here" and have nobody review that. There is lots of review, and the person's right to carry that complaint further is in no way erased.

What it does though, again, is manage the flow of complaints to allow more serious complaints to get to and through the Law Enforcement Review Board process. That's the intent of this clause.

Having said that and having discussed this clause with other stakeholders, again, it's one of those where the intent appears to be clear and agreed upon, but the proof is in the pudding. This clause is actually the main reason that I committed to take the regulations out to stakeholders. How the regulation around this one is written is pretty key, and I wholeheartedly agree with that. I think the member would agree with that as well. So this was the clause that caused us to think that we'd better take the regulation out there. I've already committed that to stakeholders, and I commit it again here tonight.

Thank you, Mr. Chairman.

Mr. Hehr: I thank the hon. Solicitor General for again agreeing to take this regulation and already identifying, before I did, that there may in fact be some difficulty for this as it is proposed. I would like to just say a couple of things in the spirit of what we're involved in here, sharing ideas. I'm sure some people will bring this up to him along the regulation path, but I don't know if you've seen Rick Hanson lately in Calgary; he's the most popular guy there. It is what it is.

The police chief holds an unbelievable amount of power in our city, and I have a feeling that he does in many places. So for us to then believe that the public complaints director is going to take on the police chief, well, God love us, but I think that might be a little bit naive. Okay? That's simply why, in my view especially, we'd be saving the police chief a whole lot of unnecessary grief, where no doubt there is going to be a case which somehow gets out from under him and it spirals out of control. In my view a police chief has far too much power to expect that – I hope the commission would be able to and I hope the public complaints director would be able to; however, in the real world that I live in sometimes I question that, whether they would have the intestinal fortitude. I hope so, but I think that to err on the side of caution, it might be wise for us to do it.

On the other point, I've already forgotten. I trust that the Solicitor General is going to go out and find this in regulation, unless an hon. colleague brings it out. I've enjoyed this tonight. It sounds like we're going to go get some input from stakeholders on the regs, and I look forward to that process and will note that I'll pay attention to it when the time comes.

Thank you very much.

Mr. Oberle: I wonder if I might just add one comment in closing this debate on the amendment here, and that is that Chief Hanson has obtained the position in his community because of wisdom and effective leadership, not by making frivolous decisions that the community doesn't agree with.

Also, I just want to clarify that in the event that such a thing happened, it would be the police commission that oversees the activities of the chief, who have the ability to hire and fire chiefs and who, very clearly, are accountable to the community and to city council, not to the chief. They are his boss. So there is an accountability mechanism.

Despite the fact that you called him the guy in Calgary, I somehow felt the need to jump to his defence anyway.

I offer those comments.

Mr. Hehr: One more time just for the record, I think Rick Hanson is doing a fabulous job, too. I meant it as a compliment that he's doing a wonderful job. That's just for clarity as well.

The Chair: Any other hon. members on amendment A7?

Seeing none, the chair shall now put the question.

[Motion on amendment A7 lost]

The Chair: On the bill?

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

[The clauses of Bill 27 as amended agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Opposed? Carried.

The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Chairman. I move that the committee now rise and report Bill 27.

[The Deputy Speaker in the chair]

The Deputy Speaker: The hon. Member for Whitecourt-Ste. Anne.

Mr. VanderBurg: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration a certain bill. The committee reports the following bill with some amendments: Bill 27. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

Thank you, sir.

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

Hon. Members: Agreed.

The Deputy Speaker: Opposed? So ordered.

Government Bills and Orders
Third Reading

Bill 27
Police Amendment Act, 2010

The Deputy Speaker: The hon. Solicitor General and Minister of Public Security.

Mr. Oberle: Thank you, Mr. Speaker. I rise this evening thankful for the to-ing and fro-ing that we've had with the opposition parties. A couple of well-thought-out amendments came from there. I'm pleased with the way the act has been amended. I now propose that we call the question.

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

Mr. Hehr: Well, thank you very much. I, too, would like to thank the Solicitor General for participating in debate and going back and forth on this and considering what I had to say. I think we should have more of that in this House. I appreciated very much the fact that the Solicitor General has indicated he will go out on the road and continue to find ways to better this act through regulation. But I am also a member of Her Majesty's Loyal Opposition, and I can't in all good conscience let this bill go through without one last kick at the cat, if you know what I'm saying, Mr. Speaker.

8:40

If you look at this bill in its entirety, for the importance I stated in both second reading and for the reasons I said in committee and those amendments I put forward, I believe that this bill could be better. It could be better. I think that this bill goes a long way to shortening the ability of the public to make complaints against a police force. In my view it goes against the best interests of our justice system in both the short and the long run, Mr. Speaker.

I've said that overall the importance of police officers is second to almost none in our society. They protect the very freedoms that you and I take for granted, and without their protection I think it would be very difficult for any of us in this House or people outside of this House to enjoy freedom of speech, freedom of association, in fact all of the Charter rights that we believe in. It's not a perfect world out there, and the police officers not only protect those values that we have enshrined in the Charter, but they also protect our homes, where our families live, where we keep whatever possessions we may have, where we have an ability to go to bed at night, and where we feel safe and protected. I, like most people in society, view the police as being the perfect role models out there for any society and the perfect protectors of that peace.

That said, sometimes things go wrong, where a police officer can have a bad day on the job, where circumstances exist where things go off the rails, so to speak, and a wrong is done to an individual at the hands of a police officer. Am I saying that it happens very often? No. To be honest, I am sure it happens relatively slightly. In fact, it's amazing more complaints aren't lodged against the police given their power and their ability to, I guess, enforce the law. It's their expertise and their training that even is a reflection of the fact that there are very few cases that go forward.

Nevertheless, for the comments, you know the old Caesar's wife rule: that we cannot only be seen to be pure, we must – I messed it up. The hon. Member for Edmonton-Centre is looking at me, and I always get nervous when she looks at me . . .

Ms Blakeman: Because it's sexist.

Mr. Hehr: Okay. Allegedly. I'm not going to say that saying anymore. That's the last time you heard me say the Caesar's wife rule.

Nevertheless, I think – I think – this bill could be better, and that's why I'm going to put through one more amendment, and we can go from there. So without further ado, can we put that through?

The Deputy Speaker: We will pause for the distribution of the amendment.

Hon. members, this amendment is now known as amendment A1 to the bill.

Mr. Hehr: Thank you, Mr. Speaker. It says that

> Bill 27, Police Amendment Act, 2010, be not now read a third time because the Assembly is of the view that the bill is contrary to the public interest and will jeopardize access to justice, procedural fairness, and the fundamental principles of natural justice for Albertans victimized by police misconduct.

Sir, many of the arguments I have made in this review are more along the lines of: justice not only must be done; it must be seen to be done. Did anyone get the slight nuance there? Justice not only must be done; it must be seen to be done. Not only that, but perception is reality, and we go from there. Nevertheless, on this act we should bend over backwards to ensure that procedural fairness and the fundamental principles of natural justice are followed.

I believe this bill waters down some of the principles that we hold near and dear to our hearts, and I would advise that it's something that can be put aside, that it is not of such an immediacy that it needs to be passed through. I am confident in the Solicitor General and his staff's ability to come back in the fall or the spring with a better bill that can ensure some of these concerns are brought in. For those reasons I'd ask all members of this honourable House to get behind this sentiment, to agree that more work needs to be done and that we can bring it ahead at some other time but after some more work is done.

Thank you very much, Mr. Speaker. It has been an honour and a privilege to take part in this debate this evening.

The Deputy Speaker: Any other hon. member wish to speak on the amendment? The hon. Member for Edmonton-Highlands-Norwood on the amendment.

Mr. Mason: Thank you very much, Mr. Speaker. I am pleased to speak to this amendment. I agree with it. It's similar to an amendment that I also have, but this one is the more general of the two. I think it wraps up my view of this, that this bill "is contrary to the public interest and will jeopardize access to justice, procedural fairness, and the fundamental principles of natural justice for Albertans victimized by police misconduct."

Mr. Speaker, I couldn't agree more with the sentiment here. We have before us a bill that creates a process for dealing with police

misconduct that is the equivalent of a great big sieve. All kinds of things will slip through this, and the government has not been prepared to accept some of the amendments that have been put forward, some very minor amendments.

People who fail to participate, follow process, or conduct themselves in an appropriate manner may get their appeal dismissed. It narrows severely the categories of people who are eligible to bring forward appeals and excludes others who may have an indirect relationship or have a specific interest in ensuring good conduct on the part of the police. In doing so, it will permit misconduct by police to go ahead and to continue without being effectively challenged. That's why I compare it to a sieve.

I think that it's very important that we have the highest standards. I know that one section in particular, section 45(4), provides that the chief of police may dispose of a complaint if he or she is of the opinion the grievance is not serious. Mr. Speaker, it's really shocking.

8:50

It's interesting that amongst all the bills that we've debated – and there has been a particularly bad batch in this session, in my view, Mr. Speaker – the government has been seemingly most determined on pushing this particular piece of legislation through the Assembly. This is a bill designed not to hold police accountable, to provide every possible opportunity for the police or the chief of police or the system as a whole to avoid accountability and to leave wrongdoing, which occasionally occurs on the part of police, uncorrected and certainly unpunished. For that reason, I believe that the Assembly ought to pass this reasoned amendment and not give the bill third reading because of the reasons that I've stated.

I think this is a very disturbing piece of legislation because it seems to so deliberately provide the police with opportunities to avoid accountability. If that's the objective of the government, I wish they would just say so and we might know why that is. But in the absence of that, I'm certainly going to give this amendment my full support.

Thank you.

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

Seeing none, the hon. Member for Edmonton-Centre on the amendment.

Ms Blakeman: Thank you very much. I wasn't going to speak to this, but the remarks from the Member for Edmonton-Highlands-Norwood got me thinking. You know, I guess it would be six years ago that it would have been unbelievable for people to think that police would search a database for a personal reason – it would just be unthinkable – or that police would deliberately follow a prominent individual home trying to catch them drinking and driving. It just could not happen. No one would believe that those kinds of shenanigans would go on in a police force from a metropolitan area in Alberta.

I mean, granted, we've all read the books of the New York police and the Chicago police and the L.A. police and the different times they've gone through, where they seem to have become rife with corruption, and all kinds of terrible things happened, and they got themselves straightened out. But it was just far beyond the realm of possibility that any of our police services would ever step outside of or even stick a toe across the line, yet in the last 10 years we've found out that they can and they did. They did do things that were not acceptable.

When it was first raised that this was a possibility, that somebody started talking about that, we'd say: "Oh, absolutely no way. That's totally ridiculous." In fact, the first police officer that looked at it did dismiss it, and that rolling through is a big piece of why we have this legislation in front of us today, because people didn't accept it. They would not accept the police investigating themselves.

I around that time was the Official Opposition critic for the Solicitor General and Justice, and I remember asking question after question and making public statement after public statement that they had to have independent oversight and an independent complaints system because it didn't work for either side. If an officer was cleared by his own people, nobody would believe that he was truly cleared; it was all an inside job, and it was all done with a wink and a handshake. No one would believe it, which is terribly unfair to someone who should be cleared. You know, if they've gone through the system, we should believe that person is innocent and get on with it or that they were found guilty of something.

Our world has changed a whole lot in Alberta in the last 10 years around police complaint processes. I'm pleased to see that we got to where we did with the act that's before us, but in reviewing what I've just gone through in the last couple of minutes, I thought: is this really the best we can be? Is this the best we could achieve with this amending act? Because, really, it's been my experience that once an issue kind of rolls through, it comes to the attention of government, they deal with it, they bring forward an amending act, they pass it, and it's a good five years before you can get the issue back up again. So if it wasn't perfect the first time you passed it, you're going to have to live with it for at least five years and more likely 10 and in some cases longer than that. Is this really the best that we could be? Did we really achieve the balance we were trying to achieve? Did we achieve the credibility that we were trying to achieve for both sides involved here?

I think that based on all of the things we've learned – and, particularly, we have to be very careful about complaints being dismissed – we could do better. I'll certainly support the reasoned amendment brought forward by my colleague from Calgary-Buffalo.

Thank you.

The Deputy Speaker: We have five minutes for comments or questions.

Seeing none, on the amendment, the hon. Solicitor General and Minister of Public Security.

Mr. Oberle: Mr. Speaker, I wasn't going to rise on this, but now I feel compelled to based on the comments I've heard from the three members over there, most recently from the hon. Member for Edmonton-Centre. Through the course of the debate in talking about police forces, we have referred a number of times to incidents. I believe in most cases those were hypothetical incidents, for instances. For example, what if a policeman did this, or what if a complaints director did that? It's useful, of course, to use hypothetical examples and to underline a point for whatever reason we might do it.

But the hon. Member for Edmonton-Centre in her last speech brought forth a couple of examples that may not have been hypothetical incidents and said that there was a time we couldn't have imagined those happening and that now all of a sudden they're happening. I would pose the alternate to that, Mr. Speaker, in that it's possible there was a time that they were happening and we didn't know about it and, might I point out, that because of the legislative framework we already have in Alberta, we now know.

In those particular incidents, if that member was referring to particular incidents, there was a complaints process and officers were disciplined and charges were laid and heads rolled. They went through the process. That was proof of the system working, not

proof of the declining state of our police forces in the province. Quite the opposite, I am intensely proud of the police forces and their conduct and, at least in part, of the oversight mechanisms that we have in place today, that strike what I think is the appropriate balance.

We have the bill before us, Mr. Speaker, and I think it's pretty fair to say that I do not agree with the amendment, which would say that the bill is contrary to the public interest and will jeopardize access to justice, procedural fairness, and fundamental principles of natural justice. Clearly, I don't agree with that. I think it enhances an already solid complaints and police oversight system. The hon. Member for Edmonton-Centre pointed out a couple of examples of where it worked very well, and we get examples every day of where it worked very well.

It adds to an existing complaints process speedier disposition of complaints. I must say that contrary to a din of complaining about our oversight process, the only complaints I hear about are people wondering why it takes five years or more to get through a complaints process. I agree with that. Justice should be speedier than that. I think it's a system that will be speedy and will be seen to be fair as well as be fair, in reference to the hon. Member for Calgary-Buffalo's comments. It introduces a new, maybe emerging concept of alternate dispute resolution, which is very timely and will be very effective in this case.

The hon. Member for Edmonton-Highlands-Norwood painted us as not being open to any amendments at all. I count three amendments that were passed by this House, only one of which was offered by myself, by the government party. Whether they're minor or not, two amendments were accepted over there. So the math is not quite right.

I think, Mr. Speaker, I have to say that I'm clearly – very clearly – not in agreement with the amendment or the wording of what the opinion of this House would be. I just simply do not agree with it.

9:00

The Deputy Speaker: The hon. Member for Calgary-Fish Creek on the amendment.

Mrs. Forsyth: Yes. Thank you, Mr. Speaker. I'm pleased to rise in regard to the amendment brought forward by the Member for Calgary-Buffalo. I have to get on the record that I don't support his amendment. I can tell you that having had the privilege of being the former Solicitor General from 2001 to 2004, I found it a great privilege to be able to serve and work with the police and peace officers in this province. I can tell you that 99 per cent of them do a very, very good job on behalf of the citizens of Alberta.

Like any other profession there are a few bad apples in the police force – very, very few. Even 1 per cent might be stretching it a little bit. I can tell you that over the recent years since I've been there, you can see how the police chiefs in this province are dealing with them. We have a complaint process in place. We have the Law Enforcement Review Board in place.

I truly, truly believe that the police officers and peace officers in this province do an incredible job under very, very difficult situations, so I want it on record that we will not be supporting this amendment.

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

Mr. Mason: I just wanted to ask the hon. Member for Calgary-Fish Creek if she feels that, you know, a good bill dealing with checks and balances with respect to police – that is to say, the ability of citizens to bring forward complaints of misconduct – that should be easily dismissed on a number of pretexts and, in particular, by a chief of police who might determine, as the act says, that the particular complaint is not serious: is that really the kind of limitations on justice for people who may have been mistreated that we want to see?

Mrs. Forsyth: Well, in the time that I served, from 2001 to 2004, and from 2004 till 2010 under the current Solicitor General, I can only tell you that the police that I'm familiar with in this province and the chiefs – and I've been honoured to be able to keep in touch with them and know them very well – take seriously every complaint that they get. They look at it, they look at the complainant, and they look at the investigation of the police officer. Honestly, Member, I've never really seen anything that you may be saying.

There are some frivolous complaints, obviously, and those have to be dealt with, and the complaints that you're probably referring to are dealt with very seriously by the police chiefs. I'm sorry. I just support them.

Mr. Mason: Well, I'll just bring one example to the hon. member's attention. I think this was probably before she served as the Solicitor General. There was a case in which a police constable in the Edmonton police force, who happened to be the son of the chief, tasered a passed-out man named Randy Fryingpan multiple times while he was in a vehicle. That resulted in a complaint which was dismissed, and ultimately the complaint process completely broke down. There are other examples as well.

Obviously, most police officers are respectful and responsible members who carry the enormous powers that they're given on behalf of all of us very well. But when something occurs, then there needs to be a fair process. Simply saying, "Well, I know that all police chiefs are, you know, good guys or good gals, and they really wouldn't do something" doesn't fit the bill, as far as I'm concerned, with respect to what we need in this legislation.

Mrs. Forsyth: Mr. Speaker, I appreciate where he's coming from. I am aware of that incident, and I don't believe it was under my tenure. I can tell you that that was then, and this is now. The chiefs in this province have worked very, very hard, when you have incidents like that, to correct those incidents. We've had the previous Solicitor General from Calgary-Fish Creek, Calgary-Buffalo, and then it was, I think, Stony Plain, and now we've got the new Solicitor General.

That was a very rare incident. It was brought to the public. It obviously put some onus on the police chiefs in this province in that Albertans are not going to tolerate that. They want to see incidents like that dealt with. You now have the ASIRT team, that has been called in to deal with serious incidents if a police officer is involved. So while I appreciate the incident that you're using that I think was probably in the year 2000 – and I may be stretching my time – or even in '99, it's a good lesson. It was a lesson well learned by the police chiefs in this province. I think they can only get better and continue to do a good job on behalf of the citizens of this province.

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

Mr. Hehr: Well, thank you, Mr. Speaker. I, too, would like to ask the hon. Member for Calgary-Fish Creek a question. I believe that in her comments she said that this was a rare incident, where an issue like this was reported. By your comment are you saying that it's all right that it rarely happens? [The time limit for questions and comments expired]

The Deputy Speaker: Back to the amendment. The hon. Minister of Justice and Attorney General.

Ms Redford: Thank you, Mr. Speaker. I think this has been a really interesting discussion tonight. If we look back to why this legislation has been introduced, we know that in this province we have had a very strong record of dealing with police discipline. One of the reasons that we've had that record is because of the close partnership between this government and chiefs of police across this province. There's always the opportunity, no matter what we're talking about, to find those incidents where there's been a problem. That's the nature of what happens in policing, in justice, sometimes in government in general.

Mr. Speaker, what legislation is supposed to do is to continually improve the process. What we know is that through the work that's been done by the Solicitor General in consultation with chiefs of police across this province, with police commissions across this province, with people that are at the moment working on this board, we are continuing to create a system that allows the public to have even greater confidence in police disciplinary measures.

Now, Mr. Speaker, earlier this evening we heard the Solicitor General refer to the fact that when particular incidents happen, we now have a system where the Alberta Serious Incident Response Team would be brought in or perhaps where criminal charges might be laid. What we have in this province is an entire umbrella of opportunities for members of the public to see the chiefs of police take the discipline of their officers very seriously. When we talk to people in communities across this province, they have confidence in their police officers. They have confidence in their chiefs of police. I think their chiefs of police take that confidence very seriously. It's one of the reasons that we're able to create a partnership where everyone can have confidence in what this legislation does and in what we're trying to achieve.

Thank you.

The Deputy Speaker: Standing Order 29(2)(a) allows for five minutes of comments or questions. The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Yes. Thank you, Mr. Speaker. I'm pleased to offer a comment and a question to the hon. Minister of Justice. I want to quote from Justice Dixon in Gabrielson versus Hindle of 1987. The judgment says in part that

> police forces are given a very special niche in our society. They represent us in the protection of our property and our well-being from abuses and ravages of those who commit crime. They are given special powers and a corresponding standard of conduct is demanded of them. Police powers are to be used intelligently, fairly, and without rancour or favour.

I won't read the rest, but it concludes: "With all privileges," meaning privileges of the police, "go responsibility."

9:10

I really wonder if the Minister of Justice feels that it's enough to say that we have a wonderful relationship with our police chiefs and that our police chiefs are wonderful police chiefs and that they do a good job and that they take everything seriously and that, therefore, we can have a system of recourse for citizens who are not treated properly or legally by the police that is so full of loopholes and opportunities to dismiss legitimate complaints. Simply, the question is: do you really base law on that? Do you really say that we don't need, for example, to have laws against certain kinds of activity because, you know, we really trust the people that are involved not to do it? Does it not simply negate the whole basis of a legal system?

The Deputy Speaker: The hon. minister.

Ms Redford: Thank you, Mr. Speaker. I'm not quite sure where the hon. member was when I was speaking, but that is not what I said. What I said is that we have a legislative framework in front of us that creates a system of laws that people in this province can have confidence in. Our whole foundation of democracy and public accountability is based on our legislation. We have a system where we introduce laws. We set out rules and expectations. We expect people to honour those laws. We do our very best as a Legislature, as we have done, to make sure that this covers exactly what it needs to cover. Ultimately, at the end of the day, as the hon. member referred to, if there are issues, they will go to court.

I am not for a moment suggesting that this is some hollow piece of work or that we don't need to have this legislation. We need this legislation. It's good legislation. One of the reasons we know it's good legislation, Mr. Speaker, is because we have consulted on this legislation. We have consulted with police officers, with members of the community, with stakeholders, with victims' groups. This is good legislation. It will stand up to the test. There are not loopholes in this legislation, and it should be passed.

Mr. Mason: Mr. Speaker, just a comment. It's beyond me that the minister thinks that there are no loopholes when the police chief can simply dismiss a complaint that he or she feels is unreasonable. That's absurd.

The Deputy Speaker: Any comments?

Any other hon. member wishing to speak on the amendment?

Seeing none, the chair shall now call the question.

[Motion on amendment to third reading of Bill 27 lost]

The Deputy Speaker: Now, we go back to the bill, Bill 27, on third reading. The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Speaker. Well, I would like to move on behalf of my colleague the hon. MLA for Edmonton-Strathcona that third reading of Bill 27, Police Amendment Act, 2010, be amended by deleting all words after "that" and substituting the following: "Bill 27, Police Amendment Act, 2010, be not now read a third time because the bill fails to provide for improved procedures for complaints concerning police officers and police services."

The Deputy Speaker: We'll pause for a moment to have the amendment distributed.

We have an amendment here. It's now known as amendment A2, and it is a reasoned amendment.

Hon. Member for Edmonton-Highlands-Norwood, please continue.

Mr. Mason: Thank you very much, Mr. Speaker. Some of my comments from the previous reasoned amendment will apply as well to this one. This one is a little more specific, saying that we not read the bill at third reading because it "fails to provide for improved procedures for complaints concerning police officers and police services."

Mr. Speaker, I'd like to quote from a letter that was sent to the Minister of Justice by David G. Chow from the Calgary law firm Molle Roulston Chow. I'm just going to read a section of his comments with respect to the bill into the record because I think these are quite on point and probably a lot more eloquent than I could provide. Mr. Chow says:

I start from the proposition police are employed in a position of trust. Given police are equipped with weapons, special equipment, powers to interfere with a citizen's liberty through detention and arrest along with the authority to exercise tremendous discretion enforcing a seemingly endless sea of laws, there is perhaps no greater fiduciary [duty] than that owed by police to the citizens they serve . . .

With all the privileges [that police have], there must also be accountability.

Section 38(1) of the Police Act . . . recognizes the special role of police in our society. According to s. 38, every police officer has the authority, responsibility and duty to encourage and assist the community in preventing crime and to encourage and foster a cooperative relationship between the police and community. This cannot be merely a high sounding objective, it must be meaningful.

He goes on to say:

I fail to understand how legislation insulating police who abuse their authority from a citizen's complaint encourages and fosters cooperative relationships between the police and public. The very existence of an open, tolerant and reasonably flexible citizen's complaint process supplies a valuable safeguard against abuses by those acting in the line of duty. By significantly diminishing the ability of a complainant to lodge and/or maintain a grievance through a principled citizen's complaint process creates a reasonable apprehension that Government is prepared to protect law enforcement from having its excesses scrutinized by those empowered to defend the public interest.

The irony is Government exists to represent the public interest; yet the Alberta Government tables legislation which arguably offends its public interest mandate.

Why is the Alberta Government interested in insulating police from accountability?

Though the [Criminal Trial Lawyers Association] has succinctly and effectively expressed many of my concerns, I am compelled to add a few additional comments.

With respect to section 20 of the Police Amendment Act, 2010, it stipulates a wide range of circumstances whereby a complaint can be dismissed. An action can be dismissed if a complainant "fails to attend", "fails to answer questions", fails to produce an item required; is "unable" to participate, "refuses" to participate, fails to "follow processes" or fails to conduct himself or herself in an appropriate manner.

9:20

It does not take a particularly active imagination to envision a plethora of reasonable circumstances to justify any combination of "failures" that may now result in the dismissal of a complaint. By way of example, perhaps the complainant is remanded in custody? Perhaps the complainant has somehow been rendered incapacitated such that he or she cannot participate? What if the complainant has been incapacitated as a result of the actions of police? Perhaps the complainant is out of the country or cannot produce an item required due to an unfortunate event, such as fire, flood, theft or the seizure of materials by police who are the subject of the complaint? Perhaps the complainant has been accused by the police of a crime and must now exercise his or her Constitutional right to silence?

Though I could certainly compose a much more exhaustive list of examples, I think the point is made.

The fact that an action may be dismissed if a complainant fails to conduct himself in an appropriate manner is highly problematic; for there is no rational nexus between the conduct of a complainant in a proceeding and the alleged police conduct underlying the accusation. An unruly complainant may nevertheless have a highly legitimate grievance. To dismiss a justified grievance simply because a complainant somehow offends a Government tribunal, or falls into error adhering to process is antagonistic to the notion that the conduct underlying the complaint ought to be determined on the basis of all available evidence. In criminal law, courts consistently refuse to permit form to rule over substance; yet it appears the Alberta Government is prepared to protect law enforcement in precisely this manner.

Section 42

Section 42.1(1) unreasonably restricts the class of complainant. A complaint may now only be brought by a "person" who was the subject of the conduct complained of, an agent of a person who was the subject of the conduct complained of, or a person who was present at the time of the incident and witnessed the conduct complained of, or a person who was in a personal relationship with the subject of the conduct complained of and suffered loss, damage, distress, danger or inconvenience as a result of the conduct.

This class limitation unduly restricts other persons or organizations acting in the public interest from launching a justified grievance. There are many reasons why the subject of the conduct complained of may not complain. Perhaps the target of the police conduct is afraid to lodge a complaint? Perhaps the target is accused by police of a crime and due to the practical realities of criminal justice, will not file a grievance out of fear police will place undue pressure on Prosecutors to pursue conviction in an effort to protect themselves from sanction through the citizen's complaint process? Though I am certain you will dismiss the latter example, my experience suggests police interference is a legitimate concern.

Whatever the case, it is ironic that the legislation effectively prevents a myriad of public officials, who represent the public interest, from lodging a complaint on behalf of the people whom they serve.

By way of example, Government employs Crown Prosecutors to act in the public interest. What if a Prosecutor became aware of information justifying a hearing into police misconduct? By operation of s. 42.1(1), absent authority to act as an agent, Crown's are incapable of filing a grievance because they do not fit into the class of persons entitled to make a complaint. Similar logic applies to any number of other groups acting in the public interest. These groups include police and other law enforcement officials, civil liberties organizations, the CTLA, city Alderman, a Mayor or even the Attorney General of Alberta, the Solicitor General of Alberta or the Prime Minister of Canada. That the Prime Minister of Canada or the Minister of Justice of Alberta (or others) would have to obtain specific authorization to act as an agent for an aggrieved party in order to advance a public interest complaint is not only absurd, it is inconsistent with the function of public office.

In the words of the CTLA, "[t]here is no basis for this [amendment] other than to disenfranchise those who are powerless to complain or afraid or who otherwise will not complain".

Section 43

Section 43 stipulates that if a complainant refuses or fails to participate in an investigation the commission may dismiss the complaint. Though I appreciate dismissal due to non-participation is permissive, the amendment is nevertheless impractical and arguably draconian in scope. As aforementioned, there may be any number of justified reasons explaining a complainant's non-participation in the complaint process. What is troubling is that a complaint can be dismissed even where evidence demonstrates the grievance to be justified. This defies both logic and common sense.

Mr. Speaker, I'm going to leave out some sections here as they don't pertain to the amendment specifically. The letter concludes:

At the end of the day, I question the Alberta Government's motive for the amendments. Politically, morally and legally, it is inconsistent to our purportedly free and democratic society to enact laws shielding law enforcement from accountability. This is what Bill 27: The Police Amendment Act 2010 accomplishes.

Though I [am] becoming more inclined to think our legal principles are little more than high sounding, yet empty and meaningless rhetoric, I nevertheless naively believe, as Ritter J stated in R v. Cornell, [2009] . . . that "Canada is not a Police State". When my Government proposes brazen laws such as Bill 27: The Police Amendment Act 2010, it becomes increasingly more difficult to hold fast to such naivety.

Mr. Speaker, I think that letter speaks volumes with respect to some of the specifics related to this bill. I completely concur with

the author's contention that this is a bill designed to lessen the accountability of our police forces, and for the life of me I do not understand why this government is taking that direction. Given all of the difficulties that we've seen over the years in the public cases that have come to light, of which I've given only one example tonight, it really speaks to the importance of making sure that citizens and people acting in the public interest have access to an effective and flexible opportunity to bring police misconduct, where it does exist, to a satisfactory conclusion.

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Calgary-Buffalo on amendment A2. Please go ahead.

Mr. Hehr: Well, thank you, Mr. Speaker, and I, too, will speak to the amendment brought by my hon. colleague from Edmonton-Highlands-Norwood. He's brought up some very good points there. Most of those points relate to the fact that our police officers hold a very high and honoured position in our society. When they break their trust and when they overstep their bounds, there have to be rules and regulations in place where people can go to at least be heard and to have justice be done.

This act goes a long way in taking away some of those rights, in taking away the ability of people to get a fair hearing and a fair opportunity to be heard. The member did an excellent job of pointing out that sometimes in society things go off the rails, that there are bad things that happen even with an organization as honourable and well respected as the police. When that occurs, we have to be there to provide opportunities for civilian oversight, for the police to be held accountable. To have any ability for them to do their jobs, this is for their benefit as well. If people lose trust and faith in the police, they lose trust and faith in their government, and by extension they lose trust and faith in democracy. So that's why bills like these are important.

In my view, we are better off erring on the side of caution by allowing for more cases to be heard. I heard earlier that one of the things that the hon. minister heard in his travels was that, well, they wanted a case to be heard in quicker than five years. I agree that that's far too long. But the answer is not to make the process easier; it's to make the process better.

Either way, we need to then hire more people to do some investigative work. Give the LERB or other institutions the tools necessary to complete investigations inside of two years or less, to go forward and say, "We're going to invest in protecting the public," not simply ignore what is happening and say, "Let's try and get rid of a few malcontents" because it's easier. No. In my view, that's wrong. In some cases you can see where in the name of expediency and in the name of getting things done a little quicker, this government has cut corners. I believe this bill was brought in to cut corners and to not allow for people to be heard, to maybe keep some complaints down, for them to deal with the complaints process more quickly.

But that's not what this bill should be about. This bill should be about letting people be heard. That's why I agree that this is a bad bill that is going in the wrong direction in terms of civilian oversight and in terms of protecting our police officers, protecting the public confidence in our police officers. The police officers do, in turn, that service to us to allow for a democracy, to protect us from people who – there are some not very nice people in this world, and they do sometimes some horrible things, and we need the police to protect us from them.

9:30

That is all well and good, but at the same time we need an avenue where people can be heard, and this bill is taking away that avenue. Given the importance of police, the importance of citizens wishing to be heard, I support this amendment and thank the hon. member for bringing it and would encourage all members to support it.

Thank you very much, Mr. Speaker.

The Deputy Speaker: Any other hon. members wish to speak on the amendment?

Seeing none, the chair shall now call the question.

[Motion on amendment to third reading of Bill 27 lost]

The Deputy Speaker: We'll go back to the bill. Any hon. member wish to speak on the bill?

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

[Motion carried; Bill 27 read a third time]

Government Bills and Orders
Committee of the Whole
(continued)

[Mr. Cao in the chair]

The Chair: The chair would like to call the Committee of the Whole to order.

Bill 24
Carbon Capture and Storage Statutes Amendment Act, 2010

The Chair: Are there any amendments or questions to be offered? The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Chair. I'm glad to have the opportunity to rise and speak in committee on Bill 24, Carbon Capture and Storage Statutes Amendment Act, 2010. I'm very frustrated by this bill because I as the Environment critic and my caucus do not object to carbon capture and storage or carbon capture sequestration per se, but we're very uncomfortable with this bill for a number of reasons. Let me just go through some of them.

The Minister of Energy in his opening remarks in second reading talked about how the International Energy Agency in their report from October of 2010, Carbon Capture and Storage: Legal and Regulatory Review – I'm sorry; I don't have the *Hansard*, so I don't have his exact remarks, but he gave me the impression that this was a stamp of approval from this agency. I asked him for a copy of the report, and he was kind enough to provide it for me immediately. Then, being the difficult gal that I am, I actually read it. You know what? It actually doesn't provide a stamp of approval. It's an arm's-length observation of how it has gone in different places.

I just want to quote from the article on page 9. This is talking about just generally gaining public acceptance. It's a little paragraph on how sometimes that's not as easy as it looks. They're using Germany as an example here.

> Germany provides a striking example of the impact that public opposition can have on CCS regulatory frameworks. The German federal cabinet approved a draft CCS law in April 2009. Public consultations, which had begun before the cabinet's approval and continued with the German federal parliament into May, highlighted concerns over the risk of leakage, contamination of drinking water, safety and liability, and land rights. This led first to the inclusion in the draft law of a "sunset" clause, requiring the law to be reviewed in 2015, and then to the law being postponed until after the German federal elections in September 2009. The new government ex-

> pressed its intention to implement the CCS law promptly in its coalition agreement of October 2009, but has acknowledged the importance of public acceptance. The draft law is [now] being amended to enhance the rights of site owners and emphasise that CCS must be technically proven before it is commercially applied.

Very interesting what someone a little bit ahead of us but not that far ahead of us has been going through.

I looked at what it had to say about Canada and Alberta. In fact, it talks about: "The federal government has the ability to regulate greenhouse gas emissions under the Canadian Environmental Protection Act, 1999." Well, yeah, it could be read that way. It goes on to say that overall the government supports the approach to climate change through harmonization of climate and energy policies, particularly looking at the United States.

I looked for the section on Alberta, and it says, "Alberta has well-developed regulatory frameworks in the oil and gas sector that are applicable to CCS projects." Well, again, yes, but the government is actually having to enable itself to enter this. So we had previous legislation which set out the money part of it, and we have this bill in front of us, which is actually setting out how it would enable this to happen.

Then it talks about that the Alberta CCS Development Council, with members from industry, academia, and government, concluded in its March '09 report that the regulatory preparedness was well advanced, and then it makes a number of recommendations on how outstanding issues such as pore space ownership and long-term liability could be addressed. So this is actually a straight-across review of what's going on. It isn't a stamp of approval by any means. It just says that this is where it's at, not as the minister was, I believe, trying to get me to believe.

When we look at the particulars of the bill, the first time I spoke to this, I spoke about – one of the areas that I'm truly conflicted about is contained in this bill, and in fact I just referred to it because it's around the ownership of that pore space. This is where I'm conflicted because I have some problem with the government kind of swooping in and taking something that people had for a long time believed they owned, and no one had disabused them of that belief. Now, when it gets important and/or it has money attached, the government says: well, no, actually we're taking all of that. So this is specific to the pore space.

I do believe generally in as much as possible communal ownership of our natural resources. It also makes sense to me that we would share, that all Albertans would share in this ownership, and it wouldn't be owned by a few people who happen to be standing on the right spot of land at the right time in our history to be able to derive economic benefit for themselves only from this process. This is where I struggle with this, because I'm not really comfortable with just coming to somebody and saying: "You thought it was yours, but – ha, ha; guess what? – it's not. We're taking it."

9:40

On the other hand, this is a newly discovered source of revenue, it's a newly discovered source of energy, and that is something that should be shared. I'm not comfortable with the way this has been directed. I think I'd be more comfortable if it acknowledged some sort of expropriation and it acknowledged that that's, in effect, what it was doing or if there was some compensation. I admit that when you start looking at compensation, it could become overwhelming to the point where everything stalled. I do believe that CCS is a useful tool but one tool, not the whole darn thing.

What I keep seeing this government doing is: "No problem. Keep doing what you're doing. Business as usual. Drive your cars like crazy. Don't stop whatever you're doing now. Don't worry about conservation. Don't worry about alternative energy. We're not going to fund any of those things. But, hey, we've got this be-all and end-all where we're going to capture the carbon and stuff it underground. If we're really lucky and in the right place, we're actually going to use it for enhanced oil recovery. If we can get it stuffed down in the right place, it's going to get underneath the oil and push the oil up that we haven't been able to recover." I just think: hmm, that's not quite the way I'd like to go about things in Alberta.

I've thought about this quite a bit, and I think that supporting the bill demonstrates a support for some things that, again, I don't think are right and things that I'm struggling with accepting in this bill; that is, the government's decision to accept long-term liability, which is totally unknown in scope, on behalf of Albertans without acknowledging the amount of security that will be provided by the industry. The government said: well, in order to get industry involved in this and get them onboard, we're going to accept the long-term liability.

Well, that also means they're accepting risk for Albertans. I don't see any good explanations of how much risk or liability they think they're going to be accepting, just: come on down; we're going to accept it. I think this is where we as legislators have to be careful what we commit ourselves and what we commit future legislators to on behalf of the public. Because this is still fairly unknown, I'm not convinced that we won't be incurring a huge liability on behalf of current and future Albertans.

Let me go to the next stage of that. Based on the kinds of reclamation costs that we have seen thus far, I would argue that this government is never vigorous enough in setting out what kinds of money can be collected and put into a fund to pay for future reclamation. We have the example of how much Syncrude spent on its one acre of land called – no one around me remembers. They spent hundreds of thousands of dollars on that one acre of land. Yet the amount that they collect per acre from most involved in the industry is in the tens of dollars, not the hundreds of thousands of dollars.

Right there we see a huge disparity between how much it actually costs today to reclaim land or to reposition it or to return it to something that's useful, however you want to describe that, versus in today's dollars how much we're collecting. There's a massive disparity there. Assuming that the government is going to keep operating the same way, we can expect that disparity to again show up in things like CCS and other kinds of resource development that they're involved with for any kind of reclamation or restoration.

Orphan wells is another one, and that's a perfect example of how stuff gets away from us. Again, it never occurred to people that companies would go bankrupt, they'd get bought, they'd get bought again, they'd split, they'd merge, they'd get bought again, and somewhere down the line everybody forgets where the wells were for, you know, company A now that you're in subsidiary M. They seem to have lost track of this. Now the liability is carried by Albertans to be able to reconstitute this. I just think it's very problematic, and I'm not willing to support that assumption that is in this act that the government should accept that long-term liability.

Secondly, the collection of the security that's meant to cover those costs of reclamation. What we're doing today is grossly insufficient, and I don't see a commitment to increasing that or to making it more reflective of the actual costs of reclamation. That's the second reason.

The third reason is the long-term costs associated with captured carbon. I've had this disagreement with people pretty close to me where I've said, "Oh, jeez; I still think it's unknown," and as soon as I said that, people jumped on me, saying: "No, it isn't. We've got something happening in Weyburn, Saskatchewan. We've got

something in Texas. We've got something happening all over the place, and it's all great." But none of these have been operating for very long. I think the longest one we've got is 20 years or maybe 30, but lots of them are much less than that.

In going through this report, that the Minister of Energy was kind enough to give to me, from the International Energy Agency, a surprising number are passing legislation and starting to get into this now. The number of dates that show up as 2009, 2010, expected to pass legislation in 2011 as this review looks across the world is very high, and when you do find an older piece of legislation, it's like I referred to in the Canadian example. Well, yes, it's environmental protection law, which can be used in certain circumstances to apply to CCS.

The fourth example is the issue I talked about of the government's removal of landowner rights. The pore space is what we're talking about here. Doing it without any kind of compensation really rankles me.

Lastly and, I think, most important is the fact that this is enabling legislation that is a shell bill, so we're getting no details in here. Everything is about: it's being decided by the minister. It all comes back to the minister, to the Lieutenant Governor in Council, or whoever is empowered by the minister. Everything else is going into regs. I just think that with something this big, this new, and this important, it should be coming out of this Chamber, not out of a government cabinet discussion.

You know, the golden rule is very helpful here, Mr. Chair. I know it never crosses the minds of my hon. colleagues opposite that they would be sitting over here some day, but use that golden rule and think about how happy you folks over there would be if I got to make all of those decisions behind that same door over there. I don't think you'd be very happy about that. You'd be wanting it to be discussed in here and to be able to bring in the opinions of your constituents and to be able to hash it out on the floor here. I don't think you'd be too happy about me making those decisions behind that closed door over there, with you having no input. So the golden rule is very interesting to apply and see how it fits. I don't think that one would fit all that well with you.

Because of those issues – well, I'll be interested to see the rest of the debate on this particular bill, to see if anybody can convince me otherwise. To my mind, there are too many things stacking up against support of this bill and not enough stacking up in favour of supporting the concept of CCS. It doesn't mean that I don't support the concept, but I really have trouble with the implementation of it, the way this particular government is going about it with Bill 24. So I look forward to the give-and-take of the Committee of the Whole debate on this bill, and I will take my seat and look forward to the issues being brought forward by others.

Thank you.

9:50

The Chair: The hon. Member for Calgary-Glenmore on the bill.

Mr. Hinman: Yes. On the bill at this point. This really is an important bill for Albertans. There's no question that this is one of those bills that the government has brought forward that's going to have long-term impact on Albertans, Alberta taxpayers, and on those people who own the land. This bill is about basically expropriating the rights of pore space from surface owners and saying: "Well, don't worry about it. Everything will be okay. We're going to take on the liability. It's nothing to concern yourself with." Everything in the world points to that there is a lot to be concerned about.

It's interesting that just this past month the Shell carbon capture project in Barendrecht, Holland, was cancelled even though 90 per cent of the cost was paid for by the Dutch government. The Dutch were giving a subsidy of $100 per tonne of carbon dioxide. My question would be for the Minister of Energy. Why are we giving a subsidy of nearly $850 per tonne of carbon dioxide? The math doesn't add up. The carbon capture math of this government is drastically different than the math of other countries. Holland was offering that $100 a tonne subsidy, which paid for 90 per cent of the project. Why is this government paying $856 per tonne for the project here? Shell is a leader in marketing carbon capture and storage projects around the world. Why would this government offer eight and a half times what the Dutch government offered and almost eight times the cost of the project that they're working on?

This government is giving to a few companies interested in the carbon capture rather than to a level playing field. But carbon capture projects are being killed around the world and could derail CCS entirely. The citizens of Holland, Germany, and the United States are speaking out against CCS. To the Minister of Energy again: why would we be expediting this bill through the House when the science is definitely not proven? The citizens around the world are speaking out, and the giving of a gift of $850 per tonne to a few chosen companies is very concerning.

The Chicago Climate Exchange will be closing its doors on November – well, I think it did a couple of weeks ago. Again, we have to ask: what's happening here? We've been talking about climate change. This government has said that this is our solution to climate change and those people that are speaking out against it. But, boy, in the last year, since the Copenhagen accord, things have really changed.

I'd like to read an article from the *National Post* by Adrian MacNair on the 26th of November, 2010. He talks about three kinds of people on the Internet that you don't want to have a conversation with. He says:

> The last – and in my opinion the most fervent – believers are those who worship at the altar of anthropogenic global warming. These people are so obsessed with their cause you get the sense they would imprison unbelievers if they had the power. And that's certainly been suggested by some of the high priests.
>
> Otherwise likeable, ordinary folks can turn suddenly pretentious and indignant if you so much as joke that a cold snap in Vancouver means global warming went on vacation. This is an affront to their very belief system, and they will quickly remind you that global warming can result in more snow and cold just as readily as it can result in more drought, desertification, sand storms, windstorms, pine beetles, floods, forest fires, and earthquakes.
>
> It isn't that I'm surprised anyone would believe in man-made climate change. It's a readily accepted theory by a majority of people and the scientific community. I would, however, caution that we continue to use the word theory in discussing the topic.
>
> "I don't believe in global warming, I believe in the facts," the zealot will pontificate proudly.
>
> Well, sure, but that depends on what sort of facts you're presenting. It's difficult for a lot of people to believe the hype about global warming when scientists consistently get their predictions wrong. And sometimes the scientific community doesn't just get it wrong; they don't even come close.
>
> Scientists had been warning for years about the extinction of salmon in British Columbia. In 2007 senior fisheries biologists in Ireland predicted pink salmon stocks on the mid-coast could soon be expected to collapse into localized extinction because of sea lice infestations.
>
> This year 34 million salmon returned to the Fraser River for spawning, turning science on its head and leaving the prognosticators running for their labs. Experts who had predicted 1.5 million salmon or less were left more than a little puzzled.
>
> It's now suggested many of the salmon extinction reports were spread by activists hoping to damage the concept of B.C. salmon

> farms for moralistic reasons rather than scientific ones.
>
> The green fundamentalists who call for an immediate restructuring of post-industrialized civilization to cater to their theories are absurd individuals. They will shun you for disagreement, and even blacklist you for the audacity of unbelieving. I have met more humourless, fanatical, devoted environmentalist demagogues than I have of the religious equivalent.
>
> Curiously, the punishment they promise unbelievers is death by flood, drought or starvation. It's like reading the book of Revelation.
>
> The best thing to do when somebody goes on about the Armageddon is to smile, nod approvingly, and change the subject. Otherwise you risk the possibility of being called a heretic and burned at the metaphorical stake.
>
> I have a live and let live attitude. If you want to believe that glacial meltwater spells the doom of the planet, so be it. Just don't force me to wear the uniform and march in the parades with you.

That was by Adrian MacNair, a very interesting article in the *National Post*.

Mr. Chair, there are a lot of questions right now. What's happened, again, in the last year with the facts that have come to light is rather scary when we look at what's been presented in the past and what we currently have before us in this bill, again declaring that if we don't do something right away, the glaciers are going to melt, the sea waters are going to come up, and the world as we know it is going to come to an end.

It's interesting, again, when we look at what's happened. England is a classic place that we can look at because they've been working quite diligently on this. Their leader over there said that they were going to do something about it. They were going to spend a lot of money. That's starting to fall apart over there. The people are starting to realize, you know: how much can we afford to spend on that?

I'm just trying to find the data on England. I think it was a hundred billion dollars. Here it is. The IPCC is the United Nations body that in 1995 allowed a single activist scientist, Ben Santer, to rewrite part of the key chapter 8 of the second assessment report, Detection of Climate Change and Attribution of Causes, in alarmist terms, changing a previous wording that had been agreed to among the other scientific authors. The rewriting was undertaken in order to make the chapter agree with politically contrived statements in the influential summary of the policy-makers – garbage in, garbage out – applied to computer modelling endeavors, applied to the economic studies that purport to give policy advice against the threat of future climate change.

How effective? According to the article in the *Times* of London, September 30, 2008, the U.K.'s plans to cut carbon emissions by 20 per cent by 2020 would reduce the world's temperature in 2100 by four ten-thousandths of a degree centigrade. Now, one might argue that it's still worth while. If everyone in the world did it, that might add up to something. But here's the number you need to begin your additions with. This plan is expected to cost as much as £100 billion.

Mr. Chair, as we look at this project and what they're trying to accomplish with Bill 24 and the $2 billion that the government has put into carbon capture and storage, we find that it's an immense expense. The question is: how much good are we going to get out of it? I mean, earlier the opposition members talked about that by 2015 we'll be storing five megatonnes. According to their statistics and many other researchers in 2005 there were 240 megatonnes of emission. That means that we will store a total of 2 per cent of the emissions if everything goes as planned.

10:00

I have to say that I'm not impressed with the payout and the tremendous expenditure of taxpayers' dollars. I am a little bit curious about how many emissions will be created by the storage process. I've talked about that before and the fact that many of those emissions that we can't capture and store come from vehicles. Even on a provincial scale the amount that will be stored is not that impressive considering what else we could do with this money. What's even more humbling is the amount that we think about, the increases, coming out of growing economies like Asia.

But we're hardly alone in pursuing expensive projects for the sake of greenwashing our government's record. Again, I referred to England and to Europe, the money that they're spending there, and a little bit about the Royal Dutch and what they're trying to do in Rotterdam. It's interesting when you look at that because Royal Dutch Shell really has been the leader around the world in carbon capture and storage.

I just want to go a little sideways here for a minute. We're talking here about carbon capture and storage.

Ms Blakeman: A minute?

Mr. Hinman: Well, then I'll come back.

Ms Blakeman: You were going sideways for . . .

Mr. Hinman: For 11 minutes, 32 seconds.

Ms Blakeman: That would be right.

Mr. Hinman: CCS is a long way from the government's hope of recapturing – I can't remember what they were saying. Is it a hundred billion dollars in oil, they think? Or is it $10 billion? What did they say in this project? I think a hundred billion. The point they talk about, though, is enhanced oil recovery, which is very different than carbon capture and storage and how much we can put in. Often many members refer to the Weyburn enhanced oil recovery, and that's very different, where they actually have a very metered effect on how much CO_2 they're putting into the fields to flood that to enhance the oil recovery. The two projects often seem to get combined into one, that it's the same, and it isn't. Carbon storage is extremely different than enhanced oil recovery.

It's interesting. If, in fact, enhanced oil recovery is cost-effective, we would never need to subsidize any of these oil and gas companies because they'd look at the cost of injecting the compressed CO_2 versus the recovery. The government talks about the huge multiplication factor and how much money they're going to make. Well, if they're making that, whether it's a 30 per cent royalty – I'm not sure where it's going to be in the future – well, then, that would have to relate to corporations that are making huge profits.

Mr. Mason: Profit is not a dirty word.

Mr. Hinman: That is correct, hon. Member for Edmonton-Highlands-Norwood, profit is not a dirty word. That's what makes the free world function. We can do our philanthropy for those areas of the world that have dictatorships and other tyrannical leaders that are suppressing the people there and their rights.

It's interesting, to go back now to Rotterdam, that the residents and the town officials are opposing the plan, citing safety concerns and the project's experimental nature. An independent panel appointed by the national and provincial governments to assess the project said in April of last year that the plan sufficiently addressed safety concerns. The bill, again, doesn't. The people rose up there, and that now has been cancelled in an area that has been leading the world. Again, that was carbon capture and storage.

A major concern is and will continue to be: will this really remain stored under the ground with no worries? Most places in the world now are saying: "Well, gosh. If we're going to have to take on the liability, I'm not sure I want to do this." The sad part about this bill is that it's about confiscating the land of Albertans to pump CO_2 under their houses or their property. How is this kind of story going to reassure them? The fact of the matter is that when that CO_2 gets down into the storage facilities, if it comes in contact with water, it becomes an acid and starts to eat away at the cavity in which it's being stored. There are just many, many comments that have been discussed. Again, we don't know what the long-term effect is there.

It's interesting that Bill 24 talks about: oh, this storage is permanent. I think it's anything but permanent. It's just got so many questions and concerns for Albertans other than the economical ones. We need to really address and ask those questions. One of the points that this bill addresses, and whether properly or not is why we're debating this, is the clarification over ownership of the pore space in which the sequestered carbon dioxide is injected. It's just our case that this is wrong for the government to confiscate this and say: don't worry; everything will be okay.

Allocation of long-term liability for the intended permanent sequestration of CO_2, again, the intended permanent sequestration. Who is going to have the long-term liability? Again it's going to be the taxpayers here. Does it address the disappearing corporation and the creation of a postclosure stewardship fund? You know, we've got the orphaned well fund. Many people will argue that it doesn't even come close to the actual cost of if we were to clean up all the orphaned wells. What kind of a cost and how dangerous would it be to in fact put this into the ground and then wonder: well, what's the cost when the first leak appears? What's going to be the cost? What can happen? We know that death is certainly imminent if you're around and you get a blanket of CO_2 hugging the earth's surface where you're trying to live.

Mr. Chair, there are just so many concerns that need to be addressed in this bill and, again, questions that haven't been answered. That's probably the biggest disappointment that I've had in this government in the time that they've looked at this. What I would consider the duty of the government and the Energy minister is to actually produce the research papers, the reasons why, the cost-effectiveness, the economic cases of all of these things to say: look; this is where we expected to go. Yes, there are numerous reports, and there have been lots of studies done on this, but they're not complete. They usually actually end up creating more questions than answers that we need to look at.

I talked earlier about and I'll repeat it again because one kind of forgets all the studying and the notes done versus what we've presented here in the House but that we really want to look at cleaning up our atmosphere and the pollution – you know, the SOx, the NOx, and VOCs, the volatile organic compounds – that we know without a doubt the problems that these substances create when they're put into our atmosphere. We know currently that there is a huge spread, I guess I want to say, on what we're releasing into our atmosphere if we run combined-cycle natural gas generation versus the old coal plants that we have going here in the province, that are currently producing 60 per cent of the electricity in the province. We should be looking at major ways of cleaning up our industrial plants rather than looking at a small area where we're going to spend billions of dollars and not know if we're going to make a change in the temperature in the earth of less than four ten-thousandths of a degree in the next 50 years.

When we look at the balance on many of these things, we fail to ask the real question: is this the wisest and best place to spend taxpayers' money? It just seems like we're blinded by that, that that isn't something to even consider, that all we need to do is push ahead and say that we're going to capture all of the CO_2 when, in fact, we're not able to do that, and to act like: "Well, now we're the heros here. Look how much money we're spending." And bragging about it. This government is notorious for bragging about how much money they're spending on hospitals, the new beds they're building, how many miles of roads they're building, overpasses they're building, but they fail to ask the question: are we getting value for our money?

10:10

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

Mr. Mason: Thank you very much, Mr. Chairman. I'm always fascinated by the speeches of the hon. members for Calgary-Glenmore and Airdrie-Chestermere when it comes to the question of climate change. You know, I think it's an alternate world view, and in the past I have called it akin to the Flat Earth Society. But there were three breathtaking logical lapses in the hon. member's last comments which I want to address. Then I'm going to introduce an amendment because I agree with them that this is a pretty bad bill, and we need to oppose it.

The first one is that because you call something a theory that it isn't proven, and that's not necessarily the case. If he doubts, for example, the theory of gravity, I would invite him to take a step off a very tall building and see if, in fact, the theory of gravity is merely a theory because it's called a theory, that it's not necessarily true. This argument is often used to counteract or argue against the theory of evolution as if it was not essentially true and proven because it's still called a theory. Science has a couple of meanings for theories. One is an untested hypothesis, and the other is a body of well-formulated and proven ideas that explain in a very reliable way certain phenomena.

He's also argued that because science can be wrong and scientists can be wrong, we therefore cannot accept scientific advice or scientific predictions. He used, for example, some misses in terms of predictions for the salmon run on the west coast. It is logically not correct that because science can be wrong, it therefore is completely unreliable and we can't depend on it. Certainly, in this case I think there is plenty of good science to indicate that the theory of climate change is correct, that it is caused by human activity primarily. I think the consensus among scientists is overwhelming.

The third point I'd like to make is – and I don't want anyone to interpret this as an argument in support of this bill or this carbon capture and storage project – the sense that because something has a very small, incremental impact that it's not worth doing. That has to be measured against the impact of not doing something. In this particular case it means, essentially, the deaths in future generations of billions of people and perhaps unforeseen consequences in terms of that.

Certainly, the glaciers are melting. Not universally but in almost all places, certainly in Canada, glaciers are melting very quickly. I invite the hon. member to pay a visit to the Columbia Icefield, between Jasper and Banff. When I was a small boy, my family visited that. I can see how much that glacier, one of the major glaciers in the Rocky Mountains, has receded just in the time between when I was a small boy and today. I know that's a long time, but in geological history it's a fraction of a second. You can see relentless loss. In fact, I think the hon. member's riding is on the Bow or the Elbow River, which is glacier fed, and the glacier, I believe, that feeds the Bow River has a life expectancy due to climate change measured in a very small number of decades. Then there are going to be some serious water shortages in southern

Alberta. The glacier that feeds the North Saskatchewan River has, I think, somewhat less than a hundred years left before it's gone, and the North Saskatchewan River will then become a seasonal river, with very low flows except in the spring. These impacts are very severe.

The question, though, is whether carbon capture and storage is the right way to go, and I don't think it is, Mr. Chairman, because you're not really getting at the problem. I have put my views on the record a number of times with respect to that.

As much as I enjoy all of my colleagues' company, it's not my intention to do so for six or eight hours from this point, so I would like to put my amendment on the floor so that we can debate it, and I can go home. This has to do with the information that you're allowed to have as a result of the application of this act. As it now stands, information required under this act – that is, reports that are required to be filed with the government – are not FOIPable, and the people don't have access to it. Now, this is a small point, but I believe that people should have access to information, and it should not be exempted.

I'm going to move on behalf of my hon. colleague the hon. Member for Edmonton-Strathcona that Bill 24, Carbon Capture and Storage Statutes Amendment Act, 2010, be amended in section 2(18) by adding the following after the proposed section 114:

> 114.1 Notwithstanding section 50 of this Act, the Freedom of Information and Protection of Privacy Act applies to a record or other information collected or generated under this Part.

I'll provide that to the table.

The Chair: We'll pause for a moment for the amendment to be distributed.

This amendment is now known as amendment A2.

Hon. member, please continue.

Mr. Mason: Thank you very much, Mr. Chair. Well, the amendment is that we amend the act in section 2(18) by adding the following, numbered 114.1, under the proposed section 114: "Notwithstanding section 50 of this Act, the Freedom of Information and Protection of Privacy Act applies to a record or other information collected or generated under this Part."

The purpose of the amendment is to ensure that certain reports filed by lessees could be obtained through a freedom of information request. Section 50 of the Mines and Minerals Act exempts most information obtained under that act from the FOIP Act.

This amendment would add to section 2(18) of the bill, which begins on page 10 and continues to page 18; 2(18) would add part 9, entitled Sequestration of Captured Carbon Dioxide, to the act. Within that part lessees involved in CCS projects are required to file a number of reports with the government, reports which would not be available to the public through FOIP. These reports are under the proposed section 115(3)(a) on page 11. A lessee who has entered into an agreement to drill an evaluation well shall "submit a monitoring, measurement and verification plan."

10:20

Similarly, in the proposed section 116(3)(a) a lessee who has entered into an agreement to sequester carbon would be required to submit the same type of plan.

Finally, lessees would be required under the proposed section 120 to submit an application for a closure certificate.

Mr. Chairman, I will argue that there is a clear public interest in knowing the particulars of plans dealing with CCS projects. Members of the public should be able to make a request for access to such plans under the provisions of the Freedom of Information and Protection of Privacy Act, and I would urge all hon. members to support this amendment so that that goal can be accomplished.

Thank you.

The Chair: The hon. Member for Edmonton-Centre on amendment A2.

Ms Blakeman: Yeah. I think this is a good amendment because from the reading I've done, public buy-in, public trust, is a big part of the success of this.

I actually would have said that they're just supposed to post it or put it online. I don't know why we always allow stuff to be hidden, and then we allow for a FOIP to be put in place. It's just faster and cheaper if we just put it online, where people can go and see it for themselves. I mean, what's the big secret here? If this is a good system and it works, post it.

At the very least allow for members of the media, members of the opposition, members of the public, members of the industry to be able to apply through freedom of information and protection of privacy to get some of these plans so they could see exactly what was happening with the monitoring, measurement, and verification plan or that the plan, in fact, had been approved or that the reports that were expected for monitoring, measurement, and verification had been submitted or that the work requirements had fulfilled the agreement.

That's all perfectly reasonable, and that's what appears under this bill's section 2(18) under the sequestration of captured carbon dioxide, part 9. It appears between definition sections 114 and 115.

If you go on, section 116 is talking about agreements that grant the right to inject this, and the lessee of an agreement shall obtain a well licence and should in accordance with the regulations submit monitoring, measurement, and verification plans. They have to comply with these plans that have been approved. They have to provide reports. They have to fulfill the work requirements. It's the same checklist that appears in each case and, again, under section 120, which is the closure certificate, showing that they have complied with the requirements there. All of that should be readily available. Again, I would argue it should all be posted on the website, but at the very least it should be available through FOIP so that anybody can see what's going on here.

You know, having just gone through a review of the FOIP Act, one of the excuses that's used for not giving people faster, better information is that it's onerous for the group to try and find that information. One of my suggestions was: "Well, make it easier to post it on the website, and then everyone could see it, and it doesn't cost you any money to go looking in the boxes in the basement for it."

Yeah, I'll happily support this amendment. I think it's a good one, and it's certainly doable. It's all about transparency and accountability, and it allows the public to go searching themselves and finding out how things are going with these implementation plans.

Thank you, Mr. Chair.

The Chair: On amendment A2, the hon. Member for Calgary-Glenmore.

Mr. Hinman: Yeah. I would like to speak in favour of A2 as well. I'm not sure; I think that perhaps the hon. Member for Edmonton-Highlands-Norwood is the one that's stuck on the flat earth, but that's all a perspective view. When it comes to openness, accountability, and transparency, I think that we can agree that it's essential

for a free society to have freedom and access to that information. It's a concern, especially when this is such an unknown.

The monitoring of what's happening needs to be there, Mr. Chair. What causes the problem is when people can hide the fact of whether there has been a leak or whatever is going on, where the trust of the people in a government is lost. It just makes good sense in a democracy to ensure that the people are informed and have access to all this information.

I would have to agree with the hon. Member for Edmonton-Highlands-Norwood, and I would even have to agree with the Member for Edmonton-Centre in that it should just be publicly posted. We shouldn't have to be filing for information all the time. She rightly mentioned – and I believe she sat on that committee – that the privacy act is overwhelming. They extended the time that the Privacy Commissioner can react from 90 days, I think, to a year because they can't get the information that's being requested out quick enough. We don't want to continue adding to that problem and costing more money to hire individuals to be retrieving this information to produce it for reporters, opposition, the public at large.

Mr. Chair, I hope that the government will accept this amendment so that we can ensure that the public and all the people of Alberta are able to follow and see the results and what's happening with CCS if, in fact, the projects go ahead.

The Chair: On the amendment, any other hon. member? The hon. Minister of Energy on the amendment.

Mr. Liepert: Mr. Chairman, I hesitate to get involved in the debate on this amendment because I don't want to drag it out any longer than I have to. By the member's own admission he wanted to speed up the process so he could go home. I'm disappointed that the Member for Edmonton-Highlands-Norwood won't be around for the remainder of the debate on this bill if that's what, in fact, he is proposing to do.

I would encourage the Assembly to not approve this amendment, Mr. Chairman. There are a couple of things that are being asked for here. We have to remember that this legislation before the House today is enabling legislation that in all cases involves a partnership with the private sector. These are projects that require technology that may be very much proprietary to the participants and the partners in these projects.

We have made it very clear that there are a number of routes that we will undertake to ensure that the progress on these projects is well defined for the public and for members of this Assembly. There is no need to establish this in legislation.

With those few words, Mr. Chairman, I would encourage the Assembly to defeat this motion and grant the member his wish that he can go home.

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

Mr. Mason: Thank you, Mr. Chairman. Just on that, to the minister: is it not the case that proprietary information is already exempt under provisions in the Freedom of Information and Protection of Privacy Act?

Mr. Liepert: Mr. Chairman, that may very well be the case. As I said, we will be more than happy to ensure that the information of government will be provided.

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

Ms Blakeman: Thanks very much. I'm always delighted when the Minister of Energy engages in the discussion. I always find him quite knowledgeable about his area and certainly lively.

Where exactly in the sections that have been talked about covered by FOIP would the proprietary part come out? When we talked about the lessee of an agreement under section 116, "submit a monitoring, measurement and verification plan for approval," where in there would be the proprietary information exactly? So you submit, you comply with, and you provide reports on a monitoring measurement and verification plan. Where in there, exactly, would you be giving away proprietary information?

10:30

The other section where this came up was around well licences and approval of the board under the Oil and Gas Conservation Act prior to drilling or using a well for the purposes of this section. Again, the lessee, in accordance with the regs, is to submit, comply with, and provide reports on monitoring measurement and verification plans.

The final section that was covered by the request was under section 120. This is a closure certificate showing that the lessee has complied with section 119, which is cessation of injection, that they've complied with the reclamation requirements, and that all abandoned wells and facilities have been done in accordance with the requirements. Then we get into the closure period and the conditions specified in the regs and that it's behaving in a stable and predictable manner. So where in those three sections would you be giving away proprietary information?

Second to that, you know, one of the things I've learned since I came here is that there's a difference between the process and the ingredients; for example, what is used in the fracking substance that's injected. In the States they require you to say what's in it but not the recipe, how the components are mixed. Fair enough. At least you know. You can read and see whether they used diesel oil or not. But you don't know – that's like saying, "Here are the ingredients to Kentucky Fried Chicken," but it doesn't tell you how to mix it, in what proportion, so you're not going to end up with the same recipe. That's the second piece of this. If the minister objects to this on the grounds that it's going to interfere with proprietary information, where in here is the proprietary? Secondly, who's to say that the proprietary information can't be given in a way that gives us the information we need without jeopardizing their actual recipe? If I can use that wording.

Thank you.

The Chair: Does any other hon. member wish to speak on the amendment? The hon. Member for Calgary-Glenmore on amendment A2.

Mr. Hinman: I guess I'd just like to get up and speak once more because I was disappointed to hear the Energy minister say, "Let's just go to the question," rather than answering the hon. Member for Edmonton-Centre.

This isn't a problem about proprietary information. This is the government again not doing its due diligence in producing legislation that ensures the safety of Albertans in the storage of CO_2. This is the crux of the problem with this bill in that we don't know what it's going to do. We need to monitor those facilities, and it needs to be public. I would sure like the minister to get up and answer the question on proprietary information because that was not the intent of or what is going to be affected by this amendment. I would hope that they could come up with a plausible explanation rather than "Let's just vote on the question" so that everybody can say yea and not think about it anymore.

The Chair: Does any other hon. member wish to speak on the amendment?

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

[Motion on amendment A2 lost]

The Chair: We shall now go to the bill. The hon. Member for Calgary-Glenmore on the bill.

Mr. Hinman: Yes. Back on the bill and the multiple problems of this bill again, I guess, to address a few of the concerns of the Member for Edmonton-Highlands-Norwood before he leaves, this is very much the untested hypothesis that we're talking about on CCS. I need to ensure that you realize that. The astuteness of the member to say that the glaciers have been melting in his lifetime – I think almost everybody in this House realizes that the entire province, down to the southern region, was covered with a glacier and that for millions of years it's been receding. That isn't some new science that realizes: oh, my goodness, it's been receding. I mean, it's been doing it for millions of years, and we're at that far end of the cycle. In the '70s – I know the hon. member is old enough to remember the '70s – we actually thought the glacial period was turning around and we were going to be covered in ice again. Those scientists at that point had their hypothesis that this was the dilemma we were in.

So it is an unsettled science. As much as I read in the *National Post* article where Adrian very much is concerned about the zealots on this and the ability to challenge, there have been more and more scientists who have come out and spoken out against the problems of just reacting to this in a simplified manner and saying: oh, no, it's anthropogenic. The climate is changing; there is no denial of that. The Earth has gone through constant change in climate.

I spoke last time about the 900 million year chart of the Earth and how it goes through a cycle every 150 million years. It's been well documented in the cycles that go on here on this Earth inside the Milky Way Galaxy, so it's just ridiculous to think that all of those other things have no consequence anymore and that it's just the anthropogenic CO_2 that's coming out.

What we really need to be doing here – and again this is a dilemma with the bills that this government continues to bring forward. They're ill conceived, they're poorly thought out, and they don't look at the long-term consequences. You can go through bill after bill that this government's been passing. They are not in the best state that they should be, or perhaps more importantly, most of these bills should not even be in front of the House to be passed in this fall session.

It's very disappointing that this bill wasn't brought forward in the spring for Albertans to have a longer time to address it. But at this time, because there is very little question that this government is pushing this through, what we'll try and do is amend a bad bill that is not going to protect Albertans or the future and at least start by correcting some of the terminology and the problems with this bill.

I would like to propose an amendment at this time to Bill 24.

The Chair: We shall now pause for a brief moment while the pages distribute the amendment. The amendment is now known as amendment A3.

Please proceed, hon. Member for Calgary-Glenmore.

Mr. Hinman: Thank you, Mr. Chair. I propose that the Carbon Capture and Storage Statutes Amendment Act, 2010, be amended in section 2(2)(c) in the proposed clause (y.1) by striking out "permanent" and substituting "long-term."

In here it says that sequestration means permanent disposal. That simply isn't true. I mean, even going back a year and a half ago, in *The Economist* – I can't remember whether it was March or April – they talked about a 100-year lifespan of many of these storage facilities, and they estimated that 60 per cent of the CO_2 will have escaped within the next hundred years. I think that that's quite striking, to think that we would spend that much money for possibly a 60-year cycle. The point is that there are very few things that are permanent when it comes to building or containing or storing.

10:40

That's one of the problems with the nuclear industry. How do we permanently store the nuclear waste? There has been lots of debate about this, and now we're looking at declaring that we're permanently storing the CO_2. Mr. Chair, it's just one in a long list of problems with this. The question is: is there such a thing as permanent storage for CO_2? Are these caverns beneath Alberta, in the pore spaces that we have, a facility that we could possibly call permanent storage?

I think at this point I'll sit down and, hopefully, listen to the Energy minister and see if his response is amiable or whether he's opposed to this as well, Mr. Chair.

The Chair: Any other members wish to join in the debate on amendment A3?

Mr. Liepert: Well, I won't disappoint the hon. member. What's very clear in this bill, Mr. Chairman, is that it is the intention of this government. We are not skeptics, like those who sit in that end of the Chamber, who believe that somehow this storage is going to be leaking in 60 years. We believe it is permanent, and that's what it should say in the legislation. Members should defeat this amendment.

The Chair: The hon. Member for Fort McMurray-Wood Buffalo on amendment A3.

Mr. Boutilier: Yes. Thank you, Mr. Chairman. I'm just looking to see if anyone is saying anything over there now. They're pretty quiet. The Minister of Energy just simply said "skeptics." He's a politician, not a scientist. Clearly, we are not skeptics; we are pragmatists. We believe in what we're listening to and what we're hearing from our constituents. I'm proud to say, unlike the Minister of Energy, who can't say it, that my constituency is the oil sands capital of the world. In fact, I'd encourage him to visit. Maybe he can learn something from what's going on there. Actually, I have to credit the member because he did come. During the petroleum trade show he did come out for an hour or two. I guess that was good if you like an hour or two.

Having said that, I want to say that we are not skeptics. We are practical, we are pragmatists, and we believe in Mother Earth. We listen to our constituents. Mother Earth, by the way, was created by the Creator, believe it or not. Mr. Chairman, we are not skeptics. Contrary to what was being suggested by the Minister of Energy, nothing could be further from the truth.

The Chair: The hon. Member for Airdrie-Chestermere on amendment A3.

Mr. Anderson: Thank you. I find it really funny whenever a cabinet minister gets up and says, "we believe." Like, all 67 in lockstep: we believe. It really is like a little church group over there; it's really quite something. I would hope, in fact I know, that there are many people over on that side that are very much skeptical of the

debate, so for this minister to put words in the mouths of other members by saying "we believe" is really quite rich, as scientifically gifted as the member is, of course.

I know this is going to be a foreign concept for the minister, but in the Wildrose we have free speech and free votes and the ability to think freely. We actually have many different viewpoints in the Wildrose. The hon. Member for Calgary-Glenmore has a viewpoint. The hon. Member for Calgary-Fish Creek has a different viewpoint on this issue, as does the Member for Fort McMurray-Wood Buffalo, as do I.

For example, I would describe the hon. Member for Calgary-Glenmore as truly a skeptic of the science. I would say that I am much more open to the idea. I think that there is a case to be made that carbon dioxide is affecting the planet's temperature. However, I do feel that there is a very robust debate going on as to the extent of that effect and as to whether the things that we are doing here in the province of Alberta, in Canada, even in North America will have any material effect whatsoever on curbing greenhouse gas emissions.

Now, I hope that doesn't make me a member of the Flat Earth Society because there really are a lot of smart people that – you know, some of those smart people are in the U.K. Royal Society. They just released a really good report if you have a chance. Obviously, it's one group of scientists' viewpoint, and those change. The IPCC has a different viewpoint, and there are other groups that have different viewpoints.

Obviously, the Royal Society is a very respected scientific organization in the world, and they've kind of gone through and they've said: okay; here's the science, with all of the media reports and all of the faulty reports, frankly, that have come out of the United Nations on climate change – it's not all aspects but some aspects – and all the debate about the e-mail, climategate as it's called, where there were obviously some untoward things going on, at least at that university, one of the foremost universities on climate change, East Anglia.

The Chair: Hon. member, may I just draw to your attention that this is Committee of the Whole? We talk about details of the bill, and there's an amendment here.

Mr. Anderson: Why do you always – man, I was just getting revved up. This is good stuff here.

Well, anyway, on the amendment, we're talking about permanent versus long term. Unless we have an understanding, why would we want to permanently store something that may not be hurting the planet? I want to go back. That's where the relevance is. I want to make sure that there's an understanding of where my viewpoint is, whether there's any need to have permanent storage, whether this is, in fact, a harmful gas.

Going back to what I was saying, you have the Royal Society, that has this literature, and it actually goes through and says: here's where the science is clearly settled, and then here's where it's generally settled but where there is some debate as to extent, et cetera, and then here's where science is completely unsettled on climate change. It's a great document, and I think that, absolutely, the Minister of Environment should definitely read it. But there are a lot of areas where we need to learn more.

I hope that we don't fall into the trap in this Assembly of trying to pigeonhole people into certain belief systems, which is clearly not true and clearly disingenuous. I think everyone should account for how they feel personally about a subject or what their studies have shown them. You know, I really enjoy this subject. I enjoy learning more about it. I enjoy all the different viewpoints on it.

One of the things that is very uncertain according to the Royal Society is the extent to which global warming is happening. I believe it is occurring. I do believe that man is one of the causes of it, but the extent is extremely uncertain. That's, actually, in both the IPCC report as well as in the Royal Society report. They give the thing where they predict that in the next 100 years because of global warming it will increase anywhere from 1.5 degrees to seven degrees Celsius. I mean, that's a huge, absolutely monstrous variation, that shows just how unsettled the science is around that issue. They say that in the next 20 years it's likely to be anywhere from 0.2 to 0.4 degrees Celsius, and then it will speed up after that. I mean, they're the scientists. I'm not. I'm just reading what they put in front of me. That's all I can do.

10:50

As a politician and as someone who has to sit in the House and try to contribute to decisions made by this House, I feel that it's important that we get a little bit of control and start thinking a little bit more clearly about what we are talking about here. We're not talking about a science that is totally settled. There are a lot of different questions. Before we jump into the arena and before we start using words like "permanent" and so forth, before we start spending massive amounts of money and so forth on something like this, I think we should really start thinking about: is this the right use of taxpayer money, or are we completely overcorrecting or going down the wrong path, doing something for no reason just to be seen to be doing something?

If you think about it, if the variation is 1.5 to seven degrees over the next hundred years and Alberta is responsible for 0.01 per cent or something like that of the Earth's greenhouse gas emissions and with China doing what they're doing, just throwing massive amounts of coal plants on, and India and everyone else, the emissions are just going through the roof. Why are we spending such an exorbitant amount of money on a technology that may not even work on the scale that this government is saying that it can be used for? Why are we taking on all these costs?

I would say that I think what's more important is that we use our time to think about ways we can cut greenhouse gas emissions and do so in ways that won't just cut greenhouse gas emissions but also will cut other pollutants as well, NOx and SOx and particulates of all kinds, all kinds of things that we should be looking towards, and I don't see this as being a way of doing it, certainly not an economic way.

If we're going to spend $2 billion on this permanent solution, as it says in the amendment here, I guess I would ask: why don't we spend it on something that's actually going to help the province economically and help the individual person in society in our province to, you know, be more productive and to have more utility; for example, mass transit? There is a way we can cut greenhouse gas emissions. We can cut other emissions. We can unclog roads. We can accomplish different things with that. Incentives for retrofitting our houses to be more energy efficient, to use less electricity and natural gas: these are common-sense solutions. I think that the money that we're spending on this would be far better spent on the things that I mentioned rather than pumping CO_2 into the ground. I think that's a gross misuse of taxpayer funds, and it's a bit of a pipe dream.

The funny thing is that even if we capture every last particle of carbon, it isn't going to make a lick of difference in stopping the 1.5 to seven degree greenhouse gas that is happening. Until China and India, those guys, get on board, it ain't going to work. People say: we'll make the technology here, and then we'll expand it to China. I don't know. I mean, it just will not happen. It will not happen unless it's economically viable because that's how the world works, and economically viable is enhanced oil recovery.

From the amendment, Mr. Chair, using some of this permanent CO_2, to pump it underneath there and get the oil out of the ground: well, if that is economic, great. Then companies should be able to afford to do it by themselves. They don't need a grant from the government. If it's economic, great. They can do that, and they can recover it and all that sort of thing. But if it's not economical, which this isn't, which is why we need to provide a big granting program, then why are we doing it? Why is government getting in the business of being in business and saying: we're going to put in this investment because we're going to get all the money back in royalties? Well, no. Since when? Then we may as well just take over our entire oil and gas industry for that reason. I mean, it just doesn't make any sense. [some applause] Well, yes, one member is in favour of that, but the rest? Well, maybe two, maybe three or four. Who knows?

I think most members in the Assembly would agree that that's a bad idea. Government just should not be in the business of deciding what technologies, et cetera, are going to be used to extract our resources, especially if they're not proven on the scale that this is being contemplated and especially when public opinion has so clearly shifted against these types of projects.

I mean, if the NDP, you know – actually, I'm not going to speak for the Liberals on this because I'm tired and I can't remember where they are on this issue. I know where they are on CO_2; I'm just not sure about the carbon capture and storage thing. I'm sorry. I have to be reminded by one of the members over there. But the Wildrose and, I know, many of the members – I mean, we agree that this is a bad bill. This isn't the way to go. Even though we're coming at it from two different angles, reasons why we don't like it, we still believe it's a total waste. If it was such a good environmental idea, you'd think these guys would be running all over the place saying: oh, wonderful. But they're not, and neither are we because we think it's a bad idea as well. It's a waste of taxpayer money, and it does nothing to help the environment. It's not practical.

I think we need to make sure in this Assembly that we don't judge people and say: "Look, this is the way that group thinks. They're cynics. You know, they're all just cynics." No. There are many different, varying degrees of where we're coming from on this, but one thing we do all agree on – I know that – is that government should not be subsidizing industry to the point of $2 billion to do what industry should be able to do for itself if it's economically viable as is claimed. That's something, I think, we can all agree on.

Do we need to move forward on doing things that are going to cut emissions, greenhouse gas emissions and all other emissions? Absolutely. At least, I believe that. But I think that this is just the absolute wrong way to do it.

With that, Mr. Chair, I wanted to make sure that it was on the record that we have a diversity of opinion in the Wildrose caucus on the subject. We have the ability to openly vote and freely vote in the way that we feel is appropriate. The one thing we are unified in: this is a total and complete and utter waste of taxpayer money for absolutely no reason.

Thank you, Mr. Chair.

The Chair: The hon. Minister of Environment.

Mr. Renner: Thank you, Mr. Chairman. We've had some good progress and discussion on this bill this evening. Given that the hour is approaching or encroaching or moving forward, let's say, I would like to move that we adjourn debate.

[Motion to adjourn debate carried]

The Chair: The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Chairman. I would now move that the committee rise and report Bill 24.

[Motion carried]

[The Deputy Speaker in the chair]

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

Mr. Johnston: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports progress on the following bill: Bill 24. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

Hon. Members: Concur.

The Deputy Speaker: Opposed? So ordered.

The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Speaker. I move that the Assembly now adjourn until tomorrow afternoon at 1:30.

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

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