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The 28th Legislature
First Session

Alberta Hansard

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The Honourable Gene Zwozdesky, Speaker

Legislative Assembly of Alberta
The 28th Legislature
First Session

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Legislative Assembly of Alberta

7:30 p.m. Monday, May 13, 2013

[The Deputy Speaker in the chair]

The Deputy Speaker: Please be seated.
The hon. Deputy Government House Leader.

Mr. Denis: Thank you. After some consultation with the opposition, I'd like to make a motion that all bells this evening be one minute.

The Deputy Speaker: The hon. Deputy Government House Leader has moved that any division bells tonight be one minute in duration. This requires unanimous consent, so I'll ask one question. Is anyone opposed?

[Unanimous consent denied]

The Deputy Speaker: We'll proceed as usual.

Government Bills and Orders
Second Reading

Bill 22
Aboriginal Consultation Levy Act

Ms Smith moved that the motion for second reading be amended to read that Bill 22, Aboriginal Consultation Levy Act, be not now read a second time but that the subject matter of the bill be referred to the Standing Committee on Resource Stewardship in accordance with Standing Order 74.2.

[Debate adjourned May 9]

The Deputy Speaker: Additional speakers? The hon. member.

Mr. Anglin: A point of clarification. Are we not dealing with a motion to defer? Is that how we adjourned this?

The Deputy Speaker: This is the referral motion. I'm sorry. Hon. members, we are dealing with referral motion RF1.

I'm looking for other speakers. The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Speaker. On this motion to defer, I listened to the hon. members last week when they talked about consulting with the various bands. Unfortunately, that's not the information we're getting back. That's just the way it is.

The Confederacy of Treaty Six writes – this is an interesting point. I know you can mock this, but this is the chief of Treaty 6. He quotes the minister, his May 9 statement in this House:

> I can say that I met with the grand chief personally. We met about three weeks ago. He was made aware of this bill. He agreed to this going forward.

What the chief writes back is:

> This above statement is false on all accounts. The meeting that took place was a dinner meeting and the mention of a levy was made as a casual statement, there was no indication of Bill 22 or that the Alberta Government had any law drafted.

So we have a difference. We have a difference of opinion on consultation. The government is saying that it consulted. The people that they claim to have consulted with are saying that they didn't consult.

Clearly, that alone is enough that this government should take that in caution, that you cannot claim consultation has taken place when one party to the process is claiming that it did not, particularly in such a short period of time. That's important because an amount of the feedback that we got dealing with this bill, dealing with this issue, clearly shows an incredible amount of confusion and objection to what these various bands and treaty nations have now come to know as Bill 22. This motion to defer is a logical step. It only makes sense so that we can clear up this so-called confusion of whether or not consultation took place.

I would like to add that the bill should have been brought forward with pretty much an agreement of the First Nation bands. There should have been not just consultation in the sense of what landowners have become accustomed to, but because these people are separate nations – this is an intergovernmental relationship – there should have been something in the order of a memorandum of understanding, an agreement in principle before the act was actually brought forward. That is a logical process that would normally take place.

With that, the minister could then have a rightful claim to having consulted, but right now that's in dispute, and it shouldn't be. With the feedback that we've gotten from the Treaty 6 First Nations, from Treaty 7, particularly Chief Weaselhead, from the Blood Tribe, and many others who have now written us over that very short period of time since this was introduced, by all accounts they were not aware of this, so clearly there was a miscommunication.

Now, I do not dispute that the minister is under the impression he consulted, but what I dispute is that consultation has actually taken place when one party is saying that it did not. That's a dispute that needs to be resolved. That's a dispute where we cannot move forward with that not having come to some sort of conclusion. To take this process and refer this back to a committee so that the various parties can come in and be part of a process before this moves forward seems only logical to me and seems like the right course of action.

There's just one other question that the minister didn't answer or didn't give information for; hence, the question: is there a rush for this? What's the rush? If I understood him correctly, he said that this was years in the making. It's understandable if it was years in the making. What's not understandable is the various First Nations saying that they were not consulted. But if it was years in the making, what's the rush right now to put this through and pass this before we go home for the summer? Why not just put this out to the committee so there is ample time to do what is necessary to make sure all the parties are onboard?

Clearly, the government wants this act – that's why they brought it forward – but where are the other parties? That's the most important point. There are two sides to this agreement. In business deals I don't know how you get a business deal unless both parties agree to it and are willing to be a signatory to some sort of agreement. That's not here. That's not present.

With that, I would ask that the members of this House defer this bill and support this motion to defer it. Thank you very much.

The Deputy Speaker: Thank you, hon. member.

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

Seeing none, I'll recognize the next speaker, the hon. Member for Calgary-Mountain View, on the amendment.

Dr. Swann: Thank you very much, Mr. Speaker. It's an honour to stand and speak to the amendment on Bill 22, which has, I think, caught many people by surprise, particularly perhaps the government and the minister who promoted the bill. It certainly wasn't part of the briefing that I received from the minister.

It sounded like there had been full agreement on this bill, but within the few days that we've had since the bill was tabled, we're

already having a tremendous response from First Nations, particularly leadership, as was indicated, and not just contact but real frustration, real anger, a real sense of being betrayed because decisions that were made were not discussed in some of these consultations. It may well be that principles and values and some ideas around a levy, some ideas around the ministerial powers, the delegation in some cases of powers to the provincial level that have had some federal credibility are new for some of these issues for the provincial authority.

7:40

But, more particularly, I think section 8 and the disclosure of negotiations and financial information between the First Nation and the corporation are quite unique. The First Nations are not shy about pointing out that when corporations make this negotiation with private landowners, they're not required to make it public. They are offended by the fact that we would treat them differently from other stakeholders in this instance. In the context of this bill section 8 is a key barrier to any support First Nations can give. I'm now talking primarily about Treaty 8 and Treaty 6, which are in this area of the province. I haven't heard exact details from Treaty 7 in the south but a very strong reaction from Treaty 6 and Treaty 8.

Section 15 of the Charter, dealing with the equality of rights, again raises the question of why there's a double standard here. Why has this government placed responsibility on First Nations and their relationship with corporations that they don't put on other organizations, landowners, and interested parties?

Another detail is the possibility that even once these negotiations are concluded, they could be FOIPed. That, again, violates some of the basic market principles of Alberta, that private industry and the private sector are not subject to FOIP. There's a real sense that this government and this minister have lost connection to the basic rights of First Nations. I'm curious why in some cases the government of Alberta, who has not traditionally been involved in this way, has now become an intermediary and in some ways is downloading its responsibility for funding and for proper consultation to the First Nations and the industry. Therefore, it is not only downloading the costs but is downloading the conflict that may arise and the resolution of the same.

One has to wonder what the motivation is behind this and why there is such haste when clearly these are contentious issues, important issues to First Nations and have not had the full discussion that they need.

Mr. Speaker, I cannot but support this amendment and motion. I would very much hope that the government would see the wisdom of this in terms of developing a stronger relationship with First Nations, extending the time that may be necessary for further consultation, and getting this right the first time. This will have implications not only in the First Nations community but across Alberta if we can't find a respectful, inclusive, common approach to this critical issue of an industry-First Nations relationship.

We on this side also will be recommending some amendments at an appropriate time. At this time I would support the amendment.

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 Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Speaker. I rise to support the motion that the Aboriginal Consultation Levy Act, Bill 22, not be read a second time at this time but referred to the Standing Committee on Resource Stewardship, and thereupon, I would hope, they would hear interested groups make their presentations.

Mr. Speaker, Bill 22 begins with a preamble, and it says:

> Whereas the Crown is committed to consulting with First Nations and other identified aboriginal groups in respect of provincial regulated activities that might adversely [affect] their exercise of treaty rights.

It goes on to say:

> Whereas the Crown is committed to consulting with First Nations and other identified aboriginal groups in respect of provincial . . . activities that might [affect] traditional uses of land.

Then it goes on to say, "Whereas it is desirable to assist First Nations and other . . . aboriginal groups" that participate in consultations and so on and so on and so on.

Mr. Speaker, this is a situation where the irony is overwhelming, where, in fact, a government bill that starts with all kinds of fine words about consulting with aboriginal groups was not consulted on with those very same groups in the development of this legislation, and they are now opposed to this bill. They're strongly opposed to it, and they're denying that the consultation claimed by the minister ever took place. I wonder what kind of bill of goods he's trying to sell us when he baldly makes the statement that consultation has occurred and that First Nations are onside with this particular piece of legislation.

Well, we find that they're not. We've done some consultation. The chiefs of Treaty 8 are not only opposed to the legislation; they're shocked and dismayed. They've gone on to say that this violates the intent of the protocol agreement on government-to-government relations and that it's been breached at the very time that negotiations are going on with regard to the renewal of the protocol arrangement.

Mr. Speaker, there are a number of reasons – and we can get into this – why Treaty 8 and others oppose this bill, but I just want to deal with the fact that the ministers claim they've consulted, and they're categorically stating that they have not been consulted. On Monday – I guess it's still Monday, that is today – they issued a release in which they state that the Treaty 8 First Nations of Alberta fully opposes Bill 22 in its entirety. Now, we didn't get that information from the minister when he introduced this bill. We heard from him that everybody was happy and had been consulted. I want to say that Treaty 8, particularly Grand Chief Twinn, has gone on to say, "We will not support this bill and continue our opposition of it until proper consultation is conducted with the First Nations of Treaty 8."

Now, Treaty 6 has said that there was a meeting of the chiefs of Treaty 6 ten days ago. They said:

> There was zero indication that any levy would be placed into law, nor was it mentioned that the law would arrive five days later. In this respect, the Chiefs of Treaty Six feel that the Alberta Government is once again moving forward with their own agenda and ignoring the recommendations and terms of First Nations leaders.

Mr. Speaker, you contrast that with the statement made the day before, on the 9th, by the minister, who said, "I can say that I met with the grand chief personally. We met about three weeks ago. He was made aware of this bill. He agreed to this going forward." That statement

> is false on all accounts. The meeting that took place was a dinner meeting and the mention of a levy was made as a casual statement, there was no indication of Bill 22 or that the Alberta Government had any law drafted.

Simply notifying First Nations or any other group does not count as consultation. You can tell them what you're doing. That doesn't mean that you're actually consulting with them.

You know, I can't understand, and I can't believe that we're going to debate a bill that talks in its first principles about the duty to consult First Nations and other aboriginal groups and they weren't even consulted on this bill. What is it besides words, then, Mr. Speaker? Why should anybody place any confidence or hope in anything this government says when this kind of situation can happen?

So I think it's very important that we refer this bill back to committee, and I would hope that the committee would then invite submissions from concerned organizations and individuals, including First Nations, so that all members on all sides of the House can hear first-hand the views of First Nations with respect to this piece of legislation.

This is yet another sorry act of betrayal in a long, long line of acts of betrayal, Mr. Speaker, and I think that to pass this bill at this stage would be not only a serious mistake but an insult to First Nations. I urge all hon. members to support this motion and refer it back to committee for further study.

Thank you.

7:50

The Deputy Speaker: Thank you hon. member.

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

Before I recognize the next speaker, may we revert briefly to Introduction of Guests?

[Unanimous consent granted]

Introduction of Guests

The Deputy Speaker: The hon. Member for Calgary-Mountain View.

Dr. Swann: Thank you very much, Mr. Speaker. It's a great honour tonight to stand and introduce to the House and to you three leaders of First Nations organizations that are here specifically because they're deeply concerned about Bill 22 and the flaws in Bill 22. I'll ask them to stand as I introduce them, and we'll recognize them collectively after. Assembly of First Nations Regional Chief Cameron Alexis; Chief Ahnassay of Dene Tha', specifically deeply concerned about the lack of an appeal process in section 9, which I commented on in my comments; and Mr. Rob Houle, who is executive assistant and the acting grand chief liaison for Treaty 6, representing Grand Chief Craig Makinaw tonight. The main message from Treaty 6 is that at no point was the Aboriginal Consultation Levy Act agreed to, contrary to the minister's comments on May 9, and at no time was the content of the bill discussed with Treaty 6 chiefs.

Thank you, Mr. Speaker.

The Deputy Speaker: Hon. Member for Edmonton-Beverly-Clareview, did you have an introduction as well?

Mr. Bilous: I do, Mr. Speaker.

The Deputy Speaker: Please proceed.

Mr. Bilous: Thank you. It gives me great pleasure to introduce to you and through you to all members of the Assembly several of our guests. First, the grand chief of Lesser Slave Lake regional council. She's also the chief of Driftpile First Nation. She is strongly opposed to Bill 22 and is here to show her opposition to this bill and that it needs to be rescinded. As well, the AFN regional chief, Cameron Alexis. There are other chiefs, council members, and treaty representatives from Treaty 6 and Treaty 8. I would ask all of our guests to please rise and receive the warm welcome of this Assembly.

Government Bills and Orders
Second Reading

Bill 22
Aboriginal Consultation Levy Act
(continued)

The Deputy Speaker: Are there other speakers to the amendment?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on the amendment to second reading lost]

[Several members rose calling for a division. The division bell was rung at 7:53 p.m.]

[Ten minutes having elapsed, the Assembly divided]

[The Deputy Speaker in the chair]

For the motion:

Anderson	Bilous	Smith
Anglin	Donovan	Swann
Barnes	Hale	Towle
Bikman	Mason	Wilson

Against the motion:

Allen	Hughes	Olesen
Bhardwaj	Jeneroux	Pastoor
Casey	Johnson, J.	Quadri
Dallas	Johnson, L.	Quest
Denis	Khan	Rodney
Dorward	Klimchuk	Sandhu
Drysdale	Kubinec	Sarich
Fenske	Leskiw	Scott
Fraser	McIver	VanderBurg
Goudreau	McQueen	Woo-Paw
Hancock	Oberle	Xiao

Totals: For – 12 Against – 33

[Motion on amendment to second reading of Bill 22 lost]

The Deputy Speaker: We'll go back to the main motion.

The next speaker, the hon. Member for Strathmore-Brooks.

Mr. Hale: Thank you, Mr. Speaker. It's a pleasure to rise and speak to Bill 22. It's too bad that we just got defeated on the motion that our hon. leader from Highwood put forward, trying to refer this bill to the Standing Committee on Resource Stewardship so that we could take more time and consult with First Nations and aboriginals and industry to get it right. As that has passed, we will now carry on.

I'd like to begin by saying that I was pretty happy with how this bill initially came forward. I believe that the minister did work with our leader and our caucus to give us a briefing on the bill, and I do respect some of the bill's broader intentions. The Crown has a commitment to consult with First Nations and other aboriginal groups about potentially regulated activities that may adversely affect their treaty rights or traditional uses of land. Companies who want to proceed with energy or other forms of development are obligated to carry out any consultation under the direction of the Crown.

This act seeks to direct resources towards First Nations to support their participation in consultation. It does so with the creation

of a levy to fund consultation with First Nation communities regarding developments that might adversely impact traditional uses of land. Mr. Speaker, the creation of this levy is a matter which industry and aboriginal groups and First Nations could support. It would help both sides streamline development and positively affect this province.

However, this PC government has brought forward a bill plagued with problems. The first problem is that this bill hasn't adequately been consulted on with industry or First Nations. Bob Small of Treaty 6 said that none of the First Nations of this treaty had been consulted, and similar concerns were heard from Treaty 8. Only this PC government could put a major consultation bill like this forward without actually consulting with stakeholders.

The bill not only lacks consultations with First Nations and aboriginal groups, but it also lacks consultation with industry. I've been hearing from people in industry that were not consulted, and this bill doesn't help alleviate problems that can occur during development on First Nations and aboriginal lands. Industry has asked for more clarity and consistency in the current consultation process. If this bill provided that, I would be happy to support it, but Bill 22, especially with First Nations and major stakeholders speaking out against it, only adds more confusion to an already convoluted process.

Additionally, stakeholders are asking if the levy will take the place of consultation fees that are already being paid out. Mr. Speaker, industry is already paying similar fees to First Nation and aboriginal groups. For example, I spoke to a person in industry who already pays when they are looking at developing on or around aboriginal or First Nations land. These fees vary, but they're often dictated by what sort of project they are doing and how big that project is.

For example, a company may pay $500 a well, and for five wells that's $2,500. That money is given directly to the aboriginal or First Nation groups in that region. Will that money stop with the passage of Bill 22, or will it continue and industry have to pay more fees and experience more red tape to get through? I'd be curious to hear the minister's thoughts on this.

Finally, for this bill to be responsible legislation, the levy should be calculated on the basis of the magnitude of the project, the duration of the impact, and the certainty of the impact, but in the bill these details have been left to the regulations. This, like Bill 21, leaves too much power in the hands of the minister, and one has to ask: why is this necessary? Including that the levy should be calculated due to the parameters around the project, the duration of the impact, and the certainty of the impact would allow for the levy to be fair every time, but this bill ignores that concern entirely. Bill 22 is putting more power in the hands of the minister to make decisions as opposed to outlining the limits of authority in the law.

Also, will this levy be capped? At this time there are no restrictions or indication of the potential costs to industry. This causes uncertainty in industry and First Nations. This is not what Alberta needs. This PC government has failed to consult with industry as well as First Nations and aboriginal groups. What we have is a bill plagued with problems.

In closing, Mr. Speaker, we have to do better for industry, and we have to do better for First Nations and other aboriginal groups in this province. This bill fails to deliver an aboriginal consultation levy that stakeholders can agree on, and I implore the government to do the right thing and rethink this act.

Thank you.

8:10

The Deputy Speaker: Thank you, hon. member.

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

Seeing none, the next speaker, the hon. Member for Calgary-Mountain View.

Dr. Swann: Thank you very much, Mr. Speaker. I'd like to begin my comments on Bill 22 with two letters, one from a senior official with Treaty 8 and the other from Treaty 6. The first, then, from Greg Posein, communications co-ordinator with Treaty 8:

> Bill 22, the Aboriginal Consultation Levy Act, is set to go before the Alberta legislature today and is being met with strong opposition by the Alberta First Nations of Treaty No. 8.
>
> Grand chief of Treaty 8 First Nations of Alberta, Roland Twinn, states "We oppose this new legislation, created without meaningful and proper consultation and view it as a continuation of a paternalistic attitude that our Nations have struggled against for decades."
>
> The new bill, according to an Alberta Government announcement, "is aimed at strengthening the First Nations consultation process to ensure that it is appropriate and meaningful. It is important First Nations have the capacity and funding available to do a proper job on consultation and that is what this legislation is about."
>
> This, however, is not sitting well with Treaty 8 . . . First Nations, "This bill does nothing to ensure the consultation process is appropriate and meaningful. It is instead creating a consultation levy fund that has the potential to impact Treaty Rights and our ability to consult, it is more likely to hinder than to enhance," says Grand Chief Twinn.
>
> In particular, two sections of the bill are causing the most concern. Section 8 of the new act deals with private industry providing copies of agreements they have with First Nations, to which the Grand Chief responds "Private companies and their agreements, are not subject to public scrutiny. Any private company, First Nation owned or otherwise, is answerable only to their board of directors. This legislation is attempting to change the way business has always been conducted in Canada for one specific segment of the business community. This action could be taken as discriminatory."
>
> The other section causing concern deals with the Minister's authority to make final decisions that are not subject to review. "By removing First Nation's ability to appeal you deny them a measure of justice. Why shouldn't First Nations have access to legal recourse against government? Does this also apply to industry, if they have concerns as well? The issue becomes one of administrative fairness, if no one can appeal one man's decision we are entering dangerous territory. This new authoritarian stance is alarming to say the least," states Grand Chief Twinn.
>
> "We will not support this bill and continue our opposition of it until proper consultation is conducted with the First Nations of Treaty 8 . . ." finishes the Grand Chief.

A second letter, Mr. Speaker, I think is important to put into the record.

> [Dear Minister Campbell, with reference to Bill 22, the Aboriginal Consultation Levy Act] We were shocked to learn about the introduction of the proposed Aboriginal Consultation Levy Act . . . in the Alberta Legislature. The Government of Alberta has completely disregarded our constitutionally protected rights by providing no notice to First Nations that this legislation was imminent and has not consulted with First Nations regarding the Act whatsoever.
>
> To the limited extent that First Nations have had any opportunity to date to discuss the proposed new Consultation Policy with you and other government representatives, the Confederacy of Treaty Six First Nations has been clear that we

> are opposed to a levy on First Nation consultation and any requirement to disclose agreements between First Nations and natural resource companies. Alberta has failed to explain how such measures will work or benefit First Nations, or the resource sector. Instead, your government has introduced the Act in the face of those concerns, before a meaningful consultation process on the proposed new Consultation Policy has completed, and before any consultation about the Act whatsoever. Your government's decision to introduce this legislation makes it abundantly clear to us that you do not understand the scope or breadth of our constitutionally protected Treaty and Aboriginal rights. Of even equal concern is the complete lack of respect Alberta is demonstrating by proceeding in this manner without our engagement.
>
> We will be holding a meeting of the Treaty Six Chiefs as soon as possible to review the proposed Aboriginal Consultation Levy Act and provide further detailed comments, and to consider a coordinated and forceful opposition to the Act. Our initial concerns are set out below.

I'll simply itemize the headings, Mr. Speaker, in the interests of time. Number 1, the Aboriginal Consultation Levy Act is discriminatory. Number 2, Alberta has overstepped its constitutional authority. Number 3, the legislation violates the UN declaration on the rights of indigenous people. This letter is signed: sincerely, Grand Chief Craig Makinaw.

Well, clearly, Mr. Speaker, this government has to take a second look at this in the interests of long-term, sustainable, healthy, constructive relationships with First Nations. There's a clear indication here that there's been a breakdown. At the same time, many of us in the initial presentation of this bill heard from the minister that consultations were followed by agreement by First Nations that this was an important contribution to the First Nations themselves. There's a very serious disconnect here that I think needs to be addressed, the main elements of which have been discussed.

This government has now this evening refused to accept a referral of this act to a committee that would present a reasonable review of it, provide the research, do the extra consultations if needed, and come back with what could be an acceptable bill for First Nations. It's clear that there's an unwillingness in this government to actually embrace the principles and values that they talk so much about in this House of democratic process, full consultation, accommodation of interests, and a willingness to actually build a long-standing relationship based on trust, on saying what you mean, meaning what you say, and then following through on that decision.

These are critical times in Canada for First Nations. We've seen a federal Conservative government bring into power two omnibus bills which take away unilaterally the rights and responsibilities of First Nations, shift responsibility for waterways and fisheries to the provincial government without negotiation, and take away some treaty rights from First Nations with respect to private ownership of land and the sale of land on reserves. It's clear, I think, that both levels of government, provincial and federal, Alberta and their federal cousins, are looking for shortcuts. They are consolidating more and more power unto themselves, making arbitrary decisions, talking about legitimate process, talking about consultation, talking about the meaning of democracy, and demonstrating something very different.

I think we're all going to suffer if we don't find a respectful common ground to work with our First Nations. We have a legacy of over 150 years in which we have done such damage to our relationship with First Nations that we are now seeing tremendous costs both in terms of human suffering and human potential and, obviously, costs to the systems that are dealing with the fallout – mental health issues and criminal justice issues – because we haven't got it right. We haven't listened. We haven't respected due process and given at least the most critical elements of these relationships due attention, time, and a process that not only allows for decisions to be made in the short term and the longer term in terms of economic well-being, social well-being, environmental security, and social stability but allows a healing process to occur between the dominant society, shall I say, in Canada and our First Nations and within First Nations themselves. They're interconnected.

8:20

The healing process that has to happen between First Nations and mainstream Canadian society has to be given a priority. Everything we do in relation to decision-making around First Nations has to be seen through a screen of a tremendous amount of damage and harm done because of failure of process, failure to integrate some of what we understood to be human rights, justice, due process, recompense for damage done. We have failed to see the opportunity that should be there for all of us. We're all treaty people. I'm sure many of us have heard this over and over again. We are all treaty people. Our forefathers signed the treaties. Our First Nations signed the treaties. That makes us all part of treaties that have to be in some way made to work. They're not working now.

I would submit that this bill, Bill 22, has the danger of adding more fuel to the fire of the Idle No More movement, for example, which so vehemently rejected the omnibus bills of Prime Minister Harper in the last year and are now going to gather new fuel in Alberta around a bill that is clearly not representing what First Nations understood it to be, if they understood the bill at all, if they were given the opportunity to see the bill. They were told they were consulted. They do not feel that they have been meaningfully consulted and that this does not represent their interests.

I hope the minister will take this under advisement and that the members opposite will see the wisdom of simply delaying this, at the very least, and throwing it out if they honestly respect our relationship with First Nations and want to see a more constructive, healthy relationship going forward. We will be bringing forward recommendations and amendments, as I indicated, at a future time.

We certainly support the changes that the First Nations themselves are saying need to be made. Without very, very substantial change there is no willingness to support this bill by First Nations, and therefore there should be no willingness to support this bill in this House.

Thank you, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member. You've quoted extensively from two letters. I assume you'll be tabling those tomorrow. Thank you.

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

Seeing none, I'll recognize the next speaker, the hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Speaker. I know that we reverted already to introductions, but I just want to state for the record that there are also representatives here from Treaty 7. I apologize for omitting them in my initial introduction.

The reason I stand, Mr. Speaker, is to speak strongly in opposition to Bill 22 and to urge this government and all members to completely withdraw Bill 22. I will outline all of the reasons. You know, I think it's very important to note, first and foremost,

the number of guests that we have joining us this evening. The reason that they are here tonight is to let their presence be known, that they are strongly opposed to this bill. Members from all three treaties find this bill to be quite offensive and completely disrespectful.

I think it's necessary for members, especially government members, to get a better understanding of the word "consultation." It's been stated this week by the various treaty representatives that notification is not consultation. The term "consultation" I think has been thrown around too loosely in this House and elsewhere. You know, the minister requesting a meeting with a band or with a chief or a grand chief to talk to them about either what's coming up or to ask them for some input is not necessarily consultation.

Consultation and meaningful consultation is, first of all, acknowledging that the people at the table are equal partners and have an equal voice and are there to give and to receive. It's not one way – this is what we're doing, and you need to accept it – and then let's call that consultation.

You know, I find it quite disturbing, Mr. Speaker, that this government loves to throw around words like "accountability" and "transparency" and "honesty," yet I don't know if in the last 42 years there's been a more opaque and, you know, unaccountable government representing the province. The fact is that in 42 years of being in power, they still do not know how to hold meaningful consultations, how to have a conversation, how to treat other orders of government as that, as an order of government, and respect governance and procedures as opposed to ramming through this government's own agenda.

Despite the fact that in this House the minister has stated that representatives from all three treaties were consulted on Bill 22, it's clearly not the case. The fact of the matter is that there were some conversations over the last few months. I've been told that rarely did the levy come up. This was more of a concept that was batted around last fall, Mr. Speaker. I appreciate the fact that there are some First Nations groups that are struggling to be able to consult with industry on all the proposed projects. When travelling up north, I spoke with different chiefs who said that sometimes they have up to 60 different projects they're trying to consult on with very minimal resources, which just seems absurd.

I can appreciate the spirit of wanting to have a level playing field for all 48 First Nations within the province. However, first and foremost, the process which the government went through to arrive at this bill did not involve consultation in the least. In fact, as other colleagues in the House have stated, many chiefs were shocked, were blindsided by the fact that this levy was introduced and, beyond that, the fact that it's riddled with problems, Mr. Speaker.

First and foremost, as I've stated, this bill needs to be pulled completely. I mean, we talk about a trust, and the government talks about building the relationship with First Nations. Well, I'll tell you this much, Mr. Speaker. This is a giant step backwards in the relationship building with the First Nations, introducing an act which they were not consulted on, were not informed of.

Mr. Speaker, there have been several press releases that have gone out in the last five days from different organizations explaining the issues and the problems with this legislation. You know, the fact that in this legislation First Nations bands will be forced to disclose their agreements with industry seems discriminatory at the outset. It seems completely absurd, considering that if there was a bill that was passed where, you know, negotiations between landowners and industry had to be completely disclosed – well, guess what? – many people throughout the province would be up in arms, and that would never pass. So why this government feels they can impose a discriminatory clause in a bill on First Nations peoples is beyond me. I can't get my head around that, and I think it's safe to say that neither can many different representatives from the treaties.

I think as well, Mr. Speaker, that the fact that any decision that the government and the minister make cannot be appealed, cannot be overturned – there is no process to appeal that decision – seems to go counter to all of the laws that we have governing us not just in the province but also in Canada, that there is a process to appeal decisions. I mean, correct me if I'm wrong, but I believe that's part of the reason we have a Supreme Court of Canada and how decisions can continue to go up the chain. The fact that that has been completely taken away – that's a right that First Nations deserve to have and is completely pulled with this bill – is, well, not only just offensive. I would think that that even calls into question constitutional rights that treaties have.

8:30

As well, Mr. Speaker, you know, the fact is that different treaties have been putting forward consultation policy papers to the government. For example, Treaty 6 has been issuing papers since 2009, helping the government by saying: these are the things that should be included in your consultation policy. I guess I shouldn't find it surprising at all, but if you wanted to guess how many of those recommendations have been included in the government's proposed consultation documents or policies, you guessed it right if your guess was zero.

It's ridiculous that the government wants to bring forward legislation or a policy this fall on consultation, yet in a bill that they have tabled this spring, Mr. Speaker, they failed to consult. I don't know if the irony is lost on some of the members in this House, but it's pretty thick to me.

Mr. Speaker, another issue with Bill 22 and why I can't support it is, again, the fact that in this bill the government wants to have the right to decide which groups are classified or deemed as aboriginal and which are not. I think, first of all, that this government has no jurisdiction in that determination whatsoever.

You know, in addition to that, I think it's shameful that the province has not committed to respect the UN declaration on the rights of indigenous peoples, Mr. Speaker. I mean, this is a very important document that I urge the government to adopt. In fact, there is a party in this House that has adopted the UN declaration on the rights of indigenous peoples and included it in all of the decisions that we make. Yes, the Alberta NDP has fully adopted that document and has created an aboriginal policy framework that guides all of our decisions to ensure that any decision or policy that is made by the Alberta NDP is done in consultation, in discussion with First Nations groups, not done behind closed doors and served to them, on the one hand, saying, "Oh, no; you were consulted in this," when clearly they were not.

I know another issue with this bill is the fact that it gives cabinet sweeping powers to let some companies avoid paying the levy, so you've got it as up to the minister's discretion who the levy is applied to. Again, any time we give the minister or cabinet sweeping powers, there is the potential, whether it's now or in the future, Mr. Speaker, for a person in that position to abuse that authority and power. Clearly, there is no reason that I've been given – I'll ask the minister to enlighten me – on why that clause is a part of this bill.

What else can I talk about, Mr. Speaker? I mean, the fact that it's – I guess that was section 10(k) that exempts a class or a proponent from paying the levy.

Mr. Speaker, there are other issues I have with this. In a briefing meeting, not a consultation but a briefing meeting – I feel I need to clarify that for all members of this House – the minister indicated that at the moment some industry does provide some compensation

to some First Nations to help them to be able to consult on proposed projects. There are some dollars from the government and from industry that are going to some First Nations.

Now, again, I appreciate that the spirit of the bill is to ensure that all 48 First Nations have access to funding to be able to complete or participate in consultation. However, what's interesting is that the dollar amount the minister gave me was around $150 million right now per year that is going out, whereas – again, neither of these numbers are actually in the bill – the minister informed me that they were thinking the levy would be around $70 million. I'm no math wizard, Mr. Speaker, but it sounds like we're going backwards as far as ensuring that different First Nations have the resources to be able to consult with industry and make informed decisions.

Another issue with this is that there is no stipulation, there is no minimum, there is no mention of the amount that the levy will be in the proposed Aboriginal Consultation Levy Act. It seems like that's a pretty big piece of information missing from a bill that this government would like members of this House to pass. That's just one more issue that I have with this bill.

Mr. Speaker, I think it's time that action follows words. I know I'm a newer member to this House, but I'm already growing tired of the government's promise to consult and talk about consultation yet failure to act on those words. You know, the attitude that this government has had toward First Nations, as an outside observer, has been one that is completely paternalistic. It's one where, if anything, it's a relationship that is not on an equal playing field. I completely understand and am sympathetic with why so many First Nations in Alberta are completely frustrated with this government. They've been calling on the government for meaningful consultation. The government can't get it through its proverbial thick head.

You know, it's interesting, Mr. Speaker, that the government has written a consultation matrix, yet the representatives, chiefs, and councils that I've spoken with have had no input on the consultation matrix, and we've got regulations that are going to be imposed on First Nations, including within this matrix a time period of up to 21 days, which begs the question: where did that come from? That clearly was not negotiated. That was not discussed. Again, that's another example of the government imposing its will. What is it based on?

Mr. Speaker, it's no surprise that this government every day is losing . . .

The Deputy Speaker: Thank you, hon. member.

Standing Order 29(2)(a) is available. On 29(2)(a), hon. Leader of the Opposition.

Ms Smith: Yes. I wonder if the hon. Member for Edmonton-Beverly-Clareview can talk about the issues that he is hearing raised from those he's been consulting with. Is the issue that the bands and the chiefs are affronted by the lack of consultation and they do believe that there can actually through consultation be some kind of meeting of the minds where we can come together with something that will work for the First Nations as well as the energy sector as well as the government? Or is it his view, having spoken, that this bill cannot be amended? Is it possible to amend this bill and make it work on a go-forward, or is it his view from talking with members of the First Nations communities that, really, it should just be scrapped so they can go back to the drawing board?

The Deputy Speaker: Thank you.

The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Mr. Speaker. I thank the hon. Member for Highwood for those two questions. I'll do my best to address them both. First and foremost, the greatest concern that I'm hearing – I mean, there are several, and it's difficult to number them or prioritize them, but it all boils down to the fact that there was a lack of consultation and there was a lack of engaging in meaningful dialogue with the very groups that this bill is going to impact and govern through the aboriginal consultation levy. I think the greatest frustration is not only that the different First Nations were blindsided by this levy – again, there was talk of an idea, a concept, of a levy last fall but very little mention since then. I have not met one representative from any band who said: "Yes. We knew the government was going to introduce a levy in this spring sitting that's going to govern and really affect how First Nations govern themselves in regard to working with industry."

8:40

I find it really interesting that there are some First Nations that feel they have a better relationship with industry, that industry of their own accord is going out and consulting with different First Nations better and on their own initiative. You know, when you compare that to the fact that the government isn't and the duty that the Crown has – there have actually been three Supreme Court case rulings, Mr. Speaker. One of them that I find is – well, all three are worth mentioning. It was many years ago. When we look at Treaty 6, they were very clear when they submitted a policy paper in 2009 that the Mikisew set out minimal requirements of the Crown's duty to consult in the treaty context and that the consultation policy has to contain the principles that the Mikisew set out as a starting point. At the moment the policy, the levy, does not include any of these provisions. I'll be happy to table this document tomorrow.

To answer the hon. member's second question, "Can this bill be fixed?" honestly, the only expression that's coming to my mind, Mr. Speaker, is that this bill is holier than the Pope. I'm not sure if we can fix such a flawed piece of legislation. To be honest, what I'm hearing from different representatives is that this bill should be pulled in its entirety. Even though the opposition is going to bring forward amendments and attempt to improve this as much as possible, the fact of the matter remains the same, that First Nations bands were not consulted on this bill. Therefore, if the government wants to do the right thing, it needs to throw this bill out, go back to the different First Nations representatives, and have a meaningful discussion on what a levy bill would look like. Until that happens, I cannot support this bill at all and will continue to speak in opposition and to be a voice that actually is speaking with and on behalf of our First Nations sisters and brothers.

Thank you very much, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member.

Are there others?

Before I recognize the next speaker, might we revert briefly to Introduction of Guests?

[Unanimous consent granted]

Introduction of Guests

(reversion)

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

Ms Smith: Thank you, Mr. Speaker. I do have a comprehensive list of all of the individuals from treaties 6, 7, and 8 who joined us here this evening. I know that the hon. members from Edmonton-

Beverly-Clareview and Calgary-Mountain View had also introduced some, so there are going to be a couple of repeats here, but I did want to make sure that everybody who was in the gallery has been acknowledged this evening. We have Brenda Joly, Claudine Buffalo, Rose Laboucan, Regina Crowchild, Victor Horseman, Josh Alexis, Norine Saddleback, Terry Littlechild, Laurelle White, Kevin Ahkimnachie, Denny Bellerose, Tricia Lee Crowchild, Braiden Crane, Cassandra Crane, Joseph Jobin, James Ahnassay, Monica Onespot, Nelson Littlechild, Scott Bull, Pamela Bull, and Jeanne Crowchild. Please rise and receive the traditional warm welcome of our Chamber. Thank you so much for being here this evening.

Thank you, Mr. Speaker.

Government Bills and Orders
Second Reading

Bill 22
Aboriginal Consultation Levy Act
(continued)

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

Mr. Mason: Thank you very much, Mr. Speaker. I'm pleased to stand and speak to second reading of Bill 22. Well, the government has offended many, many groups, especially since the budget came down. There are children who have special needs, teachers, health care professionals, trade unionists, people who live in the Michener Centre and their families. The list goes on and on. It seems like they left one group out that they hadn't offended yet, so they're making a special effort to come back and make sure they get everybody. I can't think of something that is more likely to antagonize and to worsen relationships with First Nations than how the government has gone about this bill, how they have failed to consult and then claimed that they've consulted. I think that's outrageous, Mr. Speaker. I know we have rules in this House about what you can say about what other people have done, but I think the minister has done a real disservice not only to First Nations but to this House by attempting to lead us to believe that, in fact, proper consultation has occurred when it clearly has not.

Then I think there's the lack of understanding of basic principles that should apply to our relationships with First Nations, which is not the same relationship we might have with a community group, for example, or something like that or some multicultural group. It is between equals, as it were. The First Nations have signed treaties, as have we, at the level of the Crown, the level of federal government. I think the lack of understanding or appreciation or even caring about that principle of equality is what's fundamentally undermining the relationships with First Nations and undermining this piece of legislation.

The Alberta NDP has developed a policy for indigenous peoples under the leadership of one of our bright young leaders, Mr. Cardinal, and I want to read the preamble of the NDP indigenous peoples policy. It says:

> The Province of Alberta was founded on the traditional lands of Indigenous peoples that predate confederation. Treaty No. 6, Treaty No. 7, and Treaty No. 8 with the Crown allowed for the opening and development of these lands to the benefit of Albertans. Since 1905, the people of Alberta have prospered from this unique relationship with Indigenous peoples. Indigenous peoples, however, have not prospered equitably and have had, and continue to have, their Aboriginal/Indigenous rights, legal rights, and human rights violated. Through the efforts of assimilation and dispossession, these violations have directly contributed to the disparity in health, poverty, social justice, cultural survival, and self-government. It is, therefore, the ethical responsibility of the Alberta New Democratic Party . . . and the duty of the provincial government to ensure that all the rights of Indigenous peoples, as found in the treaties and other legal agreements, and their basic human rights and dignity are upheld and maintained in the honor of the people of Alberta.
>
> The following policy statements are built with former and updated policies from the former policy section "Aboriginal Affairs, Section Q" of the Alberta New Democrats Policy Manual 2008 and the 2007 UN Declaration on the Rights of Indigenous Peoples. These policies are meant to apply equally to women and men. As well, the Alberta NDP recognizes and celebrates the unique relationship between the Indigenous peoples in Canada and the Crown and provinces. This therefore, will set the foundation for policies in the Alberta NDP and for a NDP Government in Alberta.

Mr. Speaker, that is the appropriate cornerstone, I believe, for an effective policy between the government of Alberta and First Nations. Our policy is based on the declaration on the rights of indigenous peoples by the United Nations, and it's something that I believe should be recognized by the government of Alberta.

Instead, I think we see many features of this act that fundamentally are in opposition to those principles. For example, according to a submission by Treaty 8 First Nations

> this bill does nothing to ensure that the consultation process is appropriate and meaningful. It is instead creating a consultation levy fund that has the potential to impact treaty rights and their ability to consult, it is more likely to hinder than enhance.

In particular, two sections of the bill are causing the most concern. Section 8 of the new act deals with private industry providing copies of agreements they have with First Nations, to which the grand chief of Treaty 8 responds:

> Private companies and their agreements, are not subject to public scrutiny. Any private company, First Nation owned or otherwise, is answerable only to their board of directors. This legislation is attempting to change the way business has always been conducted in Canada for one specific segment of the business community. This action could be taken as discriminatory.

8:50

The other section causing concern deals with the minister's authority to make final decisions which are not subject to review.

> "By removing First Nation's ability to appeal you deny them a measurement of justice. Why shouldn't First Nations have access to legal recourse against government? Does this also apply to industry, if they have concerns as well? The issue becomes one of administrative fairness, if no one can appeal one man's decision we are entering dangerous territory. This new authoritarian stance is alarming to say the least," says Grand Chief Twinn.

He goes on to say:

> "We will not support the bill and continue our opposition of it until proper consultation is conducted with the First Nations of Treaty 8."

Now, there is another aspect, and I think Treaty 6 talks about that, Mr. Speaker. It says:

> With it's legislative approach, it appears as though the Government of Alberta is moving forward with the notion that, as stated in their Consultation Policy Paper (2013), Alberta has the constitutional right to manage and develop provincial Crown lands and natural resources in the province to benefit all Albertans and to take up land for such purposes.

This statement alone has been widely contested and continues to be questioned to this date as many First Nations view the natural resources transfer agreement as illegal and invalid. But I want to stress that Treaty 6 also goes on to say:

> Any terms of sharing resource revenue must be negotiated together with First Nations, not simply imposed in a unilateral and colonial fashion through a minuscule levy.
>
> Continuing with the colonial approach, the Aboriginal Consultation Levy Act grants the power of determining who is an Aboriginal to the Minister of Aboriginal Relations. Not since the Constitution Repatriation has the definition of Aboriginal been approached, a definition that was largely contested, yet Alberta feels obligated to grant themselves the ability to create their own definition. First Nations have prior to contact defined themselves through their inherent right to self-determination, and continue to express this right through the enactment of First Nations laws. Alberta does not have the right or ability to define Aboriginal groups, nor were they transferred this ability.
>
> The United Nations Declaration on the Rights of Indigenous Peoples . . . states that [First Nations] have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Mr. Speaker, it's clear that the consultation couldn't possibly have occurred because the principles being followed by First Nations and by the government are contradictory, and they could hardly have arrived at a satisfactory agreement.

Now, I want to talk just a little bit about the ability of the minister to recognize aboriginal groups. I'm old enough to remember a conflict that occurred 20, 25 years ago in the province of Alberta over resource development with the Lubicon Cree. When the Lubicon Cree could not be brought to an agreement, there was an attempt, and I think a largely successful one, at least according to some accounts, on the part of the federal government to divide it into two groups. It was the traditional colonial approach of divide and conquer. I suggest to you that the minister's ability to define what is an aboriginal group that the government will deal with does in fact give the minister the power to create and to divide aboriginal groups as a way of advancing the government's agenda. I think it's a dangerous component of this legislation and one of the main reasons why I think we should be rejecting this piece of legislation.

Mr. Speaker, all in all, I think the government has failed badly on this piece of legislation. It's clear that First Nations reject it. It's clear that First Nations reject the minister's claim that they were consulted with, and the very fact that it's an act that talks about consultation but was reached without consultation I think is a fatal flaw which fundamentally undermines the government's credibility in this piece of legislation.

I believe this Assembly should reject this piece of legislation. I'm very surprised, frankly, that the government is forging ahead with it given the opposition that we have seen already. But I've given them political advice before, and they don't take the political advice. They just keep going down and down and down in public opinion. So I guess I'll just keep giving them advice, then, because they do the opposite. I think the government, just from its own point of view, its own self-interest, is making a terrible mistake by pushing ahead with this bill, against the opposition and First Nations in this province.

Thank you, Mr. Speaker.

The Deputy Speaker: Thank you.

Standing Order 29(2)(a)? The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Speaker. I don't always listen to the hon. leader of the NDP opposition's advice, but sometimes I do, and I think his advice is quite valuable. I'm curious about what his . . . [interjection] Well, he did a training video with us during our first year in office, where he taught us how to be in opposition, so I did appreciate that advice.

But I would be interested in his advice on this point, on what approach his party would take to fill this consultation gap. It sounds like his party has done quite a bit of consultation or development of policy. If his party could start from scratch, what would they do to repair the relationship with First Nations so that you could actually move to a point where you could develop a consultation bill that would have buy-in? What would be the steps that he would take over the summer that he would provide to the government as advice for how they could repair the damage they're causing?

The Deputy Speaker: Thank you, hon. leader.

The hon. member.

Mr. Mason: Thank you very much, Mr. Speaker, and thank you very much to the Leader of the Official Opposition for the question. I think the first thing that has to be done is to realize that First Nations are nations who have reached treaty agreements with the federal government acting on behalf of all Canadians and that they need to be dealt with accordingly. The treaty arrangements are not with the provincial government but, nevertheless, affect how the provincial government needs to conduct itself.

They have attempted to establish a protocol that I think is seriously flawed, but I think the first thing to do, Mr. Speaker, with respect to this legislation and other pieces of legislation is to sit down and negotiate with First Nations and recognize that we ought not be proceeding unilaterally in any matter without first attempting to get an agreement with the First Nations, which means actually giving them all of the information about what you're doing and what you're planning to do and why you're doing it and waiting carefully for their response and thoughtfully considering it and incorporating it where possible. If the government approached it in this fashion, I think that we could not only repair the relationship between the government and First Nations but actually improve the lives of First Nations people. That doesn't seem to be on the government's radar either.

The Deputy Speaker: Are there others?

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

Mr. Anglin: Thank you, Mr. Speaker. The green slips are flying around tonight as people are reading from various letters, and I suspect we're reading from some of the same letters. I have five in front of me.

There's no way this bill can be fixed unless these people that have come here on a Tuesday night agree to what's being put into this bill.

Mr. Bikman: Monday night.

Mr. Anglin: Monday night. It might as well be Tuesday night. We're going to be here tomorrow night doing the same thing.

To force this bill through at this hour, at this time, makes no sense given the facts of the matter. We were told that consultation took place. It did not take place. The people are here. Nobody comes to this Legislature at this hour to sit upstairs and watch us in the evening because they have nothing better to do. They're

here because this is a problem. Some of you can joke about it, but this is extremely serious. You have not consulted.

You've done this to the landowners. You've done this with Bill 36, you've done this with Bill 50, you've done this with Bill 19, and you still don't believe it. You sit there and you think: we consulted because we said so. Well, that's just not true. You didn't do it, and you can't convince these people who showed up here today that you did. There's something wrong here. Unless they buy into this bill, this is a bad bill. You've got to satisfy them. You don't have to satisfy us, but you have to satisfy them, and you're not taking that step. Just saying that you've consulted does not make it so.

9:00

We have a bill here, and in my view, it's incredible when you think about it. If I came into this Legislature and said that anybody of Chinese descent had to disclose their agreements with an oil or gas company, that would be called racist. If I said that all Asian people had to disclose their agreements with oil and gas companies, that would be considered racist. What we've done in this bill is said that because somebody declares themselves to be aboriginal, they have to disclose this, and that's good. Where do you come off thinking that that's good? How do you . . . [interjection] Member for Edmonton-Gold Bar, you can mock me all you'd like, but go tell these people right to their face.

Mr. Dorward: Point of order.

The Deputy Speaker: There's a point of order.

Hon. member, a citation when you raise a point of order.

Mr. Dorward: Standing Order 23(h), (i), and (j).

The Deputy Speaker: Okay. Would you state your reasons for the point of order, hon. member?

Point of Order
Allegations against a Member

Mr. Dorward: Yes. Thank you, Mr. Speaker. Standing Order 23(i) says, "imputes false or unavowed motives to another Member." I was speaking to the good member here. I was not addressing the other member; I was listening to the other member.

The Deputy Speaker: Speaking to the point of order, hon. member.

Mr. Anglin: Clearly, I realize this might be a difference of opinion on the facts of the matter. But what remains is that when you get the mumbling from the other side, whether it's coherent or not, it appears to be heckling. I will tell you and will make my case that that member has been fairly consistent in making comments in this House, so for me to make a determination based on the mumbling, I would consider that to be heckling. Now, if he was speaking to another member so loudly that we all heard it, well, that might be a different issue.

Clearly, I would say that what we have here is a difference of opinion on the facts. I'll await your ruling.

The Deputy Speaker: Well, thank you, hon. member. I think I've heard from both members that you agree that we have a difference of opinion, so I will find that there's no point of order.

However, I would remind all members that when another member has the floor, you're courteous. If you're speaking maybe in a very quiet voice, you can allow the next member, whoever that member might be, to have the floor so that he or she may be able to express themselves, and the rest of us, particularly yours truly, are able to hear that member.

So no point of order. Proceed with your comments on the bill, hon. member.

Debate Continued

Mr. Anglin: Thank you, Mr. Speaker. I'd like to at this time introduce a notice of amendment, a motion. I have the requisite copies right here.

The Deputy Speaker: Thank you. Please circulate that, hon. member. We'll stop the clock until a copy gets to the table. We'll let you proceed in just a moment.

Hon. members, this motion that we have before us is, in effect, a hoist. This will be amendment H1.

Proceed, hon. member.

Mr. Anglin: Thank you, Mr. Speaker. I move that the motion for second reading of Bill 22, Aboriginal Consultation Levy Act, be amended by striking out all of the words after "that" and substituting the following:

> Bill 22, Aboriginal Consultation Levy Act, be not now read a second time but that it be read a second time this day six months hence.

Now, this gives us an opportunity here to deal with the very people that showed up tonight to listen. I don't know if this bill can be fixed. I don't know if we need to scrap the entire bill and start over or if we can actually get a consensus so that we can fix this bill. But I do know this. The answer is with the people who came here to watch. They're the ones that have to be consulted. They're the ones that have to come to an agreement. They're the ones that have to have input to say: this is how you fix it. If they say that it can't be fixed, then we have to and we are compelled to listen to them. That's what consultation is.

I will tell you that this government has a strange sense of what consultation means. I like to always say that consultation is what takes place when I sit down with my wife. I know exactly when I've reached a limit, and it goes no further than that. I've lost the battle. She has an absolute say: we are not doing that, Joe. That's consultation. I have consultation at the kitchen table.

Going to meet people and saying later that you talked to them and that that was consultation: that's just not true, just telling somebody something, saying that now we've consulted. Consultation is a communication amongst equals, where people have respect for each other and have the ability to say no, to say: "I do not agree with that, and I will not agree with that. Hence, it will not be an agreement."

We don't have an agreement here. What we have is a government that is saying: "We consulted; hence, we're going to put this bill through. Oh, by the way, based on your race, you have to tell me now what the agreement was that you entered into." I'm not sure that's going to stand up, and I hope it never stands up in this country because that's not what we're about.

The other thing that is offensive – and we've seen it in bill after bill after bill – is where the ministry has concentrated its power, and they've done so in this bill, where the minister's decision is both final and binding. How does anyone come to an agreement? That's something that I do with my son. I go into consultation with my son, and then I say: "No. This is the way it's going to be. It's final, and it's binding." But, realistically, it's not consultation. That's parental guidance. Hence, the paternal aspect of this bill. It's ugly. It's ugly, and it's wrong. It discredits this House, and it discredits this government. They're better than this.

All we're asking here is one thing. There's no rush. Delay this for six months. Consult. Meet with these various bands. Meet with the various treaties and talk to them. Get input, listen to them, and talk to them one on one. That's all.

Now, I would love to hear from some of the people here who claim to be very ardent defenders of aboriginal rights, but they're not here tonight. I wonder why, and I suspect why. That's interesting because this is the issue tonight. This is ground zero for whether or not we're going to abuse an agreement on this consultation process, where somebody is saying, "We've done this," when it's clear now, without any hesitation, that we have not consulted. We are looking at three major treaty areas that have come out and basically said: "This is wrong. You did not consult with us even though you're saying that." Not only that, but point by point by point they have looked at this fairly small act and said: we do not agree to these points.

We need someone from the other side to get up and defend it. We need them to tell these people who have come here to watch us tonight why this is a good bill, why they should accept it even though they say that they've not been consulted. We haven't had that answer yet, and I think the people up there deserve that kind of respect if we say that we respect them. They deserve it. This is an issue that is haunting this government. It haunted this government with the land rights issues, with the bills that have diminished and degraded property rights of different property owners.

I like to quote a friend of mine who is a member of the Montana band. When I was arguing against Bill 36, he said: Joe, we've been dealing with this stuff for 600 years. He didn't put it quite in that language. He said: welcome to my hell. I think he had a lot to say about that. We've talked so far in this Legislature about, historically, some people's connections going back a hundred years. That was not the greatest of times in dealing with any aboriginal issues, any First Nations issues. I would tell you that one thing for sure is that the white man has been consistent. Here we are with another bill. We've not talked. We've not consulted. What we've told the First Nations people that showed up is: yes, we have. That doesn't make sense.

9:10

It's time to do what's right. It's time to start changing the way this government is acting. Slow it down, listen, get involved, and consult. It's got to go beyond mere words. It has to be action, and that action is sitting down at the table with these bands, with the chiefs, with the people and negotiating what is going to be a fair and accurate agreement so that we can go forward with this act.

That's why I'm asking for just a six-month delay. I'm asking for all members here to support this motion. Let's start getting this right. Let's start treating these people with respect.

Thank you very much, Mr. Speaker.

The Deputy Speaker: Thank you.

Standing Order 29(2)(a)?

Mr. Fraser: Mr. Speaker, there's a lot of phrasing over there depending on where you're aiming that. A lot of people on this side have worked with First Nations, some of the bands that are here tonight, have been with them in their best moments and some of their worst moments. So I caution the member, when he talks about what we think about and what we care about, to understand that we do care about the outcomes on these First Nations lands and what happens to their people ultimately. Do you ever take into consideration the work that was done beforehand with the people and where we came from and what we've been doing for people before we even got into government?

The Deputy Speaker: The hon. member.

Mr. Anglin: Thank you, Mr. Speaker. Not only do I take it into consideration, but what I really take into consideration is the action. Not the words, the action. Your action tonight in how you vote is what's going to speak loudest to these people who are watching you. You can say what you want to say, you can speak what you want to speak, but the only thing that matters tonight is how you vote. They're here to watch how you vote. It's the action that means more than the words. That's where this government has gone off the rails continuously. It's not the words that have been bad; it's the fact that the words go this way and the actions go that way. They're going in two different directions. They used to call it a forked tongue, but it's still two different directions. It goes way back.

Thank you very much.

The Deputy Speaker: Are there others on 29(2)(a)?

Seeing none, the next speaker on the amendment, the hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Speaker. I rise to support the amendment to hoist this bill, which would allow it to come back sometime in mid-November, after a summer of consultation. There are several reasons why I would ask the hon. members to also support this amendment to slow this bill down. What we've seen in this Assembly is really a tale of two bills. I just find remarkable the different approach that the minister took towards the Metis Settlements Amendment Act versus the approach that he is taking with this Aboriginal Consultation Levy Act.

Let's remember what happened the day that he introduced the Metis Settlements Amendment Act. He had all eight of the settlement chairs standing in the gallery. He introduced every single one of them. Every single one of them by their presence here demonstrated that they supported the process that the minister went through to get the amendments in that legislation. We had confidence in this Chamber that when he said that he had done his consultation, he had done his due diligence, that he had lived up to that because they were here supporting exactly what he had said.

It went even further than that. When we made amendments to try to change some of the wording to even strengthen the general council's administrative oversight role, the minister told us that because they had done such extensive negotiation and consultation, he would not feel comfortable changing even one word in the amendment act without going back and negotiating on every single word to make sure that he had the agreement of the eight settlement chairs.

In addition, in the Metis Settlements Act, in the bill, not just the amendment act but in the bill, it says – it's enshrined right there in the legislation – that if the minister wants to make any legislative changes to the wording in the Metis Settlements Act, he has to give 45 days' written notice to the settlement chairs, and he has to receive written feedback on any of those regulatory changes before he can go ahead and make those changes. That's the level of due diligence, of consultation, of buy-in, and of respect that the minister showed to our Métis settlement leaders. That's why it is so perplexing that he would take such a fundamentally different approach in putting forward the Aboriginal Consultation Levy Act.

It's quite clear that had the minister done what he had said he had done, which was proper consultation, what we would have expected to see and what the hon. members opposite should have

demanded to see was that the grand chief of Treaty 6, Chief Craig Makinaw; the grand chief of Treaty 7, Charles Weasel Head; and the grand chief of Treaty 8, Chief Roland Twinn, would have been standing in the gallery demonstrating that they had been consulted thoroughly, that they were standing here representing all of the bands, all of the chiefs who are in their treaty areas and providing that affirmation that the minister had done his due diligence.

I would even go one step further. Had the minister done appropriate consultation, not only would those three grand chiefs be here, but we would have had representation from CAPP, the Canadian petroleum association, from IOSA, the In Situ Oil Sands Alliance, other pipeline groups, other oil and gas industry groups because this is impacting both sides. We've talked this evening about how First Nations don't feel consulted, but I can tell you that many industry representatives, many industry groups, when they look at this legislation, have got a lot of questions as well. They have a lot of unanswered questions that they feel that they need to have further consultation on.

The fact that the minister did not have representation from either First Nations or from industry groups when he brought forward this legislation should have been a clear indication that this bill is rushed, that there isn't due diligence, and that it should be delayed and deferred until the proper consultation can be done.

Other speakers have made reference this evening to the various press releases and letters that we have received, but I have to tell you that this is the best headline that I have read in a long time, from Treaty 8 First Nations of Alberta: New Consultation Bill To Strengthen Consultation Created without Consultation. That is the way in which Treaty 8 is summarizing what they observe to see in this legislation, and for that reason we have to hoist this bill so proper consultation can be done.

We have been speaking with a number of First Nations community leaders and legal counsel and getting some of their concerns about the legislation, and I will read into the record why I think we have this great divide in the way the government looks at their due diligence on consultation and why we, the members opposite, look at it quite differently. I think what the government calls consultation is actually notification. Notification means a formal notifying or informing; an act or instance of notifying, making known, or giving notice; a written or printed notice, announcement, or warning. What consultation is is the act or process of consulting, a conference at which advice is given or views are exchanged. We have seen numerous examples of one-way so-called consultation on the part of this government. This is not consultation. It's notification.

Having dinner with a chief and telling them what you're going to do in a casual discussion over dinner is not consultation. That may satisfy what the minister thinks of as notification and due diligence, but I can tell you that it is not the process that our First Nations leaders expect. It's certainly not the process that he went through with the Métis settlement chairmen, and I think that this is a fundamental difference between the approach that the governing party would take versus the approach that you would see the members in the opposition Wildrose take.

9:20

Let me go through the fundamental problems in this bill, which is why it should be withdrawn and not simply amended. It starts right at the preamble, when the preamble talks about:

> Proponents of provincial regulated activities must, at the direction of the Crown, carry out any required Crown consultation with First Nations and other identified aboriginal groups in respect of those provincial regulated activities.

The reading that First Nations community members read into this: they believe that this has a diminished view of treaty and aboriginal rights. They believe that what is happening is that the province remains substantively responsible for consultation, and they're abdicating their role under the Constitution by attempting to delegate this away in the course of the preamble.

That's not the only problem that is identified with this bill and why it should be hoisted so that there can be proper consultation. In section 1 it talks about:

> (d) "First Nation" means a band, as defined in the Indian Act (Canada), with reserve land in Alberta.

The fundamental problem that we have here is that in Alberta there are bands who are not considered Indian Act bands for the purpose of this legislation. My understanding is that we have at least three bands who fall into this category. The Lubicon is probably the most known example of a band that does not have a defined territory under the Indian Act.

Another problem with the act is the definition of a proponent.

> (h) "proponent" means a person who undertakes a provincial regulated activity, but does not include . . .
>
> (iii) a municipality as defined in the Municipal Government Act.

The question is being asked: why is it that a municipality would be excluded from consideration under this legislation? We have heard stories, for instance, of municipalities undertaking development activity without consulting with neighbouring First Nations and of the kind of impact that has on traditional hunting, trapping, and fishing territory as a result. So there is a grave concern that there hasn't been full thought or discussion to the exclusion of municipalities as one of the proponents.

There is also a problem with section 1(2): "Nothing in this Act is to be construed as creating a trust in favour of a First Nation or other identified aboriginal group." We are hearing the exact opposite. What First Nations are telling us is that they actually should be setting up this fund as a trust so that all of the monies that go into it are held in trust for the purpose specifically identified in this legislation. Not setting it up that way is one of the things that has raised a flag for First Nations leaders.

The other section that First Nations say has to be removed entirely is section 2, the identification of aboriginal groups. It says, "The Minister may by order identify aboriginal groups for the purposes of this Act." Now, other speakers have spoken to this, but Alberta does not have the constitutional authority to identify or define what aboriginal communities are. It's an overreach of their constitutional authority, and it's offensive language for First Nations members who have read the legislation.

The other part of the problem is in section 3. In section 3 we talk about the payment of the consultation levy, but once again, oddly enough, in a piece of legislation that's supposed to be about aboriginal consultation, it doesn't mention the duty to consult. The duty to consult: when they are talking about the amount of consultation levy to be paid, when they are talking as well about how the consultation levy is going to be defined, the fact of the matter is that that should include also a duty to consult, to make sure that First Nations are included in that process. It doesn't. Under section 3 we have another problem. Again, this is another section where First Nations say that the provision that it be held in trust should be underscored.

On the issue of the annual report, section 7, it talks about having an annual report with certain factors to it, but once again First Nations are saying that they need to seek input into what that annual report should include. We've heard some suggestions about what should be in that annual report, but the fact of the matter is that this legislation has been written without regard in many sections to including the First Nations in being able to define some of those parameters.

Section 8 is the really problematic section. My colleague from Rimbey-Rocky Mountain House-Sundre was the one who spoke about it at length in his hoisting motion. The notion that we would have a piece of legislation requiring disclosure for one group of people on the basis of race is raising the hackles of so many First Nations members. If you look at all of the letters that we've received from treaties 6, 7, 8, the press releases that they have done, it is this aspect of discriminatory legislation that they find the most outrageous.

Section 8 goes through and talks about the minister making regulations specifically for aboriginal agreements that require the disclosure of "third party personal information, records and other documents, including copies of agreements relating to consultation capacity and other benefits" pertaining to the issue being raised here with this consultation levy. That is one of the issues that First Nations have, and they say that that section in its entirety should be eliminated.

We have to realize what we're trying to do with this piece of legislation. The government has put forward in its business plan the idea of creating a geomapping of the entire province so that industry leaders and First Nations are properly consulted when activity and drilling takes place on lands that are outside of the defined reserve areas. If that's the information that we're trying to collect, then the bill should be written with that in mind. It should not be written to be a catch-all for all types of information, financial and otherwise, from a specific group of people and miss the main point, the main point being getting the geomapping data that we want. Section 8 needs to be eliminated because it is completely offside of what we're hearing from industry, that they actually need to be able to have a proper consultation policy with respect to First Nations.

Section 9 is another one that we are hearing should also be repealed completely, that "a decision of the Minister under this Act is final and binding and not subject to review." Mr. Speaker, I have to tell you that this, again, is offside of what we see in the Metis Settlements Act. In the Metis Settlements Act they talk about any decision being made being subject to appeal in the Court of Appeal after the proper process has been undertaken. The fact that that would be written into the Metis Settlements Act and not written into this legislation is quite clearly an oversight and also something that has created a great deal of concern among First Nations. They believe that section should be eliminated.

The other issue, of course, is that throughout there has to be a built-in acknowledgement of and commitment to consultation with First Nations about the development of the regulations that are anticipated in section 10. You read section 10, and there is sweeping power given to the Lieutenant Governor in Council to make regulations on a whole range of issues, yet it doesn't talk about the absolute need to be able to consult, the demand to consult with First Nations in developing those regulations. Once again, as I've already mentioned, this is offside of the approach that we've taken under the Metis Settlements Act, where any change in regulation impacting the rights of Métis has to be given 45 days' notice plus an opportunity for a written submission, and there has to be some meaningful response on the part of the ministry to address the concerns that they have heard.

In closing, Mr. Speaker, I would ask others to support this motion to hoist. As you can see, we in the Wildrose as well as the members of the other two opposition parties are in alignment. We're hearing the same voices. We're hearing the same feedback. I'm not quite sure why government members aren't hearing what we are hearing.

Let me just maybe speak in terms that the government can understand. We know that the Premier has a leadership review coming up in November. If we hoist this bill and they do the proper due diligence over the summer, it will come back sometime in mid-November. Rather than fighting First Nations communities all through the summer camping trip, the Premier could actually do some consultation over the course of the summer, come back with a win a week before that critical leadership review, and have something she could take to her members. If she won't listen to what we're saying this evening about the imperative of negotiating in good faith with the First Nations for the sake of it, maybe she'll do it for the sake of her own political skin.

I have to tell you, Mr. Speaker, that we are very worried about what will happen if this bill barrels ahead without actually having the proper consultation, without having the proper buy-in. We believe the repercussions will be very serious. We do not want to see chaos in this matter. We want to see an agreement with First Nations, an agreement with industry that we can all feel good about supporting. At the moment we certainly can't feel good about supporting it. I have to say that because they have created so much damage already with First Nations communities, we would say that the only way to repair is a complete retreat, a mea culpa, to say: "Whoops. We're sorry. We were wrong. We shouldn't have barrelled ahead with this. We thought we'd done our due diligence. We now recognize that we haven't, and we're going to take the time to do this right."

With that, Mr. Speaker, I would ask other members to support this hoist motion.

9:30

The Deputy Speaker: Thank you, hon. leader.

Standing Order 29(2)(a) is available. The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Yes. Hon. Leader of the Official Opposition, in terms of saying that you've made a mistake: what would Ralph have done?

Ms Smith: I have to tell you, Mr. Speaker, that I did have this conversation today. One of the things that has been raised with me again and again is that Mr. Klein took a very different approach with our First Nations communities. He understood that the very first step you have to take is you have to build a relationship because when you build the relationship, you establish trust. You establish credibility so that when you have to make these kinds of changes, you've already begun from a position where both sides at the negotiating table believe the best about each other.

The problem is that since Mr. Klein left office, this is a relationship that has been allowed to deteriorate. You can't just allow a relationship to atrophy over the course of seven years and then have a couple of dinner meetings, come back with a massive piece of legislation, and think you've somehow earned the credibility and trust and built the relationship enough to be able to pass this kind of legislation without any serious ramifications. I think that's where the government has erred.

I recognize that the minister is doing his very best to build relationships, but I have to tell you that if the minister continues on and passes this legislation in the face of all of the opposition, then he will demonstrate that he actually hasn't learned anything. He will be sending a message to the First Nations communities that it's just window dressing, that it's just smoke and mirrors, that it's not meaningful, that he is not really listening to what they have to say. I have to tell you that if he was going to take meaningful consultation and do this bill right, he would have done it in exactly the same way that he did with the Métis settlements. I'm not quite sure why the government has taken so seriously its

obligation to negotiate with Métis and seems to be so cavalier about its obligation to negotiate with First Nations.

What I would observe from having been a student of history, looking at the record of Mr. Klein, who had an immense amount of respect for First Nations communities, an immense amount of friendship and loyalty within that community – and it went both ways – is that I think this is the kind of legislation that must have First Nations feeling like they've been completely blindsided. I can't imagine that this is the kind of approach that a prior incarnation of this government would have taken. I, quite frankly, think that they have an opportunity to not make a mistake. That's what we're trying to do here, trying to prevent them from going down a path which we know is mistaken.

We know that there is the possibility to take the same kind of approach that the minister has demonstrated he can take – he has done it before with other aboriginal leaders – and just walk through one by one, getting the commitment, getting the agreement, and making sure that the provisions of this legislation are in alignment with what First Nations see to be the interests of their community.

I think that there is a solution here, but you don't start a consultation process that is going to expand much more broadly than the provisions of this legislation by failing to consult on the first step; you only make step two and step three and step four and step five harder. But if you go back and you do step one right and you develop those relationships and you develop that attitude of trust between the parties, then it makes the other steps that much easier to follow.

I would hope that if they're not going to listen to us and they're not going to listen to the Liberal opposition and they're not going to listen to the NDP opposition, they might just look at their history books and ask what Ralph would do. I think they would take a quite different approach.

Thank you, Mr. Speaker.

The Deputy Speaker: Are there others under 29(2)(a)?

Seeing none, I'll recognize the next speaker, the Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Well, thank you very much, Mr. Speaker. I rise to speak strongly in favour of this motion, of this hoist. I mean, I won't mince words. I hope that the hoist delays this by six months and that this bill dies on the Order Paper, and that's just because, again, I don't think there is anything with the best of intentions that all of the opposition parties collectively can do to salvage this bill or to make amends for the lack and failure of this government to consult with First Nations bands around the province. I want to go through specifically and outline, if I may, each of the points that I've taken issue with in this bill, on advisement from various representatives of treaties 6, 7, and 8, hopefully to show the government members, who I know are listening intently, exactly why this bill is so flawed.

Section 1(1)(d), first of all, is the interpretation of the act, and the bill defines First Nation. According to the bill "'First Nation' means a band, as defined in the Indian Act (Canada), with reserve land in Alberta." Now, I've been instructed that many First Nations take exception to referencing the Indian Act this way. First and foremost, they see themselves as having a right of self-government with respect to their own identity and membership. This is also problematic as First Nations have a legal existence in common law quite apart from the Indian Act. Indeed, treaties were concluded in Alberta prior to many First Nations being Indian bands under the Indian Act, which is problematic in and of itself. Further, there are at least three First Nations in Alberta that the Crown currently consults with that are not Indian Act bands. Alberta has agreed that they have section 35 rights and must be consulted. Where do they fit in in the bill as it's currently worded, Mr. Speaker?

Section 2 needs to be removed completely, entirely. Alberta does not have the constitutional authority to identify, which is another way of saying to define, aboriginal communities. Mr. Speaker, this is an exclusive federal authority under section 91(24) of the Constitution Act of 1867 and is an infringement of the rights of First Nations and Métis communities to self-determine their own identity.

Moving on, Mr. Speaker, section 3(3) should be added to say: the minister acknowledges the duty to consult with First Nations regarding the development of regulations and commits to doing so.

On section 4, as one of the other members said this evening, Mr. Speaker, the funds that are collected in and through this levy act should be held in trust for the exclusive benefit and use of First Nations and Métis communities for the specified purpose of consultation and not taken back into general revenues and spent frivolously, as often we have seen this government do.

In section 7 the minister should commit to consulting with First Nations about the annual report and seek input on the report. This should be detailed in the bill, Mr. Speaker, to ensure that the government does it and does it in a very regular and methodical way as opposed to on the whim of whoever happens to be the minister at the time.

Section 8, Mr. Speaker, is an extremely problematic section in this bill. According to First Nations this section needs to be taken out entirely. First Nations do not accept the forced disclosure of agreements, and I'll go into some specifics here. First of all, it's unnecessary in terms of accountability. New federal legislation already puts onerous financial disclosure requirements on First Nation governments, and industry is bound by anticorruption legislation and sections of the Criminal Code prohibiting the bribery of public officials. Industry often references these things in agreements with First Nations.

This is also a blatant violation of the United Nations declaration of indigenous rights and section 15 of the Canadian Charter of Rights and Freedoms. Other landowners and people do not have to disclose their agreements with industry, so why do aboriginal people have to disclose? I think it's quite clear that this government feels: well, they have to because they are aboriginal. I feel that's completely wrong and discriminatory, Mr. Speaker, in addition to being legally and morally repugnant.

On section 9 decisions of the minister under this act should absolutely not be considered final and should be subject to a review or appeal process. Again, all Canadians and Albertans have the ability to appeal and to have a decision heard for further review. The fact that this bill takes away that right, Mr. Speaker, is quite simply wrong. Section 9 also needs to be completely deleted from this bill.

9:40

There should be a built in acknowledgment and a commitment to consultation with First Nations about the development of regulations that are anticipated under section 10. In section 10 there needs to be a clear statement that the levy is intended only to pay for the costs of consultation processes with First Nations regarding resource projects, and the statement should indicate that funds cannot be construed as compensation for infringements of treaty and aboriginal rights or accommodation. I mean, that's something that's separate. Again, there needs to be fines laid out, Mr. Speaker, should industry fail to pay the appropriate levy.

You know, there are other concerns. As I mentioned, Mr. Speaker, we have no idea how much money is going to be collected for the levy in this bill. Section 3(2) states that the levy amounts will be determined by regulations. I find that dangerous. I also find it extremely difficult for the government to expect members of this Assembly to agree and vote in favour of a bill regarding levies for consultation, yet we have no idea what those levies will be. As I've stated, one concern is that the levy that may be collected, as the minister indicated to me in a conversation, is around $70 million. However, that's less than half of the current funding for consultations provided by industry and government today. I mean, how and why we would support a levy that goes in the wrong direction and takes us back a step is beyond me.

Another question: what assurances are there that this isn't a means to further reducing funds to First Nations for consultations? Are there any assurances that the funding will not decrease?

Again, as I've stated, we've seen and colleagues in the House here have talked about and cited letters and press releases from all three treaties. In recent meetings with Treaty 8, they've indicated that Bill 22 was never mentioned. You know, the introduction of this legislation undermines the government-to-government relationship between First Nations and the government of Alberta. I find it interesting that in a press release that came out today, Treaty 8 has stated very succinctly and clearly that they fully oppose Bill 22 in its entirety. What else can I say, Mr. Speaker?

As well, I think it's worth noting that on May 9, 2013, the Minister of Aboriginal Relations stated in the House – and this is from *Hansard* – "I can say that I met with the grand chief personally." He's talking about Grand Chief Makinaw of Treaty 6. "We met about three weeks ago. He was made aware of this bill. He agreed to [it] going forward." Mr. Speaker, there are no two ways about this. All indications and communications I've had with Treaty 6 are that the above statement is completely false on all accounts. The meeting that took place was a dinner meeting. There was a mention of the levy, and it was made as a casual statement. There was no indication of Bill 22 or that the Alberta government already had this bill drafted.

Time after time the proof is that this government is continuing to break the trust between First Nations and the Crown and has shirked their responsibilities, their duty to consult. For these reasons, Mr. Speaker, I strongly support this hoist motion.

Again, Mr. Speaker, I want to thank all of our guests from treaties 6, 7, and 8 for sitting in the House this evening at this hour to make their presence and their minds known to this government, that they strongly oppose this bill. To them I say: hai, hai.

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

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

Dr. Swann: Thank you very much, Mr. Speaker. I'll be brief. The statements have been made and remade – and I hope the government is getting it – that there is serious opposition to this. This isn't spurious. This isn't grandstanding. This is a serious commitment to trying to rebuild something that is rapidly breaking again. There's an opportunity here to build a healthy relationship with First Nations by reviewing this particular bill, coming together, talking about it, looking at some of the problems, sorting through them one by one, and coming back to this House with something that First Nations can believe in, something that they can feel encouraged by, that builds trust, that builds a sense of them having some control over their future and the well-being of their economy, their social and environmental well-being.

There is a risk that this bill will reinforce a long history of paternalism, disrespect, and a lack of meaningful consultation and accommodation. Alberta took a leadership role in about 2005, when they brought forward one of the first provincial consultation bills. Since then, we have fallen, I guess, both in terms of implementing it and showing First Nations as well as all Albertans that this is a very critical process that has to be followed and seen to be followed, experienced to be followed in its authenticity by First Nations people themselves.

At best, what we're going to see if this bill goes through is a loss of trust, a wrangling, an ongoing frustration. At worst, I see a lawsuit coming against this government and against this bill. Clearly, these First Nation chiefs are saying that this is not acceptable. This is what I would call an honourable out for the government. It's an honourable way to say: "We may have made a mistake. We want to review this. We want to put it on hold. We want to see what can be done, if anything, to resurrect this in the interest of First Nations and our collective relationship to avoid serious breakdown over the coming months and years. We want to take a time out, for want of a better word, and think about what the real implications of this bill are and hear from the people most affected."

I'm hoping that the government will heed this. It's no disrespect to the government to say: let's pause and review this. Obviously, a serious reaction. Obviously, serious implications for them. We perhaps can do better. It isn't a huge loss for government to say: we may have to review this; we must review this, in fact.

The process was poor. That was clearly indicated. The outcome is also poor from the respect of the leadership of First Nations here. Perhaps not deliberate, but that's the outcome. The initial hope and respect in the original process that was designated seems to have fallen by the wayside, and we have to acknowledge that the current recommendations in this bill, the current law and changes it would bring about will potentially damage relationships for decades if this is allowed to be pushed through.

The government is quite capable of pushing it through. We all know that. You have the majority; you can do whatever you wish. We are trying to open up, I think, the possibility of a win-win for the people of Alberta and the First Nations by pausing, taking a few months, and reflecting on what the First Nations are really trying to tell us. The paramount importance here is to build trust, to foster healing, to develop a working relationship that can go forward with real positive energy.

I hope people in the House will seriously consider this, and I hope, in fact, that we will support this hoist. Thanks, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member.

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

Seeing none, I'll recognize the next speaker, the Member for Little Bow, followed by Cardston-Taber-Warner.

Mr. Donovan: Thank you, Mr. Speaker. I'll be brief in speaking to the amendment to hoist this. It's just come down to trust and relationships. Unfortunately, it looks like we've had quite a hiccup in it. It's pretty basic. The right thing to do is to let this sit for six months, try to go back, try to have the proper consultation and deliberation with the First Nations people. It's simple. It's accountability. It's respect. It's teamwork, honesty, and straight communication.

I'd ask the members from all sides of the House to support this motion, this amendment to hoist it, to let it have six months so we can actually have some proper deliberations. Thank you, Mr. Speaker.

9:50

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

Seeing none, the Member for Cardston-Taber-Warner.

Mr. Bikman: Thank you, Mr. Speaker. It's with a little trepidation that I stand to speak on this issue. I tend to be a little pedantic sometimes. When you get to be my age, you've had a lot of experience in a number of different things, and you think you maybe know something that somebody else a little younger than you perhaps needs to learn and could benefit from learning from others' experiences and mistakes rather than making them all themselves.

There is a little principle that has guided me well and helped me in situations like this. It takes a lot of courage and humility to say: "Oops. Maybe we got a little carried away here. Maybe we moved a little too fast. Maybe we didn't have the understanding we thought we had." That takes courage. You have to be very self-aware and have a good self-image, too, to be able to say that. All of us who are married have had some experience with that, so we should be a little bit practised in doing it. I submit that this is a very important time to do it given the seriousness of the potential fallout from forcing through a bill that is not really fully accepted by all the parties involved, the two parties, I suppose you could say.

The principle is, "Seek first to understand, then to be understood." If the First Nations people, represented by some who are here tonight, really felt like we understood, that this government understood what their concerns were, had listened, prepared – and when you listen seeking to understand, you're prepared to change your mind and change your opinion. That takes courage and self-confidence and humility, recognizing that you really want to be able to see this situation from the other person's point of view or the other side's point of view, again recognizing that everyone acts rationally, from their own point of view.

So what is their rationale? Clearly, the minister thought he had an understanding or an agreement, that he had consulted, but the definition of consultation appears to be different, as has been pointed out numerous times tonight. The letters that have been written and quoted from freely give clear indication that that understanding hasn't occurred. You may think you understand them, government, but they don't feel like you do. Until they feel that confidence, until you're prepared to listen so intently and sincerely that you'll change your opinion and your approach, they'll never have that confidence. You'll never be able to rebuild that trust.

I hope that you will accept and vote in favour of this amendment that's been suggested, this delay of second reading, so that you can try and build these bridges, build these paths, these pedways, these ways to walk, and, to use the old phrase, walk in their moccasins, see life from their point of view, see this issue of this relationship that's been described by them as more paternalism and seen and sensed by them as being presumptive. I'm not sure that I'm capable of seeing things from their point of view yet, but I want to. I want to try to. I have in my riding the largest reserve in Canada, I believe, centred at Stand Off, the Kainai reserve. I want to make sure that I understand and can represent them properly, and I believe I am right now by speaking in favour of this amendment, which will delay a presumptive action and prevent the fallout that will come from that.

This government has been in power for a long time, and sometimes that can lead to the mistaken sense of ruling by divine authority. I don't think that the finger of any divine being has reached down and etched in stone on the top of a mountain that this is the way that we should deal with the situation, the challenges, the problems that may exist in the current system of negotiation. I think that this needs to be revisited in a fashion that allows time to occur so that we can give some sober second thought, so that we really can go back and say: "Oops. Sorry. I kind of got ahead of myself. What concerns do you have? What can we do to help strengthen this act so that it truly represents you and the oil producers and the explorers and all the others that the Leader of the Opposition referred to a few moments ago, so that all sides are considered?" If you don't bring all sides to the table or at least visit with them one at a time until they feel understood, you're not going to have buy-in.

You've got the power to force this through, but is that really going to give you the result that you want? I don't think that it will. I think this is another example of: ready, fire, aim. I think we need to go back and do some aiming to make sure we're targeting, focusing on the issues that are really important to our friends, the First Nations people, show them the respect that they deserve because they really do deserve it. In the end, by admitting that we haven't done it correctly, I think that we will be able to approach them again then and really, truly have a consultation that will produce the result that we desire.

I hope that you'll give serious consideration to the words of counsel from an old-timer like me. Of course, I've just been quoting Stephen Covey when I say, "Seek first to understand, then to be understood." There's my bona fides for suggesting that that's a pretty good approach to government, a pretty good approach to management, a pretty good approach to marriage and to child raising, too.

I recommend that we give sober second thought. Let's put this off for six months. There's no rush to get this through before we form the government. You've got almost three years.

The Deputy Speaker: Thank you.

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

Seeing none, I'll recognize the Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Speaker. I'm very pleased to be able to join this discussion on the motion to hoist the bill for a period of six months to allow for a new approach to what is being proposed in Bill 22, the Aboriginal Consultation Levy Act. Many people have spoken very well on what's going on here. I'm not going to repeat their words, but I will definitely put my vote behind them.

I will say that I am more cynical and less hopeful than some of the people that have spoken before me because I'm a process person, and what I see is a repeated process that's used by this government. It's what happens when you've been in power too long. Every time they try something new and they get away with it – the world doesn't end, the sky doesn't fall, and there aren't thousands of people outside in protest – they go: "Okay. Well, it's all right, then." It then becomes part of their regular process. I am quite concerned at the number of times I see this government go for dinner or coffee with somebody or have a casual chat and in the course of that mention a couple of things that they might be working on at some point. Then we come into this Chamber and find out that it's a bill or a motion and it's done, that everybody over there knew that and it's going to go through. It's going to go through because the government has a honkin' big majority.

If I could ask the good people that have joined us in the gallery to please remember that this is what happens when you give someone that large a majority. They just ram stuff through. Please remember that at the next election. To anybody that's watching these proceedings at home or following online: please remember that. This is what it comes down to. So when you're wondering at the next election, "What difference does it make?" this is the difference. I see a government that no longer really cares whether people protested.

We've got a bill coming in tomorrow that is going to override a process that the government itself had in place about how a teacher's contract is going to be ratified. The process said: if one school board objects, that's it; the whole thing stops, and you go back. Well, guess what? One school board objected; actually, many school boards objected. Now they are going to override it by bringing in a bill that – I'm guessing; I haven't seen it – I imagine is going to say: well, we're just going to take it that everybody agreed and put it through.

[Ms Pastoor in the chair]

10:00

Welcome, Madam Speaker.

That's what this government has come to believe, that they know everything, that they're always right, and if someone disagrees with them, well, then they're just wrong or stupid or misled in some way, shape, or form. That's what we've come to in this province, and I think that's what's wrong.

People who raise a dissenting voice, who object to what the government is doing, who bring forward an alternative or criticize the government in any way, shape, or form are, one, demeaned personally; two, their issue is trivialized; and, three, the whole thing is dismissed out of hand. "It's not really a problem. It's no big deal." They're going to do it anyway. That's the situation that we've come to.

Unless we see a huge push-back from the people that are involved in this, I think the government is just going to go ahead. They're going to pass second. They're going to pass committee tonight, probably in the middle of the night, and tomorrow they're going to pass third, and it'll be done. The fact that people really objected, the fact that people felt that they had been – I don't know if deceived is too strong a word. Yeah. People are kind of going: yeah; it's on that level. Okay. Not heard, certainly. Not consulted, certainly. We've all heard that. That has become a modus operandi of this government.

I am not happy to be standing here and talking about the government in this way. I wish I could say many other more positive things, but I can't because what I've watched here, particularly in this spring sitting, does not back up any optimism that I see from anybody in this Chamber. The proof of the pudding is in the eating, and we've been eating a lot of antidemocratic puddings from this government.

Thank you very much.

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

Seeing none, I would call on the Member for Chestermere-Airdrie.

Mr. Anderson: Just Airdrie now.

The Acting Speaker: Airdrie.

Mr. Anderson: The growing metropolis of Airdrie.

I'm going to very briefly speak in support of this motion, and I think that it's important that I get on the record with regard to this on behalf of my constituents. I like the intent of this bill. The intent is good. Obviously, it is to improve the consultative process between our First Nations, our aboriginal populations, and the government and also between our aboriginal and First Nations people, the government, and industry, which is important. This has to be done, and it's good. It's good intent.

[The Deputy Speaker in the chair]

The problem is in the delivery method. You cannot entitle a bill the Aboriginal Consultation Levy Act, use that word "consultation" in the title, then pretend throughout the process that you've consulted with the First Nations on this, and then the day that it's being debated in the House, we find that virtually no aboriginal group in Alberta supports the bill and not only doesn't support it but doesn't feel consulted on it. It's a slap in the face.

This is the type of legislating that ruins relationships. It will no doubt ruin many relationships between the governing party and our First Nations citizens, but it'll do much more damage than just that. If that was the issue, well, then, okay. Big deal, right? If they lose a few political points, well, that's not the end of the world. But the problem is that it will do much more damage than just that. It will damage the long-term relationship that our aboriginal friends and citizens and neighbours have with the province as a whole, with the people of Alberta as a whole, which, of course, they are a part of, with the population as a whole, with industry, with industry moving forward in not just the oil sands but across the province.

Mr. Speaker, we cannot pass this bill right now until it's done right. That's the thing. There's just too much of a history in this government of rushing legislation through without proper consultation. It causes a lot of damage, and in this case it's going to cause a lot of damage in the relationships. It's going to cause suspicion unnecessarily between our aboriginal groups and industry as well as government. There's no need for that.

So why don't we table this legislation? Let's wait six months. Let's have proper consultation. Let's have the Minister of Aboriginal Affairs and the Premier and other interested parties go around and make sure they get this right. Then as we move forward, I think that we could come back here in six months and have a very good, solid piece of legislation that could certainly win the support of this opposition party and, I would suspect, the other two opposition parties although I won't speak for them, obviously.

I think that you have a chance to have a very bipartisan if not multipartisan agreement on this, but most importantly, Mr. Speaker, it'll be a piece of legislation that our aboriginal communities, our aboriginal First Nations can get behind, support, and feel good about and improve the relationship long term, moving forward, rather than setting us back because we wanted to rush through this without properly consulting them.

I don't for a minute claim to know all about the aboriginal culture. We all have friends, of course, who we're close with who are members of First Nations and so forth. I don't pretend to understand it fully, but what I do know from my friends and constituents who are from aboriginal communities is that consultation and dialogue and respect, mutual respect in conversation, are critical in that culture. They are critical to having any kind of enduring, long-term relationship of trust and to have progress on many numbers of fronts. By taking the short cut, by ramming this through without that buy-in, we're doing a lot of damage here long term. It's going to take years and probably a new government in some form to undo that damage, and it will take a long time to undo that damage. That's not in anybody's best interests: the government, the opposition, anybody, certainly not the aboriginal, First Nations' best interests either.

With that, I hope that we would really consider delaying this bill. Thank you.

The Deputy Speaker: Thank you, hon. member.

Standing Order 29(2)(a) is available. The hon. Member for Cypress-Medicine Hat, 29(2)(a).

Mr. Barnes: Yeah. Thank you, Mr. Speaker. I would like to ask the hon. Member for Airdrie: I'm listening to everybody, and obviously it's a total failure for the government again to properly consult, but I'm curious as to the hon. Member for Airdrie's opinion. If our hoist motion was successful, what would the onus be on the government to consult?

I recall sitting in the Cypress Centre in Medicine Hat about eight or 10 months ago. There were 260, 270-some landowners there all totally in agreement, totally in agreement to the point that the Stantec moderator walked to the middle of the room and said something like: we've heard you all; we've heard you loud and clear; repeal Bill 36. Amazingly enough, the next day in the paper: oh, my goodness. One person in Lethbridge said something like "Don't repeal the bill; don't start all over," compared to what the 260 people had said. It was a waste of our time that night for all 260 of us.

I also now have a constituent who just received a letter from the AUC about two industrial lines going in their area. The letter appears to have been mailed on the 2nd, received on the 6th. The meeting is the eighth. That is called consultation? I don't think so for two seconds. I also know the case with some of the government tours that have gone around, where the forums and the direction appear to be so predecided that it doesn't seem to be a fair process.

So if the Member for Airdrie doesn't mind, I'd appreciate hearing his opinions. During the six-month period, if the hoist was successful, what onus would be on the government to consult?

10:10

Mr. Anderson: That's a good question. I don't think there's an onus per se that would come out of the consultation. I just think the right solution would come out of the consultation. It would allow the government to craft a piece of legislation that our aboriginal First Nations community can get behind and can agree with and will allow industry to participate in as well. That's important, too. There are three partners in this relationship. I think without that proper consultation we're doing a real disservice long term to the relationship of trust between government and aboriginal peoples in this province and also to industry and economic development in this province.

Look. We spend a lot of time in here talking about going to the United States and going to different countries to promote our oil and gas development. We spend a lot of time in that regard. However, what good is it to build a pipeline to the United States if we can't even take care of business at home and make sure that we have buy-in from our First Nations and that slowdowns and other things that can come about by not properly involving our First Nations on their treaty lands and so forth are taken care of? We have to take care of home base first, and this is home base. If we don't get this right, you know, there's not going to be much oil to put in the pipelines if we can't develop it at the pace that is needed. That takes proper consultation and a relationship of trust that endures.

I hope that answers your question.

The Deputy Speaker: Are there others under 29(2)(a)?

Seeing none, I recognize the Member for Edmonton-Strathcona, followed by Strathmore-Brooks.

Ms Notley: Thank you very much, Mr. Speaker. I'm pleased to be able to rise to speak in favour of this motion. I want to start by thanking the member for introducing this motion. I think the point of it, which is to simply end the progress of this bill and to invite a situation where everybody can get back to the table in the respectful and meaningful consultative process that I think some people are talking about and others expect, is a good thing, so I appreciate the member bringing it forward.

I will be relatively brief. Our aboriginal affairs critic, the Member for Edmonton-Beverly-Clareview, has spoken on this bill quite a bit and has outlined in some detail, as have others, the significant concerns that have been raised with respect to the components of this bill at this point. I mean, we have had a number of people here today, representatives from various treaties, who are here to listen to the debate. I think it is worth a comment to just make sure that everyone over on that side understands that their presence here and their listening to the debate itself does not amount to consultation. It does appear as though there is that kind of misapprehension over on that side. Simply having somebody hear about your plans does not mean that they're onside. I do appreciate that when you've been in charge for 40 years, you start to think that that's what consensus looks like, but it's really not what it looks like.

I think that things would be improved a great deal were the government to actually go to the table and sit down and speak in great detail about the various components of this bill. Notwithstanding some of the concerns I've heard about what the total amount of funds collected will be as a result of this bill in relation to the total amount of funds directed to consultation right now – there's some concern raised that this might actually result in a net decrease in funds that go to support consultation capacity building. But assuming that that's not the case for the moment, I mean, I think this bill was theoretically put together with a view to achieving good things. Unfortunately, it was done in a way that did not achieve good things.

Of course, the irony is that, you know, here you've got a consultation levy act, and you failed to consult. I mean, really, Mr. Speaker, you know, who does that? Really. Who does that? The Member for Edmonton-Highlands-Norwood previously made a comment: you know, only this Premier could turn a school construction announcement into a political embarrassment. And apparently only this government can turn a consultation act into a failure to consult. I mean, it really does surprise one, the degree to which they're able to stumble on their own boot toes or something.

Anyway, that being the case, there are a number of important areas that previous speakers have outlined. There's the issue of sort of the combined effect of section 1(1)(d) and section 2, which effectively appears in the minds of the drafters of the bill to negate the common-law rights which indigenous peoples in Canada have won, at least partially, through our judicial system. So that is obviously a problem, and their counsel is pointing out that that is a problem. That's something that needs to be addressed.

Also, there are concerns, of course, around the issue of whether or not this bill could be more clear about the positive obligation to consult. I mean, we're talking about consultation levies, but should there be a positive obligation to consult within the bill itself, not exactly on the consultation policy? When you consider that there's all this work going on on consultation policy – and that is not going to come before this Legislature, apparently – one would want to see somewhere in legislation a positive obligation to consult, and perhaps the bare minimum parameters of what that consultation would look like would be set out in legislation. At this point it doesn't appear to exist anywhere. So that is a concern, especially when you see some of the work being done by the federal Conservatives to undermine and generally undercut their obligations to consult with and in many different ways demonstrate a meaningful respect for First Nations in our country. It's

unfortunate that there's not a positive obligation to consult that's outlined in here.

There, of course, are other elements of this bill. One would have expected that there was a statement that it's not the minister that decides this but that in consultation with First Nations and indigenous people certain parameters would be put in place and certain standards would be put in place. That, too, is missing from this legislation.

Finally, we also, of course, see that lovely piece that, you know, we find in many different pieces of legislation, where we say that the minister is godlike and therefore shall not be subject to judicial review. Again, I'm not quite sure why we need to go that far in this legislation. Why do we have to do that? Why can't we have legislation that would allow for a review of the government's actions in the same way we would in many other cases?

Those are just a few of the difficulties that we see in this legislation. Now, we again have heard the minister and other representatives of government suggest: no, no; we did consult on this. I'm sure the minister was not intentionally trying to mislead people. I'm sure he believed they were in the same room – they were talking – and clearly the minister thought that was adequate, but it's also equally clear that many of the peoples who are impacted directly by this legislation do not agree that they were consulted. Given the very singular purpose of this legislation, which is to facilitate capacity for consultation efforts, it truly is quite mind boggling that we wouldn't start this piece of legislation on the right footing and that it would itself not reflect the outcome of a positive, mutual exchange of ideas and decisions that ultimately led to consensus between two equal parties around this process.

If this simple piece of legislation cannot even reflect or create or be founded on consensus – they really are relatively simple, the tasks that are outlined in this legislation, Mr. Speaker. This is not a broad, complex thing. It's one piece that this legislation is looking for. If this simple piece cannot be founded on consensus that arises from meaningful, substantive, genuine consultation, then how is the rest of the process going to flow? I mean, it does not lay out a particularly optimistic map of the future.

I join with many of my opposition colleagues from all three parties to respectfully request that the members of the government really give some serious consideration to going back to the drawing board, re-establishing that relationship, having the kinds of conversation that you need to have. There was a time when this Premier could not walk through a door or flip her hair without saying the word "conversation." It really ruined the use of that word for me for a real long period of time.

10:20

Ms Blakeman: Now it's collaboration.

Ms Notley: Now it's collaboration.

You know, she talked so endlessly about the need to have a conversation with Albertans. I would suggest that she ought to have a conversation with the representatives who are here tonight and with other representatives who have outlined their very serious and real concerns about this piece of legislation. Then when there is consensus, we can come back into this House in the fall, and with everybody onside we can all happily vote through this piece of legislation and celebrate the fact that Alberta's First Nations and indigenous peoples have achieved, in conjunction with this government, a piece of legislation that's going to work for everybody.

It is with that in mind, Mr. Speaker, that I urge all members of this House to support the motion that we are debating at this time. Thank you.

The Deputy Speaker: Thank you, hon. member.

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

Seeing none, the Member for Strathmore-Brooks.

Mr. Hale: Thank you, Mr. Speaker. It's my pleasure to rise and speak in favour of this notice of amendment to delay this second reading for six months. I think what it boils down to is: who is this bill for? It's for industry, and it's for First Nations and aboriginal groups. Well, obviously, we saw by the letters we received that treaties 6, 7, and 8 are not in favour of this, and that's who this bill is for. Why in anybody's mind would you think, "Let's carry on and go ahead" when they're saying no? They don't want it. I mean, if you don't like the message, you don't have to shoot the messenger. We're just relaying the message, hoping that we can get it through that: look, they are not happy.

What it boils down to on part 2 is respect, pride, and honour. Those are three of the biggest values that I've come to know in my relationships with First Nations. I've grown up with many individuals from the Siksika reserve. My family has lived in that area for a hundred years. It started with my great-grandfather. My grandfather, my father, and myself: we have generations of First Nations that have been our friends. It's great to see. My kids, you know, have good friends that are friends of my friends and my father's and my grandfather's. It's a great thing.

They have such pride, and it comes down to respect. We must show them the respect they deserve. I was fortunate enough to be asked to be an honorary pallbearer at a funeral on the reserve a few years ago. It was an amazing honour for me to be asked to come out there and take part in this funeral. When you experience a ceremony like that, you see how much pride and honour and respect they have.

If we continue on with this bill that takes that respect away from them, that's something that we cannot do and should not be allowed to do. I urge the government: put your pride in your pocket, think about who this affects, and vote for the good of the bill.

Thank you.

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

Seeing none, the hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. There have been a number of speeches tonight with respect to the hoist amendment. That's the type of amendment that was put in place. I think it's necessary just to make it very clear. I know some members of the opposition who've been here a long time understand that when they're saying that it will come back in six months, it will not if the hoist amendment is passed. In fact, a hoist amendment by parliamentary practice and procedure is one which is actually a hoist, so what it means is that the bill leaves the Order Paper and never comes back. A number of speeches have propounded this fiction that by approving this amendment, people would have the opportunity to go out for six months and have consultations and come back when, in fact, the net effect of passing the amendment is to defeat the bill. Therefore, I would have to say that I cannot support the amendment, and I would encourage members not to support the amendment because that would be a defeat of the bill.

Now, why should the bill go ahead? Well, there are a number of reasons. First of all, there were a number of points that were raised that I think need to be dealt with. The Member for Edmonton-Beverly-Clareview was concerned about the definition of First Nation, and I understand that concern because I had that concern. I might say that I've had a particular interest in this area for a long time. I grew up in two communities which essentially were

aboriginal communities: Hazelton, which is where my tie comes from, actually, by happenstance today, from the Gitxsan Nation in the Hazelton area in northern B.C., and then Fort Vermilion, where the Tallcree Nation lives, very close to the First Nation at Little Red River.

I acted for First Nations when I was in private practice, and then my first portfolio in government was intergovernmental and – actually, we changed the name of the portfolio from federal and intergovernmental affairs to intergovernmental and aboriginal affairs to respect the fact that the approach taken by this government was a government-to-government approach with respect to First Nations matters.

The definition that's in this act is perhaps problematic, but the reality is that it's the legal definition that's used federally and provincially across the country. While one might want to start a motion or movement to try and change that definition in all of the acts to a better or more profound definition, that is, in fact, how you describe a First Nation in law today, and it makes sense for another act coming in to maintain that consistency until somebody can get the federal government, which has responsibility anyway, to change the definition to a more modern definition.

"Identified aboriginal group" has been raised – that's definition 1(1)(f) – and then section 2, "the Minister may by order identify aboriginal groups." Well, the Member for Edmonton-Beverly-Clareview himself gave the answer to the question, and that is that there are a number of aboriginal people in the province who are not necessarily identified by having reserve lands; the Lubicon, as an example.

The settlement that has just most recently happened is at Peerless Trout, where it hasn't actually been completed and put into effect yet; therefore, they are without land so do not fall into the traditional definition that's in the act. Therefore, you have to have a mechanism to have other identified aboriginal groups who are entitled in our practice of government-to-government relations to be engaged with in consultation with respect to developments that might happen with respect to natural resources and other things, both in their traditional land areas and in areas that may be designated for reserve when those settlements are completed. So that piece makes sense.

The third piece, the payment of the consultation levy, is actually what this act is all about. This act isn't an abrogation of the right to consultation. It's not a statement about the aboriginal consultation process. That process, as every member of the House knows, has been the subject of ongoing discussion about what appropriate consultation process and procedure should be established. What this act merely does is say that those people who are applying to do development with respect to lands which might affect the rights of a First Nation, either with respect to their reserve lands or traditional lands, need to be part of the consultation process, and because they're the ones that are proposing the development, they're the ones that ought to pay.

I would think the members of the Wildrose Party at least might agree that a user-pay process is in order for people who are proposing to do a development – they're the ones who should pay the levy – and that that levy should be available to assist First Nations with respect to capacity development to be able to be part of a meaningful consultation process. That's all this act really does. It doesn't set out what the consultation process is or should be. That is the subject of consultation with First Nations and under discussion and has been under discussion for a considerable period of time. I'm not sure when that will come to fruition, but I'm sure it will.

10:30

The establishment of the consultation levy fund, the establishment of the right to a levy to a so-called developer or, as this act describes them, a proponent, and then the right to invest those funds, the right to add to those funds from government funds or through public funds, through monies from a supply vote, a vote appropriated for the purpose of the fund – the hon. Member for Edmonton-Beverly-Clareview, again, was talking about a number. I don't know where he got his number. But it's very clear that the consultation fund can be made up of both the levies to the proponents and additional monies that may be added to it.

Then payments from the funds. "The minister may make payments from the Fund." That's section 6. That's very clear. I mean, that's what happens, actually, now all the time. Every time there's a consultation – and I've been familiar with this over the 15, 16 years I've been involved – there is a request for monies to provide capacity so that people can engage in meaningful consultation. There has to be a process for that. Someone has to do that, and in this case it's the minister because those funds are actually in the hands of government to manage on behalf of the public of Alberta.

Then there are provisions for reporting.

There's been a lot said about the collection of information and records, et cetera. Now, when we do development in this province, we require developers, people who want to pursue mineral leases or pursue oil and gas leases, to provide certain information about what they're doing, and that information goes into the ERCB or to the appropriate place within Energy or Environment, and that information is used with respect to making decisions. Sometimes that information is public, and sometimes because of economic rights that the proponents might have, that's private.

By the same token, when you're talking about a consultation levy and you need to know what monies have already been paid and what agreements have already been put in place with respect to that, let's be very clear. That section limits the request for that information to agreements relating to consultation capacity and other benefits pertaining to provincially regulated activities. It's very clearly limited to the same things that you would demand of an oil and gas company if they wanted to go in and do a development.

Those pieces are all very straightforward. They have really nothing to do with the aboriginal consultation policy, how much consultation needs to be had, what constitutes appropriate consultation. It is about, simply, a levy to proponents to put into a fund so that funds can be provided from time to time to First Nations who need resources to assist them in developing capacity so they can engage in the appropriate consultation. That's simply what it is.

The minister's decision is final, is binding. Well, what decisions can the minister make under this act? Good question.

Mr. Mason: Who's a First Nation?

Mr. Hancock: Well, not who's a First Nation – that's already defined by the act – but who are other aboriginal groups that are not included? Yes, somebody has to actually determine who fits into that category, so that's one determination. That does not, however, in any way limit a person's ability to take whatever action they might have before appropriate bodies, including the provincial government or the courts, if they believe that they should be consulted with respect to the development. It's simply a question of: who fits into this category of whom we will be funding out of the development levy fund for consultation processes? That's essentially the limit to the decisions that the minister might make.

I guess the other one would be the amount of the levy. The interest of who might appeal that would be the person asked to pay the levy, but that's not something which should be a concern that would be raised by a First Nation because that's not an issue that they're being asked to pay.

Mr. Speaker, I'm very interested, obviously, in the issues that have been raised and in the rationale why some of the First Nations may or may not feel that they were appropriately consulted with respect to the act. I know the minister has very clearly indicated and I know that personally he's had a number of discussions with First Nations about the consultation policy but also about how we might do a better job of ensuring that funds were available for the development of capacity so that the proper consultation processes can be engaged in. That's all this act does.

I would suggest that if anybody supports an amendment to make this act go away, what we will end up with is a continuation of the current situation, which is private arrangements between oil and gas companies or other proponents with First Nations which are not necessarily in the interests of the people who are supported by the First Nations, the First Nations themselves, and that are not open and transparent processes with respect to the support of consultation as required at law in this country and as recognized by this government, the requirement to consult.

This is actually a step forward. This is an important part of the process. It's not the be-all and end-all. If there are deficiencies in it – I don't particularly see any deficiencies in it – that can be part of the ongoing consultation process with respect to how aboriginal consultation is undertaken.

One thing I know for certain, Mr. Speaker, and that is that the appropriate, sustainable development in this province is absolutely necessary. It happens in areas, to a great extent, that affect people who need to be consulted, and when they need to be consulted, they need to be able to have an equity in the consultation processes, which means that they have to have access to resources which allow them to be at the same table with the same kind of information and research and processes that the proponents have. This act helps balance the playing field for them, and it's a very important piece of the process.

I would encourage all members to defeat the amendment. Then, of course, it being a hoist amendment, we would move on immediately to the vote, and I would ask them to support the vote for Bill 22 in second reading.

The Deputy Speaker: Thank you, hon. Government House Leader.

Standing Order 29(2)(a). The Member for Edmonton-Centre to speak on the amendment.

Ms Blakeman: Yes, please.

The Deputy Speaker: Proceed.

Ms Blakeman: What an excellent suggestion, Mr. Speaker. Thank you so much. Under 29(2)(a) I would like to point out to the government that they, of course, are in control of the agenda. Although a hoist is, generally speaking, accepted as being the disposal of a bill and that you're postponing it for three to six months, for the benefit of anybody that's listening, generally the sessions were shorter than that. So if you said that you were going to postpone it for six months, you were actually saying: after we're all gone. It was a way of getting rid of a bill, most generally used, by the way, by the government to get rid of private members' bills. Certainly, this government has only passed hoist amendments on their backbenchers' bills.

In fact, the government can bring forward a bill at any time, can it not, Mr. Government House Leader? They can either bring this bill back under a different number or name in the fall as per the six-month hoist, or they could next week bring forward another bill that is exactly this bill with a different name and number. The agenda is always in the hands of the government, and they may bring forward any bill they want at any time. To say that this bill is gone forever is not accurate. It's gone forever as Bill 22, but the government can bring back the content and intent of this bill at any time. Is that not correct, Mr. Government House Leader?

The Deputy Speaker: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. No, in fact, it's not correct. Parliamentary Counsel would also look at a bill, and if the bill that comes back is exactly the form and content of the bill that's there and it's already been defeated once in that session, it's not likely to be allowed as a bill to come back.

Now, there are ways you can get around that, and certainly one can draft things in different ways to bring a thing back. No question that the government can bring another bill forward, but there's also another parliamentary practice in the parliamentary system, and that is that if you defeat a government bill, you may in fact defeat a government. It may not be around to bring it back if this bill was hoisted because, in essence, it's the defeat of the bill.

The Deputy Speaker: Are there other speakers on the amendment?

Seeing none, I'll call the question.

[Motion on amendment to second reading of Bill 22 lost]

The Deputy Speaker: The hoist amendment having been defeated, I'll call the question on second reading of Bill 22, the Aboriginal Consultation Levy Act.

[The voice vote indicated that the motion for second reading carried]

[Several members rose calling for a division. The division bell was rung at 10:40 p.m.]

[Ten minutes having elapsed, the Assembly divided]

[The Deputy Speaker in the chair]

For the motion:

Allen	Hancock	Olesen
Bhardwaj	Hughes	Pastoor
Campbell	Jeneroux	Quadri
Casey	Johnson, J.	Quest
Dallas	Johnson, L.	Rodney
Denis	Khan	Sarich
Dorward	Klimchuk	Scott
Drysdale	Kubinec	VanderBurg
Fawcett	Leskiw	Webber
Fenske	McIver	Woo-Paw
Fraser	McQueen	Xiao
Goudreau	Oberle	Young

Against the motion:

Anderson	Blakeman	Smith
Anglin	Donovan	Swann
Barnes	Hale	Towle
Bikman	Mason	Wilson
Bilous	Notley	

Totals:	For – 36	Against – 14

[Motion carried; Bill 22 read a second time]

Government Bills and Orders
Committee of the Whole

[Mr. Rogers in the chair]

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

Bill 25
Children First Act

The Chair: Comments from the Member for Edmonton-Strathcona.

Ms Notley: Thank you very much, Mr. Chair. It's my pleasure to rise at the very outset of this Committee of the Whole and under the authority of *Beauchesne* 684, on page 204 of the sixth edition, I'd like to bring forward a motion proposing an instruction to this Committee of the Whole.

Mr. Chair, if I could briefly explain to you the motion I'm proposing and the authority upon which I make the argument that it's in order at this point. The motion reads as follows:

> Be it resolved that this committee requests the Assembly to issue an instruction to the committee to summon the Information and Privacy Commissioner – an independent Officer of this Legislature – and receive evidence as to the likely effects of the measures proposed in Bill 25, Children First Act.

The Chair: You can speak to your motion, please, hon. member.

Ms Notley: Thank you, Mr. Chair. What I will do first is begin by speaking to why it is my view that this motion is in order. As members are well aware, this is a rare and somewhat extraordinary motion that I'm bringing forward, and I'm doing it only after careful consideration and research. However, I do so for several reasons.

First, we have under consideration an important and substantial piece of legislation, the Children First Act, which makes considerable changes involving statutory authority and information sharing with respect to children, parents, and front-line staff.

Secondly, an independent officer of this Legislature, who reports only to this Legislature, has raised serious questions and concerns about the impact of this legislation, concerns which were immediately and publicly dismissed by the sponsor of this bill, the Minister of Human Services.

Thirdly, the government has refused to refer this bill to a legislative policy committee, where members would have been able to hear from a variety of witnesses, including those who support the legislation, those who have raised concerns and questions, and those who see opportunities to strengthen and clarify the legislation. It is, of course, common practice to hear from witnesses at meetings of the legislative policy committees, and I regret that this government has not seen fit to allow members to hear from such witnesses with respect to Bill 25.

Fourthly, due to the government's unwillingness to refer this bill to a legislative policy committee and coupled with the serious concerns raised not only by stakeholders but specifically by an independent officer of this Legislature, I see no alternative, then, to bringing forward this motion, which asks that this committee, the Committee of the Whole, take the steps necessary to hear testimony from and pose questions to the Information and Privacy Commissioner.

Now, as I said, this is a rare motion, and I want to take a few moments to outline the practice and precedent surrounding both instructions to committees as well as the appearance of witnesses during Committee of the Whole. *Beauchesne's* section 681, on page 203, outlines the practice of issuing instructions, which is what this type of motion happens to involve. An instruction is defined as "a motion empowering a committee to do something which it could not otherwise do, or to direct it to do something which it might otherwise not do." As members know, hearing from witnesses is something that the Committee of the Whole, in the absence of this instruction, would otherwise not likely do.

However, to pose such a motion is certainly not common practice either, but merely because a motion is rare does not mean that it is out of order. Indeed, there is precedent for this practice within our parliamentary tradition and within provincial Legislatures across the country. There are a wide variety of practices across the country.

In British Columbia there are no explicit rules in their Standing Orders regarding the calling of witnesses at the Committee of the Whole stage. Standing Order 72(1) in British Columbia states, however: "Witnesses may be summoned to attend before any Committee of the House upon a motion to that effect being passed by the Committee." However, there is not an instance of a witness being called during Committee of the Whole.

Manitoba, Saskatchewan, Ontario, Nova Scotia, and New Brunswick also do not have specific rules that govern witnesses in relation to the Committee of the Whole. However, the Principal Clerk of the Saskatchewan Legislative Assembly tells us that on April 14, 1997, the chairman of the Board of Directors of the Regina general hospital was summoned to the bar of the Chamber to respond to questions posed by the committee.

In Quebec *La procédure parlementaire du Québec* does speak to this specific issue. Indeed, from 1992 to date there have been at least 15 occasions where witnesses have appeared before the full committee.

Both the Northwest Territories and Nunavut have specific standing rules for their Assembly which allow for Committees of the Whole to hear witnesses.

At the federal level witnesses have also been called during Committee of the Whole in both Houses notwithstanding that their Standing Orders are silent on the issue. In his 2005 text entitled *Taking It to the Hill: The Complete Guide to Appearing Before Parliamentary Committees* David McInnes writes on page 38 that witnesses can be called before the Committee of the Whole, although it is not usually a practice in the House, and will actually sit in the Chamber to take questions.

The calling of private-sector witnesses is not that common. For instance, it occurred in December 1997 during consideration of the back-to-work legislation to end the postal strike. In *House of Commons Procedure and Practice*, second edition, 2009, on page 925, in footnote 74 it states:

> In 2007, exceptionally, and by Special Order of the House, a group of approximately 10 witnesses was admitted to the floor of the House for a sitting of a Committee of the Whole, in order to answer questions from Members who were considering emergency legislation related to the resumption of the operation of a nuclear reactor at Chalk River . . . During the sitting in Committee of the Whole, the witnesses were seated near the Table of the House and some were given the opportunity to make statements.

11:00

I've also found evidence that witnesses are able to appear before Committee of the Whole in the Senate. Indeed, on February 18, 1999, the Privacy Commissioner of Canada was called before

the Senate during Committee of the Whole. I feel that it's appropriate to quote from his comments at that particular time. He said:

> I must start by saying that this is quite a thrill. It is an extraordinary occasion for us. This is the first time I have been called to appear before a Committee of the Whole of either House.
>
> In my early days as a press gallery reporter here, about 40 years ago, appearances of witnesses before committees of the whole house were quite commonplace. It is now somewhat out of fashion, which is too bad.

He goes on later to say:

> If today's session represents the beginning of a revival of the process of Committee of the Whole, forgive me for attaching some special distinction to my appearance. I hope this does become true – at least for that small band of people who are known as officers of Parliament. That is, the half dozen or so of us whose appointment alone in the entire federal establishment requires a vote of approval by both Houses of Parliament and who answer to no ministry whatsoever but only to Parliament and who make our reports directly to the Speakers of both Houses.

Indeed, Mr. Chair, that is what my motion here tonight will endeavour to allow. We as the committee of the whole Assembly will call upon one of our officers of the Legislature, the Information and Privacy Commissioner, to hear fully the serious concerns she's raised with respect to Bill 25 and to clarify the nature of the consultation that the minister claims has occurred with her office.

Now, in my comments thus far I have concentrated on other Assemblies throughout the country and also on the federal Parliament. I am, however, very pleased to say that there is indeed precedent for this motion within this very House. This month, in fact, marks 30 years since a similar motion was introduced by the then member for Edmonton-Norwood. On May 31, 1983, he rose at the outset of the Committee of the Whole's consideration of Bill 44 to move that the committee request the Assembly "to issue an instruction to the committee to summon expert witnesses and receive evidence as to the likely effects of the measures proposed in Bill 44, Labour Statutes Amendment Act."

Thirty years ago this member, who would go on to lead the New Democrat Official Opposition, saw fit to introduce this motion because the PC government of the day was committed to the "mistake of hurrying," to use his words as recorded in *Hansard*. Today this PC government is intent on doing the very same thing while ignoring the serious concerns raised publicly by an independent officer of the Legislature.

I've addressed the procedural issues pertaining to whether this motion is in order, but I'd like to briefly speak to the substantive issues if I could. First of all, the Children First Act was introduced on Tuesday, May 7. On Wednesday, May 8, just one day later, the Information and Privacy Commissioner released a statement in which she stated that

> Bill 25 erodes individuals' ability to control what happens to their own personal and health information by broadening the ability to share information without consent. The ability to say yes or no to the sharing of one's own information is, fundamentally, what privacy laws are intended to provide – control.

She goes on to say later:

> Individuals will not necessarily know what information has been collected about them, by whom, or for what specific purpose. This is contrary to fundamental privacy principles of transparency, openness and accountability, and reduces individuals' ability to exercise their rights to complain or ask for a review under existing privacy laws.

She then says:

> Bill 25 may authorize information sharing with non-profit organizations that are, for the most part, not regulated by privacy legislation and not subject to any independent privacy oversight body.

She says:

> Bill 25 provides legislative authority for sharing information "for the purposes of enabling or planning for the provision of services or benefits." This is a very broad purpose that could include any number of activities undertaken by a service provider.

In short, she says:

> Bill 25 is a legislated solution to an education and awareness problem . . . [which] increases the overall complexity of Alberta's legislated privacy framework.

She concluded by recommending that Bill 25 at the very least be amended.

Now, in response to these serious concerns raised by this independent officer of the Legislature, the Minister of Human Services stated on May 8 in this Assembly that consultations occurred throughout January, February, and March. He also said, and I quote from *Hansard*:

> The FOIP review that was promised in the throne speech will allow a thorough review of the FOIP Act, but there are things we need to do now in the best interest of children. It's been very clear from all of the stakeholders.

He went on to say:

> I can say that there have been discussions between our department and the Privacy Commissioner's office, and we made some changes to the wording in the act to try and accommodate the concerns that were being raised by them. I'm disappointed in the news release, to be perfectly frank, because it was my view that we had accommodated all of the issues that were raised. But we can get into that discussion.

Now, that's interesting. It does sound a lot like what we heard from the previous minister about consultations with First Nations. Anyway, the parallel just occurred to me.

The reason it is of value to have the Privacy Commissioner come here, Mr. Chair, is because the Privacy Commissioner reports to and through this Assembly. It is an unfortunate situation that we are in now, where the Privacy Commissioner outlines some very significant, fundamental concerns with this piece of legislation, and meanwhile the minister tells us that he thinks that those issues have been accommodated through conversations that he had and consultations that he had separate from this Assembly.

Now, getting away for the moment from the whole issue of the relationship between an officer of the Legislature and the minister and whether or not the Assembly can have a role in that, the fact of the matter is that the clearest way to address this problem is to have the commissioner come here and speak to all of us who appointed her into that position and to answer questions from all of us here about her concerns. She oversees a body of law in a way which, with the exception of, you know, five other pieces of legislation, is unique to all other law that we pass in this Legislature. She does so, Mr. Chair, because we as an Assembly have identified that the issues over which she has jurisdiction are so important that they must be addressed in totality through this Assembly. It is rare for a Privacy Commissioner to even begin to comment on legislation in a public way.

Really, the way it needs to be done is here in this setting, with the benefit of all members of this Assembly having the opportunity to exercise their rights as members of this Assembly to question this independent officer on her opinions about this piece of legislation. We have seen fit, Mr. Chair, to elevate her jurisdiction in a way that is different from many other pieces of legislation such that she's accountable to this Assembly. So this

committee, then, is the right place for her to come to answer questions about the very serious and significant concerns that she has raised.

Now, I understand that the minister has since had some discussions and is potentially even considering making some small changes. I'm not sure. But it may be there, and that's good. Again, because this commissioner is an officer of this Legislature and of this Assembly, we should have the benefit of having her input on the efficacy of those changes should they come forward in Committee of the Whole as well as the detailed concerns that her expertise drives her to raise with respect to this legislation.

I suggest that we should, as a result, invite the Information and Privacy Commissioner to join us for this discussion so as to clarify the difference of opinions regarding the impacts of this legislation as well as the difference of facts between the minister's statements, where he said that he thought he was consulting, and what the Privacy Commissioner was actually recommending.

It bears repeating that an independent officer of the Legislature reports not to the minister but to the Assembly. If the minister does not accept clear recommendations made by that officer, I think it is the duty and responsibility of this Assembly and each and every member of this Assembly, exercising their rights as individual members of this Assembly, not as members of caucuses but each member of this Assembly, to fully understand what our commissioner is saying. If this minister thought a few changes to the wording would satisfy the commissioner, it is clear that he was mistaken.

In conclusion, Mr. Chair, this motion will allow us to clarify this situation, to hear from the Information and Privacy Commissioner, and to proceed with a full resolution of this issue on this very important piece of legislation, which has a significant impact on the privacy and transparency rights of all citizens in Alberta.

Thank you.

11:10

The Chair: Thank you, hon. member.

Hon. members, the chair has concerns about the propriety of this motion, but I'm prepared to hear from one speaker from each caucus before ruling. With that, I'll recognize the Member for Airdrie, followed by Edmonton-Centre, and then, I suspect, the minister.

The hon. Member for Airdrie.

Mr. Anderson: Well, thank you, Mr. Chair. This is certainly a rare motion that is being done, but I think it is not without merit. I think that the arguments were very clearly stated by the Member for Edmonton-Strathcona. This is why, once again, we in this party supported a referral motion during second reading on Bill 25, in order to try to get this into a policy committee during the recess so that we could go through this bill and make sure that any issues were taken care of. What the Privacy Commissioner has done here is really – I mean, I haven't been here long enough to say it's unprecedented, but I've never seen this during my time here.

As I looked at the Privacy Commissioner's concerns, some of her concerns I think are valid. A couple of them I tend to actually disagree with. I think that there's a balance that has to be put forward between keeping people's information completely private and then, on the other hand, making sure that there's enough information sharing that's going on to make sure that children are being protected in the system. I think there is a balance there. Sometimes we have to give a little on one end in order to get what we're looking for on the other.

That said, good decisions on this bill with regard to the recommendations given by the Privacy Commissioner will be – it would be a much better exercise or a much better way of doing things here if we took the time to go over those recommendations by the Privacy Commissioner and have him come forward and answer questions.

Some Hon. Members: Her.

Mr. Anderson: Her. Sorry. My bad. Have her come forward and answer those questions.

I think that that's very important. As opposition members and as government members voting on this, I think we'd all like to understand a little bit where the Privacy Commissioner is coming from on several of her recommendations. I think that that can only be done if we hear from the Privacy Commissioner in detail. I have many questions that I'd like to ask her concerning this bill to see where the right balance is.

That's not to say, again, that I agree with everything that's been recommended, although I do agree with some. Maybe my view would change one way or the other depending on what her testimony is concerning this bill. Without knowing that testimony, it's very difficult to feel that I'm getting all the information that I need in order to make a properly informed decision on this bill. I mean, this bill has already been rushed through as is in very short order.

Generally speaking, it's a good bill. It's a bill that I support in principle. I think that it has parts in it that I'm unsure of, and I think that Albertans and others would be unsure of certain parts of it as well. I think that for the Assembly to do its job properly, we need to hear from the Privacy Commissioner specifically regarding the unprecedented recommendations that she gave while this bill was in second reading. That's really unprecedented in my time here. Possibly it's been done before, but certainly I've never seen it.

I think that in order to do our jobs, Mr. Chair, we need to hear from the Privacy Commissioner, and this would be the opportunity to do that. So I support the motion.

The Chair: Thank you, hon. member.

The hon. Member for Edmonton-Centre.

Ms Blakeman: Thank you. Mr. Chairman, can I just clarify that you wanted us to argue the propriety of considering this motion before the committee?

The Chair: In favour or against the motion.

Ms Blakeman: In favour or against. Okay.

The Chair: Specifically to the motion.

Ms Blakeman: Okay. I'll do both, then. Thanks.

First, I want to argue that this motion is in order. Our standing orders make it clear that we as an Assembly are in control of our own business. We can proceed as we wish. Thus, you witness a number of times a request for unanimous consent, and if it's given, we can do things that normally wouldn't be done here. We can revert to an order of business and introduce a bill, for example, when we've already passed through the Routine and would not be allowed to do that regularly. So if we agree that we're going to do something, we can do it. If we're really doing something unusual, it would take unanimous consent.

In this case this is a motion that's brought before us for consideration, and we can ask that that instruction be given to the

Assembly to follow through on this. Namely, the instruction is that we want the Privacy Commissioner to appear before us, whether at the bar or at the table, to answer our questions and talk about what effect it is that she sees following from this bill. That's how our standing orders address this. They don't specifically talk about instructions.

When I go a layer up to *Beauchesne*, 683, 684, and 687 all speak to this specifically. So does 681, but the Member for Edmonton-Strathcona has already dealt with that. Rules 682 and 683 talk about a permissive instruction and a mandatory instruction. The permissive instruction is more ordinary, and it gives the committee authority to do something that it wouldn't usually do. In this case that would be to ask the Assembly to bring the Privacy Commissioner forward.

Now, we're still in control of our own business here, and the House, in fact, can look at the recommendation from the committee and say, "Nah; no thanks," but the instruction can be given. Or there can be a mandatory instruction that says, "The House will do this," that is defining the course of action that the committee will follow.

Beauchesne 684 talks about when it has to be done, and in fact the member did comply with that. "The time for moving an Instruction is immediately after the committal of the bill." She has done that. It's been committed to the committee. "The Instruction should not be given while the bill is still in the possession of the House," in other words, during second reading, "but rather after it has come into the possession of the committee." So her timing is bang on with that one. She's done it exactly right. And if the bill has been partly considered at all, it can't entertain an instruction.

Finally, 687, which, just for reference for the members that are here, is when an instruction is considered inadmissible. "No Instruction is permissible which is irrelevant, foreign, contradictory or superfluous to the contents of the bill." I would argue that none of those inadmissible prohibitions can be called in this case. In fact, this is very much a bill that is dealing with privacy and control of information. The Freedom of Information and Protection of Privacy Act, the Health Information Act, and the Personal Information Protection Act, which are the three different acts that this House has passed that deal with collection, use, and disclosure of personal information and health information by government, by health custodians, and by the private sector, are all addressed and named in this bill, so it is very relevant to what we are doing. I don't know how you could make an argument that it's contradictory.

The minister sponsoring the bill has said that he did consult the Privacy Commissioner in doing this, but clearly the Privacy Commissioner felt compelled to issue a press release that outlined her concerns with it. So this is all very much in play, and I think I would urge this committee to follow and, indeed, to approve this motion.

Finally, there are references to it in chapter 16, page 752, of the *House of Commons Procedure and Practice* mostly noting that federal process doesn't use this very much because they don't, as we do, go immediately from second into Committee of the Whole. We do, so it is in order to do that in the way that we, particularly, conduct our business. So as far as parliamentary process is concerned, I would argue that the member has met all of the criteria.

11:20

This is a difficult bill. We're trying to accomplish two things. It is trying to balance the provision of services to children against collection, use, and disclosure of a child's, a parent's, or a guardian's personal information, and achieving that balance is difficult. You will hear later tonight arguments about how the government has achieved it or believes they've achieved it and how others believe they've not achieved it. So the usefulness of the Privacy Commissioner, I would argue, is integral to what we are trying to do with Bill 25.

I won't take any more time, but I think this is important. It's a great opportunity for us to be able to hear how we should be seeking to make this balance and getting the information, indeed, from the expert that we as an Assembly have hired to be an expert for us in these matters.

Thank you very much, Mr. Chairman.

The Chair: Thank you, hon. member.

The hon. Minister of Human Services.

Mr. Hancock: Thank you, Mr. Chairman. I would, first of all, like to congratulate the Member for Edmonton-Strathcona on reaching into the arcane back volumes of *Parliamentary Procedure and Practice* to find a process that hasn't been used in this House in my 16 years and, as I think the hon. member admitted, hasn't been seen for 30 years and bringing it forward. I like that. It's very inventive and resourceful. However, it's totally unnecessary and inappropriate, so I would encourage you and the House to reject this particular motion for instruction.

This House has operated very well over the years examining bills on a clause-by-clause basis in committee to determine the policy under which the province should operate. Once the policy is created, the officers of the Legislature are there to implement that policy and, yes, to give advice to us and to the Legislature, not to the government, on that policy. It is entirely appropriate for government to consult with leg. officers when they're dealing with policy issues to make sure that they have the full benefit of that advice in drafting legislation, and from time to time I think it's appropriate, certainly, for the Leg. Offices Committee to hear from officers of the Legislature as to what they believe should happen in policy.

But legislation that's being brought forward and discussed and passed in this House is the purview of the Legislature, not the purview of the officers, so I would suggest that bringing an officer before the House in this particular circumstance, while it might be interesting and even useful in terms of information, is not a step that I think we should take lightly and not a step that I think is either necessary or desirable in this particular instance.

The issues that are before the House with respect to this bill are relatively straightforward, and there's a balance that needs to be struck. That balance needs to be struck between how we allow and encourage professionals working in the education system, the police and justice system, the children's services system, and the health system to work together for the benefit of children.

We've seen in this province in the not-too-recent past, certainly not as long as 30 years ago, tragic circumstances whereby children have been failed by us as a province and a society because we didn't share information appropriately; we didn't handle the circumstances. I would suggest that the members opposite, particularly the Member for Edmonton-Strathcona, would be the first to leap to her feet to excoriate government for failing children in those circumstances, yet the real failure is that people are not in a position to share information among themselves.

We're not talking about tossing information out on the street. We're not talking about people who don't know and understand the importance of information. We're talking about professionals working together in the best interests of the child. That is a policy decision that needs to be made. Let there be no mistake; there is a clear decision that needs to be made as to how far privacy rules

should go and when the best interest of the child needs to take precedence. Yes, it's very difficult in legislation to come up with a line. At some point in time you do have to provide for judgment calls, and it is our view and certainly my view that that judgment call from time to time has to be put in the hands of the professionals who are working in the best interest of the child and the family.

While it would be interesting to hear from the Privacy Commissioner with respect to privacy policy, I think there would be an opportunity to do that as the FOIP Act is reviewed and as the Health Information Act is reviewed and as PIPA is reviewed and as PIPEDA is reviewed and all those overarching acts which set the overarching privacy policy in this province. Certainly it would be appropriate to hear in that circumstance. In this circumstance what this bill does is try to set a standard which allows for the sharing of personal information with respect to children, when it's in their best interest, between professionals who are working together as a team in that child's interest. That's what this act does.

There's a clear distinction. It's a policy decision, and it's not a policy decision which we need to bring the Privacy Commissioner in to tell us about because we clearly understand. I don't think there's any question where the Privacy Commissioner stands on this particular issue, and there's certainly no question where I stand on this particular issue. What we really need to know tonight is where the Legislature stands on this particular issue.

The Chair: Thank you, hon. minister.

Chair's Ruling
Motion Out of Order

The Chair: Hon. members, the Member for Edmonton-Strathcona has proposed that a motion resolving that the Committee of the Whole request that the Assembly issue an instruction to the committee to summon witnesses to appear before it, namely the Privacy Commissioner. I'm prepared to rule on the admissibility of such a motion pursuant to Standing Order 48.

I'd first mention that a similar motion was moved in the Legislative Assembly of Alberta on May 31, 1983. On that date a member of the ND opposition moved as follows:

> Be it resolved that this committee requests the Assembly to issue an instruction to the committee to summon expert witnesses and receive evidence as to the likely effects of the measures proposed in Bill 44, Labour Statutes Amendment Act, 1983.

It should also be noted that the admissibility of the motion was not ruled on, and the motion was moved and, after debate, defeated. *Alberta Hansard,* May 31, 1983, at pages 1267 to 1278.

Since 1983 the procedures and practices of the Assembly have evolved. With the introduction of policy committees first, the policy field committees, and currently the legislative policy committees, members of this Assembly have the opportunity to move a motion referring a bill to a policy committee pursuant to Standing Order 74.2 or Standing Order 78.2. It is upon referral that the committee may hold public hearings and hear from expert witnesses on a bill.

Bill 25 was in fact the subject of a motion for a referral last week. On May 8, 2013, the Member for Calgary-Shaw moved that Bill 25, the Children First Act, be referred to the Standing Committee on Families and Communities. This motion was subsequently defeated.

Currently both the Standing Committee on Resource Stewardship, Bill 205, and the Standing Committee on Families and Communities, Bill 204, have bills referred to them by the Assembly.

I would also like to call the attention of the Committee of the Whole to an instance in which the federal House of Commons dealt with the matter of admitting witnesses to appear before the Committee of the Whole. The incident is referenced in note 74 on page 925 of *House of Commons Procedure and Practice*, second edition, which describes how "exceptionally, and by Special Order of the House" on December 11, 2007, "a group of approximately 10 witnesses was admitted to the floor of the House for a sitting of a Committee of the Whole." It should be noted, however, that the witnesses were admitted by special order of the House, which was agreed to by unanimous consent and not through a request from the Committee of the Whole to the House to issue an instruction to the committee. House of Commons *Journals*, December 11, 2007, at pages 295-296. Therefore, while the House of Commons heard witnesses in Committee of the Whole, it did not follow the process that is proposed in this motion tonight.

Accordingly, pursuant to Standing Order 48 the motion proposed by the Member for Edmonton-Strathcona is ruled out of order.

Debate Continued

The Chair: We will now move back to the consideration of Bill 25. The hon. Member for Calgary-Shaw.

11:30

Mr. Wilson: Thank you, Mr. Chairman. I'm quite impressed that you were able to put that together on the fly there. Very well done.

It's great to stand up for the first time after being back in here for four hours and, you know, at 11:30 make a speech about some potential amendments to Bill 25, the Children First Act. I want to make it clear that I do appreciate the Minister of Human Services' intention, I guess, throughout the process. It started before the bill was tabled in this House, when he had a briefing with me and some staff of all parties and really went through the bill and made it very easy for us to engage and ask some questions, which we certainly did take advantage of at that time.

You know, we did have a couple of concerns. Some of those we brought forward during second reading. I also was encouraged by the sharing of some potential amendments that we had brought forward to the minister, and I'm also very encouraged that it appears at first glance that he may be ready to accept some of our amendments. With that, I will speak to the areas in which I am going to propose an amendment, Mr. Chair.

The first one is around the children's charter. As much as we do, I guess, in theory accept what it is that the children's charter is all about, what we originally had a big concern with . . .

The Chair: Hon. member, are you moving an amendment?

Mr. Wilson: I will be eventually, yes.

The Chair: Oh, I see. I thought you were ready.

Mr. Wilson: Would you like me to move that first?

The Chair: I'm asking for clarification, hon. member.

Mr. Wilson: Well, it's up to you. If it pleases the chair, I am more than happy at this time to table an amendment.

The Chair: Well, are you ready to speak to your amendment, or did you want to speak prior to your amendment?

Mr. Wilson: Well, in Committee of the Whole – I may be incorrect – I'm pretty much allowed to speak to . . .

The Chair: You have 20 minutes, hon. member, so you can speak and then move the amendment. I'm just clarifying what your intentions are.

Mr. Wilson: Thank you for the interruption. I appreciate it very much. I will still table the amendment at the behest of the chair.

The Chair: Thank you.

An Hon. Member: Good luck.

Mr. Wilson: Thank you. I appreciate your well wishes of luck. Are you a betting man?

The Chair: Carry on, hon. member.

Mr. Wilson: Thank you, Chair. I will do just that.

The amendment itself has two parts, that you will see, and the first part is about the children's charter. We were concerned with section 2(3), which gives the minister the right to review and amend and repeal and replace the charter at any time that he considers appropriate. The children's charter is indeed an ambitious project that will have a lot to say about how the Alberta government approaches children's programs, and we certainly did not want to take that lightly and do not want to take it lightly. Our overall sense as a caucus was that this just gives the minister a bit too much power and discretion over the actual wording of the charter and the imposition of it.

Because it's a document that will be providing oversight and guidance for all children's programs and services, any changes to it, we felt, should be considered by the Legislature as a whole, Mr. Chair. We would prefer that the charter come back to the Legislature as something that would require approval because it is such a wide-reaching document, or it will be eventually. When the children's charter is ready, we do believe that it should be passed by the Legislative Assembly and then used to give formal direction to programs and services. We also feel that any, I guess, amendments to it, changes, or repealing of the children's charter should also come back to the Legislative Assembly for consideration.

That covers one part of the amendment that was tabled, Mr. Chair.

The second part speaks to some of the privacy concerns that were raised by the Information and Privacy Commissioner in her press release that came out the day that the bill was debated in second reading. It is specifically a follow-up in section 4(4), which would read that a service provider or custodian must in accordance with the procedures set out in the regulations maintain as a record information about a disclosure. Now, obviously, there are concerns about information sharing that's going to be going on, but we do believe that it is in the best interest of children to essentially make sure that the information that can be shared is done so in a way that it's still recorded. We do believe that the minister has got the best intentions for children and putting children first and not the fear that they're going to be in violation of one of the three acts.

Bill 25 expands the power for educators, police, government agencies, and service providers to share information so that children at risk can be taken out of dangerous situations without waiting for the danger to be so serious or harmful. It is a good change, but we need to remember that this will affect some privacy laws. The amendment does not affect their new ability to share information, but it does at least require that when the agencies share information, they must keep a record of the disclosure. The main concern is that it is inevitable that some of the people with access to private information will abuse that power or make mistakes that affect people, and without a record of disclosure, concerned citizens will have a barrier to going back and finding out what was released about them. We think that this is a very reasonable requirement, one that the Privacy Commissioner has asked for as a minimum requirement in her press release.

With that, Mr. Chairman, I will happily sit down and move that . . .

The Chair: Amendment A1.

Mr. Wilson: . . . amendment A1 be accepted by this House. Thank you.

The Chair: Thank you, hon. member.

Speaking to the amendment, the hon. Minister of Human Services.

Mr. Hancock: Thank you, Mr. Chair. I have had the opportunity to discuss a number of potential amendments with the hon. member. We are obviously not able to agree on everything, but there are a couple of things which do make sense. I would suggest that this amendment embodies two of them. The fact that when we do a children's charter, it is important that the House sees it: I think this amendment allows it to be laid before the House for discussion and with respect to any repeal or replacement as well. That particular amendment adds, I think, to the bill, and I would encourage support of it.

The second, section B, with respect to the procedures set out in regulations, maintaining records, it should be clear that this act does not exempt itself from the provisions of FOIP or the Health Information Act. Those acts still remain paramount. The whole issue around how data is collected, how information is collected is still subject to the controls set out in those acts. One of the things that could be clarified is that a service provider or custodian, in accordance with the procedures set out with the regulations, should maintain a record about disclosure of information under this section. That's good practice. That would be expected of service providers, that they would do that.

One of the reasons why we suggest it in accordance with the regulations, of course, is that you have different types of service providers. For example, you have educators. They might operate in a slightly different way than other service providers in terms of the comprehensive nature of health records or the comprehensive nature of children's services records. I think this is a good compromise of that particular discussion.

Then, of course, section C provides for the regulation-making authority to set out those procedures.

I would encourage the House to support this amendment.

The Chair: On the amendment the hon. Member for Airdrie.

11:40

Mr. Anderson: Thank you, Mr. Chair. I want to congratulate the Member for Calgary-Shaw but also the minister and say that this is probably the first good experience I've seen where something substantive has been introduced into a bill by an opposition member. It was just a matter of having a good conversation in advance of tonight. I really appreciate that the minister was willing to work with this hon. member on bringing this amendment forward and not playing any of the games that can be played in those circumstances, where the government can bring an

amendment forward and borrow the idea, so to speak. I just think that's a good example. I think a lot of the other ministers would do well to follow that example. It's just good parliamentary practice, and it's about respect. It shows a willingness to work with the other side, and we see that far too little.

Now, obviously, we still would have liked to have seen this entire bill referred to committee. We've made that argument several times. We still think it needs more time; however, obviously, we've lost the vote on referring it to a standing policy committee out of session.

The second best solution is to propose some amendments and get those on the table. He's right; there are a couple of other amendments. There's one other amendment we'll be bringing forward. But the rest that we had put forward the minister was willing to talk through and discuss, and we're here today.

I specifically am very gratified by the first one there: in section 2 by adding the following after subsection (3):

> (4) The Children's Charter and any amendment or repeal and replacement of the Children's Charter require the approval of the Legislative Assembly.

That is very important to me personally and to my constituents.

One of the things I promised myself when I became a member in 2008 for the first time was that I would always stand up for the rights of families and particularly the rights of children and parents. I find that in today's society sometimes it's just too easy to forget the important role that parents play in the development of their children and in the oversight of their children and in developing and raising a healthy, functioning child and helping them become a highly functioning and contributing adult.

I think there's far too much emphasis on a lot of, you know, programs and engineering and things like that and not enough emphasis given to the role that parents have with regard to raising their children and making sure they get the best possible chance in life because there really is no replacement. There really is no replacement. There is no program. There is nothing that can replace the power and the effectiveness of a loving mom and dad raising their children. That goes for whether it's an adoptive parent, whether it's a guardian or two guardians that treat that child like one of their own.

You look at every independent analysis that has ever been done on social ills that children fall into in their teens and even earlier than their teens sometimes, unfortunately, and into adulthood. The empirical evidence is just unquestionable that when there is a stable and loving family unit in place, it just makes all the difference in the world to children. That is not in any way to undermine the heroic efforts of our single parents, of our foster parents, grandparents that step in when sometimes things don't work out the way that people had hoped when they had their child in the first place. That's part of life. Those heroes that come in and raise those children in incredibly difficult circumstances and that, frankly, against the odds, raise wonderful children are just as amazing. What would we do without them as well?

Still, we should always remember that it really is the family unit that has just done so, so much for our society, and we need to make sure that that's why taking custody away from parents, taking away the rights of parents needs to be the last resort, needs to be the absolute last resort. But when they have derogated their responsibility and denigrated it, frankly, by not acting as they should, then that's when the state, the government, however you want to say it, needs to step in and make that child a ward and make sure that child is safe.

Generally speaking, statistics aren't very good when that happens for that child. We hope that it works out. We hope and pray that it works out for that child. It's so unfair to him or her in those cases. It makes your heart break. You know, I think of my own adopted sister, whom my parents adopted from a girls' orphanage in China. It shatters your heart to think about what happens to the majority of those little girls in those situations. It's a last resort, but it's something that needs to be done, and there is a role for government in those hopefully rare cases. They're becoming more common, unfortunately, but that's the case.

That's why I support this amendment and why I am happy to see that the children's charter, the final charter after the consultation process is done by the minister, will be brought back to the House for final verification because I think this is very important. Children's charters are not common documents around the world. Obviously, there are some children's rights enumerated in the UN declaration of human rights. There are also parental rights in the UN declaration of human rights and some other things in there. But this will be a rather new thing, and I commend the Minister of Human Services for putting this on the table because I think it is important.

There is no one more precious in our society than our children. They're our future, and they just make us all better, you know, because just the touch, having a hug from your son or daughter or nephew or niece or whoever, and seeing the innocence and wonder in their eyes when you take them out to the mountains or, frankly, into your backyard to look at spiders: whatever it is, they make us all better. They make us all better human beings. They're so innocent that they sometimes don't know when they've fallen into danger, so it's good that we are going to recognize that might is not right and that children have rights as well as adults. I think that that's very important, to recognize that they have rights and even in some cases, I would say, special rights.

I wanted to read into the record why I'm supporting this motion. Obviously, the privacy concerns are a piece as well, but I'm not going to spend much time on that other than to say that I'm going to assume that by this amendment, when information is disclosed and shared, if somebody wants to go and figure out what was shared about them, they'll be able to find that out immediately. I think that's important, and I think that's what this amendment is supposed to be doing.

11:50

I would like to read the principles that the children's charter must recognize and why I support the idea that's happening here.

> The Children's Charter must recognize the following principles:
> (a) that all children are to be treated with dignity and respect regardless of their circumstances;
> (b) that a child's familial, cultural, social and religious heritage is to be recognized and respected;

That is a very key clause in there.

> (c) that the needs of children are a central focus in the design and delivery of programs and services affecting children;

Of course.

> (d) that prevention and early intervention are fundamental in addressing social challenges affecting children;

As a parent of an autistic child I can testify that that is completely accurate. Early intervention is absolutely critical when it comes to helping children who have issues that they're dealing with and challenges that they're dealing with reach their full attainment.

> (e) while reinforcing . . .

And this is very important. I'd like to strengthen this, and we'll be bringing an amendment further on about this, but it's getting there.

> . . . and without in any way derogating from the primary responsibility of parents, guardians and families for their children, that individuals, families, communities and governments have a shared responsibility for the well-being, safety, security, education and health of children.

I would like to see that strengthened a little bit because I think it's more than just a primary responsibility that parents have; it's paramount. It's not absolute, but it is something just below absolute. It is paramount, not primary. Primary to me says 51 per cent. It's not accurate, frankly. Parents should always have the primary and paramount responsibility for their children.

Those are the principles, and that's why I am supporting the idea of a children's charter. These are sound principles. But sometimes you can put sound principles and the end result into a charter, and all of a sudden you can flip a few words around, and it might have a meaning that, frankly, wasn't exactly in line with what people think of when they read certain principles. That's why this amendment will bring it back. When the final charter is done after the consultation period is finished – and I would hope that the minister would include the opposition in that consultative process somehow so we could give our input as well – it could come back here, and we can approve it as a body, as the people's elected representatives, and if there are changes and so forth, we can approve those changes. Something like this shouldn't just be given to the minister of the day, whether it be this minister or any future minister, to just come and change the children's charter however they feel.

So I support it. I thank the minister for working with our side on this and showing that some things can be nonpartisan. I wholeheartedly support this amendment and would encourage all members of this House to do the same.

The Chair: Thank you, hon. member.

I recognize the hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Chair. Well, I'm happy to support this amendment except for the regulation part, but, you know. In fact, I have a motion in front of me that I was going to propose that is essentially the same thing. I would've gone a bit further. But let me do this in order.

First of all, the first section, section A, amending section 2 in the bill following subsection (3) so that the minister can review the bill, but if he is going to propose an amendment, or repeal, or something else in here, he would have to bring it back to the Assembly. You know, no surprise, but I've talked a lot in this House about how what's done in the House should be undone or changed in the House. It should be brought back here. I would have said that any piece of legislation where major pieces are being changed should be brought back to this House.

But the current and the previous governments got into the habit of creating bills in which the essential principle was laid out, and then all other changes henceforth were to be done by regulations as the minister saw fit. So I'm very pleased to see that this would bring the bill back before this House if there was any desire to amend, repeal, or replace the children's charter in the legislation, absolutely what I constantly advocate should happen.

Section B is amending section 4 by adding a subsection (4), which would set out that "a service provider or custodian" – a service provider is going to be somebody that's covered under FOIP or PIPA, and a custodian is going to be someone that's operating under the Health Information Act – "shall, in accordance with the procedures set out in the regulations," which proves the point I just made, "maintain records about the disclosure of information under this section."

Now, remember that personal information is always in three stages. It's always collection, use, and disclosure. The second piece that you want to remember about that is with consent or without consent. Those are the major pieces that you're always trying to consider. It always has to be dealt with in three stages: collecting the information, using the information, disclosing the information.

I would have gone further in my amendment, which does exactly the same thing. It's amending section 4 and adding after subsection (3) a subsection (4). I would have said that a service provider must protect a child's personal information and health information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, or destruction. I'm a bit pickier. I'm a bit more militant about protection of privacy. What I was proposing and what, I guess, I'm not proposing anymore – so this becomes good one-sided recycled paper – was a bit more stringent.

But if the government is willing to accept this – and I'll just remind everybody following along at home that the government doesn't usually accept this kind of stuff. Sometimes you're working under the principle that it's better than a kick in the ass with a frozen boot, and I'm going to accept this as a result. It's a new Laurie Blakeman standard that I'm introducing into the House tonight, but it's a worthy standard, and I'm going to use it in this particular instance.

The final section is amending section 6, which is the regulation section and once again giving the government carte blanche to come up with all kinds of regulations to put section 4, the previous one, in place. Uh. I really wish the government wouldn't do this, but I don't seem to be able to wean them off this addiction to empowering themselves through legislation to be able to do whatever they want through regulation. It's harder to find. It's harder to understand when it's coming out. There are a bunch of other problems about it. But using the new standard of better than a kick in the ass with a frozen boot, I am going to support even the regulation part just to make it happen.

I'm happy to support the Member for Calgary-Shaw for bringing it forward and for negotiating this successfully with the government. I would have been a bit tougher than you, but that's okay. We're going to accept this and be happy. Given that, folks, you should be happy, too, and accept this amendment. It's the best advice I can give you.

Thank you very much.

The Chair: Thank you.

Are there others? The hon. Member for Edmonton-Strathcona.

Ms Notley: Well, thank you, Mr. Chair. I'm pleased to rise to speak to what I suspect is the first of a number of amendments this evening. I guess, to sort of start with this, I think that we can all agree on one thing, that we all care very deeply about ensuring the best for children in Alberta. There are times when I'm a little bit cynical about that, but I do believe that most everybody in this House actually does want to achieve the best for children in Alberta.

12:00

I also, however, believe that that's almost the point at which opinions begin to diverge. We have some very profound differences in opinion on how one goes about doing that, and I'll be the first to say that my view of how you go about achieving the best for children in Alberta differs largely from both the government as well as the Official Opposition in many respects. As we talk about the particular elements of this bill over the course of the next few hours and the many amendments that we will be putting forward on it, we will have the opportunity to at least delineate and discuss in more detail and refine some of those sort of profound differences and the way in which they are reflected through each section of the act.

I just need to put out there that, really, there are some fairly deeply felt value-based differences of opinion that certainly exist, as I say, between our NDP caucus and the government caucus and the Official Opposition caucus. Certainly, some elements of that will be found because we're going to be making some amendments to subsection (2) of the children's charter to add to the principles that we would like to see being considered by the government in their copious consultation over the course of the next little while with respect to the charter.

That being said, the very minor sort of amendments that we see reflected in this first proposed amendment that have been accepted by the government certainly don't strike us as being something that we would vote against. I don't know that they go very far towards fixing those fundamental value-based differences in terms of how we go about really, truly protecting children in Alberta. I don't think they go very far in that regard, but they certainly don't hurt, and it gives us an opportunity to raise this issue and discuss this issue again in this Legislature. Quite frankly, the more opportunities we have to talk about how we go about best protecting and ensuring the best interests of children in Alberta in this Assembly, the better. That is good. Certainly, I'm happy to support Section A of this amendment.

Now, in terms of Section B I have a question, which I'm happy to direct to either the mover, the Member for Calgary-Shaw, or to the minister, who responded to say that the government would be accepting this amendment. That's the amendment that outlines that the service provider or custodian would maintain records about the disclosure of information that occurs in that section. I have a genuine question. In doing that, does that mean, then, that the person whose information was disclosed would have access to that record, and they would have a right to see the record of how their personal information or health information was disclosed? I'm getting a bit of a negative nod from the Member for Calgary-Shaw. I don't know if the minister wants to weigh in to clarify whether that is true or not. I think, of course, that's what's really important.

I mean, we'll talk in greater detail about how some of this at this point can go sideways, but, you know, I'm going to create a picture of somebody whose rights I'm going to be trying to protect over the course of the discussion tonight about balancing privacy against the need to keep children safe. Think for a moment, then, about a 14-year-old girl who is temporarily in the custody or care of the government, shall we say, who has an abortion. Because the criteria is best interests and because it's so broadly described, it's very possible that that information might be the exact kind of information that is transferred from a service provider to a service provider if they believe it's in her best interest for that information to be transferred.

I worry about that girl living in a small town and it being transferred from an educator to somebody that provides after school care although I guess a 14-year-old wouldn't be dealing with after school care, so that's probably not a concern, but somebody that perhaps provides some counselling services through a nonprofit in the small community, that kind of thing. I worry about that being transferred, and I wonder what right that 14-year-old girl will have to go to those various service providers and find out when or what information was disclosed, particularly if she's making a decision, if she's deliberating on whether or not she should continue to live in that town of 2,500 people or whether she needs to move somewhere else because of, you know, the way things are in towns of 2,500 people. I can speak as someone who grew up in a town of 2,500 people. These things happen quite regularly, that this kind of information just gets out there, right?

My question is: can that 14-year-old girl check with that service provider to see what information was disclosed? Let's say it was a counsellor at a school talking with somebody that's providing after school outreach for a child at risk, for instance, that kind of thing, some kind of programming that way. Can she check to see what's been disclosed? I'm hearing no from two opposition members. I'm happy to have the minister tell me if I'm incorrect. It says: in accordance with the regulations. Typically when you talk about a record of disclosure – I can't remember if it's implied that people have access to that record of disclosure or if needs to be stated.

Anyway, that's my question, and I shall leave my comments on this particular amendment to those questions and those introductory comments and look for an answer.

The Chair: Other speakers on the amendment? The hon. Minister of Human Services.

Mr. Hancock: Thank you, Mr. Chairman. I'd be happy to weigh in on that. The answer to that really lies in what an individual's rights are to access their information under FOIP and under the Health Information Act. This does not derogate from those rights. In fact, if a person is entitled to ask for that information, which they are under FOIP, for example, if it's not readily disclosed to them, there's a process by which they can request it, and they would be entitled to such information. They'd be entitled to under that.

Now, my experience is that you can apply to get your information. I know of certain circumstances with respect to Human Services, for example, where people have asked for and received their information. Sometimes it's a question of a disclosure of the information directly without the FOIP process. In some cases there have been issues, and it's only come to my attention after they've complained to me in writing because I don't see the FOIP processes. So there is both a direct request approach and a FOIP approach which can be used to access information. Those apply in this circumstance as well.

With respect to the disclosure provision the approach here is to ensure that appropriate records are maintained, but it should be very clear that this act does not give professionals acting in the best interests of the child the opportunity to disclose any information they want to disclose. There has to be purpose, and they can be held accountable to the purpose. The issue is really one that, yes, there may be a question of some level of trust, if you will, about what's appropriate to disclose, but there are provisions later on in the act which say that you can't disclose information, for example to a parent, if the child says no.

In those circumstances it's quite appropriate. There would be circumstances where if the child that you're talking about, for example, had some severe emotional issues surrounding the pregnancy and the abortion, it might be quite appropriate for discreet disclosure of information among the necessary professionals, not a wide dissemination of the information among all of them but a discreet dissemination among the professionals that were involved in that particular interest on behalf of the child. Other than that, if that wasn't the case, then there would be no reason for anybody to have that child's personal information, and there would be no reason to disclose.

12:10

Ms Notley: I do appreciate the minister engaging in this conversation.

There are a couple of issues there that I would raise when I deal with other amendments. He talks about severe emotional issues,

and I think that there are ways of getting at that with more refined language than the best-interests-of-the-child language that he's currently using, but we'll talk about that later.

The thing I want to clarify, though. The minister talked about how a child has the ability to get access to their information, but that's not really what we're talking about. What we want the child to be able to do is to get access to who else has their information. It's not a question of them getting access to their file. We understand that they all still have the ability to do that. What they want is to have access to who knows, who else has access to their file. That's the question.

Now, are you telling me that that is naturally part of their personal information? Currently the service provider wouldn't necessarily be covered by FOIP because they are contract. They'd be under PIPA. Under PIPA, I think, there's a difference around access to the actual information versus access to the record of the disclosure of the information. That's actually information about the actions of the service provider versus information about the actual person. Do you see what I mean? I just would like to get that clarified.

Mr. Hancock: It's certainly my understanding – and I've had some experience in this with respect to people requesting access to their information, including who their information was shared with – that that is an actual extension of the question of accessing information about themselves. In fact, that's the reason why this amendment is important. If it's available, it ought to be part of the sharing, and it ought to be shareable.

Now, the question as to which service provider and which act. If it's a service provider who's doing business under contract with the government, then they come under the regulations for the government, so they are bound by that process, and we ensure that that happens.

I'm quite confident that, in fact, people would have access to not only the record of their personal information but if they request it, who that information has been shared with if, in fact, this type of regulation is in place or without this type of regulation if, in fact, they've practised good practice and they actually did record as we're asking them to do.

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

Ms Blakeman: Thanks very much for recognizing me, Mr. Chair. This is why we should have had the Privacy Commissioner be able to appear before us. It is this kind of discussion, in which nobody is quite sure. I would argue with the minister that his interpretation of this is not accurate. One, the information has been collected without somebody's consent. When you're a child, you've got no rights. In particular, in this act the information is being collected about them without their consent, so they don't know who has it to start with, never mind who talks to somebody else about it. Secondly, the principles of transparency and accountability that would usually accompany personal information and privacy are also not in this act, so we're hard-pressed to find out what got shared with what other service providers.

Now, I'm supporting this act because it does at least require that records are maintained about who else got told. But I think that there is a question about whether who else got told is going to be part of the information that someone could access. Let's remember that a child cannot access this. Until you're over 18, you can't get this stuff. If the 17-and-a-half-year-old, this imaginary girl that we've dreamed up that had an abortion at 14, wants to consider staying in that town or that school or a number of other possibilities, she cannot find out who else knows because she's a child. Until she's over 18, she can't try to access that information. Then when she's over 18, she's going to be struggling here into where the paramountcy is and between which service providers.

That's the other thing that's getting interesting here. Is this a service provider that is included under FOIP, which means that they're a public service provider and they're contracted by the government, or are they a not-for-profit or a private business, which is subcontracted or contracted directly by the government? They're covered under two different acts, and the service providers are covered under different acts. So whether they're able to access that information as an adult – you are supposed to be able under all of the acts to look at your record and ask for corrections to the record and have a review done if you wish.

Now, no surprise to anyone, I have an amendment coming that's going to do that. In the meantime, given that the minister will actually accept a strengthening, I'm going to urge the members to approve what's before us in amendment A1, put forward by the Member for Calgary-Shaw, because it is better than a kick in the ass with a frozen boot.

Yeah. That is the problem that we are struggling with here. How do we actually figure this out? You know what? In the end run it's going to end up coming before that very same office of the Privacy Commissioner. If there is a complaint at some point in time or a court battle about this, it's going to end up coming before that Privacy Commissioner to be decided.

That's just a bit of a shout-out to the member for trying to get the Privacy Commissioner in front of us in which we could have asked those questions but also just a little small admonition to not let us miss the opportunity to strengthen it a little bit and for me to argue with the Government House Leader and the supporter of the bill, of course, about privacy information.

Thank you very much, Mr. Chair.

The Chair: Are there others on the amendment?

Seeing none, I'll call the question.

[Motion on amendment A1 carried]

The Chair: Now back to the bill. Hon. Member for Edmonton-Centre, I believe you have circulated an amendment.

Ms Blakeman: No. I have one at the table, and I will get to it.

The Chair: You will get to it. Okay. Carry on, then.

Ms Blakeman: Thank you very much, Mr. Chair. Congratulations, Calgary-Shaw.

I didn't get an opportunity to speak to this bill at second, but I have a lot to say in committee. I know that there is good intent from the government, but this is where ideology comes into conflict with good intent, I think. I understand that what the government is trying to achieve is a more fluid transition from a child in protection or a child that is classified as a person with developmental disabilities and is accessing services under that, transitioning from 17 years, 364 days to one more day. Now they're 18, and they're going to graduate out of that child place and move into adulthood and into a different set of requirements and privileges and rights and responsibilities. And we have been trying to get that better.

I, in fact, brought a woman into the gallery and asked a question on her behalf to the then minister of children's services, saying: good heavens; I mean, what on earth change or difference was there in her son, who is developmentally delayed, between him being 17 years, 364 days and the next day, when he turned 18? She literally had to take him through new doctors' appointments,

pass a number of new tests and criteria, in order to prove that, in fact, he had not miraculously recovered overnight and could now be classified as not a person with a developmental disability. I brought that person forward and into the House. You know, I'm partly responsible for this because I pushed hard that we should be able to deal with this. That involves some kind of co-operation between, I would have said, government departments.

12:20

Where I am having more trouble is with this very loose definition of "service provider," which is just about anybody, to be perfectly honest. The service provider is detailed in the definitions section, which, for those of you following along at home, is always the beginning section in a bill. You get the preamble, and then you get the definitions so that we all know what we're talking about. In the definitions section, which is section 1, of course:

> (g) "service provider" means
> (i) a department,
> (ii) an educational body as defined in the Freedom of Information and Protection of Privacy Act;
> (iii) a police service as defined in the Police Act;
> (iv) an organization as defined in section 1(1)(i) of the Personal Information Protection Act that provides programs or services for children.

That's it. That's a service provider. That's very wide. If we have these organizations that you find in subsection 1(g)(iv), if they're contracting additional resources, let me put it that way, it can get even further out. Part of what this act is doing is moving the decision-making, the responsibility, and the authority out to those front-line workers.

I understand where the impetus comes from, but I think we need to be more cautious than the government has been because we have less ability to define things for those front-line service providers. You know, how is a police officer going to look at this as compared to a social worker as compared to a benefits worker as compared to a daycare person? You start to see how different people in the front line are going to interpret certain things differently, and this can be the same child. So I'm very hesitant about the change that is going from the director making the decisions, things like on page 7, amending the Child, Youth and Family Enhancement Act. Then it goes through that incredibly valuable metric called a whack of other bills, changing essentially the same thing. Every time it strikes out a "director" as being the decision-maker and substitutes "child intervention worker."

And then the next one: "'child intervention worker' means a person designated under section 129.1 as a child intervention worker." And it keeps going that way, you know, on kinship care provider, again striking out "a director." Sometimes it moves to the Crown; sometimes it moves to the front-line worker. Again, in section 12 on page 11 it's doing the same thing, striking out "the director" and substituting "a child intervention worker." That's when I start to get a little worried.

But sometimes, Mr. Chair, magic happens, and we had a little bit of magic happen. So if I could get the amendment that I'm going to propose distributed, that would be a helpful thing.

The Chair: This will be A2, hon. member.

Ms Blakeman: This would be amendment A2.

The Chair: Proceed, hon. member.

Ms Blakeman: Thanks very much. This amendment has two sections. The first is under section 1(g), which coincidentally I just talked about. It's the definition of a service provider. What is being proposed here – and I've had co-operation and collaboration from the government, all those good C-words. Section 1(g) currently reads:

> (iv) an organization as defined in section 1(1)(i) of the Personal Information Protection Act that provides programs or services for children,

which you know that I objected to on the grounds that that really means that it's a step farther out from government. It's not necessarily a public agency. It could be a private agency.

This is going to replace that, so the definition would now say that a service provider means: all of the other clauses. Then you get to

> (iv) an individual or organization that provides programs or services for children under an agreement with a public body . . .

Very important.

> . . . as defined in the Freedom of Information and Protection of Privacy Act.

Then under the criteria of better than a kick in the ass with a frozen boot is the next amendment, which would be

> (v) any other individual or organization provided for in the regulations.

I'm going to be happy about that, Mr. Chair, and we're going to recommend that everybody else be happy about it because it is allowing that we're talking primarily about people inside the public sphere; in other words, not privatized.

The second section is amending section 6, which is the regulations section, and adding on to it:

> (a.1) respecting individuals or organizations for the purpose of section . . .

Stay with me.

> . . . 1(g)(v),

which is the one we just put in there.

I am urging people to support this. It does give us a service provider definition that is oriented towards a public contract, which is one of the things I'm worrying about. It does allow for that flow of information that the government is looking for, but I continue to be quite concerned – I will talk about this in some other amendments but won't take up a lot of your time on this one – that we have in place that penultimate responsibility and liability of the government to protect that information about that child and to collect the least amount of it and use the least amount of it in providing services to the child.

I agree the services need a better flow of information. I really would prefer that the flow of information stay in the public sector, meaning government, which also covers municipal governments, for example. So I'm much happier about this. I think it goes a long way towards achieving the balance that we're talking about here between privacy of personal information and provision of services to kids with some of the silos that have been built up.

Let me just leave it at that and say that this is a good amendment. There's been collaboration and consultation between the government and myself, and I am bringing forward this amendment under my name because I think it's worth doing. So I urge everyone to support this amendment. I think it makes the bill stronger.

Thank you.

The Chair: Thank you, hon. member.

I recognize the Minister of Human Services.

Mr. Hancock: Thank you, Mr. Chairman. I again would encourage members to support this amendment. There was some concern raised. In fact, the Privacy Commissioner in her comments raised concerns with respect to information sharing

with nonprofit organizations. While it's clear that under the social policy framework and under discussion about social policy it's absolutely necessary that we have not-for-profit and NGOs assisting with social issues and that there are circumstances in which some of them provide services with respect to children, it's necessary in those circumstances that they be inside the tent and part of that discussion.

12:30

I think – and our legal people agree – that this could tighten up the definition a little bit and perhaps deal with some of those issues of concerns that, quite frankly, we believed were quite low risk, but I think it's appropriate to provide that assurance.

I appreciate the hon. member stepping a little bit outside her normal comfort level and adopting a definition which does provide for some flexibility in terms of the any other individuals or organizations piece and then the regulations that need to support that. I think that I would want to acknowledge that the hon. member has come some way to accept the need or the requirement for that piece in it. Hopefully, we've worked together to achieve a more substantive definition that can achieve some of those goals.

The Chair: Thank you.

Are there others?

Seeing none, I'll call the question on amendment A2.

[Motion on amendment A2 carried]

The Chair: Now back to the bill. The hon. Member for Airdrie.

Mr. Anderson: Thank you. I would like to distribute an amendment. I would like to propose the amendment – well, I'll let you name the amendment there.

The Chair: Sure. We'll call that A3, hon. member. I would suggest you start to speak to it while they distribute. You're moving this on behalf of the hon. Member for Lac La Biche-St. Paul-Two Hills?

Mr. Anderson: Oh, yeah. Sorry. I move this on behalf of the hon. Member for Lac La Biche-St. Paul-Two Hills.

The Chair: Okay. Carry on.

Mr. Anderson: The amendment states – I'm just going to flip to it real quick. Section 2(2)(e) references the children's charter and the following principles that the children's charter must recognize. It goes through those principles, and in (e) it says:

> While reinforcing and without in any way derogating from the primary responsibility of parents, guardians and families for their children, that individuals, families, communities and governments have a shared responsibility for the well-being, safety, security, education and health of children,

Replacing "primary responsibility" in that sentence with "paramount responsibility" would mean that while reinforcing without any way derogating from the paramount responsibility of parents, guardians, and families for their children, individuals, families, communities, and governments have a shared responsibility for the well-being, safety, security, education, and health of children.

I'm proposing this for several reasons. The first is that – and I know that this is somewhat about semantics, and I understand that – I think that it is important that there be a recognition of the roles and responsibility of parents, guardians, and families for their children.

I think that "primary" is too trite a word to use in this case. Primary to me, I think, is like a 50 plus one. It's saying that, yeah, parents have the primary responsibility, you know, for their children and families and so forth, for their well-being, safety, security, education, and health. It's the primary responsibility, but it's not really indicative of, I think, what is the actual fact, which is that parents, families, guardians, and so forth actually have, in my view, much higher than a 51 per cent or a 60 per cent responsibility for their children. They really are the paramount caretakers of their children and have the paramount responsibility. They don't have the absolute responsibility.

There are some things that the state clearly needs to provide, and we talked about some of those issues earlier. For example, where there's abuse, the parent can't say: well, too bad; it's my kid. Obviously, that would be deplorable, and in those circumstances that's when children's services would come in and take the child and put them in protective care and so forth. There are other examples of situations where the state would have a role in the well-being, safety, security, education, and health of children. Providing access to immunizations, providing rules regarding children's safety, having to be in a car seat until a certain age or weight and so forth: all these different things are out there.

The state certainly does have a role, but it is not a primary role, and I wouldn't even call it a secondary role. It's a role that comes about in most cases, in the case of taking the child, in a very limited, kind of last resort, if things break down type of situation. I think that by using the word "paramount" instead – again, it's not saying absolute; it's just saying that we really hope that parents will take full responsibility or as much responsibility as possible for the well-being, safety, security, education, and health of their children.

I think it's important to let parents know and to signal to parents and guardians and families that that is the expectation. The expectation is that they will be there for their children, that they will be there to protect them. To do that is their paramount role as parents. It's more than just a primary responsibility. It just doesn't seem like enough.

I think that a lot of folks – I remember that during the Education Act there were some things in there that rubbed parents the wrong way, and a lot of parents felt the need to really make it clear that theirs was a paramount responsibility for what their children learned, their health, their safety, their security, and so forth. In that case it was education, of course, what their children were taught and that parents should have the paramount responsibility or ability to decide that. In this case it's the responsibility for the well-being, safety, security, education, and health of their children.

I think it's a reasonable compromise. I don't think it ties the government's hands in any way, shape, or form. I think that if I said "absolute responsibility" or if it said "the only responsibility" or, you know, had something to that effect, there would be reason to not put that in there, because parents absolutely should not have an absolute right to their children. There are clearly exceptions, and we've talked about those. But I think it needs to be more than primary.

I think it needs to be clearly enumerated here so that when the children's charter comes out, we don't get into this situation where parents are feeling uncomfortable because there is some wiggle room for the state to say: "You know what? We think we know what vaccines the children must take for their health, and we're going to supersede what a parent might feel about a certain vaccine, et cetera, that they might not be comfortable with, whether it be for health or religious grounds. Because the health of the child is at risk here, we're going to use this clause and say that although it's primary, it's a shared responsibility, and the state has

essentially just as much say in the matter, we're going to pass this law." I think that that would be unacceptable, and I think that it's important. There are many examples, and we can go through a hundred such examples, but I won't bore everybody.

I think using that language would set not just the right message to parents on their rights regarding their children but also that they have that responsibility and that that's not a responsibility to be taken lightly, that we as a province expect our parents to do their job, which is to raise their children and make sure that they're healthy, well educated, and safe and secure. I hope that members will support this amendment.

12:40

The Chair: The hon. Minister of Human Services.

Mr. Hancock: Thank you, Mr. Chairman. I hope that my next words won't take away all the goodwill that was addressed by the hon. member earlier in the evening, but I have to encourage the House not to adopt this amendment. It's not that one doesn't agree with a lot of the sentiment that was expressed about the role of parents and the obligation of parents to their children and the role of parents in making appropriate determinations for their children and, in fact, that the state or the community should not, ought not interfere with the proper raising of children by families. It's not the government's job to become the parent to all children, nor is it society's job to become the parent to all children, but there is a role, and I think the hon. member expressed it.

When children are being abused, when children are being neglected, when there are problems, then there is a role for society and there is a role for the community, and that role is usually expressed through their governments and in this case through the Child, Youth and Family Enhancement Act, for example, which provides a role to intercede, first of all, to support the family so the family can be stronger and fulfill their obligation to their children and then, secondly, if that is not successful and the child is at risk, to apprehend or to intercede on a temporary and then, if necessary, on a permanent basis. I think that's a well-recognized role for government and for society.

Now, the problem with what the hon. member says is with respect to the word "paramount," which has legal connotations. The question then becomes: if the parent has the paramount right, is there any opportunity for government or community to intercede? I would argue that the term "paramount at law" provides an overarching right which cannot be interfered with. It's the paramount right.

That is actually not the case. It's not the case that parents in our society have the paramount right against all other rights. In fact, the child's right to safety and health does come ahead of the parent's right to parent their child. You know, the right of the child to safety, to be free from sexual interference from a parent or others, a right to be cared for: those rights do come ahead, and those rights can sometimes be exercised by someone on behalf of the child other than the parent in appropriate circumstances.

No one, I don't think, would disagree with the concept that in our society we believe very strongly in the family. We believe very strongly in the role of parents. We believe very strongly that parents should and do have the responsibility to raise their children, and that should be interfered with only in the most serious of cases. But to say that it's a paramount right at law puts in – with the people I have consulted with respect to the drafting of this act, we tried to choose words that would clearly give that concept of the primary responsibility of the parent without disastering the rest of the laws which allow for intercession on behalf of a child when that intercession is necessary.

Sometimes there's a judgment call involved in that, and that's why we have time frames and processes and courts and other things, because sometimes there's disagreement as to whether it's an appropriate intercession or not. But there has to be that opportunity, and saying "paramount" would suggest at law, in my view, that there is not that duty on behalf of others to ensure that the child's rights are appropriately upheld.

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

Ms Blakeman: Thanks very much, Mr. Chairman. There is a problem with this, and this is why clarity in drafting legislation is so important. For an average person who looked this up, you actually do get definitions that are very close, so you need to know that it's the legal definition that tends to get referred to in legislation. If you look at "primary" in the dictionary – and I'm using the *Oxford* dictionary, the world's most trusted dictionary – it says that primary is "of chief importance," "principal," "earliest in time or order," "not . . . caused by, or based on anything else." Then it goes into a number of other, lesser definitions. When you look at "paramount," it says: "more important than anything else," "supreme," "having supreme power."

So which is it, primary or paramount? Well, we know that the law looks at paramount, and we talk about paramountcy clauses in bills, which means that this particular clause or this bill takes precedence, is more important, and covers any other bill. That's the first thing, the clarity of the language. We know that parliamentary process refers to the court language that's been defined, and in this case paramount is more important, takes a higher ranking.

You know, this act is not about great community parenting. For the most part this act is about situations where the government has to step in as the parent. It does say that the government has the ability and the right and the paramount right to step in where a parent or a guardian has failed. So I would argue that parents don't have paramountcy, and the fact that the government can step in over top of what the parent wants where there are cases of abuse is proof of that.

Now, this actually occurs under the section that's talking about the children's charter, which is a sort of more open, huggy, kissy, kind of everything-is-going-to-be-wonderful clause in this bill, and it is recognizing the following principles, so I think the Member for Airdrie was right to bring the amendment forward under this particular clause. It is saying that, you know, kids are supposed to be treated with dignity and respect, that their family and culture and social and religious heritage are supposed to be respected. The needs of the kids are to be the focus. Prevention and early intervention are fundamental. Thank you for that and for recognizing that.

Then it goes into this clause that the amendment is about.

> (e) while reinforcing and without in any way derogating from the primary responsibility of parents, guardians and families for their children, that individuals, families, communities and governments have a shared responsibility for the well-being, safety, security, education and health of children.

Then we go into the reviewing. The minister can review the charter, and with the amendment that's already passed about to amend or repeal, it has to come back before the Assembly.

I think we can be pretty much agreed that this is anticipating where that section has failed, so it has to allow the government to step in and have paramountcy in order to do the work it needs to do, where we have parents or guardians that have failed children.

I'm going to leave it at that because I'm just going to dig myself into a really deep hole if I go any further.

Thank you very much for the opportunity to speak to this.

The Chair: Are there other speakers on amendment A3? The hon. Member for Edmonton-Strathcona.

Ms Notley: Yes. Thank you, Mr. Chair. I'm pleased as well to rise to speak to this amendment. The Member for Airdrie raises some interesting issues that, of course, have been debated in this House before in different contexts, have been debated in this House previously with respect to the Education Act, have been debated in this House in other settings as well.

I think a lot of the points have already been made, so I won't go on for great length, but I think it is absolutely true that this act does deal for all intents and purposes primarily with those cases where the family is at risk and is in some form of crisis. That's typically where this act would actually begin to apply. It's to be read, of course, in conjunction with the Child, Youth and Family Enhancement Act, which lays out the responsibilities and the duties of the government.

12:50

That Child, Youth and Family Enhancement Act actually was renamed – I don't know – seven or eight or nine years ago, something like that, to specifically add to the notion that we need to enhance families. We do understand and agree to some extent with what the Member for Airdrie is saying, that the family is the best place for a child to reside and to be raised and to receive all the resources and supports they require throughout life. The idea of that act, of course, is that the government needs to actually support the families that are in crisis in order to give them the tools necessary to provide the basic care needs of their children. That being said, it's not always the case that that happens, and most often that doesn't happen as a result of poverty and illness. That's going to be sort of the short version of things. That's why it doesn't happen.

Sometimes there are other reasons it doesn't happen, though. I think some members of this Assembly were at the different Daughters Day commemorations that have risen over the course of the last year, year and a half. You know, in that case there's a particular group of parents that are quite open about the fact that there are some families out there that do not treat their daughters in the way that we would expect under our laws and, in fact, quite specifically prohibit them from getting an education, prohibit them from basic rights that we would expect would flow as a matter of course to anybody living in this province. In a case like that, for instance, I'm not convinced that I believe that the beliefs that generate those kinds of decisions, which are so hurtful to the daughters, ought to be given paramountcy.

Of course, I used sort of the most benign example, where basically girls are told that they can't go to school, but in fact they also become subjected to violence from family members where they're perceived to be engaged in simple socializing with people outside of a certain set of parameters. That's an example where it's not actually a health issue or a poverty issue; it is actually another issue which is in play. Clearly, those young girls deserve our support, and they deserve our attention. So there are examples out there where parents do not necessarily make decisions which are in the best interests of the child, and it's not just about, you know, different kinds of medical treatments, vaccines/no vaccines, gluten free/gluten, vegetarian/meat, sugar/no sugar. Yada, yada, yada.

I mean, I was saying to somebody that this is one of the problems with the whole definition of the best interests of the child. You can go to any mothers' group and sit down for half an hour, and you will be exposed to much chatter about three or four different very strongly held views about what is or is not in the best interests of those particular children: the types of toys they play with, whether the little boys are allowed to dress up as girls if they want to, whether they should go to school or not go to school, whether they should go to a private school or a nonprivate school, whether the parents should engage, get active in their socializing or whether they should just let it happen on its own.

Theories just abound out there, and parents love to talk about them because they care about their kids. So they research, and they develop opinions, and they talk to each other. Best interests means a whole bunch of different things. In that kind of setting, of course, the decisions of the parent should always be the first decisions that are in play, and they should be the primary decisions, but if those decisions move to a point where the child is being put at risk in some fashion, then I think there we need to allow for the fact that other players need to come in.

You know, there's that long-standing phrase out there which, of course, I've relied on to a great, great extent over the last four years: it takes a community to raise a child. Of course, once I got elected, I went around, and I would say to everybody: "Hello, people. It takes a community to raise my child, and I expect you people to roll up your sleeves and chip in because I'm busy." A number of times I had other parents from my children's classes phoning me and saying, "By the way, your kids didn't have lunch today," or "You forgot to pack lunch," or "You might want to know that there's this talent show tomorrow, and they probably lost the notification on the way home," that kind of stuff. [interjection] Absolutely.

I rely a lot on the wonderful community in which I reside to ensure that my children are generally kept on the straight and narrow and manage to make it to school and stay healthy and all that good stuff, so I do believe that there is a role for community to make sure that children are safe and cared for. Of course, just to be clear, I'm being somewhat facetious. I think my children are still safe even if the community wasn't there.

Nonetheless, that being said, the value is there that we are all a community, and we should, I hope, all look after and care for our children and each other's children if we ever believe that they are truly at risk. I think that's reflected in the language as it currently exists, so in this particular piece I'm quite satisfied with that and would not suggest that we make any changes.

Thank you.

The Chair: Thank you.

Are there others?

Seeing none, I'll call the question on amendment A3.

[Motion on amendment A3 lost]

The Chair: Back to the bill. The Member for Edmonton-Strathcona.

Ms Notley: Thank you very much. I am pleased to rise and to talk a little bit about other elements of this bill and some changes that I will be talking about in a moment through some proposed amendments.

Now, when this bill was first introduced, we were told that it essentially deals with three things, I believe. The idea was that it would enhance communication between service providers. That was sort of one of the big themes. Another big theme was that we were going to deal with the issue of a family violence review

committee, and we were going to deal with those issues. The third thing was that we were going to do a little bit of restructuring inside the ministry in order to make sure that those poor foster parents who could never sign permission slips would have the ability to do that.

What I'd like to talk about is whether or not the changes that are proposed in this piece of legislation are in fact the best changes that are necessary to achieve this end of allowing foster parents to sign permission slips. In fact, what it really is doing is it's fundamentally restructuring the way this ministry does its business. Mr. Chair, I am quite concerned that what this is actually doing is laying the groundwork for a fundamental shift in the way this government approaches the task of child protection.

As I said earlier when I rose to speak to one of the first amendments, I think we all agree that we want to protect children, and we want to do a good job for children. But I also think that there are some profound and fundamental value-based differences in how we think that should be done. One of the examples of that relates to this issue of this restructuring that the government is proposing.

I'm going to start simply by having my amendment distributed, and then I will speak to the amendment, and we can discuss that.

The Chair: This will be amendment A4, hon. members.

Hon. member, you may speak to your amendment.

1:00

Ms Notley: Thank you. What this amendment would do is make a number of changes. It essentially strikes out section 7, parts of section 9, parts of section 10, section 11, parts of section 12, section 17, parts of section 20, parts of section 21, and section 24. In essence, what this amendment is geared to do is to simply undo the change that the government is proposing to its delegated authority, who holds authority ultimately for major decisions that are made under the Child, Youth and Family Enhancement Act.

What the government is proposing to do is to remove what I think the courts have referred to as residual authority from the director of child protection. As things exist now, the director of child protection can delegate authority to child intervention workers, but as a result of some previous judicial consideration, there have been clear indications that the courts believe that authority cannot be fully delegated and that what happens is that the director retains a form of residual authority and, as a result, responsibility.

We saw the decision of the Court of Queen's Bench in October of 2009, the Ouellet decision, which held the director in contempt of court for not complying expediently with a court order. Now, it's of value to review a little bit about what happened here because, just to be clear, it's not that the state of affairs that was described in the Ouellet decision is a state of affairs that we think should necessarily exist. That state of affairs was itself rather damning of the government and of the organization within children's services. The difficulty is that, in our view, the solution that exists in the Children First Act is not the right solution.

To begin, let me just review a little bit about what the judge said about the status quo as it exists now in the ministry. It was first of all concluded that there was a fundamental confusion between how lawyers in Alberta Justice were interpreting the existing legislation, the director's statutory authority, and the practice of delegating authority to front-line workers. That was contrasted with the Court of Appeal's interpretation of the legislation.

It also revealed an administrative structure within the department that was not suited, really, to the existing statutory authority in the legislation. Mr. Justice Côté ruled that the director's ability to delegate authority to staff below him did not remove his original powers and authority. He went on to comment on what he characterized as the "extremely convoluted and puzzling [administrative] structure" of the child protection system in Alberta and that "the complex administrative structure suggested by the evidence tendered here must exacerbate opacity and the opportunities for deniability."

Then it's interesting. The lawyer for the then director of child protection said that, well, if Mr. Justice's interpretation was to stand, it would "necessitate restructuring the whole child protection [system]."

Anyway, the real solution to the problem identified in the Ouellet case was not to completely reorganize the legislated authority within the system but, rather, I would argue, to establish proper internal information-sharing and reporting systems, which is what I would suggest we should do rather than delegating all this authority to child intervention workers, of course, whose qualifications and, indeed, employment relationship with the government are completely up to the minister to define at some point in the future.

Now, this provision represents a fundamental change to the way this work is done in the child protection system. It's interesting because last week the minister suggested that he had consulted at great length with everybody that might possibly be interested in this legislation. Since that time, we have heard from, first of all, the Alberta Union of Provincial Employees, who represents the child intervention workers who would actually be the recipients of this delegated authority. They, of course, have raised very serious concerns about this. They have also said that they were never consulted, so that's the first thing.

In addition, the other group of people that would be substantially affected by this is the College of Social Workers, the licensing body, the professional body. They, too, were shocked. They knew nothing about this bill; they had no idea that it was coming. So not only were they not consulted in the meaningful world of consulted; they weren't even given a heads-up in the government's world of consulted. There was just nothing. It wasn't until we phoned them, you know, or people started phoning them and saying: well, what do you think about this? They had no idea what people were even talking about, so this is really significant.

Now, the concern that has been raised, Mr. Chair, by both the AUPE and the College of Social Workers is that what's going on right now in this ministry is not a status which is going to facilitate effective delegation to these child intervention workers without creating a whole bunch of problems. Basically, what we're hearing is that within the ministry itself there is a turnover amongst child intervention workers, that over 50 per cent of them have been hired in the last two years alone. So the turnover is quite remarkable within the ministry.

The second thing we're hearing is that the majority of them are not actually social workers and/or members of the professional body.

The third thing that we're hearing is that almost all of them are feeling like they are under a tremendous amount of stress and that their workload, their caseload, is completely out of control and that they have been unsuccessful at getting this government to deal with their caseloads. They also state that a high percentage of staff is off on medical leave due to stress.

This is the group of people to whom the government wants to delegate all authority for child protection decisions. Let's just talk a little bit, Mr. Chair, about what these decisions mean. These are not little decisions, like the minister would like to have you believe, about who can go on a field trip. No. These are decisions

about whether someone is or is not a biological parent. These are decisions about whether a child can or cannot continue to reside in their family unit. These are decisions that go to the very heart – I mean, I haven't had the chance to do the research on this, but this goes to section 7 rights, I would say it suggests, like life and liberty.

You do not break up families on a whim. You do not remove children from their parents on a whim. These are really important, tough decisions. Quite frankly, they should be made by professionals, and they should be made within a context where the people who have the actual authority to marshal the resources to ensure that these decisions are made wisely and cautiously and carefully share responsibility for these decisions. You cannot, Mr. Chair, delegate decisions of this magnitude to people who have been working for the ministry for less than two years, who may or may not have a six-month diploma in child intervention, and ask those people to make decisions about whether a child can or cannot live with their family. These are hugely impactful decisions, and they cannot be taken lightly.

This proposed change under Bill 25 sets up a situation where these decisions will be forced to be taken lightly. The very people who do have the authority to marshal the resources, to make sure that these decisions can be made in the context of the best practice, the best research, the best resources are being let off the hook in terms of the authority and the responsibility. That, Mr. Chair, is a fundamental problem.

1:10

Now, the second issue that is at the heart of this is that this legislation as it currently is written allows the minister the authority to designate as child intervention workers people who are not even directly employed by the ministry. Then we've got these huge life and liberty decisions, whether a parent can keep their child or whether their child will be taken away from them, being made by people who are not even directly employed by the government but are contracted agencies. Mr. Chair, that, to me, is a breach of a very fundamental trust.

Going back, in fact, to the points that were just made by the Member for Airdrie, we do all understand that the integrity of the family unit is truly important, and you don't mess with that without really having a strong sense of what you're doing and why. Frankly, I don't think you should ever be allowed to mess with that without a whole bunch of credentials standing behind you. Even then, it's something that needs to be reviewed and reviewed and reviewed. This legislation allows anybody to make that decision. Now, the minister will say, "Oh, it doesn't mean anybody. You can trust me. I'll make sure it's not just anybody." But, then again, this is a minister whose child intervention workers, half of them, have been hired in the last two years because the turnover within his ministry is so great.

So I don't think that the record of this government is one into which we can put our faith to let this government decide how much education the person has that makes those decisions, how long they've been with the ministry, to know whether or not they should make those decisions, whether or not they're even employed by the ministry or whether they're employed by a service provider or whether that service provider is even a volunteer group. It is not clear. All of those options are available to the minister under this legislation.

It's not that I am sitting here solely because I want to be here at whatever hour we are at now, at 10 after 1 in the morning. You know, as much as the Minister of Energy loves to talk about some members of the opposition occupying the grassy knoll, the fact of the matter is that the map to the grassy knoll is very clearly laid out in the social policy framework that was introduced by the minister. The social policy framework says very clearly: government wants to get out of service provision, government wants to get out of funding, government wants to be a convenor, and it wants to be a facilitator, whatever that means.

I am very concerned that they are simply going to delegate this authority, this fundamental authority that goes to the very liberties and rights of the family unit. I do think the integrity of the family unit may well have been considered by the courts under section 7. I'm not entirely sure. But it really, to me, potentially bumps up against constitutional rights. In any event, that authority is one which should be exercised with the greatest of care and the greatest of caution, and this legislation gives the minister the authority to throw caution and care to the wind. Maybe this minister won't throw caution and care to the wind, but there's no reason to believe that the next one won't throw caution and care to the wind.

The other thing I just do want to point out is that the minister argued that this whole set of amendments and changes was because we have these poor foster parents out there who can't send their kids on field trips. I am assured by a multiplicity of social workers that, in fact, they can. They maybe can't send their foster kid out of the province, and they may not be able to arbitrarily authorize the ability for the foster kid to go on a ski trip if the cost is 500 bucks or something, but that's a different issue. Those are resource issues. Frankly, it's not like the foster parent gets to write themselves a cheque. "Oh, you know what? My foster kid has extra expenses this month, so I'm going to write myself a cheque for an extra thousand dollars."

Just to be very clear, the money part of it is not going anywhere. That decision rests very clearly still with the Crown. It's just the responsibility for the outcome of not having the amount of the money that the person to whom the authority is delegated has to deal with. They don't get to deal with whether they've got the resources. The minister says the resources are irrelevant to child protection and child care. I disagree profoundly, very deeply. That is the wrong view of the issue. We'll get into that later in some of our other amendments.

That being said, foster parents can sign permission forms, so this set of changes is not just about foster parents not being able to sign permission forms. Even in the case of the foster parents who have to get approval to spend more money for an expensive field trip or the foster parents who have to get approval to send their foster kids out of the province, that could be changed without fundamentally restructuring the way we deliver child protection in this province.

You know, you might even have been able to talk me into thinking this was a good idea if we'd had this in committee and I had a bunch of people come to me who had been consulted, who are front-line workers, who do care about this issue, to give me the examples of why this is necessary. But we don't have that. We know the front-line workers haven't been consulted. We know the social workers haven't been consulted. We haven't had an opportunity to get a really thorough understanding of why this incredibly major restructuring is going ahead.

For that reason, what this amendment does is that it just says: "No. Don't do that. We're not doing that yet. We don't know enough about it. This is far too impactful." Frankly, if the minister wants to engage in major restructuring, then he should actually consult with the people who are affected by it, which is his staff, and he should do that in a transparent fashion so the rest of Albertans can see what those front-line workers have to say about it.

I urge everybody to vote in favour of this amendment so that we can ensure that we move with the caution and the care that is

necessary to deal with these very, very traumatic situations, where a child must be separated from their family, in as responsible a way as possible. Unfortunately, I'm afraid that under the act as it is being proposed, we cannot be assured that that's what we're going to get.

Thank you.

The Chair: The hon. minister.

Mr. Hancock: Thank you, Mr. Chair. It will come as no surprise to anyone that I would encourage the House to reject this amendment. It goes to the very root of what we're talking about here. It's the height of absurdity to suggest that people haven't been consulted when the union which represents the front-line workers very clearly in their news release says, "Frontline workers in Children's Services have been asking for many of these changes." That's what the AUPE news release says. Now, it goes on to talk about some of their concerns with respect to operationalizing those changes in terms of workloads and other things, but they very clearly acknowledge in their news release that front-line workers have been asking for these changes. So to suggest that they haven't talked, haven't been listened to over the last 18 months is absolutely absurd.

To suggest that the government would willy-nilly delegate authority to people who are unqualified to exercise that authority while very clearly retaining responsibility in terms of accountability, in terms of any legal liability is absolutely absurd. Why would you delegate to somebody an authority and retain the responsibility and then give that authority to people who weren't qualified to exercise it? That doesn't make any sense at all.

The fears that the hon. member raises are absolutely unfounded. In the act it very clearly indicates that it will be child intervention workers. Child intervention workers will be defined, and the parameters of who can exercise that authority as a child intervention worker will be very clearly defined by regulation. Nobody in their right mind would delegate authority to people who weren't qualified to exercise that authority and then say: "Make all the decisions you want. I'll accept all the responsibility." That would be absurd.

What we're trying to do is to create a system where people who are appropriately trained, who have the appropriate skill sets can make the appropriate decisions in the best interests of children on a timely basis and on a nimble basis and, of course, working together as teams, as they do now.

Now, the Member for Calgary-Mountain View said earlier in a discussion I had with him: well, many of these authorities are delegated now; there are the forms. He showed me the forms. That's absolutely right. I mean, a lot of this stuff is already delegated from the director to front-line workers to make certain decisions. But as I think the hon. member herself pointed out, the system is quite complex, the ability of people to understand the system is less than easy, and there are many reasons why we should actually make this a much more straightforward process. That's exactly what this act tries to do. I would suggest that all of the issues raised by the hon. member, while I believe they are raised in good faith – the fact of the matter is that we have far too many children in care. We have far too many children who can't get out of care and find permanent placements. We have a far too high representation of aboriginal children in the child welfare system.

1:20

There are a number of things which we need to deal with, and we can deal with that if we systematically go through and look at the causation piece, how we can strengthen families better, how we can make decisions to intervene with families rather than having to write a whole set of rules and checklists and those sorts of pieces when in lots of cases it's a common-sense piece where someone appropriately skilled can make that decision and do it. But let there be no mistake. The Crown is still responsible, and we aren't going to give away the authority to make those decisions to someone who is not going to do that in a careful, considered way, backed up with the experience and education that they need and supported by a strong team.

Ms Blakeman: Okay. Now we're getting into the fun of it. My thanks to the Member for Edmonton-Strathcona. You know, she's really got ovaries, because she nailed it. That is what's wrong, in my opinion, with this bill. [interjection] Yes. You should all aspire to this.

We don't know what an intervention worker is. In fact, in this act on page 7 under section 9(1), which is amending the Child, Youth and Family Enhancement Act, it does reference: "'child intervention worker' means a person designated under section 129.1 as a child intervention worker."

I said: yay, a real definition. So I've pulled the Child, Youth and Family Enhancement Act, and here's what it says under section 129:

> 129(1) The Minister shall designate one or more individuals as directors for the purposes of this Act and the Protection of Sexually Exploited Children Act.

Hmm. Okay. Not giving me what I was looking for.

> (1.1) An individual designated under subsection (1) must have the qualifications required by the regulations.

Okay. What would that be?

> (2) A director or a director's delegate when acting under section 19, 45, 46 or 48 has the powers of a peace officer.

And then the third section is repealed.

So we still don't know, without looking at some regulations, which I don't have access to even in this Assembly, what a child intervention worker is.

Now, I take the point from the minister that they wouldn't just walk onto the street and appoint someone walking by as a child intervention worker. Yes, I believe that. I think that's true. But by going through the process that I see the government going through, we don't have a definition of who this is.

This may well be a very logical minister who is going to follow through on this, but this becomes legislation, which transcends the lifetime of any minister. We have no idea what the next minister is going to do, and believe me, I've sat through some – I'm trying to be careful with my language here – really interesting choices for people as minister and, you know, some interesting expressions from people in the government caucus about how children should be treated.

I'm reminded of one member of the backbench who really thought that child prostitutes should just be spanked and that that would bring them under control because, really, they just needed a firm hand. That was a firmly held belief by someone, and I'm sure they were advocating for that kind of definition in their caucus. So when we do – and it has a double meaning; indeed, it does. I'll just leave that with all of you.

But this is why we need that kind of certainty that we get out of definitions. Who is this supposed to be? We actually don't have a definition here, but it is in regulations, which can be changed at any time by the minister through an OC or a ministerial order. Even then, without us knowing this, that definition that exists now under a well-meaning minister could be changed to something else under someone who decides to take it in a different direction and

also believes that they are well meaning and doing the best that they can. We have no professional scope outlined here, we have no standards, we have no licensing, and we have no discipline.

Now, most of you will be aware that professions in Alberta are determined under a number of different pieces of legislation; for example, the Health Professions Act, which sets out that you have to have a college, that sets out things like standards and monitoring and compliance and appeal process and a disciplinary process. Then you also have an association side, which represents the actual members. We're not getting this here. It's not available in this act. It's not available in the referencing clause of this act either. So we don't know who's supposed to be included. I'm assuming the minister has left it this loose because he wants to be able to appoint a police officer or a social worker or a daycare operator or a benefits worker or an addictions counsellor or a health professional as the child intervention worker of the day in a given circumstance. I think it's, one, too wide open; two, dangerous; and three, not stable enough.

Several people have referred to the social policy framework that the minister has been working on with the blessing and, I understand, the support of the Premier. I've been tracking this social policy framework from the side, and indeed a whole bunch of people are really excited about this and really feel that the minister is interested, that there is a blessing upon it from the Premier's office that it is going to drive forward.

But I look at the kind of work that these people usually do, like the Edmonton Social Planning Council, the – oh, I'm going to get in trouble here – reduce poverty now action group. There's another one out of Calgary called movements, I think. There are Boys and Girls clubs and just a whole bunch of agencies that have been involved with this. They all believe that this is being done for the best, but I wonder if they have been able to read this act and understand the implications and how that's going to affect what they're saying. For example, when we say to reduce child poverty by five years – I'm sorry; is that it? – how is that going to affect a group like the one that's run by Joe Ceci, the end poverty now action group? I think that what he believes are the right things to do are not what is contained inside this bill and the directions that the – I'm sorry if I'm boring the chair, but it's my job, and I'm going to do it. [interjection] Yeah. Exactly.

I also think that there are reasons that we have rules and procedures in place. You know, a lot of people complain about: "Oh, those bureaucrats. Why can't they make an exception for me? Why do they insist that everybody has got to follow these stupid rules?" "Well," I say to them, "because we have a bureaucracy that is going to deliver government programs and services in a way that is fair, that they do treat everybody the same, that they do use the same criteria every time, that, well, I hope that they don't have a disproportionate effect on one group of people over another group of people. That is the point, that everybody does get access to the same resources and programs through that system that makes it fair and balanced and stable and consistent and all of those things.

1:30

I don't see any of that in this act. I don't see the framework that sets that stuff out, nor do I see any referencing of that. So when I look at what the Member for Edmonton-Strathcona has proposed here, I actually think she's right because she has gone through and systematically removed every time that child intervention worker is referenced in this new legislation, has struck it out. We're going back to the point where the director is completely responsible, and we don't have this unnamed, undefined, no rules, no procedure child intervention worker. I know where the minister is trying to go. I understand where the community is trying to go. I understand why everybody is so excited about this. I just don't think this undefined child intervention worker is the way to go, and I have not heard that from the community.

Now, I will immediately say that these are not the groups that I tend to navigate through on a regular basis. The arts, yes. Absolutely. You know, privacy folks and seniors and condos. There are lots of other places and issues that I am well versed on. I'll admit that I don't spend a lot of time in social services except through my office, and then we do an enormous amount of work trying to connect our constituents to the resources that are there. I am just quite concerned about the lack of things that can be pinned down in this act. It's deliberate on the part of the minister to leave it that, for want of a better word, loosey-goosey at this point in time. But it does mean that you can treat people in a different way, you can have different sets of rules, and you can have people that are working with different professional scopes or who perhaps don't have access to a disciplinary body.

Who is in charge? You know, if a child intervention worker does not perform as they are supposed to, where do you go? Who do you complain to? What is the system? What is the process that we use? Now, currently you would know what to do. You would go to the College of Social Workers. They have a system in place. They can tell you about it. It's on the website. Look it up. Go and do it. What the heck do you do here? I have no idea, nor do I know how to find out. If I can't figure that out, what are people that are in the community supposed to be doing to figure out what's going on with their children and how they access stuff?

I think it's well intentioned but not well thought out. For that reason, I will certainly support the member's amendment to remove all of the references to a child intervention worker. I appreciate the opportunity to speak to it.

Thank you, Mr. Chair.

The Chair: Thank you, hon. member.

The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Chair. I rise to speak in favour of this amendment, and I'll try to be fairly concise in my reasons behind that. You know, first and foremost, the New Democrat opposition has some concerns about the downloading of the statutory authority to front-line staff. I can tell you that as Bill 25 is currently written, it's going to transfer that statutory authority for children in care from senior officials, directors, who likely, one would hope, have achieved their position because of previous experience exercising judgment, their qualifications, their professional criteria, et cetera, to front-line workers, who are defined in the act as child intervention workers. I should rephrase that. They're not defined; they're actually quite ill defined in the act as it stands at the moment.

You know, the concern is that because it is not detailed in this bill, it's extremely difficult with this one piece to support this bill, Mr. Chair. That fact of the matter is that there are some folks who have professional certification, professional qualifications who will fit under this designation of child intervention worker. However, there are others who have been working in the ministry for under two years, and reasons for that range from the level of burnout that many front-line workers face to massive caseloads. In some parts of the province caseloads for some social workers are up to 50 clients, which is absolutely absurd considering that some of them are extremely high needs, require much attention and time, and are quite demanding of the workers that work with them. Because of that there is quite a high turnover within the ministry.

Now, under this bill you've got front-line workers who don't have the experience, who may not have the training, the qualifications to make decisions which, quite frankly, Mr. Chair, are going to impact and affect the lives of children, of young people, and of their families for the rest of their lives. I'm not comfortable passing that authority on to some front-line workers who are either inexperienced, new to the job, or who may not have the judgment or the experience to be able to make these decisions. I mean, this is part of the reason we have a working structure, a hierarchy, where there's different authority and decision-making authorities as you go up the chain. To download that onto folks who may not have the qualifications is scary.

As my colleague from Edmonton-Strathcona outlined, there was a court case. What's interesting is that, you know, the outcome really wasn't that there needs to be a complete reorganization but that, instead, there really should be an establishment of internal sharing and reporting systems as a solution, not rewriting, redefining some of the front-line staff that work with some of our most vulnerable citizens, Mr. Chair.

I was quite surprised – actually, to be honest, Mr. Chair, I wasn't quite surprised that again the government failed to consult some of the people who are directly working with these young people. As we debated earlier this evening, the word "consultation" just seems to fly over the heads of this government.

The Alberta College of Social Workers, who represent many of the front-line workers, was surprised, was completely caught off guard. The fact that they weren't consulted – you know, I think it's worth mentioning that despite the fact that members of the government on the opposite side of the House may think that some of us in opposition like to get up and just oppose things for the sake of opposing, they need to keep in mind that we are constantly in communication with different groups and organizations and individuals who are going to be affected by legislation that we pass in this House, Mr. Chair. Although the government likes to provide lip service to that, the folks that we've been speaking with – again, from the Alberta College of Social Workers to front-line workers of AUPE and many social workers within the province – were not consulted, were not asked.

Again, it's interesting that the conversation is similar for Bill 25 here as it was for Bill 22, and that is that negotiation is not consultation. One-way conversations are not dialogues.

Ms Notley: Notification is not consultation.

1:40

Mr. Bilous: Thank you, Member for Edmonton-Strathcona. Notification is not consultation.

This amendment, Mr. Chair, at least is looking at improving this one piece within the bill.

I mean, another concern that I have that fits with this is, again, you know, the government moving to contract workers as opposed to workers within their ministry, so moving toward privatization of the work that's being done, again, with some of our most vulnerable citizens, which is cause for great concern.

As well, Mr. Chair, it's not good enough to just delegate responsibility and authority to front-line workers or a new set of workers without ensuring or providing as well adequate resources for them to do their job and to do their job effectively.

Again, I'll sum up by saying that a real issue I have, Mr. Chair, is the lack of a definition of child intervention worker. You know, for myself it's not good enough to leave this in the hands of the cabinet minister or the cabinet to define a child intervention worker as they see fit. The qualifications for child intervention workers will be established by cabinet through regulations. We have no idea as members of this Assembly what that will look like. Again, the tremendous authority that is going to be bestowed upon the child intervention workers is a cause for concern for some of those that will be designated child intervention workers.

I've mentioned before, Mr. Chair, where I've had the opportunity to work with various organizations that have a classification of workers that they call youth workers. Now, these are individuals who care greatly about their job and what they're doing and the clients they serve. The concern is that there is no standard or qualification for a person to be designated a youth worker. In other words, a person could walk in off the street having never worked with any youth whatsoever and suddenly have the title of youth worker.

Well, you know, to give them the authority to be able to make decisions, monumental decisions, as in whether a child stays with a family or is removed or put into care or taken out of care, in my mind, is just absolutely absurd, to give that authority to just any individual who may be moved into a position when we have no idea what that criteria is, what the standards are. This is why professional organizations like the Alberta College of Social Workers exist. There is a standard and a set of criteria for one to have that designation from the Alberta College of Social Workers.

Mr. Chair, you know, this amendment does respond to concerns that have been raised by front-line workers that have communicated directly with myself, with my colleagues, and the Alberta New Democrats. It's a solution that, again, is the tip of the iceberg. I'm sure that my colleague and I will speak to other areas that we would propose to amend, but I would urge all members of the Assembly to vote in favour of this amendment and to take a step in the right direction.

Thank you, Mr. Chair.

The Chair: Thank you, hon. member.

The hon. Member for Edmonton-Strathcona.

Ms Notley: Thank you. I'll be very brief. The minister chose to reference one or two lines from the press release that was put out by the AUPE on Friday. I just thought I would complete the reference. The minister had said the first part:

> Frontline workers in Children's Services have been asking for many of these changes, but only if staffing levels are increased. We are carrying huge caseloads, with some employees carrying 24 to 30 files, and as many as 50 in some regions. The old standards ranged from 12 to 17 files per worker.

Further on in the press release:

> Adding these new responsibilities will burn out skilled people and drive them out of the system, leaving at risk children without appropriate protection.

This, of course, is from within a system that, as I've said, we've already identified as having 50 per cent of their staff hired within the last two years.

This is another quote:

> "I'm equally concerned that without defining who qualifies as a 'child intervention worker,' the Act gives 'child intervention workers' the powers of a peace officer, the ability to determine who a child's biological father is, and the power to remove children from abusive homes," said Cooray.
>
> AUPE's concerns have been increased by the government's move to cut costs and examine what services can be privatized as part of "results-based budgeting."

I just thought it would be helpful to the debate to have the full context of the AUPE press release read into the record, just to reinforce the fact that they're not happy. I can certainly give my own indication that in contacting them on I believe it was

Wednesday, they had not yet read the act, and they hadn't known it was coming.

Again, I think we need to rethink how we use the word "consult." It is one of those C-words, as you know – converse, collaborate, consult – that hasn't made the message box yet, clearly, but perhaps it ought to have. Maybe we should give some thought to what it actually means.

I urge all members to vote in favour of this amendment. Thank you.

The Chair: Are there others?

Seeing none, I'll call the question on amendment A4.

[Motion on amendment A4 lost]

The Chair: Back to the main bill. The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much. I'll try to start moving this along. Those of you on the other side, if you want to lobby your House leader to adjourn the proceedings and resume all of this tomorrow, you certainly have the power to do that, but other than that, I have eight or seven amendments to go, plus whatever everybody else has got, so a long night. Once again the government has put us in a position of dealing with really complicated, long-serving legislation in the middle of the night. Again, that has to do entirely with the government's choice about when we sit. If I called for adjournment right now, I wouldn't have the majority to do it, so that's on your side, guys. If you wish to do that, go right ahead. I will happily come back tomorrow and continue.

In the meantime I will move amendment A5, which, I believe, is in your possession.

The Chair: Amendment A5, hon. member. If we can have that distributed. Thank you.

You might as well start speaking to it, hon. member. [interjection]

Ms Blakeman: Oh, someone is already starting to move against it. Well, it's nice to know that there's a good give-and-take of debate and ideas in this Assembly. Not.

This amendment is section 5.1, which appears on page 4 of the bill and is under the title Information-sharing for Research Purposes, and it's talking about the anonymous health information that they're collecting. I'll read it into the record.

> 5.1 Nothing in this Act absolves or limits in any way, the Crown's liability and responsibility for children and their protection even when a service or function is delegated, contracted out or otherwise performed by an entity other than the Crown.

Now, you've already had assurances from the minister responsible for this act that, of course, they still have responsibility and liability, and that's part of the trust-me clause that is always a subheading of this government. In fact, I don't trust them, so that's why I asked for this amendment or helped to prepare it, to be clear that nothing else in this act absolves the Crown's liability and responsibility for children in their protection.

1:50

The concepts of responsibility and authority are really important here. You cannot ask someone to be responsible for completing a task unless they have the authority to do it, which is why we have so many delegating authorities and the power to do that is written in our legislation all over the place. It says, you know, that the Crown can delegate to this particular group to do something. Just imagine if somebody asked you to be responsible for taking on a task but then didn't give you the authority, didn't give you the resourcing, didn't give you any kind of instructions or criteria on how to do this or how well you're supposed to do it. You can imagine how impossible that task becomes.

I did this because I wanted to make sure that it was clear in this act – and no one could pretend otherwise now or in the future – that by contracting it out, the Crown's liability and responsibility for these kids wasn't somehow absolved or removed. I think that is the direction we're moving in. There seems to be a willingness from the community to take on more officially, if I can put it that way, the delivery of service, and in some cases, frankly, they deliver it better and cheaper than the government does. I think that the argument that's following there is that, well, then, they might as well do it officially. But I think that it's important that that ultimate liability and responsibility remain with the Crown.

Now, we've already heard the argument. The Ouellet case, when it was argued, said: "Ha, ha. Nice try, but you're not getting out from underneath that one. The director of children's services is responsible." We've seen in other parts of this bill that the government is trying to change it from the director to a child intervention worker, thereby pushing that responsibility further out onto those undefined front-line child intervention workers.

There are too many missing pieces in this act. There's too much that's being undefined and left loose, and this causes me great concern, particularly when the primary objective behind this bill has to do with information sharing and a loosening of the protection around information.

Let me remind everybody that children don't have rights. Except for the one exception that's written into this bill, they have no ability to withhold their consent to have any of this personal information or health information collected from them or from their guardian. In some cases the information can be collected about the parent and about the guardian and shared as well as information about the child. You know, we're tending to gloss over that part of this bill, and to me that's really important. If you can't control your personal information, we don't really have meaningful privacy laws in this province.

I'm concerned that even kids don't get to be asked and that they don't get to give or withhold their consent that this information be taken. Furthermore, they don't know what information has been taken. We've already talked about the fact that they won't be able to find out who has the information, but at this point they don't even get to find out what information is being held by organizations, and that is contrary to the fundamental principles of privacy protection.

I have brought forward this amendment in an attempt to try and solidify where the responsibility and liability remain and to be clear that that's where they remain. I hope that answers any questions anybody has. If you have any more, stand up and ask them, and I'm happy to get up and respond to you. That's the intent behind this legislation, to provide clarity and consistency about who is ultimately responsible. Where does the buck stop, and who's ultimately liable for those decisions? That cannot be delegated to these child intervention workers and even further contracted out, possibly to the private sector.

Thank you very much, Mr. Chair.

The Chair: Thank you, hon. member.

The hon. Minister of Human Services.

Mr. Hancock: Thank you, Mr. Chair. It goes without saying that I would suggest people not support this amendment. Obviously, the Crown is liable for its actions. People who work for the Crown:

the Crown is vicariously liable for their actions, and you can't contract out of your liability.

Ms Notley: Well, yes. I mean, I find that somewhat helpful from the minister, but the Member for Edmonton-Centre just stated: well, then you shouldn't object to this amendment. Really, I agree with the Member for Edmonton-Centre that we should be clear. There's no question that in the Ouellet decision the whole question of what is delegated and what remains residual was, in fact, the crux of that legal decision. At the time there was confusion and argument, legitimate legal argument, about whether the authority and the responsibility were fully delegated or whether residual authority remained with the Crown or the directors such that they were accountable.

I think that what we're getting at here – I mean, I remain concerned that authority, even a part of the authority, you know, 50 per cent, is being delegated or might be delegated to someone who could potentially under this bill not be working for the government, not be a member of the profession. The other issue becomes, certainly, as the minister himself has stated: "Hey, if we continue to have residual authority and residual responsibility and residual liability, then you can trust us that we won't delegate it out to the dog walker. We'll make sure that the people that get the delegated authority are qualified to do it." That issue was one that was subject to a fair amount of legal discussion.

Then the question becomes: where in the act does it state that ultimately the Crown retains liability and responsibility? If the minister is saying that we don't need to say it because it just is, then why would we object to putting in this section? I'm not quite sure. If everyone agrees that ultimate liability and ultimate responsibility continue to remain with the Crown and if the minister cannot point to a section in this act that clearly states that now, why would anyone object to including this amendment and passing this amendment? Then we're all on the same page, and we all agree to the same thing, and we want to make sure it all happens.

If, on the other hand, there isn't a place in the act where we can point to that residual liability and responsibility remaining with the Crown even after they've delegated, then presumably because we all want to make sure that happens, this would be a lovely addition, and we can all thank the Member for Edmonton-Centre for bringing it forward. If we can't point to it in the act yet we still suggest that we shouldn't be voting in favour of this, then that just raises the flag. Well, what really is the status with respect to residual liability and responsibility?

I think that there can be nothing but grand consensus achieved by us all voting in favour of this amendment. I urge my consensus-seeking colleagues throughout this building to vote in favour of this amendment.

The Chair: Are there others?

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

[Motion on amendment A5 lost]

The Chair: Back to the main bill. The hon. Member for Edmonton-Strathcona.

Ms Notley: Well, thank you very much, Mr. Chair. I have, to nobody's surprise, another amendment that I would like to put forward on this bill. I shall retain one copy for myself and ask if we can distribute the remainder of them.

2:00

The Chair: You can start speaking to amendment A6, hon. member.

Ms Notley: Thank you. This is, yes, A6. What this amendment proposes to do is to substantially amend section 2(2), the principles that should be recognized in the children's charter. Now, as many of you who, I know, are listening aptly to this debate will recall, earlier on in the evening I started talking about sort of the points at which our views diverge around the best way to protect and ensure the best interests of children. This is one of the things that I was talking about.

[Mr. Khan in the chair]

Let me just start out. I appreciate that section 2(2) in the bill as it currently exists is simply a statement of the principles that need to be recognized as a bare minimum in the charter once it is consulted on and everybody gets to have their input in terms of what is included in the charter. So this is just a statement of principles. Given this government's, you know, record just in the last 48 hours in terms of consultation and taking what they hear in consultation and putting it into legislation, I figure there is some value to perhaps articulating a little bit more definition in terms of the principles that need to be included in this.

In short, although this is somewhat lengthy, let me just say that all of this language comes from, with one or two exceptions, components of the UN convention on the rights of the child. It basically can be broken down into three sections. It's either talking about the obligation of the government or the right of the child to three things, which go above and beyond that which was included in the list provided by the minister in the current draft of the act.

Here are the three things. The first one – and this goes right to the heart of one of the disagreements between the NDP caucus and the Progressive Conservative caucus – is the notion that you cannot separate the economic well-being of a child from their best interests. There are certain economic resources that must be dedicated to a child if we are going to get rid of poverty and if we are going to ensure their best interests. One of the components of this revised set of principles that need to be included in the charter is the notion of a child having a right to good nutrition, three meals a day, and a roof over their head. I know; I sound like a communist here.

Ms Blakeman: You radical.

Ms Notley: I sound radical.

Here we are in Alberta. You know, everyone loves to brag about how we're the wealthiest jurisdiction in Canada, which is one of the wealthiest countries in the world, yet I'm betting that some people over there, although I'm sure they will certainly at the end of the day approve my amendment, are wondering: oh, do we want to legislate a child's right to a roof over their head and food on their table? As things exist right now, children in Alberta do not have a right to a roof over their head or food on their table, and this government is quite reticent to suggest that they have a right to a roof over their head or food on their table. But the language in this charter is about the government having an obligation to provide and the child having a right to demand, in essence, a roof over their head and food on their table. It's not written exactly that way, but that's basically what we're talking about. That's the first component of our revision.

The second component of our revision relates to the right of special-needs children in Alberta, and that's something that was not identified in the principles that exist in the current draft of section 2(2). In my view, in some areas, when it comes to children with disabilities in Alberta, we have actually led the way every now and then on a couple of things, but generally speaking, we've

lost the edge in that regard, and we're falling behind. Certainly, when it comes to our education system, we know that we are no longer truly giving meaning to the right of special-needs children to equality.

[Mr. Rogers in the chair]

As anyone here who's studied the notion of equality to any degree knows, equality does not mean being treated equally. Equality means ensuring that every person has their opportunities maximized to the degree possible and understanding that that sometimes requires different treatment. It may well be that child A and child B can both score 90 per cent on their diploma exam in grade 12, but it may well be that child A needed a whole different path to get to that 90 per cent on that diploma exam by grade 12. Treating child A the same as child B will not result in both kids getting that 90 per cent on that diploma exam by the end of grade 12. If child A is the child with special needs, then they have a right to have the support that is necessary to get them to that 90 per cent on the diploma exam if such a strategy exists.

Again, this is in the context of a province which is arguably the wealthiest province in the country in one of the wealthiest countries in the world. This notion of ensuring that special-needs children in Alberta will be given whatever supports are necessary to equalize and maximize their opportunity is one which I think is a little bold, but it's also one for which the principle should drive elements of the definition of the charter.

The third overall principle that this amendment includes is the principle that no charter is of any value if it is not enforceable. You know, we had a health charter that preceded the election a couple of years ago. There was lots of self-congratulatory back-patting and loads of press conferences and even more press releases and lots of tweets and all of that kind of stuff that the government likes to do when they think they've done something they deserve some credit for. That was all around the patient bill of rights – I think that is what they called it – or maybe it was the patient charter. I can't remember. Really, all it was was a preamble to the legislation and had literally no effect, no impact, no enforceability, no legal impact, no legal effect of any type. It was just an opportunity for the government to give itself some good press.

Now, I don't want the government to fall victim to the same type of cynical analysis which essentially made people think that, really, there was nothing to that and that it was just a lot of hot air. I want this charter to mean something. But the only way this charter can mean something, Mr. Chair, is if the charter is enforceable through some mechanism. Otherwise, it's just a big press release, and it is meaningless.

2:10

The third sort of component that is included in our revised list of principles that need to be reflected in the charter is the notion that whatever charter is ultimately constructed through the preleadership vote consultations that the Premier is going to undertake must be enforceable, and they must be enforceable by a child as well as their guardian. If you don't make it enforceable, not only that which the minister is proposing but also that which I am proposing, then it is nothing but hot air. None of it is meaningful if it's not ultimately enforceable.

That's the shortest summary of what we've added now. I think we've probably doubled the number of clauses. The minister had (a) to (e), and we've now added (f) through (o). That's quite a bit. But if you look at it from those terms, understanding that essentially what we're doing is that we are addressing those three issues – economic security both as a right of the child and the obligation of the government, the right of special-needs children both as a right of the child and the obligation of the government, and the injection or the introduction of the notion of enforceability into the charter – that's essentially what this rather wordy set of additions amounts to.

As I say, we didn't just pull all of this out of our ear. We sat down. We read through the UN convention on the rights of the child. We looked at submissions that had been provided to us by advocates who are attempting to eliminate child poverty. We looked at research that had been done on this issue. We looked at what it looked like in other jurisdictions. That's where we came to this idea of including some of these elements.

Now, as I think I briefly touched on when we talked about this in second reading, you know, again, this is not new stuff. In I guess it was 1980, 1981, when there was a lot of debate going on about the Charter of Rights and Freedoms, which I believe was voted in in 1982 if I'm not incorrect, even then there was talk about including a section on the right to economic equality, the right to have a document that allows people to insist upon minimum levels of poverty. Again, if we can't do it in Canada, where can we? If we can't do it for children, who can we do it for? I don't know. This is something that has been discussed in Assemblies and parliaments in the past. It's not a ridiculous idea. It's an idea that really goes to substantive equality, substantive antipoverty issues.

The minister has said, particularly in a debate with the Member for Edmonton-Highlands-Norwood, that the NDP caucus believes that all you have to do is just throw money at something, that, really, the way to fix a problem is to be creative and collaborative and consultative and have conversations and be innovative and also engage in a bit of, you know, review of your programming and yada, yada, yada. I have nothing against innovation or collaboration or review of programming to maximize innovation and all that other great corporate buzzwordspeak. All of that's good, and sometimes it's actually meaningful and substantive in and of itself, but you can't create something from nothing.

The fact of the matter is that we are the only province that has a limited or nonexistent school lunch program. We have families that are living in utter and dire poverty, where it is simply not mathematically possible to provide adequate levels of food to children. We have homeless children in my riding. We have children in the care of this government seeking temporary shelter at the emergency shelter, seeking shelter and living in the ravine three blocks from my house. I mean, that's what's happening right now in this province. I think it deserves debate, and I think it deserves fulsome discussion by more than just two or three members of this House, quite frankly.

I am frustrated that we are having this conversation at 2:15 in the morning. Very frustrated. Here we are talking about principles that should be included in a charter. Here we are raising the issue of whether we can talk about economic fairness and prosperity and equality in a children's charter, and we are compelled to have this discussion at 2:15 in the morning. Yet the government tries to tell us that children come first. I don't know. You know, I really think that if this bill mattered and if the issues that are touched on by this bill mattered to this government, we would be having this debate in the light of day at a time when Albertans could hear the conversation and weigh in on it.

One other thing. Yeah. Sorry. There was one other piece in it that I think I accidently overlooked when I talked about sort of the three global things. The other thing that we added to this, again, that comes from article 32(1) of the UN convention on the rights of the child is the idea that all children have a right to be protected from work that is hazardous, interferes with their education, or

harms their physical, mental, and social development. That's from article 32(1) of the UN convention on the rights of the child.

Of course, as you know, Mr. Chairman, in this province we allow the youngest workers in the country, so sort of the laxest protection as a result, and, of course, we refuse to do any kind of protective measures or legislation around farm workers. You know, you would think that clause (h) would simply be something that would be reserved for Bangladesh and places like that. Indeed, we do need to sometimes remind ourselves that children have a right, as I say, to be protected from work that is hazardous and interferes with their education.

I'm just checking to make sure that I've spoken to all elements of it even if I did not go through a clause-by-clause analysis of it. I think the final one that I will just briefly highlight is clause (g). That one just talks about the right of children to be protected from all forms of exploitation that is prejudicial to any aspect of their welfare. This is based on article 36 of the UN convention, and it's a broad and encompassing principle that no child should be exploited in any way – no sexual exploitation, no economic exploitation – and recognition that childhood is a time of life that should allow all children to learn and develop their potential, their world views, and their skills, and it should also be a time of play. I don't anticipate disagreement from members on that.

I really urge you to take a look through what is in here. I don't know that there's anything in there that is easy to dispute or to suggest that it should not be included. Yes, it's a little bit more prescriptive than what existed before. Again, given that consultation is somewhat of a bit of an evolving concept in this province, shall we say, I thought that there was some value to be added by specifically stipulating these elements. I'm not sure that there's anything in here that would generate a lot of controversy. There's very little in there that should attract any kind of objection because, really, we're talking about children having a high-quality public education, being healthy, being warm, being well fed, not being exploited, having a roof over their heads, not living in poverty, and then giving them the ability to enforce that. I don't think that's that revolutionary.

I hope people will give some really due consideration to accepting this amendment and offering just a little bit more of a fulsome description of what could be included in a children's charter if we were to really embrace the notion of making some major change soon.

2:20

The Chair: Thank you, hon. member.

Hon. minister, if you care to respond.

Mr. Hancock: I would again encourage members to say no. It's really ironic. The hon. member has spent most of the evening berating us for not consulting and then tries to write the charter herself without any opportunity for Albertans to engage. What the hon. member really ought to understand is that the power of a charter, the power of a social policy framework comes from the public being involved in the discussion and owning it, not in writing it ourselves. All of us can sit down and write policy documents. At least, those of us that have engaged in this process for a long time can sit down and write these things ourselves. That's not the point. The point is to have the public engaged in the discussion and to own the result, and that results in effective public policy and effective results. So let's not write the whole charter into the act. Let's let the public get engaged in the discussion of what should be involved in a charter.

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

Ms Blakeman: Thanks. Well, that was a really interesting comment from the minister. I'm speaking to amendment A6 here, which is striking out section 2 and substituting a number of other requirements for the charter. It's really interesting that the minister just said: well, you know, it's about the people having input into it. I'm not sure where that actually appears under his part of the charter. It says that the minister would establish this charter to guide the government and the departments in the development of these policies, programs, and services affecting children and guiding collaboration. So where does everybody else get to have their say on what goes into this?

Then it says that "the Children's Charter must recognize the following," goes through the clauses that we're all fairly familiar with now, ending with the part about how the minister can review and the new amendment that if anything is going to be amended, repealed, or replaced, it has to come back to the Legislature. Where exactly is the collaboration piece that he's talking about, that the development is going to be done and owned by the public? I don't see that in here.

Mr. Hancock: That's because we don't write everything into the act.

Ms Blakeman: The minister is telling me that you don't write everything into the act, but you would think that if that was a key piece of it, you would've written it into the act. He's saying no, so although he says that the purpose of this is to do that, years from now, when somebody is actually reading what's here, it's not there. So this only lasts as long as the minister happens to be in charge of the department, and then someone else can have a different unwritten expectation of it.

I think the only thing I want to point out about the amendment brought forward by the Member for Edmonton-Strathcona is that there's not an expectation – I hope there's not an expectation – that the principles she's set out are to be delivered exclusively by government, because I don't think they should be. I agree that she has a good argument in that the resourcing of this is important. It's mostly going to come from government, but I think there's also an opportunity for it to come from other places. It shouldn't necessarily be mandated to come from other places, but I wouldn't preclude it.

I think we have to be clear that it's not only the government that has – oh, yeah. Where she expected the government to do something, she said it; for example, "(b) that the Government of Alberta has a duty to provide funding for support programs to ensure that no child lives in poverty." She's spelled out where she expects the government to take the main responsibility for that, and the rest of it is a shared responsibility, as we've all said, between the community and individuals and agencies and other levels of government.

She's absolutely right to put an enforcement clause in. As we know, the enforcement of our Charter of Rights and Freedoms has undergone a number of tests, and the ability of the courts to interpret what's there and then to enforce it is very important. In fact, this government has had a number of interpretations enforced upon them. They had to bring through legislation and correct what they were doing. So it's important to recognize that.

The one other point that I just want to make here is that we need to remember that children do not exist – you know, we all talk about how this is all about the community and the neighbours and all the public and all of that stuff, but children are not Cabbage Patch dolls. They don't exist separately from the families that they're in. So when we talk about children not living in poverty, we have to remember that that means families are not living in

poverty. That does connect to other departments like his colleague's, now the minister of advanced education, who managed to put through a two-tiered minimum wage system that means anyone that's working in a restaurant that's serving alcohol now gets to work under a lesser minimum wage. These things connect.

I mean, how those parents manage to make enough money to lift themselves out of poverty so their child is not in poverty is a bit of a sticky wicket when we have other levels of government that seem to be consistently engaged in a Walmart economy to drive down the wages of a number of other sectors and seem to constantly be inventing a way to have people with less training get paid less to do more or less the same thing. We've seen that in health care, in policing, in corrections. Those are the examples I can think of at this time, but I am certain there are other ones.

I'm willing to support this as long as it's clear that we don't expect the government to do all of it. I really appreciate the enforcement clause.

Thank you very much.

The Chair: Are there others? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Chair. I rise in hopeful optimism that all members of this Assembly will see the value in increasing, strengthening the principles of the currently written children's charter and, as well, see the value of the enforcement mechanism that my colleague the Member for Edmonton-Strathcona spoke of.

I find interesting some of the minister's comments. I mean, first and foremost, these are principles. This amendment is expanding on the principles of the rights of a child based on the UN convention on the rights of the child, which, for the members who are unaware, Canada signed on May 28, 1990, and was ratified on December 13, 1991. These are principles and a guiding document that should be guiding all legislation when we're looking at anything that affects children.

I would ask the minister if, therefore, in speaking against this amendment, he feels that children shouldn't have access to high-quality public education or proper housing or be protected from all forms of exploitation or be protected from working in hazardous situations or doing any work that could be hazardous – protecting the rights of all children, including and especially children with disabilities, and ensuring that they have the right to a high quality life and also have access to equitable opportunities. You know, clearly, that was a rhetorical question. I'm sure the minister would say that, yes, he does believe that children have all of those rights.

Let's put that in legislation. I mean, again, these are guiding principles. Yes, it's clear that this isn't the actual charter, if I can use that term. This is talking about the principles of the charter. This isn't the charter, itself. Sorry, Mr. Chair. That's what I was trying to say here. At this hour I might be a little tongue tied.

You know, I think that it's important that we expand on this list and that it's very inclusive. Again, I think, as the Member for Edmonton-Strathcona pointed out, creating a children's charter is a very interesting idea. It is somewhat unique. I think that we as members of the Assembly of Alberta have a real opportunity to create in this legislation principles of a charter that are detailed enough to ensure that they cover at least in principle all of the different rights that children are entitled to and that we wish to protect.

2:30

I think it's extremely appropriate that the Member for Edmonton-Strathcona's amendment is based in large part on the UN convention on the rights of the child. You know, I think most members would agree that we're trying to increase the robustness of these principles and that as parents and lawmakers we want to ensure that the rights of the most vulnerable are protected. As the Member for Edmonton-Strathcona pointed out, we're talking about equitable opportunities and talking about ensuring that our children are cared for in all senses of the word.

Mr. Chair, I don't need to go on much longer other than to say that the principles in this amendment are merely an expansion, a clarification of what is currently written in the bill. Again, as the minister has said, these principles are not the charter itself, but they will help to guide and inform the creation of the charter. I think it's very useful in the creation of the charter to ensure that all of these principles are at the forefront when the charter is created and written.

My hope is that these expanded-upon principles will contribute to creating a charter that meaningfully reflects and embodies our aspirations and the rights of Alberta's children. I will urge all members of the Assembly to pass this amendment.

Thank you, Mr. Chair.

The Chair: Okay. Are there others?

Seeing none, I'll call the question on amendment A6.

[Motion on amendment A6 lost]

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

Ms Blakeman: Thanks very much. I have another amendment at the table, which I'll ask to have distributed. There is a change to be approved to be read in by the chairman. Specifically, the numbers now have changed as a consequence of an earlier passage of an amendment. I was looking to amend section 4. It's still in section 4, but we would be inserting it following subsection (4), and that would make this subsection (5). While you're still getting this passed out, I'm going to launch into this.

The Chair: Hon. members, for the record this next amendment will be A7. I do concur with the comments made by the Member for Edmonton-Centre that relative to an earlier amendment that was accepted, "following after subsection (3)" has been changed to reference (4), and where it says (4), that has been changed to reference (5).

Ms Blakeman: Yeah. Thanks very much, Mr. Chair. I'm trying to put back into the bill or to clarify some privacy protection for children. Specifically, this amendment is saying:

> (5) A child whose personal or health information is collected or shared by a service provider or custodian has the right as a child or when the person becomes an adult to
>
> (a) know what information has been collected about them,
>
> (b) be able to request corrections to that information, and
>
> (c) ask for a review by the Information and Privacy Commissioner.

Now, these are very standard clauses that exist in all of our privacy legislation: FOIP, the Freedom of Information and Protection of Privacy Act; HIA, the Health Information Act; and PIPA, which is the Personal Information Protection Act.

The concept that you have the right to look at your own records and to ask for corrections if the information is wrong or incorrect in some way or missing and to ask for a review of that by the Privacy Commissioner is integral to the concept of protection of personal information. It's not in this bill. I think that the inclusion of this amendment in no way negates the direction that the minis-

ter and the government are trying to go in; that is, for more information sharing. This is not stopping any of that. It's just saying that the person has a right to look at the information, that they have a right to ask for corrections to it, and they have a right to a review by the Privacy Commissioner. Very standard. There's nothing scary about this. I think it's important.

Again, the ability of the child or the adult that the child becomes to ask to look at the information about them that's been collected, used, and disclosed by the government is, I think, a basic right. I am upheld in that belief by the Privacy Commissioner, who in her release commented specifically about that.

I'm asking that the members opposite support this amendment. As I said, this is nothing unusual. It's not stopping the government from proceeding in the direction they want to go with the Children First Act. It just makes sure that someone that is covered under this act gets a chance to look at the information that's been held on them, to correct it, and to get a review by the Privacy Commissioner.

I'll just remind everybody that the last time I looked, the verifiable information, the amount of information held by different sources under privacy law which is inaccurate or can't be verified can be up to 40 per cent. You say: "Holy mackerel, how could anybody possibly have 40 per cent of the information wrong?" Well, actually, it's not hard. You know, files get added or attached to somebody else's name, so you literally have the wrong information attached to your file. In some cases the government has allowed information that wasn't factual and verified to be incorporated into databases, and if that information is picked up, then you have something that isn't a fact, for example. It's someone's observation or someone's opinion that is now in somebody's record, yet they don't know that that's been said about them.

I think we can all think back to job applications we've had where we went in and thought we aced the interview, and then we didn't get it. More than that, there seems to be something out there about your work product or the way you perform that you can't quite get your finger on. You never get a chance to go back and find out what the heck was said about you after you left that room that's having such an influence on how you're proceeding through the rest of your life.

So very straightforward, very simple, privacy based, not interfering with what the government is trying to do. I hope you can all support that.

Thank you.

The Chair: Thank you, hon. member.

The Minister of Human Services.

Mr. Hancock: Thank you, Mr. Chairman. This is a surplusage. FOIP is paramount. The provisions that the hon. member referenced with respect to access in FOIP are there. This is unnecessary and would enhance people's belief that this act is a standalone act and does not fall within the information and privacy generic, if you will. I would urge you to not support this.

2:40

Ms Notley: Well, again, I'm just looking for a bit of clarification from two people in the room who I think know a fair amount about what they're talking about, the minister but also the Member for Edmonton-Centre, who really does know the privacy legislation like the back of her hand. I've seen her go through it, and there are more stickies in her books than there are papers. There are, like, three stickies per page sometimes. It's really quite neat.

Anyway, she does know a lot, and she's saying that the difficulty is that under the current legislation children don't actually have the rights that adults would have and the protections that adults would have through FOIP or HIA or PIPA. Then the minister is saying that they do, so I am confused. I'm just wondering. Maybe the Member for Edmonton-Centre could just clarify that, that children don't have that right. In some cases children are living on their own at 14, 15, 16; as we know, even children in government care, of course, are often asked to just live on their own at that age. What are their rights? They should have a right to know what's been said about them, to whom, and where and when. Maybe you could just clarify that for us, Member for Edmonton-Centre.

Ms Blakeman: Well, I'm sure somebody can augment this, but it's my understanding that children are not autonomous decision-makers until they hit 16, at which point they can get a driver's licence, they can be authorized by various government benefit programs to live on their own and to receive benefits, to make decisions about, you know, whom they associate with and even where they go to school. Prior to that, kids don't have that decision-making power, that control over their own life. That's my concern with this.

The minister keeps saying: "Oh, it's okay. It's all covered by FOIP." Then we have a number of things here, I would argue, that are not covered by FOIP. Certainly, it's not clear by looking in the act that it's covered by FOIP. I previously tried to put forward a fairly innocuous amendment that said that notwithstanding anything else or just for further clarification, this is the way it is, and they were not willing to pass it, which makes me a little suspicious of why they would have such hesitation in doing that. If it's no big problem, then why can't they put it in the act?

I continue to have those fears, and I think they're justified given the concerns that have been brought forward by the Privacy Commissioner, in which she outlines that it's eroding "individuals' ability to control what happens to their own personal and health information by broadening the ability to share information without consent," which is part of what I'm addressing here. I mean, if in the way the information is being collected, you cannot go and see it and correct it yourself, there's a problem. She goes on to talk about how they won't know what information has been collected about them. We heard earlier that they don't even know who will have collected it or have information about them and for what purpose.

So that's contrary to the concepts, the principles of privacy information. It reduces the individual's ability to exercise their right to complain or to ask for a review under existing privacy laws. There's another example of where the Privacy Commissioner is saying that this is eroding something that is under existing privacy laws. I say: then man up, admit that that is what's happening, and allow these clarifications to go into the act. It's not going to cause you any trouble. It's not that big a deal, and it's not going to hamper the direction that the government wants to go with this.

That's all I need to say about this except for one more point here. The Privacy Commissioner also notes that "Bill 25 authorizes information sharing that in many ways is already permissible under existing Alberta privacy laws." Well, then you shouldn't have to permit a wider use of it. Those uses are always accompanied by consent being sought and given. The cases where you can do something with someone's personal information without their consent are very specific both under health information and under FOIP and PIPA. So I would argue that this is exactly the kind of clause that should be put into Bill 25.

Thank you.

The Chair: Are there others?

Seeing none, I'll call the question on amendment A7.

[Motion on amendment A7 lost]

The Chair: Back to the main bill. The hon. Member for Edmonton-Strathcona.

Ms Notley: Well, thank you very much, Mr. Chair. I am now going to go back a little bit to the issue of to whom we are now delegating all of this new authority and talk a little bit about that and take another shot at trying to find a way to fix what's going on in this legislation. Now, as you may recall, I started by proposing a number of deletions that would have essentially stopped this act from restructuring the way authority is delegated and to whom it's delegated and the nature of its delegation and extent of its delegation as it currently exists, stop this new act from changing it from the way it was before. We talked about the reasons for why I would recommend that that happen. Unfortunately, the majority of members voted against that.

Now what I've got, then, is a proposed amendment that will put some parameters on the unrestricted authority that is now being delegated through Bill 25. In particular, the minister has suggested that it was absurd – I think "absurd" was the word he used – to suggest that the government would ever delegate authority for things like whether a child gets to stay with their family, whether a mother gets to keep custody of her child or father gets to keep custody of his child, those kinds of major life and liberty kinds of decisions. It would be absurd to suggest that the government would ever delegate that authority to anyone who is not eminently qualified to make those decisions.

The Chair: Hon. member, could you officially move amendment A8, which will be this next one?

Ms Notley: I could do that.

The Chair: If you would, that would be wonderful.

Ms Notley: There we go.

In order to just ensure that that absurdity never happens and to test the absurdity, I guess, I have the following motion. The motion is that Bill 25, Children First Act, be amended in section 9 by striking out subsection (62) and adding the following is added after section 129:

> Child intervention workers
>
> 129.1(1) A director may designate social workers as child intervention workers for the purpose of this Act.
>
> (2) An individual designated under subsection (1) must be an employee of the Government of Alberta and a regulated member of the Alberta College of Social Workers in accordance with Schedule 27 of the Health Professions Act.
>
> (3) Where a child is in the custody of the Crown or the Crown is a guardian of a child, a child intervention worker may exercise all the powers and perform all the duties and functions of the Crown as custodian or guardian of the child.
>
> (4) A child intervention worker when acting under section 19, 45, 46 or 48 has the powers of a peace officer.

It essentially carries on everything that the bill purports to do, but rather than simply using child intervention workers who can be defined some day in the future by the minister through regulation and who can work somewhere – we don't know where – what this amendment would do is that it would ensure against the absurdity which the minister assures us would never occur. Just in case someday someone else took over and they didn't really think it was quite as absurd as this minister does that we would consider delegating this major authority to someone who was less than qualified to make these decisions, and should a new minister come along who did not think it was absurd to delegate this major authority to a provider who was not directly employed by the government, then we would have this amendment that would ensure that that absurdity would never actually occur.

2:50

Now, we know that there are a number of service providers who are currently contracted to the government to do child support and child protection and child enhancement work. We know that that's happening already. Not only are nonprofit agencies doing that work; there are actually already for-profit agencies that are doing that work in Alberta. It's a very disturbing trend, let me just say. It also, in fact, increases the patchwork nature of this service provision, it results in a general suppression of wages, and it enhances the disconnection and the lack of communication that the minister is decrying and suggesting that this bill would correct.

That being said, the way it exists right now is that it is child intervention workers who are employed by the ministry who ultimately have to sign off on things like kid goes home to parents or, more importantly, kid is no longer allowed to live with parents. Those kinds of major decisions are still signed off on by a direct employee of the government. There may be an indirect employee – a contractor, a service provider, a corporation, a volunteer organization – that's providing front-line care and support services, but those major custodial decisions still must be signed off on by somebody who is qualified to make those decisions.

Under this new act that would no longer be the case. My proposal is that even though we have restructured the residual liability and responsibility of the director under this changed act, we would still ensure that these fundamental custodial, life and liberty sorts of decisions are not made by someone who is not directly employed by the government and is also a member of the College of Social Workers because then we can assume that they have that minimum level of professional responsibility. It's not only the education that gets you into the College of Social Workers but also the code of conduct and the self-monitoring that comes from being part of a profession and adhering to a professional code. We know that we have that extra protection in there to make sure that these major, major decisions are not being made frivolously or thoughtlessly or in the best intentions but with not the best of resources at their disposal.

This amendment is just another effort to simply limit the parameters of who a child intervention worker is for the purposes of the delegation of authority under the act, and it's fairly clear. It results in good decision-making. The minister tells us that we should trust him to make these good decisions, but as we've often said, often legislation lives long past the minister of the day. This amendment would ensure that good decision-making is injected into the process whereby we are identifying who can make these family-changing, monumental decisions in the lives of children at risk in this province.

I urge all members of this Assembly to embrace this amendment and then approve of this amendment and vote in favour of this amendment so that good decision-making can live past the tenure of the current cabinet and be assured to continue well past it into whatever cabinet might in fact follow on their heels.

Thank you.

The Chair: Other speakers to the amendment? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Speaker. I rise to speak in favour of this amendment. I just want to say to all members of the House that, you know, the purpose of these amendments is really to strengthen the bill and strengthen the legislation and, again, to ensure that we've got perspectives represented through this House not only from all parties in this House but from all Albertans.

This amendment speaks specifically and directly to concerns that not only Alberta's NDP opposition have with this bill. Other members from other parties have spoken about a concern with a lack of a specific definition for child intervention worker. This amendment clarifies that, provides parameters around who is defined as a child intervention worker to ensure that there are standards that are met for a person to have that designation. As it's currently worded in the bill, a director can designate a person as a child intervention worker as long as they have qualifications required by the regulations. However, again, that doesn't provide enough assurance for all members of the House to support this bill.

Again, Mr. Chair, I, my colleague from Edmonton-Strathcona, and our other colleagues from the Alberta NDP have consulted with many front-line workers, many of them staff from AUPE local 6, who at the moment have no idea what qualifications are going to be included in the cabinet regulations.

The government is asking us to pass a bill where there is no definition for child intervention worker and to have that faith and trust in the cabinet that they will come up with an acceptable set of parameters for that. Well, you know, Mr. Chair, unfortunately, my faith in the government's decisions and in consultations with Albertans that are affected directly by legislation, including, especially, staff who are going to be exercising powers as outlined in this bill – it really does need to be clarified.

This amendment, Mr. Chair, outlines the parameters by which a child intervention worker will be defined as a social worker who works for the government of Alberta and is a member of the Alberta College of Social Workers. I think that by having these parameters set, Albertans, families, children, children in care will have the assurance and the knowledge that the workers who are going to have new authority and powers designated to them have the proper credentials, the certification, the backing. They can be assured because there are the two different bodies that are overlooking their certification, their professional qualifications, especially that they have experience in exercising their judgment and making decisions that, again, are – significant is an understatement. I mean, we're talking about decisions not just about signing off on permission slips; we're talking about decisions on whether or not a child remains with a family or a child goes into care in a foster home or in a group home.

I mean, this has significant lifelong impacts, so we feel it necessary that if the government wishes to have support from parties other than its own, there are provisions in this bill that will give us the assurances that children will be looked after and cared for by professionals and not just some omnibus definition of a child intervention worker. No one at this point is aware of what that means or what that doesn't mean.

For those reasons, Mr. Chair, I strongly advise all members of this Assembly to support this amendment. Thank you.

The Chair: Are there other speakers?

Seeing none, I'll call the question.

[Motion on amendment A8 lost]

The Chair: We're back to the main bill.

Member for Edmonton-Centre, I believe you have another amendment.

Ms Blakeman: Yup. This would be amendment A9?

The Chair: This will be A9, hon. member. You may start speaking to the amendment.

Ms Blakeman: Thank you.

The Chair: We'll have to make some changes on this because of the sections as well.

Ms Blakeman: The change was already done, and I did photocopy the changed number.

3:00

The Chair: Just for the record, hon. member, you are referencing subsection (3), which has now become (4), and then subsection (4), which has become (5) based on the changes.

Ms Blakeman: True. They're subsections of section 4 . . .

The Chair: That's it.

Ms Blakeman: . . . based on an amendment that's already been passed here.

This is another privacy-based clause that I would like to see accepted and worked into the bill. Specifically, under section 4, which is the information sharing section, appearing on page 4, under the new amendment section, which is now (4), I'm proposing that we have a subsection (5) that says: "A service provider must notify the Information and Privacy Commissioner immediately if a child's personal information or health information in its possession is lost, stolen or accessed by unauthorized persons."

Again, I think it needs to be spelled out in the act that that is the expectation for a service provider. I'm sure the minister will stand up and say: we're running under the rules, and this is covered under the existing rules. Hmm. Not exactly. That's why I want it in the act, where you can read it, and it's clear to anybody that if you're a service provider under the definition in this act and you are aware that your organization or an individual that you're working with, whatever their particular affiliation or designation is, if that information has been lost or stolen or accessed by someone that shouldn't be accessing it – which we know is the major problem in privacy breaches, by the way. It's not computer glitches or software problems. That's not where it happens. It actually is human beings that know the act and decide that they're going to breach it. That's where the big problems happen. Unfortunate but true. It's deliberate human action, which is why I've been very careful to say "accessed by unauthorized persons."

You know, folks, this is somebody's life. It's bad enough that we will have collected this information without their consent. But to not be willing to immediately report it if it has been lost or stolen or authorized by someone that shouldn't, a service provider, I think really weakens the act. I want this to be clear. I want anybody that reads the act to be able to see it without having to hunt for the associated regulations or to have to go to another act to be able to look it up. I want it in this act so people understand that that's the deal.

I ask you to support this. This is where I'm going to cut it off. It's a good amendment. I ask for support.

The Chair: Thank you, hon. member.

Are there any other speakers to this amendment? The Member for Edmonton-Strathcona.

Ms Notley: I will simply rise to say that we support this amendment based on the numerous statements of concern, that have been reviewed already many times tonight, that were put forward by the officer of the Legislature who has been assigned responsibility for overseeing privacy and transparency rights and obligations in the province. Obviously, she has a number of concerns, and I believe that this amendment is geared towards getting at some of those concerns. I'm disappointed at the lack of real responsiveness to such an important set of representations on this piece of legislation. Certainly, allowing this amendment would go some small distance towards fixing that flaw.

Thank you.

The Chair: Thank you, hon. member.

Are there others? The Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Mr. Chair. I'll make this quick. I want to thank the Member for Edmonton-Centre for bringing forward this amendment. It seems like not just a reasonable amendment – and I'm actually surprised that this isn't already in the bill – but it only provides more accountability. I am just trying to put myself in the shoes of a person whose information has gotten lost. I think it's crucial that our Information and Privacy Commissioner is immediately notified if it's lost, stolen, or accessed by unauthorized persons.

It seems that this is just a very logical, fail-safe mechanism that should be included in this bill, so I strongly urge all members to support this amendment.

The Chair: Are there others?

Seeing none, I'll call the question on amendment A9.

[Motion on amendment A9 lost]

The Chair: Back to the bill. The hon. Member for Edmonton-Strathcona.

Ms Notley: Well, thank you. This is fun. Okay. I now have an amendment that also deals with the issues around information sharing for purposes of providing services and the concerns that have been raised around that. I will just give the original and several copies for distribution to the table and representatives thereof and speak to this amendment.

The Chair: This will be amendment A10, hon. member.

Ms Notley: Yes. This amendment would be made to section 4 of the act. The point of this amendment would be to essentially change the criteria under which all these service providers can freely share information with one another. As things exist now, in the current bill it says that for the purposes of enabling or planning for the provision of services, a service provider may collect and use personal information about the child or the parent or the guardian and also health information about the child, and for the purposes of enabling or planning for the provision of services, a service provider may disclose health information and also personal information of the child or the parent "if, in the opinion of the service provider or custodian . . . the disclosure is in the best interests of the child."

What we are doing is proposing to change this section so that rather than the criteria for this information being shared be that it's in the best interests of the child, instead the criteria would be: "if, in the opinion of the service provider or custodian making the disclosure, the disclosure will serve the physical or mental health and safety of the child." So the idea here is to close the criteria a little bit, limit it. Okay? We're all here talking about how we want to protect our kids, particularly the kids that are at risk. We want to protect their safety. We want to protect their health, both mental and physical.

This criteria – this safety and this mental health and physical health – is a standard which already exists to some extent in the Health Information Act as well as in FOIP and PIPA, but you definitely see it in the Health Information Act. Instead of it being a case where you've got somebody saying, "Oh, in the best interests of the child it makes sense for me to share this information with this service provider and that service provider and whoever else," we're actually focusing on the safety of the child or the mental or physical health of the child.

The reason for that, Mr. Chair, is that it's even more important now that the government has so dismissively rejected our proposals for improvement. What you've got right now is "the best interests of the child," but, of course, we have no idea who it is that will be making that judgment call. Who's going to be making the judgment call about what's in the best interest of the child? Well, it may not be a professional. It may not be anyone bound by a code of conduct. It may not be anyone who's a direct employee of the government. We don't know. For all we know, it could actually be, you know, a very junior worker with a two-month diploma who's employed by a religious service organization. We don't know who it will be that is making that decision about sharing information.

3:10

My belief of what is in the best interests of a child may well be and almost definitely is not the same as everybody else's belief of what is in the best interests of the child. I don't mean to say that everybody has one view and I alone have a different one. I believe that if you put 10 of us in a room with a little bit more sleep and some coffee and we sat around and had a nice chat about what we thought was in the best interests of the child, we'd probably come up, amongst the 10 of us, with five different ideas of what that means.

Now, usually that's not a problem if the people interpreting and applying that particular phrase are professionals who have experience and accountability and a professional code of conduct and a great deal of education to make that call. But if, instead, that's not who it is that's making that judgment, if it is, in fact, someone with a two-month certificate who's not even directly employed by the government that is making that call, well, then we have a problem. Then we have pretty much open season on sharing information about the child, about the parent, about the guardian, and we've got that information being shared amongst a number of organizations who are service providers.

We know that when a child is in care, they come into contact with a whole schwack of service providers. They really do. It's interesting to just read the very tragic circumstances that were delineated in the decision around Bosco Homes on Friday, the judicial decision where, among other things – say what you will about the ultimate decision of the judge about guilt or innocence – there was quite a description of the many different service providers and agencies that came into contact with that young man over the course of, I think, a month or two months. It was crazy, the number of organizations. It was really quite something. So if you've got that many organizations that have access to information simply because somebody thinks it's in the best interests of the child, then you're running all over the place trying to chase down information about the child.

We're mostly talking about the child tonight, but I think it's also important to talk about the parent and the guardian because

we also are giving an unprecedented ability for the service provider to share personal information about the parent or the guardian. That, too, is troubling, very troubling, Mr. Chair, because you could well have a situation where, you know, the parent had postpartum depression six months after giving birth to the child, a very serious form of it, and somebody comes along who thinks that the best interests of the child are reflected in that child not being cared for by that mother in that situation. Then that piece of information could well follow the child and the mother from service provider to service provider to service provider for years because there's really no limit on it. So it becomes very difficult.

One of the things that we need to understand here, Mr. Chair, is that, you know, the sad fact of the matter is that the parents and the guardians who are typically impacted by this legislation tend to be low income, tend to be indigenous, tend to be marginalized. Not always. Of course, there are always exceptions, but, generally speaking, there is a much higher proportion of people who are impacted by this legislation who are in other ways already marginalized by a number of systemic factors within society, and now we're going to further marginalize them by significantly undercutting their rights to privacy and their right to control their own information. I do want to go back to this. It seems like we're all being very complainey, you know, and I guess we are because there are some fundamental difficulties with respect to this legislation.

On the flip side, I mean, I do share the belief that where a child is at risk or where anybody like a reasonable, common-sense person thinks there's a possibility that a child's health, mental or physical, is at risk or their safety is at risk that – you know what? – you've got to do whatever you can to make sure that that child is safe. You do. If sharing information that you have could help ensure that safety and protection, well, then you've got to do it. I am not fighting against that part of it. I really am not.

I do believe the Privacy Commissioner when she says that a lot of the barriers can be solved by education because, quite frankly, I've seen it myself. Enough people go to a de facto sort of fallback position that: "Oh. We can't do that. FOIP won't let us." And then you really unpack it, and you go: "Well, actually, no. That's not true. FOIP doesn't prevent you from disclosing that information, not at all. Here is what the rules are. You can absolutely do it." Indeed, this government has a tendency to say, "We can't release this information because of FOIP," when in fact if you unpack it, no, of course you can. You just have to remove the identifying information.

You can absolutely release that information. People have a tendency to overrely on it, and sometimes it's for political reasons, as with this government, but sometimes it's from being overly cautious and not being well educated about the application of the FOIP Act. So I do believe the commissioner is quite correct when she says that a lot of the problems can be resolved through education.

That being said, if we want to say that maybe it just won't work fast enough, then I can even support a certain amount of enhanced information sharing if the parameters are better defined. But as things stand now, with the parameters simply being Joe Anybody's definition of best interests of the child, well, then those parameters are virtually nonexistent. It means that under almost any circumstances you can share that information. That's just not good enough because we are so significantly trampling on the rights of that child and so significantly trampling on the rights of that parent.

When you combine it with the fact that this government has steadfastly refused to put in parameters around who's making these decisions around best interests, not accepting our proposal to have it be a social worker, not accepting our proposal to have it be a direct employee of the government, not accepting any of those efforts at remediating the problems in this bill, then what we need to do is to close the gate by limiting the circumstances under which that information can be shared. That's what this amendment proposes to do. It proposes to identify health, mental or physical, and safety of the child. That's where information can be shared but not simply best interests.

I mean, there are wonderful, caring organizations out there that do very, very good work, but there are also organizations out there that, for instance, because of their sort of foundational principles, would say that disclosing for the purpose of counselling against, say, an abortion is in the best interests of the child, notwithstanding the fact that that's not what the child, who at that point has the right to make the decision, would say. So that's one example.

Another example is, you know, if the child has an STD, whether that is something that needs to be disclosed. This whole concept of value judgments starts to be injected into best interests of the child, and it's not tempered by a professionalized understanding of the best interests of the child or an interpretation of the best interests of the child which is circumscribed by a professional code of conduct.

3:20

This would fix that. It's a little bit awkward. It's not my first choice for how to fix it. But it's another effort to fix it and to close the gate somewhat. The gate is still open, but it's not wide open. You can still get through it, but you've got to line up to get through it. You can't all run through it. One horse at a time, maybe a skinny horse, can get through the gate as opposed to, you know, 10 horses across can run through that gate.

That's what we're trying to do. I urge members of this House to consider that and, again, to consider the disproportionate impact that this change to privacy legislation has on certain marginalized members of our society and the need to balance that and to keep in mind that we don't need to pile on in terms of the systemic inequities which they are compelled to shoulder every day.

I hope you will give some due consideration to this amendment. Thank you.

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

Ms Blakeman: Thanks very much. The one thing that I hope is included in this is that the purpose of the information sharing is not just for the physical or mental health and safety of the child. I think the other piece that needs to be recognized is that there is service provision for culture for kids, for recreation, for economic reasons. There are a wide variety of reasons why information would be shared in order to provide a service. The services aren't only just about physical or mental health or the safety of the child. You've been quite specific there, so I'm hoping that that's included. I guess I'm giving you the opportunity to explain that.

For example, the city of Edmonton ran a pilot project that was, I believe, wildly successful. They heard about this from the States, which always really baffles me. It was a project in which they ran three different groups. The first group was provided with nothing extra, the second group was provided with limited access to recreational facilities and cultural facilities, and the third group was provided with wide access to those two. Then they tracked to see whether that improved the family dynamics, the quality of life, whether the kids were healthier or better socialized. In fact, it turned out that the group that had the access fully provided was far

better off, demonstrably far better off. All of the metrics worked there.

There's an example of something where, yeah, you could argue that it was for their physical well-being, but the culture component usually wouldn't be included in that, and it made such a difference in the families' outlooks. The specific piece of this was that it was for single-parent families. It made, really, a remarkable difference in their mental health and social interactions with their community, their state of stress or depression, all of those things that we find happen so often with people that are in stressed economic circumstances. A really successful program. I just wanted to make sure that programs like that could be enabled under the amendment that the Member for Edmonton-Strathcona is moving.

The Chair: Are there others? The Member for Edmonton-Strathcona.

Ms Notley: Well, yeah. I just want to rise to answer the question. Unfortunately, I think I might be a little bit disappointing in it. The amendment talks about, "For the purposes of enabling or planning for the provision of services or benefits to a child," and it talks about collecting and using this information. Then it goes on to say, "For the purposes of enabling or planning for the provision of services or benefits to a child," they can disclose, but the disclosure is limited because the disclosure is just "if, in the opinion of the service provider or custodian making the disclosure, the disclosure will serve the physical or mental health and safety of the child." You're quite right. That does limit the interagency sharing of information for some of those broader, softer, for lack of a better characterization, services that are provided.

The reason we're talking here more about issues around health and safety is because that was really the rationale that was provided to us by the minister at the outset. I mean, the minister was quite successful at convincing sort of key opinion leaders out there that this was a good act because he brought in not one but two law enforcement people to say that this is really about preventing these horrible tragedies and making sure that information the police had could be shared with the doctor, could be shared with the social worker, could be shared with the teacher. It was really about these horrible tragedies, and it wasn't about just sort of that more generalized service provision.

I think the way to deal with the information-sharing problems around service provision is to not have this ridiculously patchworked, fractured system of service provision. That aside, that was the rationale that was provided, and probably the minister's most convincing validators were those who were in the field of preventing crimes against children. Those were the most convincing validators that the minister was able to bring forward. And they are convincing. That's why I'm trying to have this amendment line up with those validators so that we are focusing on preventing crimes against children and ensuring the safety of children but that the information sharing doesn't go beyond those limited things because then you get into the potential of the balance shifting the wrong way.

I mean, you want rational service delivery that is premised on the best information possible, but that has to be balanced against the privacy concerns of both the child and the parent. I think one of the ways to balance that effectively is to limit the degree of interagency delivery and, instead, to not sort of have 14 different little contractors providing all of these different little services for one person.

In the absence of that balancing mechanism, the way I would balance it is that you look at the circumstances in which the information is shared. If you're simply sharing for best interest, then I think that the sharing is weighted too much and the rights of the child and the family to privacy lose. I would only start to pick at those rights in the interest of the child's safety and their health rather than, you know, their ability to participate in a recreational program or something.

That's why the language does actually limit it because I worry about the sort of unfettered sharing between agencies. There you go. That's my rationale.

The Chair: Thank you.

Are there others? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Mr. Chair. I rise to speak strongly in favour of this amendment. I think, you know, there's always a danger when the Assembly looks at passing legislation where concepts and terms are left undefined or are vague or ambiguous or unclear or all of the above. I would argue that the way the bill is written at the moment, referencing "in the best interests of the child," can be quite problematic because one person's definition of best interests and another person's can be quite different. What would cause one child intervention worker, if I can use the term as laid out in this bill, versus another – you might have two different front-line workers with totally different experiences, different qualifications, different education, different backgrounds. One may be day 2 on the job; another may be day 2,000 on the job. Unnecessary information or sensitive information may be disclosed, may have a harmful effect. In that moment the front-line worker may believe they're doing what is in the best interests of the child, yet there may be some serious and far-reaching harmful consequences because of that.

This amendment, Mr. Chair, seeks to clarify that and to ensure that there is a more specific definition that can be applied and that will be used, not just on reasonable grounds. Again, the backstop here is that disclosure will avert or minimize a danger to the health and safety of any person. I think, you know, that part is extremely important.

3:30

A reason why I think the hon. minister and all members of the Assembly should be able to accept this amendment and, if anything, to accept it in the form of a friendly amendment, is that the wording conforms to an act that was already brought in by this government, section 35 of the Health Information Act. This specific wording is just a continuation of applying consistency as far as defining what is in the best interests of the child.

I mean, my concern, Mr. Chair, is that, again, we're leaving this open to judgments. There are times when I believe all of us as being human beings have made poor decisions, poor judgment calls, and this clarification, this amendment, just seeks to cut down on the possibilities of that happening. Again, I would argue that none of our front-line workers are going to be making decisions, that they are consciously aware of, with the intention that it's going to bring harm to a child or to a family, but this cuts down on the possibility of that happening.

You know, Mr. Chair, I'm going to reference a dark mark on Canada's history. What the concern for the best interests of the child made me think of was that when we go back in history – and, sadly, we don't have to go that far back – once upon a time it was commonplace and the norm to pull children out of their homes and to put them not just into foster care. Especially when we look at the history of our aboriginal peoples in this country, the reserve system was built on the concept of what was in the best interests of children, and they would literally be ripped from

families and communities by people that were carrying out orders on behalf of the government but doing it in the best interests of the child.

I'm sure, Mr. Chair, that if you talked to folks who were carrying out their orders and removing aboriginal children from their parents, their families, their communities, they would tell you that in good conscience they were acting in the best interests, in their opinion, of the children. Today many people still do and will for some time feel the effects of Canada's reserve system, where children were ripped from their families. Again, the fact of the matter is that I don't think that leaving in the phraseology of "in the best interests of the child" is actually going to serve the best interests of the child.

This amendment will cut down on the chances of children being removed from their homes or decisions being made which, again, in the moment may seem like the right decisions, may seem like they would benefit but down the road may turn out to do quite the opposite, Mr. Chair. Making sure that we have a clear definition within this act by laying out the fact that it'll either avert or minimize danger to the health or safety of any person I think is not only reasonable, but it safeguards more so than the currently written bill against potential harm that could come either immediately or down the road to some of our most vulnerable Albertans.

For these reasons, Mr. Chair, I would strongly urge all members of the Assembly to vote in favour of this amendment. Thank you.

The Chair: Thank you, hon. member.

Are there others?

Seeing none, I'll call the question.

[Motion on amendment A10 lost]

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

Ms Blakeman: Thank you very much. I have another amendment at the table, which I would ask you to distribute. That would make this amendment . . .

The Chair: A11.

Ms Blakeman: . . . A11. Thank you very much.

While we're waiting for that to be distributed, I can make you all a little bit happier by telling you that I won't be able to move one of my amendments because it has substantially been covered in the amendment that was called A1. [some applause] I knew that was going to brighten somebody's day.

The amendment that is currently being proposed is to add a new section following section 5, so this would be numbered 5.1, which says that

> (1) A special committee of the Legislative Assembly must begin a review of this Act within one year of the coming into force of this Act, and must submit to the Legislative Assembly, within one year after beginning the review, . . .

So they've got a year to start and a year to finish.

> . . . a report that includes any amendments recommended by the committee.
>
> (2) As part of its review, the committee must consider the impact of the information sharing provisions of this Act on privacy.

We have done this in the past with the other privacy-related bills. FOIP, HIA, and PIPA all came in for – I don't know. Let me be careful here. FOIP for sure came in for a two-year review and then a five and then a 10. The other ones, I think, may have just come up at the five-year mark. I chose one year here because of the number of concerns that have been raised by members not of the government. The government has refuted all of these, not well, I would argue, but, you know.

I am asking that this review be considered. I think it's important to be able to track with some kind of metrics how well this act is performing and if it is meeting the expectations that people had or if some of the concerns that were raised have in fact come true.

This is not an unusual request. As I said, we've done it, I think with longer review periods, but we've done it with all of the other privacy acts except for FOIP, which had a shorter review period in the beginning, and then it went into a five-year and then a 10-year review period.

That's the amendment. Those are the reasons behind it. I hope I can get the support of a majority of the members in the Assembly.

The Chair: Are there other speakers to amendment A11?

Seeing none, I'll call the question.

[Motion on amendment A11 lost]

Ms Notley: Oh, it's a joy to get up again. Okay. You'll be happy to know that this is my last amendment, anyway, but I certainly make every intention to stick it out for the whole debate and to engage as much as I possibly can in all other amendments that might be coming forward because there are important things that we are discussing here.

This amendment relates to an element of this bill that has not yet received a great deal of attention in our discussions this evening. In particular, I'm talking about that part of the bill that focuses on reviews of I believe it is called domestic violence.

3:40

The Chair: This will be amendment A12, hon. member.

Ms Notley: Yes, A12. I'm just looking for the section right now. What it attempts to do is to amend section 19(6) by striking out the proposed section 18 and substituting the following:

> 18(1) On completing a review, the Committee shall prepare a written report that must contain
>
> (a) its findings respecting the incident that is the subject of the review, and
>
> (b) its advice and recommendations for legislative, regulatory and policy changes.
>
> (2) The findings of the Committee must not include any findings of legal responsibility or any conclusion of law.
>
> (3) Upon completion, the Committee shall make its report public.
>
> (4) The Committee's report must not disclose the name of, or any identifying information about, the individual whose death is the subject of the review or any other individual involved in the death.

This basically deals with family violence death reviews.

Now, generally speaking, this part of the bill is a good thing. It's one of those things where you sort of say: better late than never. We are one of the few jurisdictions that doesn't have this mechanism at this point, so it's good that this is coming forward, and I congratulate the minister on moving forward on this.

As many people have already stated in discussing this part of the legislation, it's much needed because Alberta enjoys the unfortunate distinction of having the highest domestic violence rate in the country. Now, that, of course, will probably not be remotely ameliorated by this committee review. Well, I won't say remotely. This committee and its review and its report, should they be used appropriately, ought to be able to assist in reducing the incidence of domestic violence, so it's helpful that way.

Now, there are other things that need to be done as well, of course. We need to provide more support for women's shelters. We need to provide more support for mental health services in Alberta. We have probably the worst record in the country in terms of our provision of mental health services, and that does relate to the incidence of domestic violence in Alberta along with treatment for drug and alcohol addiction because often you'll find that domestic violence occurs in conjunction with untreated drug and alcohol addiction. That is another area where we fall down, unfortunately, quite significantly in this province.

Of course, I am at this point, as you can imagine, doing a little bit of stream of consciousness in my discussion of these issues. Nonetheless, earlier tonight the Families and Communities Committee, one of the legislative policy committees, the existence of which, unfortunately, precluded the opportunity to have our Privacy Commissioner come and speak to us and answer some questions for us tonight, at one point was engaging in some reasonably effective work, some preliminary work in assessing the state of mental health service provision in Alberta. Just even on that preliminary basis we quickly became aware of the degree to which this province falls far behind in that area. Certainly, this is inextricably linked to the high frequency that we have in this province of domestic violence cases.

That being said, certainly one piece to the puzzle is to evaluate what's going on and to identify the kinds of things that can be done differently. There is no question that there are some things that can be done differently with a minimum of cost simply by enhancing communication and enhancing education sensitivity of law enforcement officials.

Back in the day, when I served as a ministerial adviser in the Attorney General's office in B.C., we actually launched – this was back in the mid-90s – a series of initiatives designed to enhance the sensitivity and the capacity, shall we say, of our law enforcement agencies to properly address issues of domestic violence and to ensure that there was intervention before these things accelerated to the point of tragedy. I'm talking about a series of amendments that relate to part 2, which you can find on page 58 of the bill.

We did engage in a lot of those initiatives. From the perspective of being in the minister's office, I was certainly able to become very aware of how, really, these tragedies could have been avoided and weren't because of lack of education on the part of law enforcement officials and a lack of education and sensitivity on the part of Crown officials. We had two or three horrible family tragedies, where, you know, it was not only a spouse but also the children who were victims in that case. It became clear that there had been repeated attempts on the part of the victims or relatives of the victims to secure intervention from law enforcement officials, and it just didn't happen.

It became increasingly clear to us that there needed to be some major changes in the way law enforcement officials responded to and dealt with domestic disturbance complaints and domestic violence and protection orders and all those kinds of things that are associated with that. There's no question that work could be done successfully by sharing that information and holding the government – and we were the government at that time – accountable for the decisions that were made by law enforcement officials in the course leading up to these tragedies.

I think that this panel, then, is a good thing. The difficulty that we have, however, is that this panel will only do its work effectively if the decision-makers are also held accountable. We can have a committee review what went wrong, and then that committee can present its report to the cabinet, but if there's no other mechanism for holding the minister and/or the cabinet accountable for those elements that went wrong, then we cannot be sure that the appropriate changes will be made because it will be subject to a whole number of internal considerations which typically govern decision-making processes in cabinet.

What we are looking to do through this amendment is simply to change the obligations with respect to making these fatality reviews public. That's all. We're just asking for the act to be written such that it is not simply a function of ministerial discretion whether or not these committee reports will be made public. As it exists right now, the minister will make the publicly releasable version of the report public at a time and in a form and manner the minister considers appropriate. That gives the minister unfettered discretion on the release of that report.

You know, I don't know why we would treat this kind of review differently than, say, the way we would treat a fatality inquiry or a judicial inquiry. Why would we somehow allow the minister the ability to keep this secret when other fatality inquiries and judicial inquiries must be made public? That makes no sense to me, Mr. Chair. If we really care about the incidence of domestic violence in this province and the prevalence of it and the growth of it and if we are really interested in keeping ourselves accountable not only as government but as a community as a whole, keeping ourselves accountable to take the steps necessary to reduce this shameful statistic, if we really care about that, then the first step is to make sure that that information is always made public. There is no good reason for not making it public as a matter of course in the same way you would a fatality inquiry, in the same way you would a judicial inquiry.

3:50

This sort of almost gratuitous discretion that the minister is insisting on keeping to himself to control when and how this information is released is unnecessary, and it is the symptom of a government that has simply been in charge for way, way, way too long. This is the symptom of a government that uses secrecy as probably one of its fundamental ideological principles. It has actually evolved to the point that if you were to describe the Conservative Party ideology, one of its central tenets would be secrecy. There's no other reason for keeping a report like this quiet. It should just as a matter of course be made public, and there's simply no justification for it not being public.

I urge members of this House to accept this amendment and to make whole what is otherwise a very positive change in the act. This part of the act is a good part of the act, but it really undercuts itself if the minister gets to hold onto it quietly, secretly in his back pocket for however long. Why would you want to undercut what is otherwise a very good set of changes contained in this part of the act? I don't understand why you would. I don't understand why you wouldn't treat it the same way you would other types of inquiries and, in so doing, give yourself something substantive about which you can really congratulate yourselves.

Thank you.

The Chair: Are there others? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Chair. I'm rising to speak in favour of this amendment. It's interesting that, again, the family violence death review committee is supposed to prepare a written report with its findings about a particular incident under investigation as well as its advice and recommendations to the minister. The concern with the bill as it currently reads is that that report will never be made public. It's going to remain a secret, as

are far too many other areas that this government likes to do. I mean, this seems to be the typical course.

The challenge of the question, Mr. Chair, is why there needs to be a publicly releasable report, or one that the government or the minister feels could be shared with the public, and one that's going to remain secretive and private for the government. As the Member for Edmonton-Strathcona explained so well, this report should really function in the same way as a fatality report, where it is made public, especially when we're looking at the issues surrounding family violence. This is a very serious issue. As the Member for Edmonton-Strathcona has shared with the Assembly, the number of family violence incidents and victims in Alberta is disproportionately high, is actually alarmingly high. You know, this is an issue that not only is very serious but that cannot be kept a secret or in the backrooms or under wraps.

Mr. Chair, when a death occurs due to domestic violence, the committee's recommendations and findings must be made public. We need to have a debate that is in the light of day, that is public in order to be able to not only address the issue of family violence but in order to be able to cut down on the future incidence of this. I think it's important to note – and members on all sides of the House will be keenly interested in the fact – that this amendment maintains the provisions that no identifying information is released, so there will be the protection of identities.

You know, Mr. Chair, this amendment really does strike a balance and, I would argue, a proper balance, keeping personal information confidential yet allowing recommendations and debate for policy changes, legislative changes to be made public for all Albertans so that we can get the full participation of Albertans throughout the province.

I disagree with the way the bill is currently written, Mr. Chair, that the minister has, you know, a privileged prerogative or has the ability to pick and choose what measures, if any, he would like to implement or that will be made public. The issue is that reports should not remain behind closed doors, behind locked doors, and if we truly want to address the issue and seriousness of family violence and domestic abuse, then reports made by the review committee should be made public, should make their way to the public sphere, should be debated and deliberated publicly as opposed to having two different versions of a report, one that remains secretive and classified and one that is made available to the public.

This amendment, Mr. Chair, gets to the heart of the matter and does strike a balance between keeping personal information private and respecting that yet at the same time ensuring that reports are made public for public disclosure and debate.

Thank you, Mr. Chair.

The Chair: Are there others on amendment A12?

Seeing none, I'll call the question.

[Motion on amendment A12 lost]

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

Ms Blakeman: Thank you. There's another amendment at the table to be distributed, and that would be amendment . . .

The Chair: A13.

Ms Blakeman: I will move that onto the floor now.

I realize that there's a great deal of unhappiness in the backbenches. I can hear somebody muttering about the time and expense, but I do remind you all that it is the choice of government to be here at this time. You could adjourn at any time. I'm more than happy to come back and do this during the day tomorrow. [interjections] Oh, that got a reaction. Well, that woke everybody up.

The Chair: Proceed to speak to your amendment, hon. member, please.

Ms Blakeman: Thank you very much.

Well, you know, in talking about the amendment, we're talking about what time we're here. I would far prefer to do this during the day, and we were scheduled to come back and work until June 6. But it appears the government has only two bills left, maybe three, and for some reason they're making us do this all in the middle of the night, which doesn't need to happen. It's not me that's keeping you here; it is the majority government that's keeping you here. I'll just remind you all of that.

Amendment A13 is a for-greater-certainty amendment. I have tried to get a similar one passed. Essentially, what this is doing is adding in after section 5(3):

> (4) For greater certainty, if a provision of this Act is inconsistent or in conflict with a provision of the Freedom of Information and Protection of Privacy Act, the Personal Information Protection Act or the Health Information Act, the provision in those Acts prevails to the extent of the conflict or inconsistency.

In other words, if we have deliberately or by commission or omission created a situation where it would appear that the originating acts do not prevail, this act will make it clear that they do. Again, this is going back to all of the hard work and the many nights in here by your predecessors to make sure that we had the tightest freedom of information act, Health Information Act, and Personal Information Protection Act that we could possibly have.

Then to bring in another act that references them but does not step up to the plate at the same level is (a) disheartening and (b) does not respect the work of your colleagues that came before you.

4:00

This is not changing anything the minister is trying to do. This is not degrading it in any way, shape, or form. It's just saying that if there are any inconsistencies between the protection of privacies that would exist under the current three acts and Bill 25, the Children First Act, the protection of privacy acts prevail. Nothing difficult about this, pretty straightforward, and, again, I think, part of what we were warned about in the notice from the Privacy Commissioner. I hope there's support for this. There certainly should be. I do urge everyone to support amendment A13.

Thank you.

The Chair: Thank you, hon. member.

Are there any other speakers to amendment A13?

Seeing none, I'll call the question.

[Motion on amendment A13 lost]

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

Ms Blakeman: Thank you very much. If I could get this picked up. Sorry about that. I've been delivering them to the table so that you didn't have to do the 50-yard dash here.

Mr. Chairman, this would be amendment A14, that I'm moving onto the floor at this time.

The Chair: Amendment A14, hon. member. That's correct.

Ms Blakeman: There have been a couple of attempts tonight. There's great unease about the phrase "best interests of the child."

I do not feel that it is clearly enough defined although it's a common phrase, I'll admit. I would prefer to see something more along the lines of what I am presenting in amendment A14, and that is to strike out wherever and specifically in section 4 "in the best interests of the child" and substitute with "reasonable" in subsection (2) and in subsection (3)(b) and by adding the following after subsection (3):

> (4) The standard to be applied under this Act in determining whether the disclosure of personal or health information is reasonable or unreasonable is what a reasonable person would consider appropriate in the circumstances."

It's how I often judge what we're doing in some of the committees that we sit on or some of the proposals that come before the House.

The Chair: Hon. member, if I may interrupt you for a minute, due to the passage of A1 we need to make an adjustment as well. In clause (c) it should read, then, "after subsection (4)" instead of (3). Then (4) should read (5) under (c). We're referencing the passage of A1 for the record.

Ms Blakeman: Right. Thank you very much, Mr. Chairman.

The Chair: If you would continue to speak to that, that would be just fine. Please proceed.

Ms Blakeman: Thank you very much. Right. That's okay.

You know, it's why I always sit across from the window, so I can look out the window and see people going by and going: how would I explain what we're trying to do here to that person? Does this make sense? Can I explain it to them? Do I think they would agree with what we were trying to do? I remember one time we were giving people raises. I said, "What is your justification for this?" and a person said, "Well, I think they're a good guy." I looked out the window, and I thought: how would I explain that to this person walking by, that I can see walking through the Legislature Grounds? "Yeah. We just gave someone a bonus of" – I don't know what it was; it was tens of thousands of dollars – "$20,000 or $30,000, you know, your annual salary, to someone as a bonus because they were a good guy." It helps me to focus on whether what we're doing makes sense or not.

What I'm trying to do here is to say: can we not use a recognized legal test of reasonableness? I actually, with the help of Parliamentary Counsel – I'm sorry; credit where credit is due – pulled this description of reasonableness out of the PIPA Act to be all the more useful to us here and to know that, in fact, the description and the test had passed the House previously. That's what I'm trying to do, put a test in place that is based on these changes in section 4, on reasonableness rather than on whether it's in the best interests of the child.

To put it in context for you, very quickly, this is following under information sharing for purposes of providing services. This is around "a service provider may collect and use either or both of the following" and, again, personal information. Subsection (2) talks about provision of benefits. We get down to the new section that we're adding in, which actually defines that the standard is whether disclosure of personal or health information is reasonable based on what a reasonable person would consider.

I am hoping that this will receive the approval and support of the House, and I ask you to please do so. Thank you.

The Chair: Thank you, hon. member.

Are there any other speakers to amendment A14?

Seeing none, I'll call the question.

[Motion on amendment A14 lost]

The Chair: Back to the main bill. Have we exhausted all speakers?

If that's the case, then, are you ready for the question on the bill?

Hon. Members: Question.

[The remaining clauses of Bill 25 agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Opposed? That's carried.

The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Chairman. With great pleasure I'd move that the committee rise and report Bill 25.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Khan: Mr. Speaker, the Committee of the Whole has had under consideration a certain bill. The committee reports the following bill with some amendments: Bill 25. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

Hon. Members: Concur.

The Deputy Speaker: Opposed? So ordered.

Government Motions

33. Mr. Hancock moved:
Be it resolved that Bill 207, Human Tissue and Organ Donation Amendment Act, 2013, be moved to Government Bills and Orders on the Order Paper.

The Deputy Speaker: The hon. Government House leader.

Mr. Hancock: Thank you, Mr. Speaker. I hesitate to trouble people with this motion tonight, but we hope to be debating it tomorrow in second reading and can only do so if it's actually moved to the Order Paper so that we can accomplish that. It is an important bill. It's a bill which I think there's a general agreement on that it should move forward, and we want to get it moving forward so that we can deal with this very important topic. I'd ask everybody to pass this motion with alacrity.

4:10

The Deputy Speaker: Thank you.

Are there other speakers?

Did you want to close debate? We'll consider it closed.

[Government Motion 33 carried]

The Deputy Speaker: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. It would seem that the hour has come when we should probably adjourn until 1:30 p.m. today, and I would so move.

[Motion carried; the Assembly adjourned at 4:11 a.m. on Tuesday to 1:30 p.m.]

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