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First Session

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The Honourable Gene Zwozdesky, Speaker

Legislative Assembly of Alberta The 28th Legislature

First Session

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Alberta Liberal: 5

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Legislative Assembly of Alberta

7:30 p.m.

Tuesday, November 6, 2012

[Mr. Rogers in the chair]

Government Bills and Orders Committee of the Whole

The Chair: Hon. members, I'll call the Committee of the Whole back to order.

Bill 5 New Home Buyer Protection Act

The Chair: We are debating amendment A3. I'll look for the next speaker on amendment A3. The hon. Member for Olds-Didsbury-Three Hills.

Mr. Rowe: Thank you, Mr. Chair. I have to admit I'm torn with this one. I would concur in the amendment in that the one and five years are probably a very minimum standard for a warranty. I want to say that I agree with the amendment. I know in talking with some of my colleagues that there is a concern about the added cost, and there are recommendations from Professor Tang Lee from the U of Calgary, who has 35 years in this business, who is recommending that this is what we do. However, as I said, I am concerned with the added costs. There are no estimates in here of what that cost would be, so it's a little difficult to get off the fence on this one, but I will.

After a long time in the construction trade I liken this to buying a car. The car salesman says: you can choose a warranty which lasts long enough for you to get off the lot, or you can take the one-year warranty at an added cost.

I will support the amendment, and I know that some of my colleagues may choose to not support it. That's the beauty of our party. We have the right to free votes, and that's important. My personal recommendation is that we would do this. I believe the costs would be minimal. Once you have a warranty established to extend that, I think the cost would probably be minimal related to the total cost of your home. As has been stated before, this is the biggest investment that the average Albertan will ever make, and I think protecting that investment is of paramount importance. I think the dollar value between the two would be minimal related to the overall cost of the home.

I personally will be supporting this amendment, and I would encourage others to do so, too. Thank you very much, Mr. Chair.

The Chair: The hon. Member for Innisfail-Sylvan Lake.

Mrs. Towle: Thank you, Mr. Chair. I as well am speaking in favour of this amendment. I share the same concerns as most of my caucus as it relates to cost to the homeowner and to the taxpayer and to the government, those sorts of things. The concern that I have as a former real estate broker is that often when a person takes over ownership of their property, it can easily exceed the period of one year for defects and materials and labour. It can easily exceed even two years, but I think two years is a very reasonable option.

More important, though, are the defects in the building envelope and the structural defects. I know from personal experience in owning a real estate company and being a real estate broker that there are situations out there where, you know, there is a structural defect that comes to light – cracked foundations, damage to how

the structure was actually created – that is in a time period that would exceed five years, and the homeowner is left with really no options.

Sure, they could possibly sue the home builder, but a shoddy home builder doesn't stay in business anyway. They've already moved on after five years. We've heard time and time again about those home builders that, unfortunately, don't take a lot of pride in their work and go around this province and create homes that are just not up to standard, and five years later they're out of business and gone. The people that feel the effects of that person and that business that has shoddy workmanship may not begin to feel those effects until between that five- and 10-year period.

I also have experienced and have had clients who have actually experienced where it isn't just limited to a major defect. In a really heavy spring they find out there's flooding, and then they call in the experts – and that might be in year 7 – only to find out that the type of cement that was used to pour their foundation or the structure that was created now leaks, and they have no recourse. I think that the change from one to two years on the defects in materials and labour is a reasonable change. I also think that there is some reasonableness about changing it from five years to 10 years in the structural defects.

I understand that there is often a concern about how much we protect, you know, the homebuyer when they're making a private purchase, but I think that if we're offering some sort of responsible governance in these types of things, we need to make sure that we're looking at all options. For most people the purchase of their home is the largest investment they'll ever make. They truly do intend to use that as part of their retirement fund, and then they find out that literally that building is structurally defective or even defective in the materials and labour. Some of that just takes longer than we would normally expect.

I share my caucus's concern about the costs. I think the costs would be minimal, but I do think that to extend the years of coverage for these types of things is relatively minor, and it's easy to show homeowners that we're actually taking a look at what their needs are as well.

So I speak in favour of this amendment, and I thank the hon. member for bringing it forward.

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

Mr. Hehr: Well, thank you, Mr. Chair. I, too, will speak on this amendment. I think it's a good move, particularly in light of the fact that many condominiums are built in not only Calgary-*Buffalo*, the area I represent, but all across this province. This is continuing to be a trend that we see and that home purchasers are seeking out. In particular, I think this amendment goes a long way to protecting people involved in those types of purchases as well as individual homes from some of the vagaries of workmanship or the like that may not be quite up to snuff. It would give them some sort of protection from these shortcomings, I guess, in the actual building practices. I think moving to two years would be an eminently reasonable move.

In fact, moving it from five years to 10 years on the building envelope is very important. In my research on this topic the building envelope is probably the most important piece that goes into a condo building and – I'm not an expert on this – may in fact be the most important piece that goes into a home. The building envelope ensures that the foundation is solid and the like, and it's from that that we often don't see any damage to the property for five years. If it is substandard, those types of cracks or foundational developments don't usually appear in the first five years.

For instance, I have a constituent, Maritza. I can't remember her last name, but she was involved in a condo purchase just outside of the downtown core in Calgary-Currie. She purchased a unit in this home. In fact, I think almost 200 people did, and they purchased a brand new residence in this building in 2005. They became aware this summer – that's 2012 – that the building envelope was faulty, that it was causing undue leakage and the like, and that the entire building was flawed structurally. She got a cash call for \$120,000 to simply remain in her condominium.

That's a real-life example of a situation where a building envelope was structurally flawed right from the beginning. Make no bones about this, Mr. Chair. It was structurally flawed from the day this condominium was built, yet the damages to the building envelope and the damage that happened to the building didn't come out for six years. If you looked at that file, if you looked at the inspectors' report after the damage became apparent, the inspectors went in and they said: "Oh, my goodness. This thing is flawed from soup to nuts right from the beginning." They identified all of these things. They said that it was a building that was not made with the right materials, the building envelope was shoddy, the workmanship was shoddy, and the like. Needless to say, even with all of this hindsight the damage did not appear for six years.

7:40

I would agree with the changes put forward in this amendment. I think, especially in light of the concerns around building envelopes, that it would make sense given the nature of where people are choosing to live, many times in my constituency. Nevertheless, I think they're good changes. I think they're actually reflected in a private member's bill that the Alberta Liberals did on this issue a year ago. I think when we did that private member's bill, it was based on some talks with individuals and condominium owners and, actually, even builders of condominiums, who pointed out theirs is a real talent and an art and there's a need for having not only quality builders – there are many of them out there – but a need for warranties to ensure that those practices are handled.

Needless to say, I think it's a good amendment. I think it recognizes some of the concerns I brought up, and I would urge all members to support this amendment.

Thank you.

The Chair: Thank you.

The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I'm going to rise, and I'm not supporting this amendment. I will explain why. I could easily live with the amendment from one year to two years. I think for labour that would be reasonable. But the issue I have a problem with is raising it from five to 10 years, particularly with distribution systems. The labour should show itself within one year. Raising it to two years, in my experience, would be reasonable, but to have that hanging for 10 years: I would see issues of abuse with the system.

There are materials that last five years. There are manufacturers of material that will actually say: this is going to last you a lifetime or 20 years. For the issue of materials that's not a problem, I don't believe. I worry about quality craftsmanship and that craftsmanship being held hostage for eight years, seven years, nine years out because there's been a shift in some other work that infringed upon the initial work done. I think that what that would do is penalize even good craftspeople, good quality builders and add to the extra cost just because of these extra years.

I've had the privilege in the past of building my own buildings. I've had the privilege in the past of wiring condominiums. I understand the difference in the quality of labour, but one of the things that is missing throughout all this is the initial inspection. I think that's problematic because realistically, when you look at this bill and you look at the amendments to this bill, what we see here is an attempt to correct a problem because we're not properly inspecting these buildings in the first place. We have a hole in our inspection process. I see that not just in dealing with the condominiums in the large cities. We see that out in the rural areas with some of the homes that are being built. There is quality workmanship taking place, yet we still have people building buildings that are going uninspected, and I don't understand why.

If you look at the rules and regulations of any small community, they require that a building inspector show up and inspect, but what we see from community to community – and I talked it over with the hon. member here in my own caucus – is that there are builders who are closing up a building before they even get inspected for structural quality control, before they get inspected for plumbing or wiring. How can that be? Yet, we allow that, and when we allow that, now what we have going on here are the problems we've created.

Realistically, when I look at this, what we're trying to do is put all the onus on the builders. That may be so, but then they have to carry that liability, if this amendment passes, out into a full decade. In real terms, when you get beyond that one or two years, I think it's very difficult to say that it was the quality of the workmanship or it was the labour that was the problem. You might be able to look at the material and go at the warranty of the people who provided the material if the material truly was defective, but the labour portion of this amendment is problematic and troubling. I had the opportunity to talk to a lot of builders in and around my riding who are fully aware of this bill, and they have talked to me about their concerns. They don't like it because it's going to add just a little bit more to the cost that they will pass on to the purchaser of these buildings.

As a whole, I think it's a punishing amendment by holding the labour portion hostage for a full decade. I think that's unfair. I think that's unjust. I think that'll add just that extra little cost also because to insure this going out one year or two years – unfortunately, anyone who's had a car warranty knows that you have the warranty, but as soon as it expires, something goes wrong. I don't get it. It's Murphy's Law. It happens. It's almost inevitable. Maybe that will happen with labour. I don't know. But to have that go all the way out 10 years, to me, is abusive.

For that reason, to my fellow caucus members, I can support the first part, but I can't split this amendment apart anyway, so I can't support the amendment. I can easily support going from one year to two years. That would be reasonable. I cannot support five years to 10 years. I think that's unreasonable, and for that reason I will not support the amendment.

The Chair: Thank you, hon. member.

Mr. Kang: I agree with the Member for Rimbey-Rocky Mountain House-Sundre, but I also support this amendment. I think our inspection process is not really stringent. It's just lax. If we want to have good-quality work on the homes, I think our inspection process should be better than what it is today. For sure, corners are being cut in the inspection process. I know from experience. We have so many builders who are small builders. They come into the business, and maybe four or five years down the road they will be out of business.

I think this is the biggest investment that Albertans are going to make, and if it's going to cost a little more, 1 or 2 per cent, so be it. I know that will give them peace of mind. They will not find any surprises eight or 10 years later where they will be liable and they will have to pay from their own pockets because sometimes the costs are much higher than the cost of the warranty. I support this amendment because this will go a long way to giving peace of mind to the homebuyers.

I'm a strong believer in warranties. I buy warranties on almost everything, and I have used the warranties. I may be the unlucky one. When things go bad with the TV or washer or dryer or whatever, those small things, you can always afford to buy them. But a house: you can't just go out and buy another one because it's the biggest investment.

I think there should be a proper inspection process in place. With the warranties it will be a good idea to go from one to two years and five to 10 years because for five years things may be okay, but in the sixth year problems may occur. It has been happening in the condos. There's a building downtown at 11th and 1st where they had a problem with the parkade, so it's costing them hundreds of thousands of dollars.

I will be supporting this amendment, but I think we should look at the inspection process as well. Thank you, Mr. Chair.

The Chair: Thank you, hon. member.

If I could just ask all the members to please keep the side conversations down, I would really appreciate it so that we can hear the member who's got the floor. Thank you.

I'd recognize the Member for Cardston-Taber-Warner.

7:50

Mr. Bikman: No jungle stories tonight, Mr. Chairman.

An Hon. Member: Why not?

Mr. Bikman: I've run out.

I am against this amendment. I'm a caveat emptor kind of guy. I believe that we have an obligation to perform due diligence.

Mr. Wilson: Latin? Nice.

Mr. Bikman: Bless you, my son.

We ought not take that obligation and responsibility away from individuals. We're grown-ups. In this technological era it's so easy to get online and check out a person's reputation, a builder's reputation, other people's experiences, everybody's ratings of something these days.

I think that the additional cost may be prohibitive and punitive to first-time buyers and to builders that are doing a good job. I understand that discussions were held with builders, and I know that, in the main, reputable builders support this bill as it's been crafted. I'll surprise you on the other side of the House. I have confidence that you've done your homework on this and know what you're talking about when you propose this and that you've balanced the issues, the protection that people need, that consumers need against the needs of the builders and the contractors. So for this reason I can't support the amendment.

The Chair: Thank you.

The hon. Member for Calgary-Shaw.

Mr. Wilson: Thank you, Mr. Chairman. I'd like to echo some of the comments that have been made here already this evening just since we've been back. As I mentioned when I first spoke to this bill, I recently went through the purchase of a new home. The builder had offered a warranty which is very similar to what we

see in this act, and it was quite sufficient. Now, there was an option to purchase more. We had I believe it was 60 days after we took possession of the home where we could take up that option, and it was a charge of a maximum of \$250 to double all of the clauses outside the exception of the one-year to two-year. It would take the structural to, I believe, a 20-year warranty. So the options are there for consumers in the current market. I think that, you know, it is reasonable to assume that if someone wants that additional warranty protection at a cost of \$250 when they're buying a \$300,000 home, that's not going to be a prohibitive measure for them to go ahead and take that into their own hands.

I also agree with what the Member for Rimbey-Rocky Mountain House-Sundre said. From one year to two years could be a reasonable number to insert here, but taking five years to 10 years in the other part of the clause certainly makes this amendment something that I will not be supporting.

Thank you.

The Chair: Thank you.

Are there other comments? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Chairman. I'm prepared to just make a few comments with respect to my colleague's amendment. The sections outline the mandatory minimum coverage periods for statutory protection under a new-home warranty insurance contract. Our amendment seeks to increase the minimum coverage period for two types of coverage: defects in materials and labour and defects in the building envelope. The legislation as it's currently written sets mandatory minimum coverage payments for statutory protection under all new-home warranty insurance contracts in Alberta.

We've consulted with experts who raised serious concerns about two coverage periods, specifically one year of coverage for defects in materials and labour and five years of coverage for defects in the building envelope. Mr. Chairman, one year is very little time to determine if defects in material or labour are present if, as is sometimes the case, it takes several months for new-home owners to move into their new residences. We, therefore, propose extending the minimum coverage period for these defects to at least two years.

Secondly, according to the experts that we did consult with, defects in the building envelope may take 10 years or even longer to become apparent. Therefore, we propose extending the minimum coverage period for building envelope defects to at least 10 years.

Mr. Chairman, we talked to Professor Tang Lee, who has been teaching architecture students about building envelopes at the University of Calgary for over 35 years and has consulted and served as an expert witness in cases of leaky condominiums and other buildings. He's an expert on the National Building Code of Canada, specifically part 5, which addresses building envelopes in environmental separation.

We want this legislation to do what it is advertised to do: protect homebuyers. The legislation should not in any way be a protective mechanism for incompetent home builders or the private companies that serve to benefit greatly as warranty providers through this legislation. Endorsing the spirit of this legislation, let's at least make sure that it's strong enough to protect the interests of consumers and that the time periods stipulated are in accordance with expert recommendations. Mr. Chairman, I think that's the least we can do.

One of my colleagues suggested a few minutes ago that it would be onerous on those builders that do a good job. I think the logic

of that is faulty at best, Mr. Chairman, because if they're going to meet these requirements, they need exert themselves no further. They have provided a good product that will meet these requirements, and there is no additional burden placed upon them. Where it places an additional burden is on those builders that don't do a good job, that sell shoddy products and pass off extensive repair costs onto unwitting consumers. Those consumers deserve our protection, and I would urge all hon. members to support this amendment.

Thank you.

The Chair: Thank you.

Are there other speakers on the amendment? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I just have a question for the hon. member. I think we're talking two different things here when you speak of envelope, particularly in regard to condominiums such as in the city here, in Edmonton, which are significant in nature. The people I represent, particularly in my local riding, and the builders I represent in my local riding are single-home builders, and I'm trying to differentiate between the two. Clearly, there's a difference. I would hope the member would see the difference.

When I mentioned a punishing nature on the local home builder, I'm talking about the individual who makes their living on their reputation, hires maybe five or six people as the crew, and they build a home. I'm just curious. Would you agree that there's a difference in the envelope of the single-home structure versus the condominium, and would that coverage then have to be different? What I can't reconcile is that 10-year mark. I can't find where that is beneficial to the reputation of the quality, competent home builder versus the construction company that would build a \$30 million, \$40 million project with hundreds and hundreds of craftsmen, maybe even to the tune of thousands. We're definitely talking about something different.

Again, it goes back to the issue, to me, of the initial inspection, which is required by law in almost every jurisdiction. I don't know of one that doesn't require it here in Alberta, so I will take the presumption that every jurisdiction requires home inspection. I see someone shaking his head; he might get up later.

I was wondering, Mr. Chair, if the hon. member would comment on that.

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

Mr. Mason: Well, thank you, Mr. Chairman. I can probably see that in a smaller community. When people are in the business on a long-term basis, they depend much more on their reputation. I guess what I can't reconcile is that if they're doing such a good job to the extent that it makes this unnecessary, then what is the downside of keeping it?

The Chair: Thank you.

The hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you very much for recognizing me again, Mr. Chair. Many things have been brought up since the time I last spoke, so I'd like to speak further in favour of these. As was pointed out, a one-year limitation on some of the minor flaws, not necessarily minor flaws, is a relatively limited time period to have that type of protection. You're going to have a person move in and, basically, 365 days later have to do an assessment as to whether things have been built correctly. I think going to a two-year period,

it would match up, give time for the ground to settle, the cracks to appear, and go forward on that basis.

8:00

When it comes to the building envelope, I honestly believe that 10 years, given what experts in condominium and home design say, is a fair number to arrive at. The building envelope is, like I said before, probably the most important aspect of any home or condominium that goes up. The five-year warranty on this portion of the building envelope simply does not allow the time for a purchaser to assess whether any damage is being done. Ten years is what the experts in condominium design and home design are suggesting to go for, people like Mr. Tang Lee and the like, who are recognized experts in the field.

Really, having builders live up to this standard, the ones who are doing it already, don't have a problem. Simply put, they're going to keep doing business, and they're going to keep selling homes and the like and go forward as planned. The people who may have a problem with this legislation are the substandard builders, which are the ones we're trying to keep from building faulty homes and keep from building faulty condominiums. In my view this looks to be a perfect sort of bill in that regard. It will actually allow those already doing quality workmanship to continue to succeed. Those are the people we should want to stay in the business.

I will just take a sec to correct the hon. Member for Rimbey-Rocky Mountain House-Sundre on the fact that in Alberta what we have is safety code inspectors. We don't have, actually, building inspectors. My understanding is that what we have is that the architect and the developer get together; they sign off on the deal; the architect, under his insurance, covers the design; and the builder has to ensure that the actual structure, the building envelope and the like, are done.

Here's where things get a little wonky in that process. What happens is that oftentimes a project, say a condominium, is started with the best of intentions, started with the economics in play. The builder gets started. All of a sudden, oh, my goodness, we don't quite have as much money to build this as we thought we did. Maybe some seed sales haven't gone as well. Inevitably there's that economic crunch where they start to cut costs, and they start to cut costs on materials, labour, and the like, and there you have the problems.

In Alberta you can get a safety code violation, but it's not actually a builder inspection. There is no inspector ensuring that this is actually done. The onus here in this province is on builders and developers to insure their workplace, and there is no enforcement out there. I'm just correcting the hon. member on that point.

Given that's the state of the way we run things in Alberta, that the builder and the developer and the architect are on the hook, well, we have to do something to ensure that there are actually rules and regulations in place to ensure that they are doing what they said would be done, that there is a recourse for homeowners and condo purchasers when things go south.

I would say that this is a good amendment. It covers off some concerns that we had referenced throughout the years on this file. I will point out again that the Alberta Liberals first asked a question on condos and protection for homeowners in 1997, that we had a series of private members' bills asking for protection for homebuyers and condo purchasers. In fact, in 2008 an all-party committee came back with a report that stated that homeowners and condo purchasers were not being protected in this province. What we have here is a 15-year drag on getting actual legislation in place.

I might point out, hon. Chair, that the British Columbia government had these protections for citizens of that province in 1997. Things go slowly here in Alberta. Thank God the new hon.

Minister of Municipal Affairs is now on the file, and six months he could rectify this malfeasance that has been allowed to drag on in the Albertan populace for so long.

In any event, I would urge all members to support this amendment and allow homeowners and condo purchasers to have the protections they are rightfully entitled to.

The Chair: Further comments?

Seeing none, I'll call the question.

[Motion on amendment A3 lost]

The Chair: We're back to the main bill. Comments on the bill? The hon. Member for Edmonton-Highlands-Norwood, followed by Olds-Didsbury-Three Hills.

Mr. Mason: Thanks very much, Mr. Chairman. I actually have two more amendments that I'd like to introduce.

The Chair: Proceed. If you would send them to the table, hon. member.

Mr. Mason: I will provide the chair with the requisite number of copies of the next one, and he can call on me when he's ready for me to speak.

The Chair: This new amendment will be A4 as soon as it's circulated.

Hon. member, you may start to speak to the amendment.

Mr. Mason: Thanks very much, Mr. Chairman. Certainly, if I thought that there was any chance that this government would vote for an opposition amendment, I would have shared it with them gladly months ago. Pardon me if I've become a little cynical after a few years in here. I urge the hon. Wildrose members to watch the Christmas video. It should be part of your training. Okay.

Mr. Chairman, I move on behalf of my colleague the hon. Member for Edmonton-Beverly-Clareview that Bill 5, New Home Buyer Protection Act, be amended as follows. Section 1(1)(s) is amended by adding "or" before "relocatable work camp" and by striking out "or any building exempted by the regulations from the definition of a new home." Section 28(2) is amended by striking out clause (a).

For the benefit of the hon. Solicitor General, whose legal fees may not be paid by the Legislature – I don't know – I would like to speak a little bit to this to elucidate and help him understand the richness of our approach to this question.

Mr. Chairman, this section outlines cabinet's regulatory authority, and this subsection authorizes the minister to make regulations exempting

- (i) persons or categories of persons from all or any portion of this Act . . .
- (ii) a building, a class of buildings, a portion of a building or the common property, common facilities and other assets of a condominium corporation from the definition of new home in section 1(1)(s), or
- (iii) a category of persons from the definition of residential builder in section 1(1)(dd).

Are we clear so far, hon. minister? That was just your part. This amendment removes the authority of the minister to issue such exemptions.

8:10

Mr. Chairman, we asked Municipal Affairs about the purpose, intent, and necessity of including such ministerial authority

regarding exemptions in this legislation. Their response was that there may be types of homes or houses that this legislation does not apply to. For example, in B.C. houseboats are exempted. That's unlikely to be the case in Alberta, but there may be types of homes that simply do not feel the need. With regard to common facilities in some cases such as bare land condominiums, where the roads might be common property but do not form part of the home, the minister may need to make an exemption. On the other hand, in a high-rise condo the common property is an integral part of everyone's home. For instance, the stability of the parking garage located under the building could impact everyone's place of residence; therefore, exemptions wouldn't be considered for this type of common property.

Well, Mr. Chairman, we didn't really think that it was an adequate explanation. Our amendment is based on the understanding that ministerial power to make exemptions constitutes a loophole in the legislation that could potentially undermine the force of the legislation. So we ask: how does an exemption serve to protect new-home buyers and to assure them that all new-home buyers will be served by this legislation? This amendment seeks to ensure that all new-home buyers and all new homes will be governed by this legislation and cannot be exempted from the legislation at the whim of the minister.

Mr. Chairman, those are my comments with respect to this amendment.

The Chair: The Member for Olds-Didsbury-Three Hills on amendment A4.

Mr. Rowe: Thank you, Mr. Chair. I'm also not a lawyer, so I'm going to plead ignorance on this one. Just where it's leading us I really can't say. I'm not going to support this because having just recently looked at it, I haven't got my head around exactly what the implications of this are going to be. In that light, I will plead my ignorance and step away from it by not supporting it.

The Chair: Thank you.

I'll recognize the hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. Maybe the minister might want to actually answer this question versus the amending member. I'm just curious as to what would constitute an exempted building. You know, what kind of building would be exempted?

Mr. Mason: A houseboat.

Mr. Anglin: A houseboat. I would call it a boat and not a building. Some are pretty big, but they're still floating. Maybe we need to go back to the definition of what a building is because I can tell you that a ship is a ship, and they are ruled by Canadian law, not Alberta law.

I'm just curious because I read the amendment. It seems like a simple amendment, but I can't get my head wrapped around what would be an exempted building under regulation. Maybe someone can answer that question and help us understand this amendment.

Thank you, Mr. Chair.

The Chair: Thank you, hon. member.

The hon. Associate Minister of Municipal Affairs.

Mr. Weadick: Thank you, Mr. Chairman. Yes, there are a number of buildings that could be exempted under this. I mean, we're talking about individual home ownership here. This is about people that are going to buy a home to live in. We're trying to

provide a warranty product that will allow them the comfort when they invest. Don't forget, 80 per cent of the homes built in Alberta today are under home warranty, so people have been getting warranty or receiving warranty, and our builders are building a fabulous product.

We've heard discussions around inspections. I'll tell you what. Our municipalities do a great job of inspecting. Electrical inspections, plumbing inspections: all that is done at various stages right from when the first footings are poured and inspected by a gentleman on site right to when you hang your light fixtures and they're inspected by an electrical inspector to ensure that everything has been done. Having been through the process and been in the industry for 30 years, if anything most builders feel they're overinspected, not underinspected. So there's great inspection.

But to answer the question, in Alberta we have a number of types of buildings that would be exempt. Work camps across the north that are built: they're utilized for a period of time; they may be moved. ATCO facilities are brought in and moved and taken out. That would be one example. Dormitories. These dormitories could be on campuses or colleges or a whole host of places, but trust me, we don't want our colleges and universities buying new-home warranty for products that they own, that they build for the benefit of their students. Hotels and motels. These are facilities that are built by people. They own them. They build them for a business purpose. This act is not constructed in any way for those types of facilities.

As you can see, there are many, many types of buildings that are constructed here that people use that would be exempted under this act. There may be others that will come up as well that I haven't even thought of. For now, we need to leave the exemption in to allow the warranty to act as it's supposed to, which is to protect homeowners that are buying a home to live in or a condominium to live in so that they can make sure that it is well built.

Trust me, in Alberta we have some of the finest construction in the country. We follow the building codes. Mr. Chairman, I just have to defend our builders here. I've heard so much tonight, but let me tell you: our builders do a fabulous job. I work with many of them. I know many of them.

As a nine-year municipal councillor in the city of Lethbridge I can tell you that we have an extremely active inspection group. They go out. They do plumbing inspections. You must buy permits for all the aspects of your construction on a building.

Within this legislation for significant reconstructions there will also be an opportunity for people to get warranty. This is a wonderful piece of legislation that will only enhance what's already being done in this province at a very high level. That's why the exemptions are there.

Mr. Mason: I'm just a little bit dismayed at that commercial for the building industry from the associate minister who's supposed to be regulating them. I don't think that was very appropriate at all, quite frankly, Mr. Chairman, and it makes me even more suspicious of the legislation. There are literally hundreds of leaky condos in Edmonton and Calgary and other centres in this province that cry out for strong legislation and strong protection. For the associate minister just to stand up there and very blandly suggest that everything is just fine and we have a wonderful product and so on, it makes me wonder why we even have a piece of legislation in the first place if things are so great.

Quite frankly, Mr. Chairman, we need strong protection for people in condominiums and for homebuyers who are not commonly but often enough left with a difficult and expensive mess years down the road after buying a new product. I think that it

would be far better if the associate minister was a little bit more objective with respect to the actual circumstances that many Albertans find themselves in.

The Chair: The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I'm not as insulted. I do respect the answer, but I will say this: if inspections were really that good, we wouldn't need this bill. We have a good bill here, and I'm going to be supporting the bill, but I will tell you this: the inspection process in my communities is not working very well. It's ineffective.

I can tell you right now that across the street from the Rimbey hospital, there's a seniors' facility. It is private, it is condominium based, and those seniors are in trouble. The builder has left. They needed this bill before that building was ever constructed, closed up, and the builder left. By the way, the builder is being sued for something else up in Fort McMurray right now, as he leaves his trail around this province. Unfortunately, had we had proper inspection, we probably could have headed off a lot of that.

I can cite examples in Sundre, I can cite examples in Rocky Mountain House where building inspections have failed us. They have penalized the homeowner. They have penalized particularly our seniors, and it is a problem. That's why this bill is good.

8:20

To the hon. member, though. Each of the instances that you mentioned is actually laid out in the bill. They are exempt. So going to my question, I didn't understand why that one clause would allow this sort of loophole, as the hon. member would call it, or any other building exempted by regulation. Someone brought up a houseboat. I still would not call that a building. I'd call that a boat. I was just trying to get my head wrapped around whether that could be restructured so there wasn't this gaping loophole. It had to apply to something as far as some sort of parameters so that nobody could be exempt in the sense of allowing abuse. I think that's what the member is trying to get to.

See, I have one issue with government. [interjections] It's my one issue. Write it down. It is this overreaching parental authority to make rules and regulations to take rights away. That is my one major issue. I may have fibbed because I probably can come up with more issues, Mr. Chair. Again, when I look at laws, when I look at new legislation, I always look at it with a view that any time we pass legislation, we take away a right. That legislation should have a limit. All legislation should have a limit in the powers it gives government. That's what I'm looking for: the limit.

Maybe the member could take a look at it again because I went down and there are a number of exemptions here. They're well laid out, and I agree with that. I was just trying to get my head around: why the one open clause? Could someone explain why the open clause? What was not thought of, I guess? What's out there? That's the question.

Thank you, Mr. Chair.

The Chair: Other speakers? The hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you, Mr. Chair. You know, I always get a little nervous when things are included in regulation as it doesn't lead to as much clarity or consistency or the rules being applied in a fair and above board manner. That's not in all cases, but I think a healthy dose of skepticism around regulations is good for not only members on our side of the House but for the governing party as well.

I heard the explanation that oftentimes this was relating to dormitories, some work camps, and sort of the one-offs. They're not condominiums and/or single-family homes if you want to use the definition. When I look at the exemption – and I'll just read from the act: a building, a class of buildings, a portion of a building, and the common property, common facilities, and other assets of a condominium corporation. Okay? That seems to me to suggest pretty clearly that this is applying to condominiums, condominiums that the hon. member from the fourth party indicated were clearly having difficulties. Clearly, numerous condominiums in Calgary-Buffalo, downtown Calgary, Edmonton, and Fort McMurray are there.

The way I read that, unless you can explain to me otherwise how this is not specifically related to the common property and common facilities and parking facilities and the like, I have no choice but to accept this definition as it reads to me. It says pretty explicitly those types of assets. Maybe you want to try another crack at it because maybe I didn't quite hear you correctly the first time.

The Chair: The hon. Minister of Municipal Affairs.

Mr. Griffiths: Thank you, Mr. Chair. I understand the member's concerns. Condominium associations and corporations can take many different forms. There can always be some circumstances that you can't foresee when you're trying to build legislation. You want to make sure that you don't prevent yourself from having years before you can actually change the law to adapt.

I didn't even know they existed, quite frankly, Mr. Chair, until about six months ago, when I discovered that I do know a couple of people who live on what they call bare-land condo associations. A bare-land condo association means that there is a lot of collective land that's also included in the condominium association, but none of that would need to fall under a new-home warranty program. So there would be circumstances where you would take some condominium property and exempt it from being a part of the new-home warranty because you couldn't take bare land and cover it under a new-home warranty. That's the idea. That's the only sort of circumstance we would use. I didn't know that those sorts of associations, those types of condominium organizations existed, and I would hate to create something that has undue consequences.

I have no intention and no one in this House has any intention of causing any undue effects to anybody who really deserves home warranty protection on a condominium or general property that's collectively owned by the condo that's part of the home itself, but there could be something that would arise where we'd need to give an exemption, and entrenching it in legislation, preventing us from doing that, leaving someone in a lurch for a couple of years may create circumstances that would be bad the other way. That's why we've created the ability to make some exemptions that wouldn't fall under the new-home warranty.

If you read through here, Mr. Chairman, it doesn't list houseboats as being exempt or work camp trailers or homes on wheels or trapper's cabins or other circumstances where a new-home warranty maybe should be exempted and not apply. You can't forecast or foresee every single circumstance where it may need to apply. That's why most every act – and it's not just this government; it's governments from 1905, when this province was created, that have created circumstances, created pieces of legislation where exemptions can be made under special circumstances. It's pretty common practice so that we can avoid undue consequences to people who, frankly, through no fault of their

own may wind up in contravention of the act when we had no intention of putting them under it.

The Chair: Thank you.

Are there other comments? The hon. Member for Cardston-Taber-Warner.

Mr. Bikman: Thank you, Mr. Chairman. I like the bill, and I understand where this amendment is coming from. I think it stems from a concern that a lot of people have when you give sort of a blanket authority or a blank cheque to somebody. I think in the past maybe I and lots of others perhaps had more faith in the institutions of government than we currently have. Some of our fear, my fear at least, is that this could be subject to abuse, could be subject to inappropriate persuasion. I'm uncomfortable seeing this kind of authority vested without some limits to it, and that's where my concerns come in.

Thank you.

Mr. Hehr: I honestly appreciate the hon. minister's comments. They really actually made some sense, and they did bring some things into focus for me. Nevertheless – there's always a nevertheless – in my view, it could have been slightly better drafted by your draft-makers to reflect some of the misgivings here. I'm not sitting here drafting it right now, hon. minister, and I know you're not either, but possibly something that reflected the fact that it wasn't the actual condominium building that was actually built to house people but the condominium assets. Okay?

I think that would have narrowed this to a certain extent for my liking. It would have alleviated the need for this amendment and I think would have at least given me a little more cause for understanding that the regulation is there for a reason, as you rightfully pointed out. But it possibly could have been worded better to more narrow the scope of what the purpose was than to allow for a relatively broader interpretation of what this could actually mean for people interpreting it.

Those are my comments.

The Chair: Thank you.

Further comments?

I'll call the question.

[Motion on amendment A4 lost]

The Chair: We're back to the main bill. The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Chairman. I will move our fifth and final amendment to this bill. If you just let me know when to begin, I will.

8:30

The Chair: Send the copies to the table, and as soon as there's a copy at the table, I'll invite you to start your comments.

Hon. member, you may begin on amendment A5.

Mr. Mason: Thank you very much, Mr. Chairman. On behalf of my colleague the hon. Member for Edmonton-Beverly-Clareview I move that Bill 5, the New Home Buyer Protection Act, be amended in section 3(2) by striking out “, and” at the end of clause (a), by adding “, and” at the end of clause (b), and by adding the following after clause (b):

- (c) the new home has been inspected by an individual authorized to engage in the home inspection occupation under the Home Inspection Business Regulation who is

not employed by nor will receive payment from the warranty provider.

Mr. Chairman, this is, quite simply, an amendment to prevent a conflict of interest by requiring that home inspectors who make an inspection on a new home are not employed by the person or company that's providing the warranty. The section of the act that is being amended indicates the conditions that must be met before a home can be offered for sale. Our amendment indicates that a new home must first be inspected by a home inspector "who is not employed by nor will receive payment from the warranty provider." Bill 5 right now has nothing to say about home inspections, and at present in Alberta they're a mixed bag. They're either employed by municipal governments, accredited agencies, and/or corporations that provide compliance monitoring services.

New-home buyer warranty legislation already exists in British Columbia and Ontario. It has existed in Ontario since 1976 and in B.C. since 1999. In both provinces there have been major problems, and we can learn from their experiences. In B.C., for instance, there have been problems with home warranty providers who employed home inspectors and then withheld inspection reports from homeowners when a problem was reported or a claim was filed.

This amendment seeks to ensure that homes are inspected by people who are regulated under provincial inspection regulations, the home inspection business regulation within the Fair Trading Act, and are not employed by the warranty providers.

Mr. Chairman, home inspectors who are working for an inspection business must have a licence. To have a licence, a home inspector must first be employed by a home inspection business, be a registered home inspector or a certified master inspector or have a degree, diploma, or certificate in home inspection from an approved school, and pass a test inspection by the CMI – that's the certified master inspector – from the International Association of Certified Home Inspectors Alberta or a registered home inspector from the Canadian Association of Home and Property Inspectors or hold an approved home inspection designation from an approved industry association or a licence from an approved regulatory body.

The amendment will provide new-home buyers with a third-party opinion on the quality of their new home. New-home buyers will not just have to take the word of the buyer and the warranty provider. Mr. Chairman, we need to remember that warranty providers consider the builders to be their clients or members. They are not looking out for the interests of the homeowners because it is the builder who has, first, paid the warranty and joined the membership in the warranty provider corporations before, two, passing on the cost of the warranty to the new-home buyer.

Therefore, it's essential that we include a provision in this legislation which requires homes to be inspected by inspectors who are not employed by the warranty provider but are instead hired by the new-home buyer. It ensures that impartial inspections will be completed, that there is no conflict of interest, and that the new-home buyer will be fully informed about the quality of their new home.

Thank you very much, Mr. Chairman.

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

Mr. Hehr: Thank you, Mr. Chair, for recognizing me to speak on what I think is a very good amendment. Essentially, it's taken some of the learning practices that B.C. from their legislation has had in place for over 13 years now and from Ontario, which has had their legislation in place for a lot longer, since 1976. It builds

on some of the information-gathering processes and some of the pitfalls that they saw occur.

Essentially, this is to ensure conflicts of interest don't exist, to ensure that the one who is providing the inspection is not directly connected to the warranty provider. This seems like an eminently reasonable amendment, one that should be referenced and, I think, would add to the act and really wouldn't be that difficult to comply with. I know that here we've had some debates about red tape and all that stuff, but this is a minor amendment that I think does great value to ensure that a conflict of interest is not happening in this business. We've seen from the examples given by the hon. member that this has happened in other jurisdictions, and we should take lessons from that, so I would say that we should do this. I think it's an easy amendment to accept, and I'm sure the hon. minister is looking at it, reviewing it. In my view, both the opposition parties as well as the government members should accept this as a friendly amendment that adds to the protection of homebuyers.

Thank you, Mr. Chair.

The Chair: The hon. Member for Olds-Didsbury-Three Hills.

Mr. Rowe: Thank you, Mr. Chair. I can see the concern of the member that put forth the amendment, but I kind of look at this as: is the glass half full or half empty? I choose to look at it as half full, and by that I mean that if I'm a warranty provider, who else would I want to trust to do my inspections to my satisfaction? Would I want the existing system, which has given us many faults, as we have heard in this whole discussion, and is the reason for this bill? Do I want to use those inspectors, or do I want to use somebody that I am employing and I am paying and I expect to do the job to get that home inspected? It's my neck that's going to be on the line if something goes wrong five years from now or a year from now. I'm the one that's going to have to pay out of pocket to fix that, so I would like control on that. As I said, I choose to see this glass as half full, and I would want that control if I was going to supply the warranty. So I will not support this.

Thank you.

The Chair: Further comments on amendment A5?

Seeing none, I'll call on the hon. Member for Calgary-McCall.

Mr. Kang: I also support this amendment, Mr. Chair, because I know conflict of interest. There may be some unscrupulous builders out there, you know, fly-by-night builders. They may hire the inspectors. They may get the job done and then go out of business, go bankrupt, and I think there will be no protection for the homebuyer because those people are in the business to make money. I think this is a friendly amendment. I think we should all support this amendment because this will, I think, protect the industry and homebuyers equally. I'm going to support this amendment.

Thank you.

The Chair: Thank you.

Further comments? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Chairman. In response to the comments from the hon. Member for Olds-Didsbury-Three Hills, I think that's a very generous view of the interests of someone who has built some condominiums. If they have built a very quality product and they want to make sure that it will meet all the requirements of the act and they want to make sure that there's a thorough inspection, then I agree with them, but that's

not what the act is for. The act is for those instances where somebody might just want to hope that while they haven't quite provided the best quality of product, maybe it'll make it and that maybe somebody is, you know, not going to come back at them by the warranty. I fully acknowledge that's probably a minority, possibly a small minority of home builders, but those are the ones that the act is designed to protect against. So it has to do so, and without this, I don't think it will.

Thank you.

8:40

The Chair: Further comments? The hon. Member for Calgary-Shaw.

Mr. Wilson: Thank you, Mr. Chair. I read this, and I kind of go back and forth. My gut is telling me that this is the type of amendment that should be supported. I say that because, again, as I reflect on the experiences of purchasing a new home, when I had my one-year warranty period expire, I paid for a licensed inspector to come and do the inspection because I didn't trust the builder's inspector to actually see everything and/or agree with certain elements that would not necessarily be caught. Having someone who came in as a licensed inspector gave me the peace of mind when my warranty was expiring that everything that was going to be covered was caught and that it was fair.

Further to that, when I told the builder, who came to do the inspection, that afterwards, they even admitted that it's unfortunate that this happens so often that consumers feel they have to go outside of the realm of the warranty provider to employ or pay out of pocket for a licensed home inspector. Again, my gut says that if our goal here is to ensure that we are properly protecting consumers, then I see no reason why not to support an amendment that suggests that these inspections be done by independent and licensed providers.

Thank you.

The Chair: Further comments? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I have a question here for the hon. members. When I look at this amendment and I read it through and I put myself in the position of the warranty provider, I could not imagine hiring somebody to falsify the warranty and put me in jeopardy. That doesn't make sense to me. There's a CYA thing going on here. I understand the hon. member hiring his own inspection; I would do the same.

Mr. Mason: Why?

Mr. Anglin: I don't trust anybody, one of those other issues I have with government.

But the reality is that it's a logical, common-sense connection. In my mind I know what the amendment is trying to do. I don't believe it's absolutely necessary. It's problematic in one sense, and I will tell you where I think it's problematic. If I'm the person that's providing that warranty, I want to pay somebody to make sure they're covering my rear end and that they are doing that inspection. I'm on the hook. I'm on the hook to pay if I'm doing the warranty. So if I've got to hire somebody else – I don't trust them. As you just said, you want to trust the person you're hiring. If I'm covering home after home after home as the warranty provider, I want to make sure those things are built correctly and that I'm not paying out on warranty. I mean, I really want to know that.

Again, I won't be supporting the motion, but I'd be interested in some comments.

The Chair: Further comments?

Mr. Griffiths: Just quickly. I hate to say it, but those were some of the most valid comments I've heard. I mean, Mr. Chairman, it's exactly as the member explained. I don't understand the purpose of this proposed amendment. The independent person cannot be paid by the warranty provider even though the warranty provider is going to be responsible if there's any damage and would want to hire the best, most qualified person to find out if there's damage to make sure they don't have to pay out the warranty. They want a quality product being built.

You've got to ask yourself, then: who's going to be responsible? Are you now taking all the new-home buyers and telling them they have to pay for an independent person? It doesn't even make sense, Mr. Chairman. I won't be supporting this amendment.

The Chair: Further comments?

Seeing none, I'll call the question on amendment A5.

[Motion on amendment A5 lost]

The Chair: We're back to the main bill. Questions or comments?

Seeing none, I'll call the question.

[The clauses of Bill 5 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported?

Hon. Members: Agreed.

The Chair: Opposed? That's carried.

The Government House Leader.

Mr. Hancock: Thank you, Mr. Chair. Perhaps you could try and see whether anybody would be opposed to rising and reporting on Bill 5 and progress on the bill, too.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Goudreau: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bill: Bill 5. The committee also reports progress on the following bill: Bill 2. 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: Thank you, hon. member.

Does the House concur in the report?

Hon. Members: Concur.

The Deputy Speaker: Opposed? That is carried. So ordered.

Government Bills and Orders Second Reading

Bill 4

Public Interest Disclosure (Whistleblower Protection) Act

[Adjourned debate October 31: Mr. Scott]

The Deputy Speaker: The hon. Associate Minister of Accountability, Transparency and Transformation.

Mr. Scott: I have nothing further. We're ready to call the question, sir.

The Deputy Speaker: Thank you.

I will recognize the hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Speaker. On October 23 I gave a member's statement detailing some of the things that I thought the government had copied from our Wildrose platform, and I celebrated their inclusion of whistle-blower protection, which was found on page 42 of the Wildrose campaign platform. Unfortunately, I was celebrating too soon because even when the government does attempt to adopt what should be good policy, they do sometimes manage to find a way to implement it in a way that doesn't quite do the job. So we have before us Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act, which, I'm saddened to say, is a rather flawed piece of legislation that I cannot support without significant amendments.

I do want to give a bit of history about how it is that we got to where we are today, and I can't do that without acknowledging my colleague the hon. Member for Calgary-Fish Creek, who over a year ago began the process of putting motions forward to urge the government to adopt whistle-blower legislation. She was even in the process of developing her own private member's bill, which would have been introduced in the spring session. I am, having looked at this legislation, kind of wishing the government had held off and waited for the hon. Member for Calgary-Fish Creek to put forward a better bill because I was quite surprised to hear, when the bill was released, my hon. friend say that the government had not worked at all with the Federal Accountability Initiative for Reform, or FAIR.

FAIR is a registered Canadian charity that is run by volunteers and supported by individual contributions. It promotes integrity and accountability within government by empowering employees to speak out without fear of reprisal when they encounter wrongdoing. Its aim is to support legislation and management practices that will provide effective protection for whistle-blowers and, hence, occupational free speech in the workplace. Now, had the government worked with this organization closely, I think they would have avoided some of the unfortunate errors that they have made in this bill. But, fortunately, we have been working with FAIR, and we will be putting forward several amendments designed to be able to correct what we see as flawed legislation.

8:50

Let's also remember why it is that we're having this discussion, Mr. Speaker. In the context of the last few years I first became aware of the kind of bullying and intimidation that we saw by this government when I became leader of the Wildrose and had numerous donors and supporters fearful of reprisal in the event somebody knew that they were supporting the Wildrose or somebody knew that they were coming to a Wildrose event. The hon. Member for Calgary-Fish Creek and I used to have a laugh when we went to restaurants about how the people we would meet would put their back to the door just in case anybody saw them sitting with us because that is the culture that has been created by a government that has been in power for 41 years.

We've also seen that it goes far beyond that. We've seen municipalities, schools, and colleges that feel as though they have to hire high-priced lobbyists or give dollars to the Progressive Conservative Party in order to be able to get grants. We've seen letters written to school boards saying: you'd better be quiet; otherwise, you might not end up getting that school project in your

riding. We've seen the Deputy Premier even threaten a group of parents in Airdrie that the reason they might not get their school is because of an outspoken MLA from Airdrie-Chestermere at the time.

This is what we've been accustomed to seeing from this government, this kind of bullying and intimidation. Of course, it culminated with the AHS review by the Health Quality Council and all of the allegations of health care professionals being bullied and intimidated. Once again, of course, the Premier had promised that she would do a full public inquiry into the issue of bullying and intimidation of health care professionals. It didn't happen. But we know that there have been serious cases.

I'll mention a couple of them. Dr. Ciaran McNamee, a doctor here who ultimately ended up leaving this country and going to work down in the United States because of a toxic workplace environment. We also introduced the public last year to Dr. Tony Magliocco, who tried and tried and tried through the proper channels to raise issues he felt were going to cause a serious concern in the diagnosis and treatment of various forms of cancer. He got nowhere when he went through the official channels and, ultimately, once again, ended up leaving this country to go to another country to practise medicine. We even had a candidate for our own party, Dr. Peter Rodd, who was a doctor at Alberta Hospital, who also felt that he had been bullied and intimidated for trying to stand up and talk about certain practices that his superiors didn't want to hear.

Now, the problem with this bill that we have is that we know that this is the context under which we are talking about whistle-blower legislation, because we want these front-line workers, we want those who are involved at different levels of public office to be able to come forward and talk about the concerns that they have without fear of reprisal. Unfortunately, this whistle-blower protection bill as it's written does not go any of the way towards addressing this very, very serious concern.

It can be corrected. There are ways in which we can make amendments to be able to close this loophole, and I'll go through a few of the issues that we've identified and some of the issues that we hope the government will look upon favourably when we're putting forward amendments because I think we all share the same goal. We want to be able to have strong whistle-blower protection. We want to be able to have front-line workers feel that they have an environment where they are respected, where they are valued, where they can bring issues forward without being harassed or bullied or intimidated or threatened or in some other way forced to operate within a toxic work environment.

Now, in question period last week I was a little bit concerned because it seemed to me that the Associate Minister of Accountability, Transparency and Transformation didn't quite know what his own bill said. In Bill 4 he said that it allows a whistle-blower to go to anyone that they wish, but that of course is not what this bill says. I want to use that as a jumping-off point because I want to talk about the way in which we're judging the effectiveness of this bill. We're judging the effectiveness of this bill on seven different measures.

The first measure is that we believe proper, appropriate, complete whistle-blower legislation will allow a prospective whistle-blower to disclose anywhere. We do not want to see a highly prescribed process for disclosure of concerns. It may well be that an employee feels perfectly comfortable going to their deputy minister, going to their boss, going to a senior official within their own department, but it could well be that they're actually concerned that the person they've got a problem with or the environment that they've got a problem with does not allow them

to go through those official channels. They may want to go to the commissioner as a more comfortable way of bringing it forward. They may want to go to the police directly.

They may want to go to a board if they're with an agency and they've got it overseen by a board. There may be somebody on the board of directors that they feel they have a relationship with and can go to. They might want to go to the media. They might feel so concerned about an issue that they feel the only way to be able to get it addressed is to go to the media. We've seen that before. They may want to go to an MLA. I can tell you that the hon. Member for Calgary-Fish Creek receives almost daily phone calls and e-mails from people who are talking to her about the kind of environment that they're operating within and the kind of concerns that they have, the kind of issues they want to be able to bring forward without fear of reprisal.

The problem that we see with this bill is that it creates a highly prescriptive process. It's actually quite interesting the way this is described under Procedure for Disclosures, under section 5. They call it "procedures to manage and investigate disclosures," and that, I think, is really interesting language because it's quite clear that the government is trying to create a process to manage an issue as opposed to getting to the disclosure part of it. It seems very clear – and I think that this is a fair criticism from FAIR – that they want to bring forward legislation that unfortunately will cause employees to have their concerns go into a black hole, and they may never see the light of day. That's what we want to avoid. We want an employee to be able to disclose their concerns wherever they feel the most safe and the most comfortable disclosing it. Point one, they have to be able to disclose anywhere.

Second point. They have to be able to disclose at any time. I am concerned that there are a number of provisions in the legislation that restrict that ability to disclose at any time. For instance, even in the case where we have an employee concerned that if they don't disclose that there's going to be an imminent danger, an imminent risk to public safety, even in that situation the legislation still requires that even after they've disclosed it, they have to go back through this bureaucratic process to be able to make sure that the deputy minister is looped in through every step of the way. I would say that this again goes to this issue of having the security that you can disclose at any time without feeling like you're trapped into an overly prescriptive process.

The other concern that I have is that there is a two-year limitation on being able to go after an issue from the time of the incident. We agree that there does need to be some kind of reasonable time period, but we think that time period should be a two-year limit from the time of disclosure. For a person who has been working in an environment where they see wrongdoing for some time or where they've experienced an environment where they don't feel that they can be open for some time, it may well be that it will take them some time to work up to being able to tell somebody about it. So we think that being able to have this addressed in a timely way is important, and that means that from the moment it is disclosed, you would have a two-year time limit, not from when the incident first occurred.

The other part that we are concerned about – again, we've seen this time and time again with the government – is that it's always on a go-forward basis. When we look at this bill under part 1, section 3(2), "This Act applies only in respect of wrongdoings that occur after the coming into force of this Act," which is pretty remarkable when you think about it. There may be somebody here today, right now, who wants to be able to be protected under whistle-blower legislation because something is happening right now in their department. This legislation prohibits them from being able to talk to anybody about it, to disclose it, and to have it

addressed because it's not retroactive. Even though we've been talking about this for some time, even though it's on the Order Paper, even though it's going to be proclaimed in the next couple of months, if something is currently happening today, it can't be discussed because now the bill says that it's going to be on a go-forward basis.

We think that that is a way of trying to actually quash any genuine exposure of wrongdoing in the government, and we don't think that this is in the spirit of what the hon. Premier promised when she started talking about whistle-blower legislation during her run for the PC leadership.

The third way in which we're going to be judging this legislation is that whistle-blowers have to be able to disclose for any reason. Once again, when we do look at this list of wrongdoings, it is again fairly prescriptive, fairly tight, and also focused on only the most serious types of violations.

9:00

I don't object to the things that they have on this list. Again, I'm looking now at section 3(1). It talks about if there's a contravention of an act or a regulation under section 3(1)(a). It talks about, under section 3(1)(b), if an act or omission might create "a substantial and specific danger to the life, health or safety of individuals" or "a substantial and specific danger to the environment." Section 3(1)(c) talks about the "gross mismanagement of public funds or a public asset." Section 3(1)(d) talks about "knowingly directing or counselling an individual to commit a wrongdoing." Absolutely all of these things do need to be parameters under which somebody would have the opportunity to blow the whistle.

But we also want to make sure that we're able to address this issue of bullying and intimidation, a feeling like you can't come forward and talk about things that are going wrong in your department; otherwise, you might lose your job; otherwise, you might be demoted; otherwise, you might face some reprisals. So this does not go far enough, and it doesn't actually get to the issue that I think prompted all of the public discussion about why we needed whistle-blower legislation in the first place.

We need to have an amendment that deals with the issue of being able to have protection for disclosing bullying and intimidation, having an ability to blow the whistle if there is a breach in the code of conduct or code of ethics or policies or directives that are occurring as well within a ministry. I think that that is just as important as these very serious violations that would be outlined here.

The fourth way in which we'll be judging this bill is by looking at how broadly it covers those who might be impacted by government decisions. Now, I think the language initially was intended to be quite broad, but one of the things that we're quite concerned about is the ability to see certain exemptions. For instance, it may not cover all of those agencies that do contract work with government. All that we read in the legislation is that it may extend at the discretion of the commissioner. It may extend to all of those different types of organizations that are doing work with almost a hundred per cent or a large share of their funding coming from government.

Of course, we know that there are a whole range of different entities that do work on government's behalf, whether it's our charitable organizations or nonprofit organizations that are administering to children, that are administering to the poor, that are administering to seniors, that are administering group homes. I think it would be an error in this legislation if we didn't extend this whistle-blower coverage to all of those entities that are also relying almost a hundred per cent for their work on the contracts

that they're getting from government. It's not just employees when you factor that in. It's not just employees, then, who are impacted. We could potentially have volunteers who want to be able to raise the alarm as well. We think the language in this legislation is far too narrow.

The second thing is, of course, the exemptions for the Executive Council. We think that if there is wrongdoing among cabinet, that should also be disclosed. I think that there needs to be some provision that there aren't exceptions. We all have to live to a high standard, and I think that whistle-blower protection should apply there, too.

But I think the thing that concerns me the most is section 31. This leaves it incredibly wide open. Under section 31 it reads:

(1) The Commissioner may, in accordance with the regulations, exempt any person, class of persons, public entity, information, record or thing . . .

There's that word again: "thing."

. . . from the application of all or any portion of this Act or the regulations.

That's a pretty broad level of power for exemptions.

(2) The Commissioner may impose any terms and conditions the Commissioner considers appropriate on any exemption provided for under subsection (1).

(3) The Commissioner must provide reasons for giving an exemption under this section and must ensure the exemption, including any terms or conditions imposed, and the reasons for giving the exemption are made publicly available.

It seems like an awful lot of verbiage for a section that shouldn't be in there in the first place. We think that this entire section should be withdrawn from the legislation. If we're going to have whistle-blower protection that is complete, that is broad based, we can't be allowing for the commissioner to be able to exempt any person or thing from the protection of the legislation.

The fifth area in which we'll be judging this legislation is whether or not the ombudsman or commissioner is appointed by an all-party committee. There does seem to be a lack of clarity about where this power will reside, whether it will be with the ombudsman or whether it will be independent. I'll look forward to the debate to see whether I can get some further clarity on that. But the main thing is that it does need to be an office that reports to the Legislature. The Legislature, I believe, needs to be able to have the power to be able to provide the oversight to this independent office in order, once again, to be able to give the confidence to whistle-blowers that they do have the option of having all parties able to get the information that they need to be able to support them in their efforts to address the issues that are going wrong in their various departments.

The sixth area that we'll be judging this legislation on is whether or not, when wrongdoing is found, there is an open, public reporting of that. At the moment the way this legislation is written is that the public reporting is only optional on the part of the commissioner. Now, we've seen how this has happened in a couple of instances over the last year. It's sometimes not enough that you have an independent commissioner. We saw that, for instance, in the case of a particular MLA who lost the last election and was able to get an exemption from the Ethics Commissioner to be able to operate outside the provisions of the conflict of interest law. We have also seen the Chief Electoral Officer forbidden by legislation from being able to report 45 instances of elections violations, of illegal donations to a political party. We've seen as well what can happen when you are not allowing the full latitude for an independent officer to be able to do their work.

I worry that in this legislation, because there is that wiggle room – my experience with the way the government operates is that they

do tend towards keeping things secret and not disclosing as opposed to reaching the higher bar that the Premier has set of openness, accountability, and transparency. We're asking for the government to reach for the higher bar in this legislation, to raise the bar and make sure that all wrongdoing is publicly reported in a way that is not only annual but also whenever instances are occurring as it's going along so that we can make sure that issues are resolved. Part of the reason why whistle-blowers come forward is not just to be able to protect themselves if they're facing a toxic work environment, but chances are that it's because they see some issue that needs to be resolved. We need to make sure that we know what the issue is, protect the whistle-blower, and then get on with actually resolving the issue that is in that department.

The last thing that we would be looking at is protection against harassment for those who come forward. This, I think, is where this legislation falls the most short, where it is the most inadequate. We look at the cases of these doctors – Ciaran McNamee, Tony Magliocco, Peter Rodd – who all got chased out of the health care system, in some cases chased out of the province or chased out of the country, because they did not feel that they had a work environment where they could operate. They wouldn't have been able to move to a different hospital because of the harassment, because of the intimidation, because of the bullying. There isn't any recourse against those who bullied and intimidated them. We don't even really know the names publicly of those who created such an uncomfortable work environment for these three men, and I don't think that we actually even resolved any of the issues that they raised.

This, I think, was another example of failure. We don't have protections against harassment for those who come forward and do blow the whistle. We have to make sure that if whistle-blowers are going to have the confidence to come forward, the public knows why it is that they felt such a serious need to expose what is going on in their area of work. We need to make sure that they're protected so that they continue on doing the work that we hired them to do.

Mr. Speaker, there are other problems with the bill. As I mentioned, Wildrose will be bringing forth many amendments to it, but I do want to conclude by saying that I am reminded that previously the Premier had said: we either have open government, or we don't. Well, when you take a look at this bill, it's quite clear that we don't. The Premier has also said that we need to keep raising the bar on accountability and transparency. Well, I think that this bill also fails on that count. The government needs to go back to the drawing board on this bill in an awful lot of ways.

We're hoping we'll be able to put forward amendments that can repair the worst deficiencies that we see in it. I would also hope that the government would be open minded about putting this bill forward to a committee, one of the policy committees, so that we can look at it once again, we can debate it through, we can identify the flaws, we can identify the amendments, so that we can fix it. If we can't fix it, it shouldn't pass.

9:10

We believe that we need to have whistle-blower legislation that isn't just words on a page, that isn't just a piece of paper, that isn't just something that the government can pass so they can feel good about themselves because they have now got whistle-blower legislation on the books. We actually want to have a piece of legislation that the workers it is supposed to protect feel good about and processes in place where we know that whistle-blowers will be protected so that we can continue to restore the value that we have for our front-line workers, who are doing the work on

behalf of Albertans every single day. I think that's what we've got to keep in mind: who is it that this is designed to protect? It's designed to protect those hard-working, front-line, public-sector workers who are doing so much every single day to make sure that the public services Albertans value are delivered in a way that has the highest value for taxpayer dollars as well as the very best service that Alberta taxpayers have come to expect.

Thank you, Mr. Speaker.

The Deputy Speaker: Thank you, hon. leader.

I'll recognize the Member for Calgary-Buffalo.

Mr. Hehr: Thank you, Mr. Speaker. It's, as always, a privilege to discuss legislation in this House. It is similar in that case right now. We have in front of us Bill 4, the whistle-blower protection act, which is part of Ms Redford's promise to bring forward open and transparent government to this . . .

The Deputy Speaker: Hon. member, the names.

Mr. Hehr: Ah, yes. Thank you.

The hon. Premier's promise was to bring openness and transparency to this great province, and whistle-blower legislation was to be part of that new agenda and that new mandate.

I would be remiss not to say that, you know, not all the new ideas have stemmed from the Wildrose addition to this Chamber. I know the hon. Member for Calgary-Fish Creek probably remembers, when she was in government, when the hon. Hugh MacDonald, my former colleague from Edmonton-Gold Bar, first brought whistle-blower protection laws to this Assembly. He came up with a private member's bill in 1998 and championed the cause for some 14 years before we saw any whistle-blower protection being thought of by this government.

I will note that the legislation brought forward by Mr. MacDonald back in 1998, in my view and probably in any objective view, had much more teeth, much more protection for whistle-blowers, much more ability for people to feel comfortable and to bring forward legitimate complaints when they find issues of malfeasance or otherwise while working for a public body. I do note that my former colleague was very passionate about whistle-blower protection and would often talk about it in our caucus meetings and wonder why we didn't have this law in Alberta.

We can also see that this legislation was introduced by the Minister of Service Alberta as ushering in a new era of openness and transparency; in fact, he called it a new bar for accountability and transparency. In my view of the legislation, that is not quite happening. If you're looking at bars for trying to provide whistle-blower protection that actually works, that actually give the whistle-blower protection, that actually allow them to feel comfortable, there are ample examples of this throughout the world. Other jurisdictions have been through this process, have moved forward on progressive legislation that not only gives lip service to openness and transparency but actually gives the words some meaning and justice. You have areas in the world like England, Australia, and New Zealand which have gone far beyond what this legislation has to offer.

I think that's something to be considering. I know the hon. Associate Minister of Municipal Affairs commented yesterday, when they introduced the condo legislation, that they looked at legislation across the provinces with regard to homeowner protection. It's surprising that it appears that this has not been the case. You would think that if we were going to go down a path of introducing whistle-blower protection here in this province, we would look to the jurisdictions that are providing the most

comprehensive, most effective forms of whistle-blower protection. It seems redundant to do otherwise.

Why would we want to go with a substandard act or an act that doesn't give whistle-blowers the same protections or better protections in the spirit of openness and transparency, when that information is readily available? You don't have to reinvent the wheel, and in this case this is obviously true. This government didn't do much research, in my view, on what exactly constitutes adequate whistle-blower protection. That is referenced not only by members of the opposition, but it seems to be a common call if you look at the papers in this province, editorial comments and the like, that are all resoundingly saying that this whistle-blower law falls far short of what we expected, of what I think the Alberta public was led to believe was going to happen with the new Premier's government and, in fact, that has let not only whistle-blowers but the general public down in that regard.

I think we can start with: what should a whistle-blower protection law look like? Really, an excellent job was done by Mr. David Hutton in this regard. He is the gentleman who is a recognized expert in assessing these laws as to whether or not they are really doing what they're said to do. David Hutton is the executive director of the Federal Accountability Initiative for Reform, which works to protect whistle-blowers who safeguard the public interest.

We must remember that there are those words "public interest" again. It's easy to talk about the public interest. It's difficult to get a handle on it. In my view, never having been in government, when you're in government, it's easy to want to stifle public interest. Oftentimes they have their own ideas of what direction they should be going in or the like, but I think there's always an opportunity to learn not only from other jurisdictions but from recognized experts in the field.

David Hutton says that you need full speech rights.

As a general rule, whistleblowers must be able to blow the whistle on wrongdoing anywhere, anytime and to any audience, with restrictions maybe in cases of national security.

Weak laws tend to limit whistleblowers' options, forcing them into cumbersome, often-secretive bureaucratic disclosure regimes that, under the pretext of giving them due process, silence them and bury their allegations.

It appears to me that that appears to be what is happening in the currently drafted whistle-blower legislation. It doesn't appear to open up free speech, open up the opportunity for whistle-blowers to bring this up in any form or fashion without fear of reprisals from their boss or their employer or the government. That, to me, is fairly evident when you look at the act.

2. Right to disclose all illegality and misconduct

There must be a broad definition of what types of wrongdoing whistleblowers are allowed to report.

Weak laws exclude acts such as violation of policies, regulations or codes of conduct – effectively blessing such misconduct and creating uncertainty about what can be reported. These uncertainties can enable the accused organization's well-funded legal team . . .

Often they are.

. . . to tie up the whistleblower in legal technicalities until they are exhausted and bankrupt, while the wrongdoing goes unchallenged.

The law should also cover all sectors of the economy, not just government, since private sector wrongdoing can harm the public just as badly as government misconduct.

9:20

We don't see any of this in the act, and as was pointed out earlier, other jurisdictions have covered this much more broadly,

much more extensively. If we are going to have an open and transparent government, let's do it as best as we are able or as best as other countries and jurisdictions are doing so. This is not being done at the present time.

3. No harassment of any kind

Whistleblowers are typically subject to a wide array of reprisals, ranging from the subtle to the brutal. These include social isolation and humiliation before their peers, being cut out of the information loop with their responsibilities given to others, impossible work assignments or no work at all, false accusations and retaliatory investigations.

We must note that it takes tremendous courage to be a whistleblower. It takes tremendous courage to stand up to a government or a department or an employer or the like when you see something that is clearly wrong. You have to establish protocols and provisions that allow this person to not be harassed when they are making their full and fair disclosure to the powers or to any outlet that will hear their cause and give them their day. However, that does not appear to be in this legislation.

4. Forum for adjudication, with realistic burden of proof and appropriate remedies

Whistleblowers are usually forced to seek some kind of remedy after the reprisals have already begun, by which time they may... be unemployed, impoverished and suffering from stress-related injuries caused by harassment.

Weak laws send truth tellers to tribunals, which are set up as kangaroo courts because the whistleblower has to prove that the employers' actions were intended as reprisals. This is virtually impossible – employers are rarely foolish enough to confess their motives.

In other jurisdictions...

Again, other jurisdictions have already written this legislation. The work has been done. You don't even have to do any more. Just go hit print on your printer, print it out, bring it back here with some comprehensive legislation. It's been done, so it wouldn't cause you guys any more work over there.

... the whistleblower is given a fighting chance by shifting the burden of proof: once a connection is established between the whistle-blowing and the reprisal (e.g., if one followed immediately after the other), the onus is on the employer to show that these actions were justified and not intended as retaliation.

It'd be a similar provision to what we see in the workers compensation legislation that we've seen brought in by this government earlier, where we had presumptive coverage for first responders. This would be a similar type of provision except it would be available to whistle-blowers, so the government is not unaware and has used similar, analogous – not exactly analogous circumstances but similar situations to rectify a wrong where they saw it in the WCB legislation. In my view, they should be incorporating this into theirs.

Strong laws can also shield the whistleblower from being harmed in the first place, for example, by allowing injunctions to prevent dismissal or disciplinary action until the allegations have been investigated. They also provide "make whole" remedies to properly compensate people whose careers and future earning potential have been devastated.

As was pointed out by the hon. Leader of the Official Opposition, this has happened in Alberta's past. It has happened to members of this House. It happens to Joe and Jane Albertan on a regular basis. If we are going to stand up for these people, we need legislation that actually says what their protections are. It doesn't imply what they are; it says what they are.

5. Mandatory corrective action

Attacking the whistleblower turns the focus away from the wrongdoing, and even when the misconduct is eventually

proven, there is a strong tendency for employers to let the wrongdoers off lightly. Unbelievably, wrongdoers often receive promotions. This defeats the entire purpose of whistleblower legislation, which is to deter wrongdoing.

These are some of the essential elements that, in my view and in David Hutton's view, are not in the act, which does not provide for a comprehensive whistle-blower legislation, that doesn't allow whistle-blowers the protection we need in this province. In my view, this is lacking in substance of what we should be striving for in this government, that we were led to believe that under the new Premier would be happening in this government, open and transparent government.

Thank you.

The Deputy Speaker: Thank you, hon. member.

Are there any questions or comments for the member under Standing Order 29(2)(a)?

Seeing none, I'll recognize the Member for Calgary-Fish Creek, followed by Edmonton-Highlands-Norwood.

Mrs. Forsyth: Thank you, Mr. Speaker. Actually, I am grateful for the opportunity to speak on Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act. While I appreciate the hard work that the minister has put into crafting Alberta's first piece of whistle-blower legislation, I have to get on the record that I'm bitterly, bitterly disappointed in Bill 4, and I'll tell you why.

As the Leader of the Official Opposition has said in her speaking notes, I have been working on the whistle-blower legislation for some time. In fact, if you go to the Order Paper, you can find my motion that is going to be debated, hopefully, sometime this fall. I doubt if we'll have time to be able to debate it because of the timing. But I also am bringing forward a private member's bill in the spring session, which happens to be the second private member's bill that we'll be dealing with in the spring session.

I was excited about having the opportunity when I heard that the government was bringing the whistle-blower legislation to the House. I guess maybe I was in fantasyland or had been into something I shouldn't have been because I had a lot of hopes for what the Premier talked about, you know? Well, I'm not a lawyer, Mr. Speaker. She is. I guess my disappointment is – and we have several lawyers on both sides, actually. I can tell you that I sat down with the lawyers on our side, and we've discussed this piece of legislation. I'm not going to go into great detail about what they've said because every single member of our caucus is going to speaking on Bill 4 tonight. That's how strongly they believe in what they don't see in our Bill 4.

It's interesting that when I read Bill 4, the front cover says, "Bill 4, Public Interest Disclosure (Whistleblower Protection) Act." It's the Associate Minister of Accountability, Transparency, and Transformation. I have to really ask the minister: where's the accountability in this bill, where's the transparency in this bill, and where's the transformation in this bill?

I think, Mr. Speaker, one of the nice things about being a member of the opposition – and we've heard various speakers before me talk about Mr. Hutton from FAIR. I've had the opportunity to converse with Mr. Hutton since the summer in regard to his vision of whistle-blower legislation. What was so interesting when I talked to David is the fact that he said: well, you know, Heather, the government is bringing forward this whistle-blower legislation, and you know that the Premier has said how she's going to be open, accountable, and transparent, and she's going to govern differently.

9:30

We're really quite excited about seeing this whistle-blower legislation, so we said, "Yes, we'll certainly help you" because we think it's important to have a very comprehensive piece of legislation. We think it's important to have a concise piece of legislation. More importantly, we think it's important that this piece of legislation does what whistle-blower legislation should be doing, and that's to protect the whistle-blower.

I was lucky enough to get an e-mail from David. David has, in my mind, no political stripe. I've never asked him how he feels. In fact, I think the hon. Member for Calgary-Mountain View was one of the previous directors or volunteers at FAIR, so there is no political stripe. You can't be blaming, "Oh, well, he's a supporter of the Wildrose" because I doubt if he is a supporter of the Wildrose Party, to be honest with you. But he certainly has provided us with a good analogy of how he feels about the whistle-blower legislation.

They have concluded that

this is a misleadingly-named piece of legislation which shields the government from damaging disclosures, may be used to protect government wrongdoers, and does not protect whistle-blowers at all.

He goes on to say:

This bill is a backward step because it does the opposite of what it claims, effectively shielding the government from embarrassing publicity while doing nothing to protect whistleblowers or the public.

Mr. Speaker, those are two very, very, very damaging statements. In fact, if I was the Associate Minister of Accountability, Transparency and Transformation, I've got to tell you, Member for Fort McMurray-Conklin, my spidey senses would be going: we have a problem here.

I was a previous member of this government. Your legislation goes through a gruelling process, and I don't know if it's changed. I mean, maybe you can tell me. I know you have your process of legislation where you go through legislative review. You have a bunch of lawyers and your Leg. Review Committee around you, and they tell you about what's right in the legislation and what's wrong in the legislation. I have to ask you, Minister: did you do that?

I've been in this Legislature for a long time, and I hate bloody well saying that because that just ages you, and I've got this young leader beside me. You know, it's like the old chicken and the new chicken – I don't know – something old and something new, something borrowed, something blue, and I'm the old one.

How can you even seriously consider tabling this legislation? I have gone through this bill page by page, word by word, spent my entire weekend, when I was supposed to be celebrating my wedding anniversary on Saturday. I said: "You know what, honey? I'm sorry; I've got more exciting things to do. I'm going to read the whistle-blower legislation." I mean, that really impressed him.

Minister, honest to goodness, maybe you and I should get together, and maybe you and I should read this legislation. Maybe you can explain it to me. You can explain it to FAIR, who's probably North American renowned on whistle-blower legislation. In fact, they get called on whistle-blower legislation from all over the world. If you talk to Mr. Hutton, he'll say to you: Minister, maybe you should look at the Australian model, or maybe you could take a little bit of the model that's happening in the States. He says that this is the worst piece of legislation in Canada by far, and he's very critical about other pieces of legislation that have been tabled in other Legislatures across this country. He said that by far this is the worst legislation in the country.

I was at your news conference where you and the Service Alberta minister stood up very proudly in front of a whole bunch of press and said that this is groundbreaking, that this is leading. I don't know what else you said about the legislation. I'll have to go back. I thought: "Well, maybe we're onto something. Maybe this is an exciting piece of legislation." When the Member for Lac La Biche-St. Paul-Two Hills and the Member for Lacombe-Ponoka were briefly going over the legislation as the critics . . . [interjection] Minister, we've got three critics on this piece of legislation because that's how important the Wildrose thinks this legislation is.

We were all kind of briefly reading this legislation, and we were going: "Oh, my God. Oh, my goodness. Oh, crap. This is a bad bill." I'm reading it. [interjection] Well, I know the Member for Edmonton-Whitemud, a lawyer. I'm not a lawyer, okay? I'm really excited to have the lawyer from Edmonton-Whitemud get up and give his legal opinion on Bill 4. I'm not a lawyer, so I think that's important.

You know, Mr. Speaker, I think what Albertans were expecting was a big step in this piece of legislation. It was the first time that we were going to allow government employees, servants of the public, to come forward when they know of lawbreaking and gross mismanagement in the public sector because they understand, our hard-working front-line workers, the vital need for democracy in this province.

Checks and balances in this province aren't just about the governing party and the opposition party or the provincial government and the federal government. It also includes civic-minded people coming forward, brave enough to say: enough is enough on illegal behaviour in our government.

I have to tell you that I admire whistle-blowers. I admire their bravery in the face of the governing party. I've been in government, and I've been in the opposition. I've been on the front bench. I've been on the backbench. I've been on the side bench so far outside that one of my constituents asked me if I was going to be in the men's washroom in the next move. I know how it feels. I absolutely know how it feels, honestly, Mr. Speaker, to be in the wrath of government. I know that when you say to yourself, "Enough is enough," enough is enough.

When I made my decision to change parties, it wasn't easy. I've spoken about that. I faced threats. I faced intimidation. I lost relationships with people that I thought were close friends. Some of those people, Mr. Speaker, have not spoken to me to this day. But you know what? I made the right decision, and I made the decision on the path of the people that I serve.

I can't imagine – I cannot imagine – how a government employee would feel confronting their bosses, putting their jobs on the line by speaking out about what they believe in and what they think is right. They're not only risking a paycheck, a job. They are likely risking their livelihood and their career. If you work for the government of Alberta and blow the whistle, your career is, effectively, over. It's their way, or it's the highway.

I think of people like Dr. Tony Magliocco, respected around the world, not only in this province but around the world. He worked hard every day to ensure that Albertans were safe. He did what he thought was right. He took issue with how cancer care, in his opinion, was being degraded to save a few pennies. Diagnoses could be made incorrectly, just like in other Canadian provinces that made the same mistake. You know what? Predictably, his contract wasn't renewed. Was it because he wasn't skilled enough? No. His skills allowed him to be in charge in the first place. It was because he spoke up. He had the confidence and the bravery to speak up for the cancer patients in this province.

Where is he now? He's in Florida. He is at one of the premier cancer clinics in the world now. He couldn't find a job here, and

now all Albertans are suffering because people in this government couldn't handle what he had to say. Mr. Speaker, quite frankly, that is disgusting.

9:40

In light of Dr. Magliocco's personal experience, as I indicated earlier, I was excited about the whistle-blower protection act. I really was. It's about time, but, Mr. Speaker, as I've indicated, I'm truly disappointed in the content of this bill. There are so many flaws that I'll run out of time mentioning them. The leader has spoken about some of the flaws in the bill. I can guarantee you that we are going to bring forward, this party, many amendments to try and band-aid the bill so that we can protect the people who truly want to do the right thing, and that's to blow the whistle on this government.

The Deputy Speaker: Thank you, hon. member.

Questions or comments under Standing Order 29(2)(a)? The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thank you, Mr. Speaker. There was an article on October 23 that said how the whistle-blower minister would blow the whistle, and bizarrely he said that instead of going to the whistle-blower official, he would go straight to the Ethics Commissioner. So you had the minister who actually put forward this legislation saying that he wouldn't even go to the whistle-blower commissioner. I'm just wondering what your thoughts are on that, whether or not that just shows another flaw in the legislation.

Mrs. Forsyth: Well, Mr. Speaker, I mean, if you have a minister of the Crown speak and he's asked about how he would deal with whistle-blowing and he thinks he goes to the Ethics Commissioner, I think there are two mistakes here. First of all, he blatantly is saying that he doesn't support his own whistle-blower legislation. There's just no question.

Secondly, I don't think the Ethics Commissioner is somewhere that is possibly the right place to go. I'm sure the Member for Fort McMurray-Conklin is listening, and I'm sure, knowing he's the Associate Minister of Accountability, Transparency and Transformation, that we're going to ask him to do the right thing. The leader has said that maybe he'll consider moving this to a committee, but those are things that I think need to – as we move forward, we're anxious as the Wildrose to have the opportunity to hear what the government has to say. There are 62 of them; there are 17 of us. I think it's key. [interjection] Sorry; 61. [interjection] I can see Edmonton-Gold Bar is just getting really excited about the debate, and I can hardly wait to hear him get up because I know he's very passionate and concerned about his constituents. I can't wait to hear him stand up and speak in support of this legislation or, for example, maybe recognize the errors of this legislation. I, quite frankly, look forward to the debate.

The Deputy Speaker: Thank you, hon. member.

Are there other comments or questions under 29(2)(a)?

Mrs. Towle: I would just like to ask the hon. member: when she was the minister of children and family services and also the Sol Gen of this fine province, did she ever run across a direct opportunity where people wanted to come forward and knew for sure they would lose their job? If she could explain how those people felt about that.

Mrs. Forsyth: Well, I have to say that I was very, very fortunate with the people that worked for me in the Solicitor General and

the ministry of children's services. We had an open-door policy, and the open-door policy was the fact that if there was a concern where they were dealing with the ministry, then they knew that they could come to the minister without any fear of reprisal. I had the opportunity on several occasions when people that worked for me in the department came forward and brought a concern to me, and I think I dealt with it in a very fair way. Will that same thing happen at this particular time? I doubt it. I mean, we've seen over and over and over again what's happening in our health industry.

I can tell you, and the leader has mentioned it, that we have had – I might have a day go by that I don't get a call. But I can tell you that I'm considerably busy, as you are, Member, as the Seniors critic now. You know how many concerns and complaints that we get on a daily basis where they want to talk. I mean, I have spent so much time talking to the wonderful doctors and health care professionals in this province. We have given our word that we're going to fight on their behalf so that the bullying and intimidation in this province will come to a stop.

The Deputy Speaker: Are there others? I'll recognize the Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Speaker. I'm pleased to rise to speak to this bill, which is Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act.

Before I begin, Mr. Speaker, I'm pleased to announce the re-election of President Barack Obama in the United States election. He's now passed 270 electoral votes. I think that's good. There's a marked lack of enthusiasm from my Wildrose colleagues and, frankly, over there. There are a few closet progressives left over on that side.

Mr. Speaker, when I was first elected in 1989 to city council, I dealt with some individuals who were whistle-blowers. One was an engineer that worked for the city, who talked to me about how a major sewer project worth millions of dollars was being constructed. It was to replace an old one, but the old one was actually in good condition.

Another person came to me, a welder, just a welder.

Mrs. Forsyth: Just a welder?

Mr. Mason: Well, he was pretty low. What I mean by that is that he was at the bottom of the hierarchy.

An Hon. Member: He wasn't a lawyer.

Mr. Mason: He was not a lawyer. No, he wasn't.

He told me about a water main that was built in the west end in Edmonton that had been improperly installed, and the result was that it would rust through within 10 or 15 years. They actually drained that water line, because it had already been put in service, and right where he said the faulty construction was, it was.

They had something in common with other whistle-blowers, and I learned a valuable lesson. They were fired, Mr. Speaker, and I've seen that pattern repeat itself throughout my public career. It's been mentioned that the hon. Member for Calgary-Mountain View was fired, other doctors were fired, people who have exposed illegal Conservative fundraising tactics have lost their jobs. It seems to be a pretty standard consequence of people who are whistle-blowers.

This government, when it was elected, purported to be open and transparent and was going to show Albertans that it was possible to be a progressive Conservative. That was what the Premier promised, and she even went so far as to appoint an Associate Minister of Accountability, Transparency and Transformation.

Reporters asked me about that. Isn't that evidence, they said, that this Premier is actually interested in transparency and accountability? I said: "Well, you know, I've been here a little while, and I've heard different Premiers talk about the importance of transparency and accountability. They talk about it a lot, but they don't actually do it. Nothing really changes in terms of the culture."

9:50

Then why appoint an associate minister? Well, in my view, if the government simply wanted to be transparent and accountable, it would just do so. It would just do it. You don't need to appoint a minister and a staff and have all of those costs in order to make your government accountable and transparent if you lead by example. Why do you need it, then? Well, it's an interesting question. I have a theory. It's just a theory. If you want to look like you're transparent and accountable but make sure that when push comes to shove, you really aren't, you actually need a bureaucracy to do that. I think that's actually where we're at with this particular government in respect to that.

Mr. Speaker, this is a really bad piece of legislation. It purports to be a whistle-blower protection act, but it's actually a whistle-blower management act. It's a way to manage whistle-blowers so that they can't do damage.

Mr. Anderson: That's exactly what it is.

Mr. Mason: That's exactly what it is. So they can take a whistle-blower, and they can take him or her and put them through certain channels and so on, and you know that in the end they're not going to do any damage to the government.

I'm prepared to go through some of the things that are wrong with this act. Only public-sector workers are covered. Private-sector workers need protection as well because, as we know, the vast majority of economic activity in our society is still carried out by the private sector, and all of that activity can produce harm if it is not done in the interests of the public. There's no coverage whatsoever for private-sector workers, and it's a huge shortcoming in a province with many government contractors and persistent issues around the contracting out or privatization of public functions. The commissioner, for example, for any reason he sees as valid can exempt workers from coverage in the bill.

Under section 19 the bill makes it clear that the commissioner is not obliged to investigate any disclosure. There is a complete lack of ability for individuals to appeal a decision of the commissioner. There is no access to the courts and no possibility for a judicial review.

Section 52 clearly states that "no proceeding or decision of the Commissioner shall be challenged, reviewed, quashed" or questioned by any court. Mr. Speaker, that's completely unacceptable because strong and correct whistle-blower protection always provides avenues in addition to access to the courts, not instead of access to the courts.

The provision set out for annual reporting by the commissioner and the chief officers is weak. It's worse than the federal law, which requires disclosure to Parliament within a reasonable time frame. The commissioner doesn't need to disclose many details, beyond annual statistics, to the Legislature, and there's no clear process for disclosure to the public. The commissioner may – and that's may, not shall – publish a public report. He's not obliged to do so.

There is no criteria given for the exemption of employees or public entities from coverage under the act. Sweeping exemption powers allow a commissioner to freely designate certain people,

departments, offices, and so on as above or below the law. That's completely unacceptable as it erodes the scope of coverage of this act.

Mr. Speaker, in the U.K. the whistle-blower act focuses on remedies for whistle-blowers and provides that compensation will be given to whistle-blowers. In other words, the whistle-blower in that legislation must be made whole from the damages suffered from the whistle-blowing process. This bill does not have anything whatsoever that protects and compensates the whistle-blower. It's the most glaring evidence that this bill is not about whistle-blower protection; this is about government's protection from whistle-blowers.

Many whistle-blowers lose their jobs and face immense legal and other costs, so it's essential that the bill have robust details regarding remedies in order to make it an effective law for whistle-blower protection.

Mr. Speaker, the strongest provisions are in Australian law. If the bureaucracy refuses to investigate, the whistle-blower has the right to go public and be protected.

Strong whistle-blower protection must turn delay tactics on their head, especially considering the limitations in this bill and the prosecution timelines. There should be no restraints on going beyond internal measures. The validity of the disclosure can be assessed after the disclosure has been made, but whistle-blowers must feel comfortable going public if necessary.

The commissioner's annual report to the Legislature will not provide enough information for the public and will likely be filled with empty statistics. Details missing will likely include things like departments and individuals involved in investigations, remedies sought and awarded, penalties to departments and/or to individuals, and the specific steps taken to remedy any wrongdoing. The secrecy throughout this bill, especially when it comes to the internal disclosure process, will silence whistle-blowers and intimidate those who do not feel comfortable going through internal processes.

There's a monopoly of control over this process, under the control of one person, the commissioner. No appeals to the courts are possible, no accountability of the commissioner to any other officer other than annual reports to the Legislature. As a result, the commissioner can effectively shield the government from whistle-blowers.

Mr. Speaker, governments historically use different strategies to cripple whistle-blowers. There's quite a bit of literature on this. Often the provisions set out in whistle-blower legislation actually enable the government to do the opposite of encouraging whistle-blowers in the name of the public interest. Governments use the following to protect themselves from whistle-blowers: one, no teeth in the law itself; two, inadequate resources given to people responsible for enforcing the legislation; three, appointment of the wrong person to the office of the commissioner; and four, setting time limits for investigation. In this case, prosecution can't take place later than two years after the alleged offence was committed.

In conclusion, Mr. Speaker, this is a terrible piece of legislation. This is a piece of legislation that this government should be ashamed of and which I urge the government to withdraw. I know that the Wildrose has said they've got multiple amendments. We know what's going to happen to those. I think we could all save a whole lot of time if the government would just withdraw this deplorable piece of misnamed legislation that, as I said at the beginning, is not designed to protect whistle-blowers but to channel them, to manage them, and to make sure that they can't do any harm to the government or to the bureaucracy in that case.

As such, it will not protect the public. It will not meet the goals that the government claims it's intended to meet. It will in fact, in

my view, make the situation worse. I pity the poor person who really sees something wrong within the government and thinks the public has a right to know and tries to follow the steps in this bill because they will be blocked and channelled and will not be able to give effect to the cause that set them off in the first place. There is no end to the intimidation that is continued under this bill. I wouldn't feel comfortable recommending to any individual who saw some wrongdoing to follow the processes set out in this bill.

I'd feel much more comfortable to say: "Come to us. Come to one of the other opposition parties. We'll make sure that we protect you, but we'll do our very best to get your information out to the public." That's a far better approach to take if you really want the public to know what's going on behind the closed doors of this government, Mr. Speaker.

I urge all hon. members to vote against this terrible bill. Thank you.

The Deputy Speaker: Thank you, hon. member.

Any questions or comments under 29(2)(a)?

Seeing none, I'll recognize the Member for Calgary-South East, followed by Olds-Didsbury-Three Hills.

Mr. Fraser: Thank you, Mr. Speaker. You know, I've listened to a lot of things tonight, and one thing is for sure. People aren't perfect. To the Member for Calgary-Fish Creek: it's very unfortunate, some of the things that you've experienced in your life in this House, in this Legislature. A couple of things. First, I commend you for standing up for your constituents and running in an election. That takes a lot of courage. Second of all, to cross the floor, I can't imagine, and then if there's a breakdown in relationships, which doesn't just happen in government between parties but between people on the street.

10:00

When we talk about some of the things in health care, Alberta Health Services, which is my past full-time employer – I'm a paramedic. I still work on the ambulance. In fact, I was president of the Calgary paramedics. I was a spokesperson for many paramedics across this province that had issues with government, transition, all those things. I have to tell you that if you ask the hon. Health minister and the Health minister before him and some of the other hon. colleagues around here, I was a pain in their butt in some cases and still am.

So when we talk about whistle-blower legislation, I just have to say a few things. When I ran, clearly, I had issues with some of things that government was doing, and I was an advocate. I made a promise to stand up for the paramedics in this province, not just paramedics but be a liaison in emergency room departments between physicians and nurses. I would dare say that some of the bullying that takes place between practitioners can be pretty heavy because they're Type A personalities, and they want to care for patients.

When I made a decision to run for this government, it wasn't a matter of: I don't like particular people. What I saw on this side was an opportunity to build on the strengths that this province already has. When we talk about being able to advocate for patients, that's really the bottom line when we think about health professionals. I've been there in those tribunals, and I've been there with those conversations around the Protection for Persons in Care Act. Any time a paramedic steps out of line or a physician steps out of line – because the argument can be made that every time a physician or a nurse or any practitioner can't perform their duties on a patient, it's inhibiting the ability to care for the patient, and the persons in care act speaks to that. That's one step moving forward.

This legislation is not about words and legalese, which we seem to be getting into about a number of bills here. I guess in some ways I'm putting a challenge. What if we take the politics out of it? What if we as 87 representatives and advocates for our constituents around this province push people, encourage people, lift people up and move them towards this legislation to report these abuses, to be the whistle-blower, to empower them? Instead, every time that a piece of legislation comes around this House, there have to be amendments because it can't be perfect. You know, this bill talks about the ability to go back and review it. The commissioner is asked to report on the inquiries that happen on a yearly basis. The legislation is to be revisited in two years because I can tell you one thing: whether it's legislation we wrote 10 years ago, two years ago, or the legislation that we write today, it's always going to have to evolve. We're always going to have to be diligent. We're always going to have to review it, and none of us in this Chamber are perfect.

Together, if we start working on the real work that needs to be done for Albertans, encouraging them that: "You know what? This is the number one place in the country and, I argue, in the world to live." That's because of the people that live here, that pay taxes every day, raise their families, because of the opposition on this side, the government on this side, because we work together for a better Alberta. We don't always agree, but that doesn't mean we always have to rip down every institution that this government has. I fight hard every day when I'm on the ambulance or with my constituents to defend them, to protect them. I'll be the first one to stand up for the little guy. That's what we should be doing. Not discrediting people or saying that this is terrible legislation. How about stand up for it? How about push people to this legislation? Push it to the max. Push it to the point where it does ultimately fail in certain spots so that it can be improved, rather than trying to always drag it back into legislation.

Now, when we talk about some of the other things – and just to be clear, we need to be truthful in this House. We need to talk about the reality. Health care is very complex, and you have Type A personalities and practitioners right across the board. But the one thing that I don't believe – I've been a part of that bureaucracy that's there and the fail-safe that is created to make sure that not one person is making the decision or one profession but a multiple group of people making a decision for the betterment of patient outcomes at the end. I'm sorry, when a physician happens to be one of 10 making a decision on whether it's clinics or in some of the things that the opposition has mentioned when we talk about policy around how we should develop health care for better patient care, if that one person is on the outside, they absolutely have the right to be outspoken, they have the ability to go to the media, and in that maybe it does put them in front of the commissioner. Maybe it raises a certain number of questions.

We also have to believe that there's a process of building relationships and building trust, and when people go outside that and handle themselves in a particular way, sometimes it does create friction. Sometimes the ultimate part of it is that relationships break down. It's unfortunate, and I hate to hear that. But we've got to start talking about what's right and stop trying to make an amendment to an amendment that confuses it.

We should be encouraging people to stand up. You know what? Really, that's what this is. People stand up and there's reprisal. When that reprisal takes place, they're going to get fined, and the legislation talks about that. Apart from any investigation by the commissioner those who carry out reprisals against employees will have committed an offence under the act, may be prosecuted

in court, and upon conviction face fines up to \$25,000 for a first offence and \$100,000 for a second and subsequent offence.

That's what we should be doing in all aspects of our legislation. When people break the law, we make harder judgments against them. We need to stand up together on this. We need to pass this bill, and then we need to push people towards it, not by saying that this is the weak side or that's the weak side or the weak link. This is one where we have an opportunity to collectively lift people up, stand up for those who are being bullied by administration, because, inevitably, that's never going to change. As humans we're all fallible, and that's going to happen. But if you stand up together, we're going to move forward.

So I look forward to hearing the amendments that might come forward, but I'm in support of this bill. I think that it's more wholesome than what we've had before. It makes it very clear that if you're going to create problems for people who are whistle-blowers, we're going to penalize you. We're going to report our outcomes. We're going to encourage people to move that way. Here's the deal: 87 people, 87 MLAs; managers – because not every manager, believe it or not, in Alberta Health Services is a bad manager; they care about people; they care about ensuring that their members can do their job – there are unions; there are labour groups; there are many avenues.

This is not about stifling people. This is letting them know that when they get bullied, we're going to respond. We're going to charge them. We're going to investigate them. This is a part of open government. I support this. I support the minister of – I can't say it all, so I'll say the minister of alphabet. Pardon me. I'm just kidding. At the end of the day I support this, and we need to move forward on it.

Thank you.

The Deputy Speaker: Questions or comments under Standing Order 29(2)(a)? The Member for Calgary-Shaw.

Mr. Wilson: Thank you, Mr. Speaker. Thank you to the Member for Calgary-South East for your very passionate speech. I certainly appreciate where you're coming from. There are some hard realities here, though, that I think the members across need to recognize. Any time an amendment is brought forward, it's not purely for political gain. There are some real issues here, and the insistence that everything that is being put forward has a level of perfection: that arrogance just doesn't sit well. Recognize that like the mandate your party was given, the opposition was given a mandate with 55 per cent of the popular vote in this province, more than half. It may not be recognized in the seat count. But I think that, you know, some of the things we saw yesterday, us here begging your party to allow Bill 2 to go to a committee to be debated in a nonpartisan environment only to be shut down – so just for consideration, and again I appreciate your passion.

Specific to the bill, though, I would like you to comment, please, if you would, hon. member, on section 31(1), which reads:

The Commissioner may, in accordance with the regulations, exempt any person, class of persons, public entity, information, record or thing from the application of all or any portion of this Act or the regulations.

Your thoughts, please.

The Deputy Speaker: The hon. member.

10:10

Mr. Fraser: Thank you. Well, I have to say this about the hon. member across the way: he's a fine gentleman and a constituent of mine, and I appreciate his comments.

Let me speak specifically to that, and I'll relate it to my own profession as a paramedic. Every time I make a decision, whether I decide to treat or not to treat, whether I exempt a protocol or add a protocol that happens not to be there, I have to answer for it. I have a legal obligation to answer for it, and I don't just answer for it once in a patient care report. When I go to a physician and, let's say, I do a terrible call and I feel that I need to do something extreme that doesn't fit inside the guidelines, the first person that I have to answer to is the trauma physician, and then I have to answer to the multitude of nurses, and then I have to answer to the student physicians, the ones in residence. Then I have to answer to a board that may call into question my actions. I am prepared to do that.

I believe this is the same reason that the commissioner has to give a report every year. If he exempts something and it's distasteful to this House or the people that he was exempting, then it should be brought about. That's our job, to hold him accountable, to make sure that people are protected. That's what I believe that is talking about.

Again, when we go back and we talk about some of the very complex things, whether it's health care, land rights, you name it, sometimes that impartial person needs to make decisions based on, maybe, previous rulings, knowing where it's going to go, to help streamline the process. And as we move through that process – and that's why I encourage you – force people through this. It's called plyometrics. Push it till the muscle fails so that we can find the flaw because at the end of the day we'll find a better result for the people that need it.

Those are my comments.

The Deputy Speaker: Thank you, hon. member.

I'll recognize the Member for Calgary-Fish Creek.

Mrs. Forsyth: Thank you, Mr. Speaker. I was very encouraged to hear the member stand up and speak on behalf of Bill 4. I was very encouraged to hear him talk about his experience as a paramedic and how he speaks out for the paramedics. My question to the member. I recently met with the paramedics, and I wonder if you could tell me what the issues of the paramedics are at this particular time. [interjections] He brought it up.

Mr. Fraser: Where's Brian Mason?

The Deputy Speaker: Relevance, hon. member.

Mr. Fraser: Pardon me. Let me tell you. There are obviously some tough things that paramedics went through during the transition, but I can tell you where paramedics are from a professional standpoint right now. They're on very good footing to contribute to the vision that the Premier has around family care clinics being part of PCNs. I see you grimace there, but it is the truth. That was the right path that we needed to go down, but there are some things that we need to address. I'm speaking with the Minister of Health on a regular basis, and he will tell you that because when he sees me coming, he's like: "Oh, no. Here's Rick again." At the end of the day there are some issues around past legislation that I've spoken about regarding union affiliation, and if you talk to the members, by and large – they contact me, and I see them in coffee shops, and you name it – they feel unrepresented.

The Deputy Speaker: Thank you, hon. member.

I recognize the Member for Olds-Didsbury-Three Hills.

Mr. Rowe: Thank you, Mr. Speaker. I am very pleased to be speaking to this bill, Bill 4, tonight. If we were to implement proper whistle-blower protection in this fall session, that could be something that would benefit the province for many years to come. It could be a highlight of this fall session. However, what has been presented to us in Bill 4 is not something that will leave a good legacy. Instead of implementing proper legislation with teeth to defend whistle-blowers, the government decided to bring forward legislation that will defend them from the whistle-blowers.

I am disappointed that the bill doesn't apply to ethical behaviour. The government knew well that the public was looking for action following the alleged intimidation of health care professionals and the accepting of illegal donations. This should have been a part of Bill 4. We should take issues like intimidation of health professionals and other public servants very, very seriously, but the government has chosen not to do so. It is very disappointing.

The bill is also currently structured to keep highly damaging information as private as possible. It indicates that the government wants to hide from the whistle-blowers, not protect them. Under the proposed legislation, government employees that are seeking advice on blowing the whistle can be forced to submit their request in writing. This seems disturbing and a way of intimidating people to not even think of blowing the whistle or finding out how to do so. Further, section 10 makes it clear that you cannot blow the whistle to the public interest commissioner unless you have attempted to work within your organization. Mr. Speaker, I fear that this will deliberately scare public employees out of doing what is right and coming forward with information that is beneficial for the public good.

Let's imagine this. Imagine if you worked in a place where your superiors were public employees that were making over-the-top expense claims. Imagine they were charging taxpayers thousands of dollars for things that were not necessary to their job, things like butlers, Mercedes upgrades, and that sort of thing. Imagine if you had the good conscience to come forward with this and save the taxpayer from being abused. Should you really have to bring this up first with the manager that is abusing the taxpayer? Wouldn't doing that possibly intimidate the individual out of coming forward in the first place? It just isn't a good idea, Mr. Speaker. I do not think this is right.

We should work to encourage whistle-blowers. They can help stop ethical lapses and financial mismanagement as soon as it happens. If we'd had good whistle-blower protection, perhaps a public employee could have come forward in the recent health expense scandal. That could have saved taxpayers thousands of dollars. Why wouldn't we want to include that in this legislation?

Furthermore, the act is on a go-forward basis. If we want to ensure that Albertans are getting proper use of their tax dollars, we should be ensuring that this legislation allows brave whistle-blowers who are already putting their neck on the line to be protected if they want to let the public know about recent issues. This may include issues that we do not know about yet, but it would be better for the government to learn from previous mistakes than to repeat them in the future. Instead of doing this, the government is trying to make this effective only from the day the bill passes. By doing that, the government closes the door on any wrongdoing that has gone on in the past. The government has done more to cover their tracks than they have to put Albertans first with this legislation.

Formal whistle-blowing legislation is welcomed by the Wildrose, but this bill falls far short of what would be called good

legislation, like the government's FOIP Act, in that it is designed to protect the government and not the public.

I still hope that we can work together to create more effective legislation than what we have been presented with. This is still a first for Alberta. There has been no protection of whistle-blowers in government previously. So it is a good thing that the government has brought this forward, but we should ensure that this legislation will leave a lasting, positive legacy, not just assist the government in sweeping things under the rug. The Wildrose will be putting forth a good many amendments to try and make this work better than it obviously is now, and I would commend the hon. Member for Calgary-South East for his offer to work with us. All 87 of us should be working together to make this legislation something that we can all be proud of.

Mr. Speaker, if we are not successful with the majority of these amendments, I fear it will be akin to putting lipstick on a pig, and this legislation is a pig or a dog or anything else you want to name it. It's just not good legislation.

Thank you.

The Deputy Speaker: Standing Order 29(2)(a) is available.

Seeing none, I'll recognize the next speaker, the hon. Member for Cardston-Taber-Warner.

Mr. Bikman: Thank you, Mr. Speaker. It's a pleasure to rise here and speak on Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act. I echo the concerns of my colleagues about this bill. Quite simply, the government had a prime opportunity to bring forward some real legislation with teeth to defend whistle-blowers. Instead, the government chose to bring forward another half-measure that will do more to enable the government to defend itself from bad publicity than protect whistle-blowers who speak out.

Mr. Speaker, this is another broken promise from a Premier who vowed to bring forward whistle-blower protection that would defend people regardless of the manner in which they chose to disclose wrongdoings. This legislation doesn't do that, and it's a great disappointment. It shows that this government hasn't learned from its mistakes. It shows that this Premier isn't interested in living up to the commitments she had previously made. It's become her MO. It shows that this government isn't interested in providing real measures to regain the public's trust.

10:20

After the doctor intimidation, illegal donations, broken promises, and expense scandal after expense scandal the government has brought forward legislation that will primarily assist it in sweeping future issues under the rug. The sorts of things Bill 4 could prevent are not the sorts of things we should be working to sweep under the rug in Alberta. We now spend more than \$41 billion every year. This is money that comes from every hard-working taxpayer in the province, and it's something that the provincial government should ensure is spent properly. When whistle-blowers come forward, they are helping ensure that money is being spent in an effective manner. They're helping ensure that taxpayers, who are increasingly nickelled and dined by this government – school fees, for example – are not having their tax dollars go to luxurious expense claims or unused hotel rooms.

We should be encouraging whistle-blowers, not dissuading them from coming forward. Dissuading whistle-blowers is something we have constantly done in this province. The Wildrose Official Opposition has heard from public employees that they are afraid to speak out because they worry that there may be reprisals if they do so. Honest Albertans, who just want to see everyone in

the public sector act honestly, are forced to watch as a few others cheat the system, knowing they cannot make a difference by speaking out. This hurts all of us, and we all fail in this Assembly when that happens.

This is why I was happy to see this legislation come forward. I believed, hoped that it would provide real whistle-blower protection. I hoped – and so did all Albertans – that it would be retroactive so we could see areas we could currently fix in the system. This isn't what we got. It makes me think of all of the honest Albertans who may want to come forward but now remain unable and afraid to do so. Making the act retroactive to include previous gross mismanagement or any other wrongdoing in the last couple of years is a way in which the government could have made this bill much more effective.

Now, we are not asking the government to span back decades to try and save money, but I do not think it is unreasonable to have the government look at programs and departments that are still in place where the government could be doing a better job or, I would hope, where they want to be doing a better job. At the very least, honest Albertans who want to see a more effective public sector should be able to come forward without reprisal, but by the government making this bill only active from the day it passes, they prevent this from happening.

This makes me wonder: why not do that? If the government doesn't have things to hide and wants to be open and honest with the public, why not make it go back to 2008? This is a measure that could help give this bill legitimacy and help restore Albertans' trust with this out-of-touch PC government. It's something the government should do. If they really don't believe this legislation could cover that, I would be happy to hear anyone on the government side explain why because I can't seem to get my head around it.

I'll sit down now. I look forward to hearing others' input. We still do have a chance to amend this act, and I pray that we can work together with government and other opposition parties to construct some real legislation that'll be retroactive and have some teeth.

Thank you, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member.

Standing Order 29(2)(a). The hon. Minister of Justice and Solicitor General.

Mr. Denis: Thank you very much, Mr. Speaker. Just a quick question for the Member for Cardston-Taber-Warner. I was listening attentively to his speech this evening. He talked about retroactivity of the legislation. I'm curious as to what authority he would seek to make legislation retroactive that is consistent with a constitutional and legislative principle in this country.

The Deputy Speaker: The hon. member.

Mr. Bikman: Well, thank you, Mr. Speaker. That's a great question. Given the amount of retroactive things that this government has done in the past, I would think they could teach us all how to do that.

The Deputy Speaker: Are there others? I'll recognize the Member for Calgary-McCall.

Mr. Kang: Thank you, Mr. Speaker. I'm pleased to rise and speak on this bill, the Public Interest Disclosure (Whistleblower Protection) Act. When we were briefed by the associate minister and the Minister of Service Alberta, that was a wonderful briefing we had. I was excited about this legislation. The minister asked us

if he had the unanimous support from the opposition, and I said to the minister: "We will see about that. It will all depend on what kind of surprises you have in the bill for us." Mr. Speaker, we've got the bill in front of us, and it's full of surprises.

I said that if the legislation met our scrutiny, we would support the bill. From the outset, this isn't a good bill. We all want to support this bill but not in its present form. This bill is flawed in more than one way, Mr. Speaker. The Premier promised during the election to have an open and transparent government. The more they talk about openness and transparency on the government side, the more opaque it gets.

Mr. Speaker, why reinvent the wheel? The minister talked about going a step further and raising the bar on openness and transparency. I think that the minister has gone backwards with this bill, that this bill is there to silence whistle-blowers, not to protect but to scare them into not coming forward. Because they have to go through all the hoops, all the red tape, they will be afraid to come forward. We need legislation that is most comprehensive, most effective, and that will fully protect whistle-blowers from any reprisals for coming forward against whomever. The whistle-blower shouldn't be worried about any intimidation, isolation, or being the black sheep when they come forward.

Mr. Speaker, all the critics and newspaper articles are saying that this whistle-blower bill is failing whistle-blowers, that it offers them no protection. I was in the hospital, and the nurses, the staff were complaining about this. They said, "Don't name us," because they didn't want to come forward against the management, and they didn't want to lose their jobs or jeopardize their chances for promotion.

That brings me to Dr. Paul Thomas, a professor from the University of Manitoba, who says that they're overhyped as integrity cure-alls, entangle the bureaucracy in more rules and laws, and that they can backfire by deepening public cynicism and mistrust of government. He says that it comes with a huge price both for whistle-blowers and the people or organizations accused of wrongdoing or mismanagement, that government isn't going to stop or fix wrongdoing in government unless it makes broader changes to the political and administrative cultures of the government, and that today's style of politics has fed an unhealthy obsession with accountability that's aimed at catching and blaming people rather than getting at the management problems or weaknesses in the system that led to wrongdoing in the first place.

Here is the fear, Mr. Speaker. I've got a few examples of witch hunts. An investigation was initiated when an ASC employee came forward with complaints about the organization, revealed allegations, including favouritism, lewd conduct, a highly sexualized environment, poor employee relations, and interference in enforcement cases that benefited select high-profile and influential individuals. The four senior directors were pushed out by the acting ASC chair, and a witch hunt was conducted to rid the organization of whistle-blowers.

In a letter to the minister the ASC staff warned that many ASC staff find themselves unable to perform their jobs effectively due to extremely negative, intimidating, and stressful work environment created and fostered by the chair and the executive director, an environment that continues to deteriorate daily. The whistle-blower was let go as director of human resources by the interim chair for making a 27-minute telephone call to a newspaper reporter from her desk. The head of administrative services was dismissed for questioning a computer audit. In spite of this information, at no point did the ministry intervene to remove the acting chair of the ASC, who had attempted to stall the AG's investigative process, fired the four top ASC officials, all of whom could have been key to the investigation by the AG into enforce-

ment irregularities, and threatened current ASC staff with more pink slips, thereby increasing the fear level within the Securities Commission.

10:30

Mr. Speaker, whistle-blowers should be able to speak anywhere, anytime, to anybody they wish without fear of the reprisal they're going to have. We can only support this bill if we have amendments, and I will be bringing forward those amendments to clause 3(2), clause 19(2), clause 51, and clause 52. If we want to really put teeth in this bill, we should be going back to the drawing board and bringing this bill in a form which will have more teeth.

The government accountability watchdog says that the best whistle-blower protection regimes operate within countries such as Australia, the United States, and the United Kingdom, but we are not borrowing a page from their legislation. The act only protects government workers, not those in the private sector, something opposition MLAs point to as a major weakness in the bill. This bill should be protecting everybody. We've been through the XL beef shutdown because the employees, you know, didn't want to come forward, maybe because they were not protected.

Mr. David Hutton brought up lots of concerns about this bill. He's the executive director of Federal Accountability Initiative for Reform, and he points out that there should be full free speech rights.

As a general rule, whistleblowers must be able to blow the whistle on wrongdoing anywhere, anytime and to any audience – with restrictions only for cases where the law prevents disclosure.

That's, like, national security.

Second, the right to disclose all illegality and misconduct.

There must be a broad definition of what types of wrongdoing whistleblowers are allowed to report . . .

The third one, no harassment of any kind.

Whistleblowers are typically subject to a wide array of reprisals, ranging from the subtle to the brutal. These include social isolation and humiliation before their peers, being cut out of the information loop with their responsibilities given to others, impossible work assignments or no work at all, false accusations and retaliatory investigations.

Bullying or firing is easy to see, but these punishments are not easy to see, Mr. Speaker.

The fourth one, forum for adjudication, with realistic burden of proof and appropriate remedies.

The whistleblowers are usually forced to seek some kind of remedy after the reprisals have already begun, by which time they may already be unemployed, impoverished and suffering from stress-related injuries caused by harassment . . .

Strong laws can also shield the whistleblower from being harmed in the first place, for example, by allowing injunctions to prevent dismissal or disciplinary action until the allegations have been investigated. They also provide "make whole" remedies to properly compensate people whose careers and future earning potential have been devastated.

The fifth one is that there should be mandatory corrective action.

Attacking the whistleblower turns the focus away from the wrongdoing, and even when the misconduct is eventually proven, there is a strong tendency for employers to let the wrongdoers off lightly. Unbelievably, wrongdoers often receive promotions. This defeats the entire purpose of whistleblower legislation, which is to deter wrongdoing.

There are so many issues with the bill, Mr. Speaker, and unless we bring in legislation which will address all the concerns that

have been raised by other members as well as by the opposition, I cannot support this bill.

Thank you, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member.

Standing Order 29(2)(a) is available.

Seeing none, I'll recognize the Member for Innisfail-Sylvan Lake.

Mrs. Towle: Thank you, Mr. Speaker. It is a pleasure to rise here and speak on Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act. Sadly, I'm unable to support this bill as it is currently written.

As a new member I've had the honour and privilege of working very closely with the hon. Member for Calgary-Fish Creek, and as Yoda has said, smart she is. I have listened intently to her passion, to her dedication for the most vulnerable in society: the seniors, the children, and others who are afraid to speak up for themselves and those that care for them. Many of you in this House have worked with this hon. member, and you know that this dedication and passion has guided many such pieces of legislation in this House. That is why we should all strive to learn from this member, who has worked diligently on promoting the effectiveness of this House, and ensure that we protect Albertans with good legislation.

Mr. Speaker, it is worth noting that this is the first time the government has brought forward whistle-blower legislation in the Assembly. As I said, my colleague from Calgary-Fish Creek has worked tirelessly on this type of legislation, and it's good to see the government finally taking this issue seriously enough to bring this legislation to us. The problem is that the legislation is not enough.

Mr. Speaker, like many Albertans, I've had time to reflect on so many situations in which this government has not been held accountable. We see how an out-of-touch PC Party has accepted thousands of dollars in illegal donations and one donation of \$430,000, possibly from a single individual. While the government was so blatantly wrong on these issues, they were still shocked that anyone could accuse them of wrongdoing. The article that I'm referring to is simply one of many articles that we have read over this past week. This is an out-of-touch PC government that seems incapable of recognizing its own problems.

Unfortunately, I think that could be the theme of Bill 4. We have a government that is incapable of recognizing its own problems. This bill seems as if it was carefully drafted to make sure it doesn't address the problems that need to be addressed. After what has been presented to us in Bill 4, it seems as if it was carefully crafted by a government so that it would not apply to them. You will notice that the intimidation of medical staff, the donations by prohibited corporations – it's not covered. How can this be?

How does this government not draft legislation that ensures that all are protected regardless of the date and time when that protection was required? What would they be afraid of? Nothing to hide? Why not do it? We don't need to go too far into these issues, but it is fair to say that this is an area where this government has hurt the public's trust.

In addition to that, Mr. Speaker, we have to make sure that whistle-blower protection applies to organizations that receive government funding like our seniors' centres. If seniors or those who help our seniors want to blow the whistle about ethical lapses or financial mismanagement in our seniors' centres, this legislation should protect them. It does no such thing. How does this government rationalize that the most vulnerable people who

are begging for protection have no avenue to come forward without retaliation or fear? Is this government telling these people and front-line workers that they don't matter and that they are not important enough to have the protection if they need it?

The fact that this legislation seems to stickhandle around these very areas is telling of how sincere this government is about effective whistle-blower protection. This bill is flawed in that it would not apply to the gross violations we have seen recently in this province. The government is failing to recognize its own problems.

10:40

Mr. Speaker, let's recognize what's at stake here. Adopting whistle-blower protection is significant, being that this is the first time we're allowing government employees to come forward when they know of lawbreaking and gross – I'm saying gross – mismanagement in the public sector. This will benefit our province in so many ways and for generations to come. Checks and balances are not just about the opposition parties keeping the governing party honest. Proper checks and balances also include average people who care about our province coming forward to let the public know about illegal behaviour and improper spending in our government. We should allow and encourage any individual to do just that.

Mr. Speaker, this bill is about more than whistle-blowers. This bill is about integrity: integrity in the process, integrity in the system, and integrity in government. Albertans want integrity, they want protection, and they want us to ensure that they can come forward if they need to. They want that security. As elected officials it is key that we ensure that they have that ability.

I have a tremendous amount of respect for whistle-blowers. Mr. Speaker, I was recently elected to this Assembly, so I understand what people say outside of the dome of the Legislature. There is a lack of trust for elected officials and how they manage the public purse, and after scandals like the recent health expense scandal, who can blame them? We should recognize that this is a problem and do something – something – about it. Instead, the government has failed to recognize their problems and has brought forward legislation to protect the government from whistle-blowers, not whistle-blowers from the government.

It's as if they want to create a system where Merali would continue to pay his butler on the public dime, but the government wouldn't get in trouble for it. It's as if the government wants to create a system where the intimidation of health care professionals continues, but it doesn't become public. It's as if the government wants to spend \$113,000 on unused luxurious hotel rooms but doesn't want to have to explain that to the public. This is the wrong message to send to the public, but it's just what Bill 4 does. This is another broken promise from the Premier, who promised protection for whistle-blowers regardless of the manner in which they choose to disclose the wrongdoings.

But, Mr. Speaker, what has surprised me this week is how the government has brought this bill forward. Since releasing the Public Interest Disclosure (Whistleblower Protection) Act, those on the other side of the House have been trying to build this up to say that it goes further than any other piece of legislation in Canada and that – it's really hard for me to actually say this – it sets a new bar for accountability and transparency. Well, if that doesn't prove that the government is failing to recognize its own problem, I don't know what does.

This bill has been opposed by opposition parties, ordinary Albertans, and stakeholders. David Hutton, who has already been referred to today, the executive director of the Federal Accountability Initiative for Reform, which is a charity focused on

improving whistle-blower protection, gave his opinion of this bill last week. He called the release of this bill disappointing. He said that if this act passes, "it compels the whistleblower to enter a secretive, bureaucratic and tightly-managed process which is likely to bury their allegations and is unlikely to protect anyone except the wrongdoers."

More important, Mr. Speaker – and this is very concerning – is the hypocrisy of this government. How are we to have any faith in this failed legislation when even the Associate Minister of Accountability, Transparency and Transformation has awkwardly come out against this bill. The associate minister has publicly stated that if he had cause to use this legislation, he wouldn't, that he'd go to the Ethics Commissioner. If the minister himself cannot endorse and trust this legislation, how can he possibly expect that Albertans would support legislation that he himself does not even stand behind?

Mr. Speaker, we can do better than that on an issue as important as whistle-blower protection. My colleagues and I could just vote against this bill, but that's not what Albertans sent us here to do. I would hope that the members across the floor would remember the respect that they had for the hon. Member for Calgary-Fish Creek and actually review her amendments and give serious thought to them. We want to make this bill better. We want to work with all members of this House to ensure that we enact legislation that is effective and just. We will be bringing forward amendments that can do just that, and I hope the government will work with us in implementing things and raise that bar and ensure that whistle-blower protection is strong.

We still have the opportunity to make this legislation one that sets a new bar for accountability and transparency. It will take a lot of work, but it's something that I believe is entirely possible if the government decides to hear what Albertans are saying as opposed to telling them what they need to hear. We can work together in this Assembly. We can build off of each others' strengths. We can pass a good piece of legislation. Co-operation, listening, and the ability to want to do the right thing are all it takes.

I implore this government to do that with Bill 4.

The Deputy Speaker: Thank you, hon. member.

Comments or questions under 29(2)(a)?

Seeing none, I'll recognize the Member for Calgary-Shaw.

Mr. Wilson: Thank you, Mr. Speaker. It is always a pleasure to rise in this House. However, it is with mixed feelings that I rise today to speak about Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act. I believe that it is a positive step that whistle-blower legislation is being introduced in this province; however, I do believe that the government has missed the mark.

Mr. Speaker, the government and specifically the Associate Minister of Accountability, Transparency and Transformation claim that this is the most comprehensive, the strongest, the best, the most inclusive, the most wide-ranging, the most complete piece of whistle-blower legislation in the country. Well, I have a bit of bad news for them. This piece of legislation is flawed, it has no teeth, and if this is an example of the Premier raising the bar, it's safe to say that even a mouse would trip over it.

Seeing that even this government chokes and goes into a speed wobble when trying to articulate what the Ministry of Accountability, Transparency and Transformation does, speaking against this bill is like booing at a peewee hockey game. You know you shouldn't do it because they're just kids. There's little skill on the ice, and why would you expect anything from someone who's

barely played the game? It's just mean. That's what we have here, a government that has never had to be transparent or accountable trying to play a game and look like pros. Mr. Speaker, they've failed to do so, and they do not deserve the encouragement that some of them think that they do.

Part of me wants to say that I'm surprised that this government has failed on yet another promise, but sadly I'm not. It's starting to become more of an expectation, and I think I'll be shocked when they actually do not. When the Premier appointed the Associate Minister of AT and T – I'm going to save us all and introduce that in the House – I think it would be safe to say that Albertans were hopeful this government was going to be held accountable, become more transparent, and change the way that this government does business. So far we have seen anything but.

There are a number of concerns that I'm going to raise with respect to this piece of legislation. The first is pretty simple, straightforward, and it's an easy fix. Bill 4 as it stands is only on a go-forward basis from the time that it's proclaimed sometime in 2013. Well, I'm going to strongly encourage the government to make this piece of legislation retroactive.

Mr. Denis: How?

Mr. Wilson: You're a lawyer. I'm sure that you can figure it out, to answer the question from the Solicitor General as to how that could be done.

I think there is great benefit for Albertans to know the past mistakes of those working for the public, not just those that are committed in the future.

The second concern that I'm going to raise is quite serious and a little disturbing, to be honest. Section 10 makes it clear that you have to make efforts to raise concerns within the department before the public interest commissioner could become involved. For example, let's say that you know the person you report is doing something wrong. You have to try and work with them to blow the whistle on their wrongdoing. If I may, it would be like the hens having to ask the fox for permission. I think we can all safely assume how that's going to turn out.

Third, Mr. Speaker, is the reporting structure for the public interest commissioner. If there is wrongdoing found, it should be reported to the Standing Committee on Legislative Offices, a committee which most would argue was created for this very purpose. This helps ensure that there's no political interference, perceived or otherwise, which would cause great benefit in restoring Albertans' trust and faith in our government.

Another concern that I have is the exemption policy which is outlined in section 31(1), which states that "the Commissioner may, in accordance with the regulations, exempt any person, class of persons, public entity, information, record or thing from the application of all or any [part] of this Act or the regulations." Let me paraphrase that. If the commissioner wants to exempt anyone or anything for any reason, he or she is entitled to do so.

10:50

The reason I am so concerned about this is that just this past summer we saw a flagrant example of what happens when there are loopholes explicitly written into a law. A former minister was hired before the expiry of his cooling-off period by the ministry he was in charge of only weeks before. The hiring was given the green light by the Ethics Commissioner in part because the individual in question was a member of, and I quote, the government family. Mr. Speaker, based on this very questionable rationalization, would the public interest commissioner excuse inexcusable actions because someone was part of the government

family? I understand that there are instances, rare instances, that would require an exemption. However, I cannot think of why there would need to be such a broad range of possibilities that there are absolutely no limitations. None. Zip. Zilch. Nada.

Mr. Speaker, I would like to believe that every member is here for the right reasons. I know there are a number of concerns that will be raised on this side of the House in regard to this legislation, and I'm looking forward to the ensuing debate. I am hopeful that these concerns will actually be heard on the other side of the House, will not be dismissed as political grandstanding but will be recognized as part of the democratic process, and if heard in good faith, will be able to drastically improve this legislation.

Now, I started by saying that I have mixed feelings speaking on this legislation today, Mr. Speaker, and I do. I'm glad to see that for the first time in our province's history we will have a piece of whistle-blower protection legislation, and for that reason, I acknowledge that this is a step in the right direction. However – and this is where I am conflicted – if this piece of legislation is flawed and it passes, I believe we are doing a disservice to Albertans. My constituents put their trust and faith in me to do the right thing, and I do not take that lightly. I cannot properly represent them by supporting a seriously flawed piece of legislation. I could not look them in the eye and confidently say that I did everything I could to strengthen this bill to protect them if they were to ever find themselves in a position where they were to need the so-called protections of this bill.

I encourage my colleagues on all sides of the floor to remember that that is what the spirit of this bill intends to do, protect your constituents if they ever find themselves in this position. However, Mr. Speaker, as written it seems to only protect the government. I have to believe that even members of the governing party would see the flaw in that.

Now, I am perfectly willing to support an improved version of this legislation that would much better serve all Albertans. I know that every time the government's legislation is called into question, they trot out the standard lines of: we're listening to Albertans and having conversations with Albertans. However, I know I'm not alone in wondering who they're truly listening to while they're doing these consultations. The government has rarely been transparent, and this piece of legislation demonstrates that once again.

This bill presents an opportunity to change that. However, with the apparent fear this government has for strong whistle-blower legislation, it really does beg the question: what do they have to hide? Why didn't they want to make it retroactive? Why are they so worried? I think Albertans deserve to know.

Although this bill is well intentioned and a step in the right direction, I think this may be a textbook example of one step forward, two steps back. With improvements such as the amendments that will be brought forward in this House, this piece of legislation could do quite well and could definitely serve the interests of Albertans. Without these, Mr. Speaker, I will simply not be able to support this piece of legislation. As it stands, it does not serve the interests of Albertans.

Thank you.

The Deputy Speaker: Thank you, hon. member.

Standing Order 29(2)(a). Questions or comments?

Seeing none, I'll recognize the Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Speaker, and thank you to the member that just spoke. I was impressed with the sports analogies. I'm going to rise and not be so harsh on the government. They

brought forward a whistle-blower bill with good intentions, I think in good faith. I will tell you that I had a friend who played on a football team with me. He ran 80 yards for a touchdown. It was the wrong way. When we meet today still, he can point out that it was the longest run from scrimmage of the season and he did score, but for the other team. So as a sports analogy I applaud these members for bringing a whistle-blower bill. We need one, and everyone knows that. I think it's well intentioned that way.

Unfortunately, it scores for the other team. We missed. Call it a pitch in the dirt or a pitch over the backstop. I don't care. Use whatever sports analogy you want. The fact is . . .

Mr. Hancock: You're striking out.

Mr. Anglin: It struck out. Unfortunately, you're in the wrong ballpark, too.

The reality is that it is well intentioned. I applaud that, and I won't understate that at all. Being well intentioned is one thing. Not being accurate and not being thorough is another matter altogether. That is the concern that has been brought forward by a number of the members already.

There are two ways to go about this. No one should be ashamed either way. One is that we could scrap the bill and just start over. The other is that we could try to fix it from where it sits today. I will tell you that there are a lot of reasons why we should fix it. I'll throw one out to the hon. members on the other side. How do I blow the whistle on the commissioner? It's a good question.

Mr. Hancock: No, it's not.

Mr. Anglin: I think so. It's a very good question. The commissioner makes the rules.

You're dealing with this issue of absolute control over the whole process and no protection for somebody who is willing to come forward. We're looking at not only the issue of government. We talk about the safety of people, but what about the money that is involved? What about government funds, which are taxpayers' dollars? When you look at a lot of wrongdoing, a lot of times that's around financial things, around misspending.

I will draw a real-life example. I deal, as some members may or may not know, with electricity. I will tell you quite honestly that people from the AESO, people from AltaLink, people from ATCO, people from Enmax all leak information to me. Sometimes I want them to come public with information; they can't do it. Now, AltaLink will tell this government that they think they have a good target on \$12.1 billion, \$12.4 billion worth of government money to build transmission lines, and they may not be far off. They have goals; they have aspirations.

That's a lot of public money. I can tell you that there people in that company who don't agree with some of the things that are going on, but they have no venue, and of course that's not what this bill is about. The bill misses that totally. This bill doesn't cover a company like an AltaLink, yet that's \$12.1 billion, \$12.4 billion of the public's money that they're going to be charged with as far as spending it properly goes.

The closest thing we even have to oversight is a regulatory board who have no authority to really get in there and audit and challenge a lot of this, so you can see some weak spots start to pop up here and there. Looking at this, if we were to draft a whistle-blower bill that had some substance to it, there could be a tremendous payback to the taxpayers of this province along with protection for the individuals that'll make that attempt.

In the news media recently there was an engineer that I believe either worked for Enbridge or TransCanada. I think it might have been TransCanada. He came public. It was in the CBC news.

What he came public on was the inspection processes dealing with the safety of pipelines, which is paramount to this province, and we know that. We dealt with some issues with this last summer. Along with those issues Alberta's reputation was on the line, and our reputation was hurt significantly.

11:00

You have a whistle-blower who comes forward, and he gets fired for what he did. There's no protection for him. He's not a government employee. Yet the issue that he's blowing the whistle on is absolutely paramount to what this government's objectives are, which are to enhance the ability of our resources to get to market, which is significant for our economic growth. So there really is that connection, yet there is no protection. That's what I think some of these members were saying when they discussed the gaps in this bill.

I'd like to talk a little bit more about the private sector, that is missed altogether. There are so many examples of private-sector misconduct that costs taxpayers huge sums of money. Had there been proper whistle-blowing protection in process at the time, what we do know about some of these companies is that it could have been prevented. I point to some of the most obvious. Enron was a perfect example, the collapse of Enron, a private company. But what happened is that it also took down an accounting firm, and the taxpayers had to pick up for thousands of employees, how they were going to handle not just the unemployment but the social impacts when that disaster spread out through the community of Houston. WorldCom was another one. Bre-X was another one.

These are situations, private companies, that cost the public dearly. Any time that costs the public, government pays the price. Yet when we look at those situations, had someone had the ability to come forward with some sort of protection, we might have been able to head off a lot of those. I'm not saying that we would have prevented it, but the fact is that whistle-blowers from the private sector have a tremendous amount of value to protect the public sector, to assist the government. That's missing entirely in this bill.

The idea that government would have a limit on what can be investigated over time: that to me is a shield to hide past wrongdoings. I will say that this government has in the past made a lot of legislation retroactive, and I don't see where it's a problem here to get into that issue of making it retroactive to the point that we can hold a lot of misconduct accountable. When I say misconduct, I tabled a number of documents here at the request of the whip of the governing party on the issue of spying on citizens. That's a wrongdoing, and nobody was held accountable. Those citizens that were part of that still know that, and they still want some sort of remedy or justice for what they think is a tremendous violation of what they believe are their democratic rights. But that will never see the light of day in any jurisdiction, whether it's a court or whether it's through this whistle-blower legislation.

I will tell you that there are a number of examples that I find troubling. There was a sour gas well that was going in next to a school in Tomahawk. We had a real problem with the issue of standing. Parents who had their children going to that school who lived outside the normal range of what they called directive 056 were not allowed standing because they didn't live within the range, yet their children had to go to that school where the sour gas well was being drilled. They appealed that, and they were denied standing in the hearing, and then they went to court. In that whole process – and these were all women that did the fighting here, about six of them, because I went and I met with them more than once – their husbands were worried about their jobs. That's a

community where many of the people who live in the community work in the oil and gas sector, and they feared that if they put up too much of a fight to protect their children, they would lose their jobs.

Now, think about that in terms of what's going on. What was being fed, from the husbands who didn't want to lose their jobs, was accurate information going on about the processes dealing with the sour gas wells, information that was not readily available to the mothers, information that was not readily available to the regulator. The regulator was not being given accurate information. So here we go with a situation where this is not government, but it's about the lives of children. It's about the livelihood of the parents, the family and having no protection to come forward with accurate information.

As you can see, the bill itself, as well intentioned as it is, is hollow. It misses the mark. It's a great score for the other team with somebody running the wrong way. It's not hitting the target. One by one we've stood up, and we've said this.

Where do we go from here? Well, we've got a couple of choices. There are the number of votes on the other side that can just take this through, and there we have it. We'll have a whistle-blower's bill that doesn't really do anything for us. Or we can actually make it work. Going through the bill with my caucus members, it's significant. It is significant. I would actually be much more in favour if we either cancelled the bill and started over or put it into committee. Now, no one's making a motion for either one of those, but we need to fix it. We are going to try to fix it, but I get the sense, as is typical for amendments from the opposition, that we might get one or two; we might get none. The likelihood of any correction doesn't seem to be coming from the other side as far as "We're hearing you," or "We're listening."

That means what we're going to end up with is a bill that doesn't do what it's intended to do. That would be troubling. Again, as we started out on some of the other bills, here we are on this bill, where we could have a consensus. We could do something right. We could actually have something that we could show to the public, that this is going to work for you. If we don't get to that point, then it's all for nothing. I will tell you this: if you don't have a really good bill on that third reading, you cannot sell it to the public. I think the public does want it. I think this government wants to give something to the public. So I implore the members of the governing party to listen and to act upon what they're hearing and find that common ground. Let's make something work.

Thank you very much, Mr. Speaker.

The Deputy Speaker: Thank you.

Hon. members, Standing Order 29(2)(a). The Member for Banff-Cochrane.

Mr. Casey: Thank you. I just need to understand a couple of points here, just to get it straight. So the opposition's position here is that if we have a whistle-blower bill, it would apply to all private corporations? I need to understand that because that's what I heard you saying. That's what I heard you implying. [interjection] Well, he's speaking on your behalf. I thought I had the floor.

The Deputy Speaker: Hon. member, through the chair. Thank you.

Mr. Casey: Sorry.

I would like that clarification because it became very clear that he was speaking on behalf of his party. I'd like to know if that's the case.

Also, the reference to retroactivity. Everyone keeps referencing it. You mentioned that there were lots of obvious bills in the past that were retroactive. I'm a new guy here, so I'd just like to know what bills you're referencing that have been retroactive.

Thank you.

The Deputy Speaker: Thank you, hon. member.

The Member for Rimbey-Rocky Mountain House-Sundre in response if you care to respond.

11:10

Mr. Anglin: Thank you, Mr. Speaker. I always care to respond. I just have to look. It's the Alberta Utilities Commission Act. I wasn't expecting to be called out on that so quickly. Rather than look it up right now, I will get that answer for the member. But I will tell him this. It was a section of the Alberta utilities act. It was made retroactive to June 1, 2003. What it did is that it repealed section 14(3) of the Hydro and Electric Energy Act. That was actually passed on December 8, 2007, at 3 o'clock in the morning. I was up there. I can dig that out for you.

Now, on the issue of private companies. That's a really important issue, and I'm glad the member heard it.

And by the way, I do not speak for my caucus. I sometimes even vote against them. But the reality is that I speak as the representative of Rimbey-Rocky Mountain House-Sundre, and I am a member of the Wildrose opposition. I don't make policy for my caucus or my party, but I contribute.

Dealing with private companies in particular, what I am actually advocating for – we do have private companies, like an AltaLink, like an ATCO and other companies, that take a tremendous amount of public money. That's a lot of money. That's why I threw out that \$12.1 billion, \$12.4 billion. The public deserves accountability. I don't think anyone is arguing that. When we give that kind of money out to a private company, there needs to be some sort of whistle-blower protection for the public interest.

As the Minister of Health will tell us, they use private institutions. All our doctors are private. There's a tremendous amount of money in our health care budget that goes out to private – you know, private companies provide those services.

We need to be able to have accountability in many different ways. We set up mechanisms for accountability, which is good. But we also need whistle-blower protection so that if something goes wrong in those mechanisms, somebody can come forward with some sort of sense of confidence that they can show that money is either being misspent, misappropriated, whatever the situation is, and have that protection.

I haven't even asked any of my members in my caucus, but I would advocate in my caucus and I would advocate in this House that we try to establish some sort of whistle-blower protection wherever public money goes. If that money goes to private companies, we need to have something there so we can still have that type of protection.

Thank you very much, Mr. Speaker.

The Deputy Speaker: I'll recognize the Minister of Justice and Solicitor General.

Mr. Denis: Yes. I'll be brief, Mr. Speaker. Standing Order 29(2)(a) talks about five minutes for questions or comments. Well, I just have a comment for the Member for Rimbey-Rocky Mountain House-Sundre. There's a difference between retroactive legislation and retrospective legislation. Retroactive legislation is going in the past and changing the rules. Retrospective legislation is going and shining a light on something that happened in the past. If this member doubts me, I actually had a discussion about

this with a sitting justice of the Supreme Court of Canada about a month and a half ago.

That's the story, and that's the lay of the law, Mr. Speaker.

The Deputy Speaker: You have 15 seconds, hon. member.

Mr. Anglin: Fifteen seconds. Section 82 of the Alberta Utilities Commission Act, and it changed history.

Mr. Donovan: Just looking at the hour, I won't drag this out quite as bad. Again, this is an interesting philosophy to have the whistle-blower legislation. It's almost like a catchphrase more than anything for a lot of people in this room because it was talked about. Being on county council before, I went over this with staff. How do you go over dealing with things when your foreman isn't happy with how you're doing and you can't be happy about how your foreman is doing the job? Your administrator maybe doesn't want to listen to you. What's your next step? Who do you talk to?

The concept of this is absolutely great. Again, I was like the leader of our party, the Member for Highwood, when she talked about how we first saw that. I actually walked around and said: well, this is another great thing this government is adding to this program, that we're actually going to have a whistle-blower legislation. The problem was in the shortcomings of it. Again, I mean, I respect the associate minister for all the work that he's done in getting to this point. The concept was great, but I think there are a lot of issues to it that bother me. You know, when you have these things, why not go about it in the right way and do the right bill and take your time and go through it?

Again, sometimes as soon as you make a commissioner, you know, that has unlimited discretion to do anything or to do nothing – that's the question. You want to make something that at least has some teeth to it. I think all the colleagues that have talked before go on to describe the fact that there's no teeth in this legislation or any mechanism to ensure that public disclosure of any wrongdoing that could be found. The commissioner can grant exemptions at will for any reason. I mean, it's almost like a fairy tale in here in what this commissioner could or couldn't do depending on whether they like the person or not or what goes on.

Any time there's a mechanism that the whistle-blower can go to an MLA or the media at their own risk, again, that always plays into: are you going to have party politics? I'd assume that probably if a person that worked for the government would come to me as an opposition MLA and tell me something, you'd have to hope that that MLA isn't going to make a grandstand of the situation. You'd hope that that person would actually do the right thing and try to solve the problem, but there's obviously a reason why that person hasn't gone through, I'd assume, the proper channels, through this bill, for who they would talk to.

I guess those are things that worry me fundamentally. I think the process, the idea, is great. The government has identified that there are enough people that work, whether it be in the province as a public servant or whatever the process is, that have a way and a means to be able to go out and talk to somebody if they identify that something has been done in a haphazard way which isn't productive for anybody. I mean, we should all be worried as taxpayers in this province about what's being done financially with our money or the process of something being done.

Not to harp on Carmangay but we saw it this summer. We had staff there, and they wanted to speak out against some things. Basically, they had to not do it because they were fearing for their job. This was even with unions involved and everything else. I mean, I'd never point a finger at the unions, but the staff members truly felt that they could not say what they were thinking because

they wanted to be able to get their job in the next location once they figured out the writing was on the wall and that facility wasn't going to be open any longer.

I don't think that's the way that anybody should live. I don't think you should be in your own party and worry about what your leader is going to say to you or do to you. I mean, the hon. Member for Rimbey-Rocky Mountain House-Sundre and I have lots of great discussions in our caucus about different things. We don't always have to agree, but he knows he can speak freely of what he wants to do, and he doesn't have to worry about the bus coming down on him when he's standing in the way, because he didn't get led down the way with the wrong idea. I mean, you should be free to speak forward about what you want and what you believe in. I think we're all elected to be here to speak on what we want and what we believe in ourselves.

I'm not saying that everybody is right or wrong. Actually, I was quite impressed with the speech from the hon. Member for Calgary-South East. He spoke very passionately about being in EMS and the job he did and how he was a pain sometimes to everybody. To me that's not a bad thing to have. I mean, he spoke passionately. He spoke very much of what he would actually go ahead with and what he fought for. I believe he was the president of the EMS in Calgary for three of four years. I mean, definite leadership quality there. That goes to show that you don't have to be the pain all the time, but you have to be constructive to move forward on this.

If this legislation is drawn up correctly, I think it has some great potential to it. I'm not taking away from the minister, who obviously put lots of hours into this. At no time would I ever take away from that, but I think the wording – again, it's always the devil in the details in these things. It could have been a great concept when they thought about it and when he started putting the act together, but it's the wording in it. Again, I'm not a lawyer, and I would never bash a lawyer for that because you do a lot of training to get that job. But in saying that, I wouldn't want you to come and set my air seeder either. So we'll agree to agree on what we can and can't do all the time. I think there are a lot of purposes . . . [interjection] If you ever want to come and run the combine, feel free.

11:20

My point is that, I mean, everybody has a title and a job in what they're doing, and they're good at what they do. I just think this needs – we have lots of ideas that could change this. Again, it's going back to having the common courtesy to listen to opposition. In any good government good opposition is key to how it rolls. We've had it for years in this province, and I think we need to continue it. That's how the system works. You need to be a strong advocate.

It's pretty easy when you're the only set of eyes looking at something: yeah, that's the best way to do it. But sometimes if you see some other people's thoughts and ideas – I mean, we have lots of papers and lots of people's opinions on this stuff. I really think that if we sit back and look at it, the idea of the whistle-blower legislation is great. I think the process of it is a great idea.

I think the idea of the commissioner, the whole process of it, is almost like a FOIP inquiry to get anything done. If somebody goes to the commissioner and the commissioner decides that they don't like that or they don't think it's something that is politically correct to do or not politically correct to do or is going to cause a big tidal wave, do you touch it or not? I personally don't think that's the right philosophy to have in legislation. It should be black and white enough to know that everybody can go out and feel free in saying what they see is wrong.

I mean, it's the little things sometimes. Like I say, we always talk about the devil in the details. In my previous experience in municipal council, I mean, there were lots of things. It's just the little things that tip you off, and then when you start actually digging around, you can find some of the problems. People don't go out planning to make a problem, but sometimes it's just easier to keep rolling with the system because they don't want to buck the system and they don't want to cause a problem, Mr. Speaker.

I guess, just in saying that, I mean, I think the concept is good. It's just seriously flawed in how it's written. But I'd be more than happy and our colleagues here on the opposition would be more than happy to sit down with the Associate Minister of AT and T, as so politely put by my colleague of acronyms, on how to do that. We can do some free phone calls and everything with it. You know, we can sit down and have some good discussion on what we could do to change this. I'd hopefully look forward to the associate minister being open to that idea of sitting down and having some rational conversation on what we could change with the amendments and not just close the book on the idea and say that we're a bunch of radicals from the other side.

With that, I'll close on that concept, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member.

Questions or comments under 29(2)(a)?

Seeing none, I'll recognize the Member for Strathmore-Brooks.

Mr. Hale: Thank you, Mr. Speaker. It's a pleasure to rise tonight to talk about Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act. Bringing in whistle-blower legislation is a good start towards protection for people who are brave enough to speak out against gross mismanagement of taxpayer dollars and abuse within the system. While I can support a bill bringing in more power for whistle-blowers, I have a lot of trouble with Bill 4. I dispute what the Minister for Service Alberta said last week: we have gone further than the government of Canada and, quite frankly, we have set, in my opinion, a new bar for accountability and transparency. The legislation introduced does not come close to setting a new bar. The legislation is weak in many areas and has been written to protect the government from whistle-blowers, not the other way around.

Under the proposed legislation and the way it is designed and written, a whistle-blower would get buried in bureaucratic red tape as whistle-blowers are forced to report wrongdoing to senior management within their own departments first. Mr. Speaker, this can allow for those who abuse the system to hide wrongdoings from the public. If this legislation was truly intended to protect whistle-blowers, it would allow employees, contractors, and nonemployees to report wrongdoings to anyone, anywhere, and at any time.

If the government is serious about this legislation and wants to set a new bar for accountability and transparency, then it should make every effort to defend the whistle-blower. If we are really setting a new bar for accountability and transparency, why wouldn't the proposed legislation defend workers from across the public sector? Why, Mr. Speaker, would any public servant, employee, supervisor, contractor, board member, or, for that matter, anyone involved in the government with knowledge of a wrongdoing not be protected if they came forward? Bill 4 doesn't do this, and to assert this sets a new bar for accountability and transparency in ignoring the obvious.

Also, the bill does not protect whistle-blowers who want to speak up about recent mismanagement in the PC government. It is only enforced from the day the bill is passed. Therefore, any wrongdoings that have happened in the last couple of years or are

happening right now cannot be looked into. This government seems to be more interested in covering their own tracks, not defending whistle-blowers.

Further, if a wrongdoing has been confirmed and corrective action is required, this legislation does not provide for the outcome to be reported to the Legislature or made public. What that means is that these problems will remain buried under lock and key, with the public not being any wiser. This allows each government department, board, or organization the ability to cover up, to remain silent and nontransparent, no different than how this government has been operating for a few years. Why would the government want to keep all of this a secret? Doesn't the public deserve to know if their tax dollars have been abused or mismanaged? This legislation reduces transparency and creates a loophole to help the government sweep information that should be public under the rug. It creates a black hole that offers no comfort, protection, or solutions for whistle-blowers.

While the government calls this setting the bar high, Mr. Speaker, I think it's time the government picked the bar up off the floor. This is another broken promise from the Premier, who promised protection for whistle-blowers regardless of the manner in which they choose to disclose wrongdoings. The Premier time and time again during the leadership race, the election, and here in the Legislature talks about creating a transparent and engaging government that listens. However, in this legislation the government only extends whistle-blower protections to a limited number of people involved in the public sector and puts too much of an effort into sweeping things under the rug.

The only way to ensure transparency and correct problems that have festered within the government is to introduce strong legislation that protects whistle-blowers from reprisal and encourages them to speak up. If the government is serious about lifting the bar, they should bring forward legislation that does just that. There is still time to go back and make amendments and lift the bar up off the floor and create whistle-blower protection that can be the best in the country. I hope we can all work together to do that.

Thank you.

The Deputy Speaker: Thank you, hon. member.

Standing Order 29(2)(a) is available.

Seeing none, I'll recognize the Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Mr. Speaker. I've been eagerly anticipating my chance to speak to Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act. The whistle-blower protection in this province is long overdue, and we will join the ranks of Ontario, Manitoba, Saskatchewan, and Nova Scotia in having protection for whistle-blowers.

Whistle-blower used to be a dirty word, Mr. Speaker. It used to be used in the same way as "rat" or "tattletale." I can't help but to see it completely differently. Whistle-blowers protect the public interest and safety by courageously stepping forward despite the odds against them. In a word, they are heroes. Heroes are selfless. They sacrifice for others. They are brave when up against insurmountable odds. They are David to Goliath, and we should do everything we can to make sure that David wins.

Allan Cutler is a hero, Mr. Speaker. He blew the whistle on the Adscam sponsorship scandal. All Canadians owe him a debt of gratitude. Adscam wasn't just about the incompetent use of tax dollars. It was about the deliberate and fraudulent use of tax dollars for political purposes. For far too long, civic-spirited public servants have been afraid to come forward or be destroyed if they do. Careers can end. Jobs can be lost. Ultimately, the liveli-

hood of a person and their family is put at risk when someone in the public service wants to step forward and bring attention to outrageous behaviour. I am pleased that after 41 years of government the party in power is finally seeing fit to bring whistle-blower legislation forward. It's about time.

There are also limitations to prevent frivolous claims against the government. Whistle-blowing is too vital to a free and healthy democracy to be bogged down with the bitterness of some. This legislation should be reserved for those who know of serious wrongdoing in public institutions.

I do, however, have many reservations. If this government is to be believed, this piece of legislation before us will protect those working in the public sector when they blow the whistle. They will not have to fear reprisal from their supervisors or from other management executives in their department.

The problem, Mr. Speaker, is that I don't believe this government. I don't believe this bill was intended to protect employees in government. This bill reads a lot like the FOIP Act. It was intended to protect the government from its employees. If this bill was intended to hold the government to the highest standards and facilitate whistle-blowing, it would read much differently. From the beginning of my reading, this bill seemed a bit suspicious. Why would the legislation only apply going forward? Wouldn't the government be interested in the violations of public trust? Wouldn't it want to know about gross mismanagement of public funds or reprisals against employees who spoke up in their departments?

11:30

One could conclude that there's something to hide, Mr. Speaker, especially since this bill, if passed, would not be implemented for some time. We'd be in limbo until it was passed. This seems less like whistle-blower protection and more like whistle-blower suffocation. What kind of message does this send to the civil service right now? The expense scandal in our health system was only brought to light by a FOIP request from the media. The government tried to hide the scandal. I would surely doubt that this government claims to be perfect, so why gag the civil service in the meantime? Why not make a promise here in the Legislature now to protect employees against reprisal from this day forward instead of at some future distant date that is undefined?

Another issue with this bill is the definition of wrongdoing. I've examined the legislation in Saskatchewan, Manitoba, and Nova Scotia. The bill we are debating is quite similar in many ways to the other provinces mentioned, but this government under the Premier has talked endlessly about being a leader in Canada. While I think we should be a leader on whistle-blower protection, we should set a higher standard of wrongdoing. As it stands in this bill, wrongdoing is limited. It's limited to gross mismanagement of funds, assets, and civil and criminal laws.

We can do better than this, Mr. Speaker. We should be looking at the ethical behaviour. What about the intimidation and bullying of our health care professionals? What about the Merali expense scandal? The CEO of Capital health signed off on Merali's expenses, yet we all know how unethical it is to have five-star dinners and luxury automobile expenses picked up by the Alberta taxpayer.

Another major concern of mine is the exemption section of this bill. To be honest, Mr. Speaker, all barn doors I've seen are smaller than this exemption. The government is asking us to trust the judgment of an ombudsman who is designated to oversee this process. Where I'm from, trust is earned, and memories are long. We have an Ethics Commissioner in this province. We have

conflict of interest legislation in this province. It is clear that the former ministers must cool off for one year before re-entering government service, especially in your own department, yet somehow Evan Berger is now a highly paid consultant for this government.

What's the point of conflict of interest rules if this government is just going to waive them when it's in their best interest? What's going to happen with whistle-blower protection in this province when anyone or anything can be exempted from the act? It's shameful, Mr. Speaker. It's absolutely shameful. Albertans do deserve better than this.

Lastly, Mr. Speaker, I want to discuss how private this legislation is, especially considering that it is designed for the public's benefit. This whole bill seems designed to keep a lid on outrageous conduct inside government. This seems far too secretive for me. This province thrives on freedom. The ministry that crafted this bill has the words "transparency" and "accountability" in its name, yet somehow this bill does not allow findings of wrongdoing to be made public by the public interest commissioner. Every avenue is designed to lead to the Premier's office and cabinet. If the commissioner is ignored by a minister or the Premier or by a deputy minister, there appears to be no recourse so that the public is aware of the situation. Ironically, this seems to be against the public interest.

I find it interesting that this bill closely follows the relevant legislation in Saskatchewan. I find it interesting because there is a significant clause in the Public Interest Disclosure Act of Saskatchewan that allows the commissioner to make a special report to the Speaker if it's in the public interest and relevant to a disclosure made to the office. Somehow section 24 from Saskatchewan fell off the truck on the way over.

I seriously hope this government reconsiders their bills and listens to the opposition so that serious progress is made on this issue. I was hopeful, Mr. Speaker, when I learned that the government would finally introduce whistle-blower legislation, the fifth province in Canada to do so. The Premier campaigned on this issue in the last election, and she campaigned on the issue when she ran for the leadership of her party. She criticized the ombudsman approach advocated by her opponent. She trashed it. Yet here we are watching this government zig when it said it would zag. Calling her actions a flip-flop cheapens the office.

I think my constituents and I don't just feel disappointed, we feel a bit betrayed. Twice the Premier promised significant reform in the way of this but has gone against something she has campaigned for. I hope for the sake of Albertans that this bill is significantly improved over the course of debate. We need to get our acts together on this.

With that, Mr. Speaker, I would like to move a motion.

Mr. Fox moved on behalf of Mrs. Forsyth that Bill 4, Public Interest Disclosure (Whistleblower Protection) Act, be not now read a second time but that the subject matter of the bill be referred to the Standing Committee on Families and Communities in accordance with Standing Order 74.2.

I have the required copies of the motion, 100, that I would like to distribute.

The Deputy Speaker: Please continue, hon. member.

Mr. Fox: I did hear earlier that there was some indication on the other side of the aisle that you would like to work together – I believe it was the Member for Calgary-South East – and I would like to take that as an olive branch with this motion. I would hope that it is passed and that we can move this to the Standing

Committee on Families and Communities so that we can work on this legislation, we can get it right, and we can do what's in the best interests of all Albertans and make sure that this is an ironclad act that goes forward out of that committee.

Thank you.

The Deputy Speaker: Thank you, hon. member.

Mr. Anderson: I'd like to speak in favour of this amendment, Mr. Speaker. I'm really looking forward to the first piece of legislation that gets referred to one of these standing policy committees. I hope the government will take a look at this and allow us to use these parliamentary committees a little bit more for things like this. We have a great opportunity, I think, to work together in those legislative committees to draft and perfect legislation. I mean, whistleblower legislation, we all agree, is a fantastic idea, but this legislation falls short.

The problem is that by putting something like this into Committee of the Whole – Committee of the Whole is a very awkward vehicle in a lot of ways to appropriately deal with legislation where there are several amendments needed. We saw an example of that this afternoon. It can be very difficult and awkward. You can make little tweaks in Committee of the Whole – that works all right – but with regard to making substantive changes to the legislation, generally that should, I think, be done in a legislative committee.

I hope that the government will think about that and will vote to accept this amendment. This is not a matter of just tweaking this bill. There are very substantive amendments that we need to bring forward. If need be, we will bring them forward in Committee of the Whole, but I think it would be a much better service to the people of Alberta if we referred this to our legislative committees and got to work on this right away.

I hope that we can vote on that in this House because I for one don't know if I can support this bill in its current form. I think that there are so many amendments that are needed to make this a strong piece of legislation. Right now I think that the Member for Edmonton-Highlands-Norwood had it right in that this is more like whistle-blower management. This isn't whistle-blower legislation. This is a way to manage whistle-blowers. I think this is a piece of legislation that is truly full of holes.

I could go through all the different amendments and things that I think we should do to fix this piece of legislation, but I'll save that for, hopefully, the legislative policy committee process. If not, then I guess we'll have to save it for Committee of the Whole.

Hopefully, we can have a vote on this now and see if we can put this to a committee.

11:40

The Deputy Speaker: Are there other speakers on the amendment? The hon. Member for Calgary-McCall.

Mr. Kang: Thank you, Mr. Speaker. I would also like to speak in support of this amendment motion. I have four amendments. I don't know how many the Wildrose caucus has and how many the NDP caucus has. The right thing would be to refer it to the committee and get it right. We don't want to, you know, pass the bill and then have to bring in another bill to correct this one, like we did before. So it will be the right choice to send it to the committee and get it right.

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Speaker. I rise in favour of this motion. Here we are again. A different bill, but the reality is that we are going to attempt to utilize a parliamentary tool that I don't think has been effectively used, particularly in this session. So in good faith, to bring this bill to a parliamentary committee, at least what the governing party can say is: we tried to accommodate the opposition so we can make this a good bill. At best – at best – we can get something that we all agree on and actually have something concrete that is significant, that the government will be proud of, that the opposition will support, and the public will have something with some teeth in it.

Thank you, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member.

Are there others to speak to the amendment?

Seeing none, I'll call the question.

[Motion on amendment to second reading of Bill 4 lost]

The Deputy Speaker: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. I think we should probably resolve into Committee of the Whole and debate another bill for another 10 hours, but I don't think anybody else thinks that, so I'd move that we adjourn until 1:30 p.m. tomorrow.

[Motion carried; the Assembly adjourned at 11:43 p.m. to Wednesday at 1:30 p.m.]

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