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The 30th Legislature
Second Session

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Day 36

The Honourable Nathan M. Cooper, Speaker

Legislative Assembly of Alberta

The 30th Legislature

Second Session

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Legislative Assembly of Alberta

7:30 p.m.

Tuesday, June 23, 2020

[The Speaker in the chair]

The Speaker: Hon. members, please be seated.

Government Bills and Orders Second Reading

Bill 22

Red Tape Reduction Implementation Act, 2020

The Speaker: The hon. the Associate Minister of Red Tape Reduction.

Mr. Hunter: Thank you, Mr. Speaker. I rise to move second reading of Bill 22, the Red Tape Reduction Implementation Act, 2020.

This proposed legislation reflects our government's commitment to cut red tape, make Alberta one of the freest, fastest moving economies in the world. It also reflects our commitment to reducing red tape to make life easier for Albertans. And, perhaps, most importantly, it represents our government's commitment to restart our economy following a global pandemic. In total, Mr. Speaker, Bill 22 proposes changes to 14 pieces of existing legislation and six departments. This includes amendments to 12 statutes and the repeal of two others. We have grouped these changes into four categories: expediting government approvals, reducing administrative burdens on municipalities, enhancing government transparency and eliminating outdated requirements, and will remove unnecessary burdens imposed on Albertans and businesses in order to promote jobs and economic growth.

With these categories in mind, Mr. Speaker, I will briefly outline each of the changes and their impacts. Starting with expediting government approvals, the first proposed change would amend the Oil Sands Conservation Act within the Ministry of Energy. This would see us remove the requirement that oil sands schemes, operations, or processing plants with production capacity above 2,000 barrels per day be approved by cabinet. This change would cut up to 10 months off the approval process, with no less environmental rigour. Project development plans or schemes already require stringent approval by the Alberta Energy Regulator, making further cabinet approval unnecessary.

I'll note that more robust and detailed information is already posted on the Alberta Energy Regulator website regarding project approvals and applications. This, in fact, provides more information than the brief description in an order in council. As well, rules around indigenous consultation have not changed. All stakeholders, including indigenous communities, are provided with opportunities to raise concerns with AER during the scheme approval process. In turn, the AER reviews these concerns and can place specific conditions on the project's approval.

Prior to the AER making a ruling on a project, proponents also have to be approved by the aboriginal consultation office. The duty to consult is met by the ACO based on their economic, social, and environmental values and outcomes. This step ensures that government is satisfied that sufficient consultation has been completed and keeps the approval process rooted in consultation, science, and fact instead of politics. Moving approved projects forward provides certainty for investors and will help relaunch the Alberta economy.

Another change in the Ministry of Energy will speed up approvals of unique energy projects. Amendments to the Mines and

Minerals Act will remove the need for cabinet approval of section 9 agreements, also known as Crown agreements, used to accommodate resource development activities. This will not change stringent regulatory processes and oversight, but it will allow the Minister of Energy to more quickly grant tenure or mineral rights in certain unique circumstances. These changes will reduce delays for approvals waiting to get on the cabinet schedule by three to six months, Mr. Speaker. Delays in section 9 agreements can result in lost opportunity to secure investment, particularly when they involve emerging technologies.

The final change on the topic of expediting government approvals is amendments to the Ministry of Agriculture and Forestry's Marketing of Agricultural Products Act. The proposed changes will change the regulation-making authority for plan regulations from order in council to the ministerial order. It will also eliminate the need for plebiscite regulations, and it transfers authorization for plebiscites from cabinet to the Minister of Agriculture and Forestry. It will give the Agricultural Products Marketing Council discretionary power to issue directives instead of having to create more regulations, and it will enable agricultural marketing boards and commissions to make bylaws once approved by marketing council. Together these amendments will modernize and address inefficiencies within the act while giving marketing boards and commissions more autonomy.

I'd like to move on to the topic of reducing administrative burden for municipalities. Bill 22 proposes two changes within the legislation at the Ministry of Municipal Affairs that will make it easier for local authorities to do their job. The first change is amendments to the Safety Codes Act. We're streamlining the existing enforcement process for safety code violations to allow for administrative penalties without the costly and timely step of taking violators to court. This is not only a more efficient process but gives teeth to the act and promotes greater adherence to safety codes. Second, we're making it easier for local decision-makers to do their jobs by getting rid of unnecessary red tape in the municipal government.

We're streamlining the act by cutting more than 70 regulations to make things easier for local governments, businesses, industry, and Albertans. A number of these changes are focused on improving the operations of regional service commissions. This includes allowing them to be established and de-established through a ministerial order rather than the current requirement for an order in council and allowing regional service commissions to pass bylaws with ministerial approval rather than cabinet approval.

Next, I'd like to discuss reductions that fall under the category of enhancing government transparency and eliminating outdated requirements. We have three reductions under this topic, starting with the one at Service Alberta. We are removing an outdated requirement in the Vital Statistics Act that states that the Alberta vital statistics annual report be tabled each year in the Legislative Assembly. This process typically results in delaying the release of the report, which is depended on by academia and researchers. By removing this unnecessary requirement, we're getting information into the hands of those who need it faster. Service Alberta heard from many stakeholders regarding this change, who were looking for changes to residency requirements to allow these organizations to have the greatest flexibility when it comes to board composition. These changes align our legislation with legislation in other jurisdictions.

Put simply, Mr. Speaker, we are cutting red tape to allow corporations, nonprofits, companies, and partnerships in Alberta to have every competitive advantage possible when compared to our neighbours.

Next, we have two changes at Environment and Parks. First, Bill 22 would repeal the Recreation Development Act. This act was created in 1967, a good year I might add, to promote the development of recreational activities and facilities within Alberta. However, this is better addressed through newer pieces of legislation such as the Alberta Land Stewardship Act, Public Lands Act, and Provincial Parks Act, to name a few. Repealing outdated legislation aligns with government's platform commitment to modernize Environment and Parks legislation.

Second, we are repealing the Energy Efficiency Alberta Act. This act was introduced by the previous government, was funded by the now repealed carbon tax, and established Energy Efficiency Alberta. With other organizations continuing to deliver similar programs such as Emissions Reduction Alberta and the Municipal Climate Change Action Centre, this act is no longer required. Repealing the act also represents the final step in transitioning to the technology innovation and emissions reduction, better known as TIER, system our government has introduced to manage emissions.

The final segment of reductions in Bill 22 I'd like to speak to are perhaps the most important. They focus on removing the unnecessary burden placed on Albertans and businesses. We're doing this for the express purpose of promoting jobs and economic growth. This is something we do regardless of our current economic situation, but now we bring forward these changes with more urgency and purpose. There are six changes in total, and I'd like to start with one from Justice and Solicitor General.

An amendment to the Wills and Succession Act will allow a representative of a mentally incapacitated person to redesignate the same beneficiary under a plan or policy that renews, replaces, or converts a prior plan or policy that designates that beneficiary. Alberta law currently does not allow representatives of incapacitated people to redesignate beneficiaries when renewing, replacing, or converting plans or policies such as a tax-free savings account or a registered retirement savings plan. However, these changes allow representatives to redesignate beneficiaries but only those already named, meaning that people's wishes will always be respected.

Next, I'll outline two changes from Environment and Parks. We're amending the Surface Rights Act to make it easier for property owners to be compensated for unpaid surface lease rentals. This will be accomplished by empowering the Surface Rights Board to address more disputes outside of the courts, including increasing the damage claim limit that the board can address from \$25,000 to \$50,000. Additionally, these amendments will provide clarity and eliminate unnecessary processes that help the Surface Rights Board to address backlogs, make clear who is currently operating an energy site, and provide better service to landowners and energy companies.

7:40

Also at Environment and Parks changes will make Alberta's grazing disposition more competitive. Amendments to the Public Lands Act will broaden eligibility for public land and provincial park grazing dispositions as well as forest reserves grazing permits to include all Canadian citizens and permanent residents rather than just Alberta residents, as currently is the case. These changes will better align with land values and make sure that ranchers benefit from any market fluctuations and bring us in line with B.C., Saskatchewan, and Manitoba.

Eliminating these barriers means more opportunities for interprovincial investment, competition, and trade, which helps to create jobs for Albertans. It is important to note, however, Mr. Speaker, that while we're extending opportunities to Canadian

citizens and permanent residents, existing prohibitions on foreign purchase of public land will be maintained.

Finally, Bill 22 is rounded out by three changes to service at Service Alberta. Amendments to the Companies Act will eliminate the requirement for members of boards of directors of nonprofit groups to be residents of Alberta. We will also be aligning nonprofit reporting requirements with more modern for-profit requirements. We'll also be eliminating the need for nonprofits to file certain information with the register of companies and publish this information in the *Alberta Gazette* or newspapers. These modernization efforts are a win across the board for the operation of a nonprofit organization.

Next, proposed changes to the Business Corporations Act would also eliminate the requirement for members of the boards of directors of corporate groups to be residents of Canada. Both of the previous two restrictions create barriers for businesses, and eliminating them frees up nonprofits and corporations to appoint the best possible candidates to their respective boards, making Alberta a more competitive jurisdiction and able to attract the best talent.

Finally, making a number of amendments to improve the Partnership Act. This includes a number of clarifications to the act and the elimination of overly prescriptive and outdated registration processes.

These 14 items make up the substantive changes proposed in Bill 22. As we continue to push forward with red tape reduction, I'm pleased with the progress we've made to date. While there is much more work to come in order to reach our goal of a one-third reduction in red tape, it's bills like this that chip away at the pile and begin to make life easier for Albertans and businesses.

I'd like to thank the members for their time, Mr. Speaker, and I look forward to a healthy debate on this bill. Thank you.

The Speaker: Hon. members, the Associate Minister of Red Tape Reduction has moved second reading of Bill 22, Red Tape Reduction Implementation Act, 2020. Is there anyone wishing to join in the debate this evening? The hon. Member for Lethbridge-West.

Ms Phillips: Well, thank you, Mr. Speaker. It's my pleasure to rise for the first time to speak to Bill 22. I guess it's everyone's first time; we're just starting this on second reading. That's good.

Lots in this bill. So much, in fact, that the associate minister had a hard time explaining to the public or the media or anyone else, for that matter, what the bill was doing when he announced it. As is often the case in a complicated piece of legislation, we have 175 pages of some reasonable things hidden in this bill that could have been done either by the minister responsible or in a miscellaneous statutes amendment act. Then we have some other things that I have questions about. Perhaps at this stage of the reading, the government or the associate minister or the minister responsible can provide some more clarity on what we're actually dealing with here and who asked for some of these changes.

I'm not going to speak to all of them because I don't know if I can. Mr. Speaker, this is quite a fulsome piece of legislation, I think raising questions as to just the appropriateness of putting everything and the kitchen sink into a piece of legislation – I'm not sure that that actually does the public any favours or contributes in any real and substantive way to the actual process of democratic deliberation, which, in my view, should take into account some of the stakeholder reaction, and I'm just a little unclear on where some of that might be.

The first piece that I have questions about, just straight questions, is around the Marketing of Agricultural Products Act. The bill gives the minister, with respect to defining agricultural products – okay –

more power; establishing regulations, which is an interesting piece of additional power; and the makeup of boards, also a really interesting change.

It gives the minister more power with respect to the setting up of plebiscites. I just have some basic questions about this: who asked for this? Now, we know that a number of the agricultural marketing commissions had plebiscites around the refundability of their check-off dues. The ABP had one in 2018, where they voted by a narrow margin to keep refundability. Other crop commissions did not. Essentially, the legislation that we brought in in I believe it was early 2018, that the previous government brought in, that was supported by the marketing commissions at the time, the various crop commissions, allowed crop commissions to set some of the terms of how they would collect their dues and how they would govern plebiscites with their members.

My question is very simple: were they asking for this? What has been their reaction? I certainly haven't seen a great clamour since some of those things were sort of pruned and evergreened, if you will, in 2018. I haven't seen folks asking for any of these changes, so I'm just curious about that. If they have, fair enough, but if not, then I have some serious questions as to actually who this legislation is for and if this is a way to perhaps do a little end run around the ABP in service of some of the larger feedlot owners. Yeah. I mean, I'm a big supporter of the smaller cow-calf operators. I think they need a better deal, and they need a government in their corner, so I would hope that that's what this is about rather than the other thing.

I have a few questions about the Oil Sands Conservation Act scheme approval piece. Now, scheme approval wasn't individual project approval, and I think that in the public's imagination and perhaps in the government's, sometimes those two things get conflated. A scheme approval is for a larger area where one company or sometimes a consortium is looking for a broader development. This came in – I'm happy to be corrected on my faulty memory; age is a real thing that we deal with, Mr. Speaker – in and around sort of the boom time between 2004 and 2008. The province of Alberta had to respond to very rapid development in the oil sands. I believe it was Lloyd Snelgrove had the oil sands secretariat. He was sort of the minister responsible at the time. They brought in some executives from Suncor, I believe, and some others to kind of consult the government. The Stelmach government really needed to kind of get their head around the sort of rapid development and the rapid pace of applications for approval.

The other really big factor here was the Crown consultation piece with respect to the duty to consult. Our constitutional obligations with respect to indigenous peoples were really being – the actual duty and honour of the Crown was being stretched, I think, is a charitable way to put that, just in terms of resources, both in terms of the pace of the development, the demands that were being placed on individual First Nations and treaty organizations, and then on the government's ability to discharge its Crown obligations.

Part of this scheme approval was to kind of ensure that cabinet is accommodating obligations, its honour of the Crown obligations. It need not necessarily take any more time, and, in fact, removing this will not speed up individual project approvals. That much is for certain. It will not speed up the Crown's duty to consult with respect to indigenous peoples. This is not a regulatory matter; this is a constitutional matter. No matter how much people might try, there is no ability for the Crown to head off those or impose artificial timelines on that duty to consult because it's a Crown-indigenous consultation relationship. Of course, indigenous peoples also have a right to be consulted by project proponents, but that piece: you can't do an end run around it.

7:50

This is, in fact, what the University of Calgary law professor Nigel Bankes has observed in reference to this section. He has said:

This does not and cannot mean that these obligations have just disappeared . . . these duties of the Crown are just that, [they're] constitutional duties. They are not red tape; there is no red tape to be cut.

He has also observed:

I think that there is some chance that this amendment will obfuscate rather than clarify the means by which the Crown discharges its obligations.

In sum, Mr. Bankes writes:

The removal of Cabinet from the decision-making process under sections 10 and 11 . . .

of the Oil Sands Conservation Act, I believe. Yeah.

. . . will remove the need for an additional approval and the attendant four-month . . .

delay for cabinet time. Those are my words.

. . . but it will not simplify or shorten the steps that the Crown needs to take to discharge its constitutional responsibilities. Furthermore, insofar as there will be no formal Cabinet decision to authorize . . .

and he says "the project," but I would say that more specific language here would be "the scheme" because there are oftentimes a number of projects contained within the scheme approval.

. . . Cabinet will lose the opportunity to put its best foot forward and provide a reasoned decision . . .

That is to say,

. . . (an all-of-government response) as to how it thinks that it has discharged those constitutional obligations, and in particular its duty to consult.

Again here, Mr. Speaker, I think it's really important to remember that that scheme approval piece, when it has to go to cabinet – you know, if there's an issue with getting time on the cabinet agenda, I certainly didn't have an experience of that with scheme approvals when they came to us back in the day. They were moved fairly quickly through the process, or at least that was my experience of it. It could be that I stand to be corrected, but I don't think that that was, in fact, the issue with the delay. It was, generally speaking, Crown-indigenous consultation pieces and proponent-indigenous consultations. But the scheme approval has nothing to do with the individual Water Act or other approvals or conditions that are affixed by the AER. That all comes afterwards anyway.

On that one, I guess my question would be: what kind of legal analysis underpins it? What kind of indigenous consultation has gone into that piece? I would like to see that record of consultation. In fact, when the Crown consults on these matters, there is a record of consultation, so I wouldn't mind seeing what that record is with the Treaty 8 First Nations and the Métis organizations that are affected by, in particular, lower Athabasca regional planning, the lower Athabasca regional plan, any other Treaty 8 or Métis organizations over in the Peace River area, where we also have had some oil sands scheme approvals in the past.

The next piece that I have questions about as well and, I think, a record of consultation or some kind of effort by the government to kind of answer some of the questions around who they've talked to about this is the piece around the Public Lands Act and grazing leases. On opening up grazing leases so that a lease can be held by any Canadian, again my question is just: who's asking for this? If the grazing lease associations are good – they've been checked in with, they've written letters, and this is something that they want to see – then you know what? It's a rare day, but, you know, on that particular piece of the legislation, I'm all in. I somehow have my doubts that grazing lease associations and grazing lease holders, in particular those who in the ranching areas in Livingstone,

Porcupine Hills, and elsewhere, and actually Western Stock Growers' as well, people who have been asking for things like extended tenure in reward for good ecological management, for example, which is something that we started to work on and this government did – and I think that's great.

But somehow I doubt – I really have my doubts – that any of these, you know, fourth-generation ranching families are, like: "Hey, you know what would be a really good idea is that if with my ranching economics that are already super stressed and the volatility of beef markets in particular right now, I should have to compete with other Canadians for a lease that I've been stewarding and public land that I've been stewarding for a couple of generations now. I'd really like it if a Toronto consortium came in and outbid me for this land that has been adjacent to my family's deeded land or whatever the case may be, for however long." I somehow doubt that that was contained in any record of consultation with the government. If it has been, then happy to see it.

Again I'm really interested in: who is actually asking for this? I never heard any Albertan, anyway, ask for this in my four years of working through issues with grazing leases, which, you know, just as an aside, were some of my more interesting and, I think, productive issues in files. First of all, when you meet with grazing lease associations, you get to meet with actually ranchers, people who have been taking care of the landscape in some of the most iconic landscapes in the province, in one of the most beautiful places in the world, I would argue . . .

Mr. Schmidt: It's where the hockey players have been going.

Ms Phillips: It's where the hockey players are going, yeah.

. . . raising beef cattle. There's a wonderful article in this month's *Alberta Views* about, you know, some of the ecological sequestration that these folks are doing. It's a great article, and as one of my constituents . . . [interjection] The hon. Member for Taber-Warner would like to insult one of my constituents, Cheryl Bradley, who was quoted in that article as saying . . .

An Hon. Member: Calgary-Hays.

Ms Phillips: Oh, it was Calgary-Hays. Sorry.

It's a really great piece around sustainable grazing. You know, I guess the Member for Calgary-Hays doesn't get out of the city much, and he'd like to sit there and heckle people who have been working to make those landscapes good carbon sinks and really a part of the fabric of who we are. You know, I'm not surprised that the Member for Calgary-Hays is sitting over there heckling Alberta ranchers, but that's what we've come to expect.

Anyway, the public land piece: I'm really curious about it, you know, because grazing lease holders had a certain number of issues always when it came to, like, everything from weeds to fencing to wildlife management. Those are the kind of issues that I heard from them for four years, and we really tried to work on some of those: elk management down in the southwest; certainly, the carbon sequestration piece. We asked the carbon offsets protocol team over in Environment and Parks to start developing a protocol. I'm curious as to where that's at. Those are the kind of conversations I had with those folks.

But if there was a clamour from Western Stock Growers' or from any of the other grazing associations north or south to allow other folks to take up grazing leases, then okay. I guess if they can prove that out, then that's good.

On the Surface Rights Board: again, the Surface Rights Act is, I guess, still under Environment and Parks, but the board itself was consolidated with some designated regulations over to Municipal Affairs. On the face of it, I think it might be a good thing to have

the surface board's ability to hear cases with claims up to \$50,000, up from \$25,000. Certainly, life changes over time, as we know. Some of the unpaid money that is owed to rural landowners has only gone up over time, and some of the ability to get that money out of operators who are not either cleaning up their mess or paying their bills has changed over time. I would want to sort of go back and double-check some of the surface rights advocacy groups – I guess my question would be: it's gone for 20 to 50; why not more? Why that number? Why not a different number? – and just what the state of the conversation was there. I think there's no question that, you know, the government should be empowering the Surface Rights Board by clearing up backlogs, which we did, a number of other initiatives, empowering the Farmers' Advocate office, all those kinds of things to help landowners navigate their way through that sort of quasi-judicial system. My only question would be: why not more?

8:00

Another question I would have around this, because this is something I did hear from people, from landowners but also Surface Rights Board members at the time, is assignment of costs and award of costs. Landowners oftentimes would have to hire a lawyer or some such thing to get through and get something from these companies, and sometimes these companies would sort of string them along, right? Here, too, there might be a place even for the government to – and I'll just flag this for them – sort of deliberate on how they might want to do that if they're actually doing this.

Here's the thing. Like, it totally does clear up so-called red tape if companies know that if they don't pay their bills and they don't treat landowners with respect, they're going to be awarded costs for being vexatious through that quasi-judicial process. That will keep things out of the Surface Rights Board potentially, have a deterrent effect, and I think it should be examined.

Moving on to the Vital Statistics Act, this is sort of one of those things that I just don't really understand why we're doing it, so I would just love an explanation. Maybe there is an explanation, but I can't really see one that's readily available. Vital statistics will no longer produce an annual review on changes to vital statistics, which include all live births, stillbirths, marriages, deaths, legal changes of name, and adoptions occurring in the province of Alberta.

Now, that latter word popped out to me, Mr. Speaker, and the reason for that is there have been a number of deliberations in this Chamber around adoption and around government making that process easier. I believe it was a private member's bill brought forward by the member for Airdrie or Chestermere. It was Chestermere. I have a memory of speaking to it a few years ago, being in support of it. You know, I guess my question would be: how do we know that we are continually improving that system if we don't know how many adoptions are actually happening? That is one.

I mean, legal changes of name: that one is probably also of interest to people who are seeking either – because we had to make some changes to the Vital Statistics Act on the ability to have X as a gender marker on one's vital statistics paperwork and also ensuring that trans people have access to the full exercise of their human rights in terms of that process.

With that, I will adjourn.

The Speaker: I'm not entirely sure that you can try to move to adjourn after the time for debate has passed. However, 29(2)(a) isn't available.

I see the hon. Minister of Transportation has risen to join in the debate or perhaps make a motion.

Mr. McIver: Thank you, Mr. Speaker. I appreciate that. It was an interesting set of words that we just heard. It didn't sew together all that well. Having said that, we'll come back to this item later if the will of the House agrees.

At this point I would like to move to adjourn debate on Bill 22.

[Motion to adjourn debate carried]

Government Motions

Racism

24. Mr. Kenney moved:

Be it resolved that the Legislative Assembly

- (a) condemns racism and all forms of bigotry and hatred;
- (b) affirms the commitment of Alberta to human dignity and equality of all before the law;
- (c) acknowledges the pernicious and durable nature of antiblack racism;
- (d) acknowledges a tragic history of racism directed at indigenous people in Canada; and
- (e) urges the government to consider these issues in its ongoing review of the Police Act.

Mr. Deol moved that the motion be amended by striking out clause (e) and substituting the following:

- (e) urges the government to ensure that these issues and the voices of racialized communities are considered in its ongoing review of the Police Act by immediately establishing an advisory panel
 - (i) to conduct hearings throughout the province to examine and make recommendations in respect of systemic racism in Alberta,
 - (ii) that consists of members of the Anti-Racism Advisory Council, provincial indigenous leadership, and Black Lives Matter chapters of Alberta, and
 - (iii) to publish a report with its findings and recommendations no later than October 1, 2020.

[Adjourned debate on the amendment June 18: Mr. Schow]

The Speaker: Hon. members, we are on the amendment of Government Motion 24. Is there anyone else wishing to join the debate? The debate was adjourned by the hon. Member for Cardston-Siksika. The hon. Member for Edmonton-Rutherford.

Mr. Feehan: Thank you, Mr. Speaker. I appreciate the opportunity to rise in the House today to address Motion 24. I am, of course, quite glad that this sort of motion comes to the House so that we have an opportunity to speak to some of the concerns that we have about the nature of our society and the work that we're all doing to try to improve concerns. The central point of Motion 24 is to address racism, and of course I obviously support the intent to do that. But I think you're going to hear in the time that I have to speak of my concerns about the sort of inadequacy of the motion that was put forward. It's not inadequate in the simple sense in that, clearly, it says that racism is bad and that racism needs to be resolved in our society. As such, you know, I'm fully and completely supportive of that.

What it doesn't do is that it doesn't go on to talk about the different natures of racism and address it on a deeper level, of addressing the systemic quality of racism, and it doesn't go on to prescribe particular actions that will be taken by this government or suggested in the community to address the issue of racism. Within this motion we see that it responds particularly to what we would refer to as first-order problems and therefore prescribes a method

of first-order change. That is, it looks at overt racism, the types of things that, you know, have been addressed quite significantly in the world over the last, I don't know, let's say, at least 50 years in a very clear way. We no longer have restaurants that say, "No blacks allowed" or whites-only water fountains, those kinds of things. Those are very clearly incidents of overt racism. Calling people names based on their race or religion or other things like that are facts of overt racism.

I think that as a society we have pretty clearly come to the place where we understand, the vast majority of us – and we can't account for every human being but the vast majority – are very clear that overt racism is absolutely wrong, to be completely condemned, and I think the Premier addressed that pretty specifically in his comments on this. As a result, his prescription for moving forward was one that I also support, by the way, and that is that we really need increased relationships between people so that we can reduce racism. We know, for example, that people in the past more than, I think, probably now were often in the position of saying: "You know what? I don't actually know anybody from that particular race." As a result, they often didn't have any sense of the concerns of the people from that community. Once they begin to actually meet people from that community, people tend to begin to understand them more and therefore tend to reduce that kind of overt racism.

We know that's true in a variety of areas. We know, for example, that that's true in the LGBTQ2S-plus community, that once people started to identify that they actually indeed did know people who were gay and lesbian and otherwise oriented, they began to reduce the amount of prejudice against them. Lots of good research around that.

As far as the motion goes, saying that overt racism is terrible and bad and the prescription to increase relationship to reduce that kind of overt racism – I absolutely need to support what was said, and I'm happy to do that. But what we need to be talking about a little bit more here in the House is not first-order racism, calling somebody a name or excluding them from having rights or writing laws that say that they don't get to participate the same as others that are not like them, all that first-order problem; we need to start talking about second-order problems. It's often referred to in the community as systemic racism.

8:10

Now, sometimes people think systemic racism means that it's just simply overt racism as exercised by institutions, so they say: "It's not just a matter of me as an individual walking down the street saying bad things or doing bad things to somebody based on the colour of their skin, the religion that they practise, or some other aspect of their humanity. Now we've also got to stop institutions from doing that, from treating them differently based on those factors and those qualities." Certainly, we do, but I think that's actually covered in the notion that we need to improve changes in first-order racism issues and improve relationships and people's understanding and so on. Absolutely. I support that a hundred per cent.

What I want to talk about is what we need to add to that conversation, and that is what we refer to actually as true systemic racism. That doesn't mean racism, you know, where an institution has a racist law. That means the practices and procedures within institutions and within society that have a differential effect on one community than another. There's no intent, ever, along the way to have an overt intention to select a group of people and to be prejudiced against that group of people in the practice of the institution. Rather, it is the fact that some practices have a

differential effect on people because they are indeed different. I think that that's an important difference for us to make.

It doesn't require, in systemic racism, an intent to be bad. It doesn't require what the Premier was saying earlier about, you know, sort of the darkness of the soul. That's not necessary. It's not about somebody making a bad choice, being evil in an overt, direct, intentional way. It's about the fact that statistically people are affected differently between groups, and as long as there is that significant statistical difference between groups, then there is an inherent prejudice in the incident.

Now, let me kind of go through some examples to try to, you know, flesh this out a little bit here. We see, for example, that indigenous people, as I often like to talk about, are overrepresented in a variety of ways. For example, indigenous people have a higher rate of type 2 diabetes in this world. Now, nobody would suggest that somehow type 2 diabetes is being foisted upon indigenous people with some intentional act. It's not something that we do to people. But we know, if we look at the statistics, that there is a significant statistical difference between indigenous peoples' rate of type 2 diabetes and nonindigenous peoples' rate of type 2 diabetes. Therein lies the systemic racism. It's not about somebody making a particularly bad choice to impose on indigenous people; it's about all of the factors that lead to that statistical difference that we have to root out.

So whenever we see a statistical difference that's actually based on, you know, race or religion or other aspects of culture, we always have to say: if there is a difference and it's not explained by the humanity of the person, then it must be explained by something that's happening around them, the structures of society, the way the system is configured.

In taking a look at type 2 diabetes, we can begin to look at some of the issues that maybe have been an impetus to systemically draw indigenous people into a higher rate of type 2 diabetes. We can look at issues, for example, like poverty. We know that people who live in poverty for great periods of their life statistically have worse health outcomes as they get older. That's just a fact. It's not that somebody is trying to make them sick; it's just that we know that living in poverty actually is an inducement toward poor health in life. We know, therefore, that if more indigenous people live in poverty, they're more likely to have poor health outcomes such as, for example, type 2 diabetes. That's the problem that we need to address, then. We need to say that in our health system there is a statistical problem, and we need to address that problem by looking at the second-order change; that is, not just the intentional bad things that happen to them but the unintentional bad things.

Why is it that more indigenous people are in poverty? How we resolve that is the answer for the health system. There are, in fact, whole segments of the health population that look at social determinants of health, and it turns out that they are very significant in terms of health outcomes, the social determinants of health. It isn't just about bad choices made by people; it's actually about a variety of things that are only quasi in the control of the individual involved. For example, if you were raised in poverty, you probably didn't have much control over that, yet having been raised in poverty in the first, let's say, 10 years of your life is statistically related to the likelihood of you having negative health outcomes such as type 2 diabetes. That's the issue that we're talking about here. It's just the nature of the construct of society that it sometimes has a disproportionately negative effect on a group of people, and that means that we have a responsibility to identify that statistical difference and to root out the things that impel that statistical difference and to make changes.

If we really want to reduce racism in society, we have to look at the things that cause, in the case that I'm talking about, indigenous

people to experience worse outcomes in terms of health, in terms of school graduation rates, in terms of engagement with the law, in terms of family breakdown, in terms of addictions. We need to stop saying: "Oh, it's something about them as indigenous people that is causing these statistical differences. It's their fault. If they made better choices, if they did things the right way, then they wouldn't be in this place." We need to instead look at: what are those social determinants of health, what are those social determinants of addiction, and what are those social determinants of involvement with the law and family breakdown?

Once we do that, then we act in such a way to create systemic or structural responses to the structural problems that we've identified. So if we identify that there's a greater amount of poverty in the indigenous community – that's the structural or systemic driver that impels poorer health outcomes in later life – then we should actually have a structural response that seeks to reduce poverty, that actually looks at indigenous people and, in fact, treats them differentially based on that.

Now, I know that's a difficult thing to say because what we want to do is that we want to be able to design a society in which we're all sort of colour-blind and we all sort of say: no, we treat absolutely everybody exactly the same. I actually agree that that ultimately is the society that we want to get to, that everybody truly is treated exactly the same and there is no differential.

But I know that in therapy they talk about the fact that if you have a client come in and you talk to them about the issues that they're facing but you don't address the fact that not just everybody is facing the problem in exactly the same way but also talk about the fact that there are things about that individual that cause them to face it in a differential way, so if they are poor, if they are of certain gender or a certain race . . .

8:20

The Speaker: Hon. members, Standing Order 29(2)(a) is available if anyone has a brief question or comment for the hon. Member for Edmonton-Rutherford. The hon. Member for Edmonton-Highlands-Norwood under 29(2)(a).

Member Irwin: Yeah. Thank you, Mr. Speaker. I'm always, honestly, quite impressed when the Member for Edmonton-Rutherford speaks because he does have an extensive academic knowledge, in particular. I just was kind of left hanging there, so if you don't mind just finishing your thoughts for us.

Mr. Feehan: Thank you very much.

The Speaker: The hon. member.

Mr. Feehan: Thank you, Mr. Speaker. I think the point here is that sometimes in order to be unbiased you have to be differential. The simple example – I know all examples have terrible faults in them – is if all of your kids wake up on Christmas morning, and you bought them all a pair of pants, and you bought the same size and shape of pants for your 12-year-old as you did for your three-year-old, you probably would not have a positive outcome on Christmas morning. What good parents know is that you actually are responding to your children's needs differentially. You're saying to the 12-year-old, "Look, we know you want more a fashionable style; it's got to be a certain size," but you certainly wouldn't buy a size 32 inseam for a three-year-old girl. You know, it's just an example, but it points out the fact that, if we understand that there is something, in fact, different for people of a particular group, there is a statistical significant difference for that group, then it is really requisite upon us to drive and develop structural ways of addressing

that, just the same way that we say: I'm not going to buy the same size of pants for my two children who are 10 years apart in age.

So when indigenous people come into our agencies, we should be saying: "What is the experience of indigenous people? How is it that they are overrepresented in terms of type 2 diabetes? What's impelled them to get to the space where there is the statistical difference?" And let's address that. If we don't address that, then there's an inherent systemic problem because the system is saying: no everybody is the same; they all get the same size of pants. As soon as they say that they all get the same size of pants, that's systemic racism because they don't all need the same size of pants. What they need is that they need to have things identified, not on the basis of the colour of their skin, of the race they came from, or any of those factors but on the basis of the statistics. We understand from the statistics that there is an underlying issue that we can address. If we do address those things, then what we should see is over time those statistics changing dramatically.

Our measures should always be that. Our measures should always be that when we actually sit down and look at how people are doing in society, if there is one group that's identifiable in the stats as different from all the rest of the groups, we should address it. We know that we've arrived at a successful place when you cannot differentiate people on the basis of their race or religion or skin colour by looking at the stats, that everybody is equal. That's the measure.

The ultimate outcome is that if you are an indigenous person, you are no more or no less likely to get type 2 diabetes. You are no more or no less likely to live in poverty. You are no more or no less likely to be a graduate from high school or from university, no more or no less likely to be stopped by the police and questioned when you're walking down the street, no more or no less likely to be involved in criminal activity, no more or no less likely to be involved in any of the negative outcomes that we see in society. Then we know we truly have a nonracist society because there is no statistical difference.

I really would like the government to seek ways to try to achieve that ultimate outcome by taking direct action to ensure that the structural drivers that have brought us to the place of this differential statistic are responded to with structural measures of change.

Thank you very much.

The Speaker: Hon. members, that concludes the 29(2)(a) that is available.

I see the hon. Minister of Municipal Affairs has risen. As a reminder to all members we are debating Government Motion 24. Having said that, we are currently on amendment A1.

Mr. Madu: Thank you, Mr. Speaker. It gives me profound pleasure to rise to not only speak on Motion 24 that is before this particular House but as well as to respond to the amendment that was put forward by the members opposite. For the benefit of this House and those of our citizens and residents watching from home, Motion 24 reads:

Be it resolved that the Legislative Assembly

- (a) condemns racism and all forms of bigotry and hatred;
- (b) affirms the commitment of Alberta to human dignity and equality of all before the law;
- (c) acknowledges the pernicious and durable nature of antiblack racism;
- (d) acknowledges a tragic history of racism directed at indigenous people in Canada; and
- (e) urges the government to consider these issues in its ongoing review of the Police Act.

It is on the basis of this particular motion that the members opposite put forward an amendment that reads that Government Motion 24 be amended by striking out clause (e) and substituting the following:

- (e) urges the government to ensure that these issues and the voices of racialized communities are considered in its ongoing review of the Police Act by immediately establishing an advisory panel
 - (i) to conduct hearings throughout the province to examine and make recommendations in respect of systemic racism in Alberta,
 - (ii) that consists of members of the Anti-Racism Advisory Council, provincial indigenous leadership, and Black Lives Matter chapters of Alberta, and
 - (iii) to publish a report with its findings and recommendations no later than October 1, 2020.

That is the motion and amendment before this particular House.

Mr. Speaker, you know, I rise before all of you as someone who is, by all measure and standard, a very recent immigrant to this beautiful land that we call home, and I do want to thank all members of this Assembly, whether you are on the government side or on the opposition, for recognizing that antiblack racism is real, recognizing that systemic racism is real. I hope – I sincerely hope – that we can truly walk together, as I have always said before on the floor of this House, the few times that I have had the opportunity to speak and the few times I have had the opportunity to also speak outside of the floor of this Assembly. I hope that we can sincerely walk together to tackle issues of black racism and systemic racism because of all of the things that I have been through in my entire life, this is one that has affected me personally.

That is why, Mr. Speaker, when I say that on this particular issue I do not want any form of partisan colouration, I mean that. I am not joking about this matter, because this is one that has affected the core of who I am, my own family.

8:30

You know, one of the famous black slaves in the United States – his name was Olaudah Equiano – was an Igbo slave. For those of you who don't know, I was born and raised Igbo from southeast Nigeria. That part of the country where I come from is the land that most of the slaves shipped to the United States, the Caribbean came from, a long history of ancestors who were taken from their homes, the culture that they know, never to return. I encourage every member of this Assembly to Google that name. You will see on Wikipedia or in all of the writings on the history about him clearly documented that he is Igbo, and he wrote it himself. But, boy, Olaudah Equiano was a fierce soldier. He was confident. He was arguably the earliest slave that freed himself and became one of the most successful blacks in America.

So, friends and colleagues in this Assembly, when I speak about this particular issue, it comes from the heart. It comes from my bones. This is not theory for me. Many of you may have wondered why I go by Kaycee, K-a-y-c-e-e. My real name, the name given to me by my parents, is Kelechi – K-e-l-e-c-h-i. But I have the luck that those who are called Kelechi in Igbo, the land where I was born, are also called K.C. – K-dot-C. So growing up, I was called K.C.

When I came to this country, I came with nothing, although a qualified lawyer who walked into one of the biggest law firms in Lagos, the former president of the Nigerian Bar Association. Growing up, I had high hopes. My classmates at the University of Lagos never one day believed that I would leave the shores of Nigeria, because I was born to, as I have often said, actual poverty. My parents never saw the four walls of a university – of a school, not university. I want to correct that. My parents did not see the four

walls of any school: elementary, kindergarten, secondary, none of it.

I uprooted myself and came to this country armed with the best law degree you can think of in Africa. University of Lagos is the elite faculty of Law in Nigeria, and certainly the most elite law office in Africa. When I came to this country and this province, that I love, it was so hard for me to find employment. My first employment – in a week if I did not send out a hundred resumes, I would not receive a single phone call. All I wanted was just an administrative assistant or something that would provide me that coveted Canadian experience. Every employer afterwards was asking for Canadian experience.

That is why I will never forget Barbara Marocco. Wherever she is, God bless her. Barbara Marocco gave me my first employment in this country, which sent me on the trajectory that led me to this Chamber, at a small unit of the University of Alberta hospital called patient food services, where I had the greatest privilege of my life: making meals and washing dishes and taking care of the most vulnerable who were going through a period of adversity, some of them at the end of their lives. At that point in time, if I recall, it was sometimes less than the minimum wage. That was my first employment. That's why to this day I do not joke with Barbara Marocco. She disregarded work references, disregarded whether or not you've worked in Canada. A beautiful lady.

So you can imagine that when I sit before the floor of this particular House and what I hear is the other side trying to insinuate that I don't understand the black experience or that I don't have the legitimacy to speak about black matters or trying to insinuate – just go to Twitter and read some of the things that have been written about me today. Since yesterday I have received all kinds of phone calls from those who knew me from the moment I arrived in this country, and they could not understand whether or not that is the person that they are writing about. That is what our politics has gotten to.

Mr. Speaker, the story of black people in this country is not always an easy one, but it is a strong story, filled with richness and resilience. Black people in Canada and Alberta have many different histories and heritage, which have all added to the greatness of our land. There are those whose history dates back to fleeing slavery and Jim Crow laws in the United States and arriving in Canada through the underground railroad in search of freedom and a free state. This wasn't always easy as they also experienced oppression and racism here in this country.

Mr. Speaker, you know, I do not want this matter to be a subject of politics. I know some people would not want to hear that, but that's coming from the heart. We have, you know, a council that is dedicated to anti-racism. We can strengthen that council to make sure that it does its work. I know the members opposite – I have said God bless them – have shown genuine concern about this particular issue, but I want them to also lead by example. Before the floor of this House in 2016 was – God bless the Member for Calgary-West, the chief government whip, who fought so hard to support one of the policies that the black community in this city have complained of as an unconstitutional infringement on their rights called carding.

I have *Hansard*, the statements made particularly by the Member for Calgary-Mountain View, who was then the Minister of Justice. The members opposite had four years.

8:40

The Speaker: The hon. Member for Bonnyville-Cold Lake-St. Paul under 29(2)(a).

Mr. Hanson: Thank you very much. Minister, I'd like you to carry on. I'd just like to let you know that we really value your presence here, and it's an honour to work with you. If you could continue, please.

Mr. Madu: Thank you so much. I was saying that the members opposite, you know, were sworn in in 2015. They like to talk about racism, and I have said that I welcome that conversation. It's a debate that we must have, but I also want people to be genuine and sincere and not use minority issues for partisan politics. The question I have for them is: in the four years that they were in charge of government, what did they do? What specific policies? What did they do when the Member for Calgary-West raised the issue of carding?

I have a CBC article from November 8, 2016, with the headline Tory MLA Demands Alberta Government Stop Police Carding. The Member for Calgary-Mountain View, who was then the Minister of Justice, said all kinds of things to minimize the serious concern that had been raised by the black community to deal with one of the most important abuses that they were going through.

The Member for Calgary-Mountain View, amongst other things, said to the Member for Calgary-West: "I'm not really sure where the member opposite got his law degree, but I might suggest he goes back to school." This was in response to the Member for Calgary-West asking the then Minister of Justice and Solicitor General to pursue policies that will put an end then to the unlawful carding of minorities, mostly black and indigenous people, ones that I have heard from my community.

As much as I welcome this debate, when members opposite want to capitalize on minority issues and accuse Conservatives of being racist, the natural instinct in me wants to push back right away because it is not right. You can't have your cake and eat it, too. I do not want, as I said yesterday, for minority issues to be a subject of political football. We can have legitimate debate. Systemic racism is real.

I was talking about my name, Kaycee. I didn't get to tell you why it eventually became Kaycee, as I'm known by all of you in this Assembly. When I was about to article in Edmonton: hundreds of applications, not one single call for an interview, not until I changed my name on my resumé from Kelechi to Kaycee. God bless him again, my principal, James Song, the gentleman who made it possible for me to be able to stand before you as a lawyer in this country.

My wife is also a lawyer, a university sweetheart. We met on the very first day of university. A brilliant, beautiful black woman, first class, one of the most brilliant law students in our set. Many of you have met my wife. Brilliant. She faced the same fate despite the fact that she had a first class from law school. She dealt with the same problems.

The Speaker: The hon. Member for Edmonton-City Centre.

Mr. Shepherd: Thank you, Mr. Speaker. I appreciate the opportunity to rise and speak to Motion 24 and the amendment that's before us looking to amend this motion to include actual action as opposed to just words. I appreciate the words I just heard from the Minister of Municipal Affairs. I was disappointed that when he stated so many times that he does not want to make this political, he then chose to make things political.

In all fairness, Mr. Speaker, racism is a political question. Racism is not simply what we feel. Now, the Premier in his remarks spoke several times about how he feels that racism is truly "a sickness of the soul," that because it resides in the hearts of men and women, it is not something that can simply be eradicated by government

action. Now, he did acknowledge that there are steps that government can take and should take, and I appreciate that, but we need to recognize that racism is more than what people feel. Racism is about an exercise of power, about where that power is situated, who holds that power and who does not.

When we are talking here in this House about that wielding of power, it is a political question. Perhaps what the minister meant to say is that he does not want to see it become partisan. Fair enough. This is not an issue, Mr. Speaker, on which I am interested in taking cheap shots. I think there are real questions to discuss in terms of policy and solutions, and there are real differences between both sides of the aisle, likely, on what those should be. That is political, and that is an appropriate discussion. This amendment that is before us here today is not about partisanship. You can call it political, sure, but it is not partisan.

It is about our fundamental belief that we are now at a historic moment in time, one that we have approached as black communities, as people of colour, as brown communities. We have stepped up to this line and then backed off. We have looked at the truth and then covered it back up again because society was not ready yet to take the actual steps needed to confront some of these elements of systemic racism. Now, somehow, with the murder of Mr. George Floyd, we have crossed a threshold, where we have seen a mobilization like we have never seen before, and we have an opportunity like we have never had before to take real and significant action because society is suddenly open to listening and hearing things differently. There is the opportunity now to speak about and discuss things that there may not have been room to talk about before.

That is why I'm so disappointed that a government who is willing to make room for so many other discussions – on gun ownership, on their Fair Deal Panel, on an inquiry into foreign-funded environmental radicals – is unwilling to take any actual action, have any actual significant discussion on something that impacts so many Albertans.

8:50

It is interesting to me what this government considers worth talking about and not worth talking about or what it considers only worth talking about and not taking action on. That is a political statement, but it is not a partisan statement. It is simply an observation. Mr. Speaker, when we talk about racism and the impacts and the effects, part of the challenge is that people take it merely as a moral question. So when we talk about an action being racist or having a racist effect, that is taken as a moral judgment on the person who was involved with it. It is entirely possible for someone to be a good person and still do something racist. So I'm not calling anybody's moral character into question here today, but I am questioning the priorities that we are choosing to put forward.

Now, the Premier, when he spoke, did acknowledge the overt and institutional racism that's woven throughout our country's history. He talked about Sir Wilfrid Laurier's attempts to ban black immigration, the Chinese head tax, and terrible devastation of indigenous communities through the regime of Indian residential schools. He talked, as I said, about racism. He believes that racism and hatred are truly "a sickness of the soul." It can be very challenging to change someone's heart. That can't be done through a conventional government program. He's right. No government program is going to change anyone's heart, but a government program, a government decision, a government policy can absolutely change what the impact is on an individual. It can deinstitutionalize racism. Government can take concrete actions to address it, as the minister himself ably noted, though I would hesitate to reduce the concerns of black Albertans to a single issue.

The minister asked: what in the four years did we do? Mr. Speaker, I don't want to stand here tonight to toot my own horn, I don't want to stand here tonight and brag, but the minister asked, and I will tell. In January 2016 I held two meetings upstairs on the fifth floor. For the first time ever, to my knowledge, I invited young leaders from Edmonton's black community, a variety of organizations, to come and meet with me and talk about their concerns. I did the same with elders from multiple black communities: African communities, Jamaican, Caribbean, the settler community. That March I went down to Calgary, and we did the same. As I spoke about previously, when I was elected here and I had the opportunity to go to events with individuals from the black community and I saw what it meant to them to see someone who looked like them in government, I recognized that I had a responsibility though I myself did not feel I had that experience. I do not have the experience of the Minister of Municipal Affairs. I grew up here in relative privilege in the white evangelical community, but I saw it was important to them, so I made space to sit down and listen to them and talk with them.

Over the four years that I served as a government MLA, I made every effort to work with them, to encourage them, to empower the black communities in Edmonton and across Alberta, to support them in applying for grants, to support them in putting programs together, to teach them how to advocate, to encourage and support young leaders, many of those young leaders who helped plan that rally down there today and are part of Black Lives Matter Edmonton now. It was because of those conversations with them that we worked together to declare February as Black History Month here in the province of Alberta, and we made every effort, I made every effort to showcase their voices here, not to make this partisan but indeed to recognize that it is political and that the black community in this province for far too long did not have political voice.

I'm excited to say that that's changing, Mr. Speaker, because we have some incredible young black leaders that are stepping up, and they are part of this movement now, and they are watching this debate. They are watching each one of us and what we say here, indeed what we say on social media, what we say about each other. What they see is going to determine how they feel about the political system that they look at and that they feel does need to change and so many other aspects that still need to change. Perhaps it wasn't the Premier's intent, but in listening to him, I had the feeling that in many respects he was saying that most of the work is done, that perhaps there are a few small things that still need to be addressed. He did acknowledge that systemic racism still exists, but I did not hear much about his thoughts on what we can actually do about it or whether government or any of us in this room have specific responsibility. I'd say that we do.

The minister talked about the one time, to my recollection, that the Member for Calgary-West brought up the question of carding, and I appreciate that he did. Indeed, that led to a government review, in which I took part, and indeed, again, I brought members of the black community and some young indigenous men to meet with staff from the Minister of Justice's office to share their experiences at the hands of police.

Ultimately, Mr. Speaker, no, we did not take that action. It proved to be a fairly complex question in many respects, and I certainly have my own regrets. But we did a lot of work, and we worked to empower these communities and to lift them up, to include them in the \$25-a-day daycare, to make sure they had the opportunity to access grants, to make sure that they had the opportunity to sit with us and tell us what they needed. I sincerely hope this government will do the same.

This amendment that we have here tonight would provide a golden opportunity for the government to do just that, a government that has been willing to spend hundreds of thousands of dollars on the groups that they consider important to listen to, on the things they feel will bring them political benefit, but on this issue they are choosing to bring forward a toothless motion to discuss this briefly and then simply put it away again.

We have the opportunity, Mr. Speaker, to do far better than this. Indeed, I intend to take this opportunity that we have now, where we have this greater societal attention, where we have this opening to actually have these important conversations that have been sidelined for far too long. I intend to live up to the responsibility that's on me as a representative in this place who is from the black community, who has had that opportunity because of them to reclaim my black identity. I'm not going to tell you what they want. I will listen to them, and I will bring their voices forward.

We have an incredible opportunity here, Mr. Speaker, and I hope this government can find the space to let it in. I am more than happy to work in a nonpartisan capacity with the government to address issues in education, in the justice system, in community and social supports, but I will speak honestly, I will speak frankly, and I will not shy away, because these members do not shy away when they are speaking for the people that they feel passionately about and represent. I will be equally passionate, equally frank, and equally honest, and I will pull no punches, just as they do not.

With that, Mr. Speaker, I would adjourn debate.

[Motion to adjourn debate lost]

The Speaker: Hon. members, we are on Standing Order 29(2)(a). It is available. The hon. Member for Edmonton-South.

9:00

Mr. Dang: Thank you, Mr. Speaker. I believe my hon. colleague for Edmonton-City Centre here has already made some very moving comments, but I would like to hear perhaps more from him as I think he had a few more things he would like to say. I'd invite him to just continue.

Mr. Shepherd: May I, Mr. Speaker? I take it I have the floor?

The Speaker: Yeah. The hon. member.

Mr. Shepherd: Thank you, sir. I recognize, Mr. Speaker, that this has been a heated issue, but let me be clear: the frustrations, the anger, the pain of members of the black community, brown community, indigenous communities, people of colour against systemic racism – the hurt and the damage that has been done to them is every bit as real and authentic and worthy of debate in this place as some Albertans' grudges against Ottawa. They deserve every bit as much attention, every bit as much validation, even if members of this House do not feel that there's any particular political gain for them in hearing them. This is a conversation, these are voices that for far too long people have not been willing to hear, but I am incredibly encouraged to see that now that the doors have been opened, people are working hard to make sure they are not shut again.

I've been incredibly happy in the past two weeks to see two separate organizations spring up, the Black Educators of Edmonton and the Black Teachers Association of Alberta, because black teachers tell their stories – and I have heard them – of how they have struggled to be heard, of how they have had to tolerate racism and discrimination, how they have watched it happen to students and they felt that they could not speak up. Now they are banding together to speak. It has not been possible, in some respects, previously for us to have real conversations about the actual impacts

of policing and whether there are better ways to approach the criminal justice system or how we deploy our resources in those areas that would yield better results, particularly with these communities. That opportunity to have that conversation is open now. The challenge is: can we have that without the partisanship coming into it?

We have an opportunity, Mr. Speaker. That does not mean that we cannot call out racism when we see it, raise concerns when individuals are put into positions of power and question the judgment of those who chose to put them there when those individuals are furthering oppression, racism, overt and systemic. That is a valid question. It is one that we will continue to raise in this House. I give you my promise: for myself, I do not intend to do so cheaply.

There are real concerns to raise, and, indeed, I recognize that there are the political games that we play here. Let me be clear, Mr. Speaker, both sides of this House play them, but I give my commitment to all members of this House and indeed to the Minister of Municipal Affairs, that for these communities of which I am part and which I also have the responsibility to represent, I do not intend to play them or to treat them as a cheap prop. Indeed, I don't believe in any way that I have, and what I hear back from those communities is that that's their feeling, too.

But I will be continuing to raise this question on bills that we debate, on issues that are brought forward, on every piece that comes in front of this House, because that is a valid lens by which to analyze and discuss the actions and choices of this government and the decisions they choose to make. That is political, Mr. Speaker, but it is also honest, and it is true, and it is part of my responsibility.

Thank you, Mr. Speaker.

The Speaker: Hon. members, we are on amendment A1. I see the hon. Minister of Transportation would like to join in the debate.

Mr. McIver: Thank you, Mr. Speaker. At this point I would like to move that we adjourn debate on the amendment.

Speaker's Ruling Motion Out of Order

The Speaker: I appreciate the sentiment of the hon. minister. Standing Order 28:

A motion to adjourn, except when made for the purpose of discussing a matter of urgent public importance, is always in order, but no second motion to the same effect shall be made until after some intermediate proceeding has taken place.

Typically speaking, in the House we couldn't have successive motions to adjourn. We just had a motion to adjourn that was defeated. I understand it's possible if it's the will of the House to adjourn. So maybe the hon. minister might ask for unanimous consent that would allow that to happen. If it was, in fact, the will of the House, Standing Order 28 could be put aside.

Mr. McIver: Mr. Speaker, taking advantage of the tremendous wisdom from the chair, I at this point would like to request unanimous consent of the House to adjourn debate.

[Unanimous consent granted]

The Speaker: If you would be so kind to now place your motion to adjourn.

Mr. McIver: I would now move to adjourn debate.

[Motion to adjourn debate carried]

Government Bills and Orders

Second Reading

(continued)

Bill 23

Commercial Tenancies Protection Act

[Debate adjourned June 22: Ms Phillips speaking]

The Speaker: Is there anyone wishing to join in the debate this evening? The hon. Member for Edmonton-McClung.

Mr. Dach: Thank you, Mr. Speaker. I'm pleased to rise this evening to speak to Bill 23, a measure that one might say is long overdue and actually might even call it late. The Commercial Tenancies Protection Act, brought forward by the Economic Development, Trade and Tourism minister, is something that while we feel supportive of, it is a piece of legislation that we feel doesn't go quite far enough and it has a number of holes in it.

[Mr. Hanson in the chair]

However, in summary of the legislation I think that hon. members and the public should know what it actually does is that it proposes a temporary ban on eviction of commercial tenants until August 31, 2020. Rent increases and late fees are also prohibited. It takes effect retroactively to March 17 of this year; therefore, late penalties or fees cannot be charged on a tenant from March 17 to August 31 of this period.

This is something that we called for over a month ago, Mr. Speaker. We've been calling for the government to do this for weeks, and all the UCP brought forward was the bare minimum in this piece of legislation. The bill does nothing to support the payment of rent. It just sets up a lot of pain down the road. There's no actual rent relief providing support to struggling businesses. It just kicks the can down the road. The federal plan, the Canada emergency commercial rent assistance program, is broken, and this bill does nothing to fix it or to fill in its gaps.

Now, if a tenant cannot meet the rent, the landlord and tenant are to enter into a payment plan. If the landlord has increased the rent during this period, they must refund that amount received from the increased portion of the rent. Enforcement is certainly a question we have about these measures, and whether or not there are any teeth to this bill to enforce the measures is a pretty good question.

9:10

As I mentioned, the bill has no relief package, and therefore these payments just defer the rent, and it will need to be fully paid down the road from a tenant who has not had income in the intervening months and may need to end up financing that unpaid rent in order to meet the payments that will come due in September, after the deferral is over and the landlord is demanding full payment.

[The Speaker in the chair]

It begs the question, Mr. Speaker: what really was the government hoping to accomplish with this piece of legislation? Was it merely to quell the rancour of the public and the calls from commercial tenants for relief in the face of extreme stress, financial stress, where landlords were demanding full rent and in many cases their revenue streams had completely disappeared and they certainly had no income to pay the rent and in the meantime were facing potential eviction, not knowing whether their businesses would survive or whether the banks would be coming after them next or concurrently with the landlord? Businesses were certainly between a rock and a hard place to say the least. Many of these

businesses were involved in the real estate industry themselves, where they, in fact, were commercial landlords and then also had tenancies and other properties. Both sides of the coin were visible to many businesses, and even so it was difficult.

This is the type of a situation where it's incumbent upon government to actually do something that matters, that really acts to affect the problem. What we've seen is a pattern of behaviour, Mr. Speaker, from this provincial UCP government. In almost every case where we've looked at compensation being required and people were affected terribly by a total loss of income, either a business or individuals, nonprofits pretty much across the board in this country because of the economic shutdown and slowdown that took place, a very unique situation, but it called for a response that recognized the situation that we were in, that simply putting a Band-Aid on it or kicking the can down the road wasn't something that was going to solve the problem. All it's going to do is delay the inevitable and cause business failures, which would have happened maybe sooner but are still about to happen because they see no way out come September, when these bans on evictions and temporary deferrals are over.

What we should have seen happen from this government – and we begged them to do it – was actual rent relief. That we didn't see. Typically we'll see measures from the government that will – when we're looking at what side of the coin they support in terms of a tenant or a consumer versus the business interest in a particular issue, this government and Conservative governments tends to side in favour of the business interest and, in fact, monetize the business interests to satisfy the deficiency rather than put the money in the hands of the tenants or the consumers to spread that money into the economy or in this case into the hands of their landlords, who were rightfully owed rent, but due to extraordinary circumstances when nobody was earning any income, and many still aren't or are earning diminished income, trying to stave off bankruptcy and business failure. This is the best that the government tells us they have to offer.

I'm not very impressed with it. It is something that at least maybe forestalls the procedures that many businesses are facing right now, that of potential bankruptcy. It maybe gives them a running opportunity to refinance or perhaps get their business moving again over the next few months. But the predictions, Mr. Speaker, for those tenants of those landlords who for over three months had no income, are that some of these businesses may never recover that ground. When the deferral period ends in September, as a tenant you will be faced with that hammer over your head for the duration of your business.

Small businesses in particular – and I was a small-business operator for 30 years, Mr. Speaker. We operated on a very small margin, as many businesses do. Whether you're in agriculture or a production facility or running a restaurant, it doesn't matter, your margins are tight. You've got costs, and there's competition, and your margins are tight, so the ability to recover from something as devastating as three months total loss of revenue is pretty small. Something bigger was called for.

In every situation, Mr. Speaker, this provincial government has first stalled to make sure there was some federal money available first, and they were going to wait to see what the federal government did. They've done this time and again with many different programs: let's see what the feds are willing to offer in terms of programming dollars, and then we'll maybe see if we can top it up or get away with as little as possible and say that we did something to help the cause. That's something that the business community in this province is getting tired of. They'd like to see a little leadership from this government that actually strikes at the heart of helping individuals where it actually is needed, right at the

bottom line and right at their source of income, rather than foisting upon us a PR campaign that kicks the can down the road and says: "Hey, we gave you relief. We gave you three months and a running start against your creditors. Hope things work out in September. Have good day." It doesn't strike me as something that most business operators are going to be too impressed with.

I think they expected more, and they've seen more from the federal government in particular in many programs, where there was substantial, direct support given to sectors that were in dire need. I think of the wage top-up, where initially the federal government came in with the 10 per cent benefit but very quickly reacted and boosted it up to 75 per cent when they realized the error of their ways. It was a saviour for many companies, Mr. Speaker, because it directly went to their need for cash in hand to meet their payroll, keep their people employed. This measure moves the can down the road. I know that I'll grudgingly support it, but I certainly call upon the government to do more.

This policy takes place mostly through regulations, which set out to qualify what the tenants cannot have to qualify for this benefit: businesses cannot have accepted the Canada federal emergency commercial rental assistance program and also have to have lost 25 per cent of the revenues that they had before. So there are a lot of hoops to go through as well that this bill proposes to implement on the tenancy situation that many tenants in their businesses face. I'm a bit surprised, actually, that the government didn't see their way clear to directly helping the landlords and tenants in this situation by ensuring that the deferred rent was actually a rent relief.

9:20

Come September we'll see if indeed the government's gamble has paid off. I think they have shirked their responsibility and an opportunity for a government that purports to be very understanding of business and to be very economically literate. I think that it bespeaks some measure of economic illiteracy on the part of the government opposite when they fail to see the real, deep need and existential need of businesses who've lost every cent of their income over the course of a whole quarter of the year. Many are in the same boat right now. It hasn't fully recovered.

Without economic relief, Mr. Speaker, if tenants do not have a way to pay, this is when the tenants and the landlords are sitting down to come to an agreement. That is something that the government is hoping, pleading, begging, wishing that they might actually do. Without economic relief, if tenants do not have a way to pay the rent, it doesn't matter if the payments are delayed, they still can't afford the rent. The UCP have used this same talking point for residential evictions, and we see that it's not true. Just ask the Member for Cypress-Medicine Hat, who evicted tenants even though they tried to make an agreement.

Now, this bill fills in gaps of the federal Canada commercial rent assistance. It just postpones payment for rent. This government certainly benefited from direct cash receipts when it needed to find a way to pay its own staff. Their sugar daddy in Ottawa, Mr. Trudeau, and the Liberal government led the way also in showing them how to directly benefit employers, when they were looking to create a system of relief for them to keep their employees on the job, with a 75 per cent subsidy for their wages.

Now, we've looked at this situation, Mr. Speaker, and we've noticed that there are things that should be done. I basically laid out some of them. There was a survey that the Canadian Federation of Independent Business conducted, and based on that survey, the NDP caucus called for various policies to help businesses struggling to pay rent on May 21, 2020. We proposed banning commercial rent evictions.

The Speaker: Hon. members, Standing Order 29(2)(a) is available if anyone has a brief question or comment for the hon. Member for Edmonton-McClung. The hon. Member for Edmonton-Gold Bar.

Mr. Schmidt: Well, thank you, Mr. Speaker. I understand that my friend from Edmonton-McClung was cut off in the middle of his comments, and I was just wondering if he would like to finish that particular thought and if he had any other additional thoughts that he'd like to share with the House in the time remaining.

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

Mr. Dach: Thank you once again, Mr. Speaker. Thank you to my colleague from Edmonton-Gold Bar for inviting me to complete my discourse on the measures that we called for as an NDP caucus. We called for various policies to help businesses struggling to pay rent on May 21, 2020. We called for a ban on commercial rent evictions during the state of pandemic. We asked that we go back to the drawing board on the CECRA, either rewriting criteria or pulling Alberta's investment in order to build our own program for commercial renters. We called for grants ranging from \$5,000 to \$10,000 for physical business improvements and start-up costs to comply with public health orders, something that Mr. Speaker's office has seen wise to offer to MLAs in the form of \$1,000 to do some physical distancing improvements and physical building projects within offices to keep members of the public, our staff, and ourselves safe in our constituency offices. That's something that we called for, and I'm glad to see that the Speaker's office and the Legislative Assembly Office have seen the wisdom of that type of investment.

We called for direct relief on utility bills that goes beyond just deferrals, as this government is favouring. They seem to think that kicking the can down the road and crossing their fingers is going to solve the problem. We don't feel that that is the case, and neither do Alberta businesses. They're concerned about what's going to happen come September 1, when the deferral ends and the debt is still there. Their lenders are going to be on their backs, and their landlords will be right there with them.

Now, the PPE acquisition plan led by the provincial government, that would include a list of verified vendors so businesses know who to trust: that was something we promoted as a result of the survey because we wanted to make sure that people who were in business and wanting to supply their business and their customers with PPE so that they could operate safely should have a verified vendors list. As we've seen, now what's happened is that it's a free-for-all out there. You don't really know what you're getting, where, and some of the prices are exorbitant; some of them are realistic. Certainly, having a verified vendors list would have been an idea well worth implementing to avoid some of the confusion over where a business and indeed the public could get PPE other than the drive-through window, which, of course, was basically the fast-food restaurants tossing them out the door to get rid of them as quickly as possible. That was a pretty poorly thought out method of getting PPE into the hands of the public. It certainly wasn't very equitable.

Now, we also called for a freeze on business insurance premiums retroactive to March 18, 2020, and to provide a 50 per cent reduction on those premiums until December 31, 2020. I certainly heralded this call because insurance premiums on a business that is not operating as usual being kept at the same level is not inherently fair. I mean, the level of break-ins went way down because of course nobody was moving around, including criminals, during a pandemic period. People indeed weren't going and visiting these businesses, so the rate of risk was lower for the insurers, yet the insurance premiums were remaining in place at their former levels.

As a result, tenants were paying for insurance against risks they were no longer facing. We thought that should have been done, yet of course that never was adopted by the government.

We think the government has failed to seize an opportunity to support small businesses in a direct way, and that's why we've been talking to them and we developed these positions.

The Speaker: Hon. members, is there anyone else wishing to add to the debate this evening? The hon. Member for Edmonton-Gold Bar has risen.

Mr. Schmidt: Thank you, Mr. Speaker. First of all, I want to thank my friend from Edmonton-McClung for making some very insightful points about this bill. I do want to state that we do support this piece of legislation even though it is too little too late, in our view. I do want to say that it strikes me as odd that we are three months into the pandemic here in Alberta and the correlating economic depression that we find ourselves in, where a half a million Albertans are either out of work or have had their hours significantly reduced as a result of the pandemic, and this is the first time that the minister for economic development and trade has proposed any kind of legislation to this House. It's very narrow in focus, only lasts a couple of months.

It makes me wonder, Mr. Speaker, what the minister is up to and what her cabinet colleagues are up to with respect to addressing this serious economic collapse that Alberta is facing. I don't think the government really fully understands, or if they do, they're not communicating that they understand the seriousness of the economic situation that we find ourselves in, with unemployment the highest it's been since the Great Depression, and we suspect that the economy will contract more than it has in any year since the Great Depression.

You know, a few eviction bans here and a couple of utility deferral payments there and a pipeline to Texas: while those are significant steps that will help a few people, they are not enough to address the serious economic concerns that are facing the people of Alberta. I hear from my constituents every day that this government needs to do more for more people and much more quickly, and I think that is true when it comes to the issue of assisting small businesses with covering their bills.

9:30

Now, one of the things that I note when I'm reading the legislation is that, first of all, yes, this only bans evictions until the declared state of emergency here in Alberta ends. I believe that that end date is August 15. Although it varies according to the ministry and the kind of order, it's my understanding, Mr. Speaker, that this bill will be in effect until August 15. I do not think that we will be out of the emergency stage of this pandemic by August 15.

It was with great concern that I read in various articles a couple of days ago that world-wide we have seen the highest number of reported cases of COVID of any date to this point. I know that the United States has crossed 120,000 deaths. It still leads the world, but Russia and Brazil are rapidly catching up to them, unfortunately. This is not going away any time soon, and to end these measures in the middle of August, in my view, is probably too short-sighted. I think the government needs to be seriously considering what it's going to do when we reach that magic date of August 15 and, lo and behold, we find that the pandemic hasn't gone away and that more people are contracting COVID and we are still dealing with all of the health care ramifications and the economic ramifications of that.

It only bans evictions until the emergency ends, which, Mr. Speaker, as I said, is probably not long enough, and it's unfortunate

that the government has not decided to extend this kind of eviction ban to residential and mobile-home site tenants, who are also bearing the brunt of the economic collapse that is facing Alberta. I am sure that a large number of the half a million Albertans who have found themselves out of work or who have had their hours reduced are probably renters. I don't know. The statistics on that aren't available, but I would assume so since all of the economists tell us that it's the people on the lowest end of the pay scale who have lost their jobs, have lost hours as a result of COVID. Those are the people who are probably also renting their accommodations.

It's unfortunate that the government is not extending to residents, people who rent their homes, the same kind of protections that they are offering to businesses in this province. I would strongly urge the government to go back, to review, and consider, at least, treating people who rent their homes with the same kind of respect and concern that they're giving to commercial renters, as they are in this bill.

The second thing that I want to raise is the issue of how disputes around the issue of payment of rent will be settled. Mr. Speaker, this was an issue that we dealt with when the residential tenancies ban was brought forward. I raised it again when we dealt with the amendments to the Mobile Home Sites Tenancies Act. In disputes between landlords and tenants, landlords often have the upper hand because they have so much more money and more time to spend litigating against their tenants than their tenants do, and I think that's probably more true when it comes to commercial rentals than it is when it comes to residential rentals.

I know that I represent in Edmonton-Gold Bar a number of business districts, and the landlords in those business districts are national or multinational companies that have vast resources that they can spend on litigating against their tenants, and the tenants do not, cannot come anywhere close to matching the time and money and resources that the landlords can put into litigating in these matters.

When the bill comes due, what will we see in terms of protecting businesses who can no longer afford to pay the rent, and how will they ensure that these people are treated fairly when it comes to settling these disputes? Now, in Alberta we have a residential tenancy dispute resolution service, and we debated this issue at length a couple of months ago, when we talked about the Mobile Home Sites Tenancies Amendment Act, 2020. I was overjoyed that the government has extended the ability of mobile-home site tenants to take their tenancy disputes to an alternative dispute resolution service, that is much more affordable, much easier to access, doesn't require a lawyer. It gives tenants a lot of power to fight back against their landlords.

I would strongly urge the government to consider extending some kind of alternative dispute resolution service to commercial tenants because, as I said, there are a number of commercial tenants who do not have the kind of power and resources that they need to litigate against their landlords when the bill comes due.

These disputes will not be simple matters to arbitrate, Mr. Speaker. The legislation, if I recall correctly, says that the landlord and the tenant have a responsibility to come up with a reasonable plan for payment, but nowhere in the legislation does it actually define what a reasonable plan is. I don't think the part of the legislation that sets out the regulation-making powers of the minister and cabinet will address this issue of reasonableness, so it will be up to the courts to decide what a reasonable plan will be. The problem is that this is uncharted territory for our legal system. We've never, before this pandemic, had a requirement for landlords and tenants to come up with a reasonable plan for payment of deferred rents, so we don't know what constitutes a reasonable plan.

This issue of reasonableness in these payment plans will be the subject of a great deal of litigation. My fear, Mr. Speaker, is that without some kind of access to an alternative dispute resolution service, like there is available for residential tenants, commercial landlords will have the upper hand. They'll be able to argue their cases more effectively in court, and tenants will be given the short end of the stick when it comes to interpreting what a reasonable payment plan is.

I don't think that the ultimate intent of this bill will be achieved. I think the ultimate intent of the bill is to keep tenants in their buildings, but the bill is structured so that we only defer rent for a period of a few months, and then we have to come up with this reasonable payment plan, and there isn't really any good guidance for these issues.

The third and final point that I want to make with respect to this bill is related to this matter of deferring rent. As I said before, the legislation only provides for the deferral of rent up until the end of the emergency period. Like I said, I think the emergency period is not long enough. I am encouraged that the regulations do allow the minister to vary the ending of that emergency period. It certainly would be better if those issues were dealt with transparently here in the Legislature, but I guess half a loaf is better than no loaf at all.

But the issue is that a lot of commercial tenants will not be able to pay their rent once the emergency period has expired, whenever it expires. So what is the government going to do to make sure that businesses are successful now and into the future, Mr. Speaker? This bill does not address any of those issues of what it will take to keep businesses functioning.

9:40

Now, I know that the members opposite appreciate my recommendations, and they take them seriously and act on them quickly, Mr. Speaker, so in this instance I have a number of helpful suggestions that I hope they'll implement in short order.

One of the first things that the government can do to restore business confidence is to improve confidence in the health care system's ability to deal with COVID. You know, the Premier months ago stated that he wanted to have testing capacity in AHS of I think it was more than 10,000 tests a day. Not once – not once – in this entire pandemic has AHS achieved that benchmark of 10,000 tests a day. I have no idea how effective the contact tracing is in the province of Alberta. The government hasn't provided any information about that. In order for people to feel comfortable going out to support small businesses, they need to be comfortable that their health is not put at risk. One of the key ways that we can increase people's comfort level with the risk that COVID poses is the ability of rapid testing that's widely available, and I don't think the government has set the benchmarks that it has set for itself in that regard. So I think the government needs to do more to improve the testing and contact tracing ability of Alberta Health Services.

Moreover, Mr. Speaker, the government needs to provide more support to businesses and to people to be able to protect themselves when they go out in public. You know, it has been of great concern to me to see that the people of Edmonton, let's say, are less concerned about the impacts of the COVID pandemic than I expected them to be. They are crowding into restaurants, they are not wearing masks in public, and those are having a significant impact on the numbers of COVID cases and the comfort of people when it comes to dealing with small businesses in the province of Alberta.

Thank you.

The Speaker: Hon. members, Standing Order 29(2)(a) is available if anyone has a brief question or comment for the hon. Member for

Edmonton-Gold Bar. Perhaps I see – do I, or do I not? I'm uncertain.

Mr. Dach: Just stretching.

The Speaker: Seeing none, is there anyone else wishing to join in the debate today? The hon. Member for Edmonton-Meadows is rising to add a comment.

Mr. Deol: Thank you, Mr. Speaker. It's my pleasure to rise and speak to Bill 23, Commercial Tenancies Protection Act, and provide my feedback on this. First of all, I'm glad to see that finally something under the title of this, commercial tenancy protection, is being discussed in the House.

Mr. Speaker, as we all know, we are going through unprecedented times, and not only us, but we see that around the world. People in Alberta, people in our neighbouring jurisdictions, people around Canada, and people around the world are actually struggling during this COVID-19 pandemic. The small businesses, specifically, as many people already know – we have spoken on this issue during many debates on different bills – with their limited capacity, you know, serve the communities. This COVID-19 – initially was from December, but as we experienced, the health emergency was called on March 11 – has had a huge, negative impact on the feasibility and viability of those small businesses.

As I shared some of my feedback on my conversation with the business owners during the wait on the other bills, I did have an opportunity to talk to some of the businesspeople, the business owners in my community. I just wanted to share their stories so that we understand the kind of situation they're going through right now. I know there has been a lot of information. I remember that the statements from the Premier and the statements from the Chamber of Commerce and the CFIB: how clearly they are, you know, stating that the small-scale business industry is in big trouble and is the one that needs help the most at this point in time.

Speaking to one person last week, a few questions came out of his experience. He opened up a daycare not even a year ago and invested a whole lot of his savings on this. All of a sudden since March the businesses were closed. His business falls into phase 1 of the relaunching strategy, but as of today his facility does not have even nearly enough, and not even saying that he would have nearly enough – he doesn't know if he's going to have nearly enough children coming to his daycare, if it will soon, he can imagine, become self-sustainable. Forget about their salaries. They have laid off their staff. They cannot have all of their staff. They applied for wage subsidies. They can only have some staff because they know – they cannot really project – that they cannot really see that they would have enough for everyone. The rent itself is like \$12,000, the gentleman was explaining, and he needs a minimum of 40 children in order to break even for his operating cost. So far he has 10, so he doesn't know what's going to happen.

The other business owner owns a franchise in the riding of the member who had just spoke, the Member for Edmonton-Gold Bar. His rent is \$6,700, and he has let go all of his employees. He is the only worker, as owner, but his business is not even making the gross proceeds of \$6,000.

I just spoke to another gentleman yesterday. He expanded to four restaurants just from one last year. His business was growing, thriving. Everything was on track. That person, let me say it like – his values support the UCP if I recall.

9:50

But in spending 15 minutes with him – I was just walking on the sidewalk when I bumped into him – I just wanted to wave and say hello to him and ended up spending 15 minutes to listen to his story

and his pain. He is not seeing any future. What's going to happen? He says, like, most of his staff are gone. He had restaurants downtown, in the south side, east, and west. Most of the staff have been laid off. He was sharing the story. He has two staff at his restaurant downtown, but there's no more work even with the help of the federal wage subsidy program, with the cost of paying heavy rents, the utilities, telephone bills. You know, his condition was beyond explaining; you could see what he was trying to express. It looks like he's going to lose all this hard-earned, lifelong income, I would say, as the man in his 60s now.

[The Deputy Speaker in the chair]

This is the growing reality when we're trying to discuss this Commercial Tenancies Protection Act to support that very community. These are the voices, and when you hear them, you know what they are facing and what their challenges are. Even though I mean to support this bill, I see this initial step as very, very small baby steps, but I see it in the right direction. We have opened some discussion. We know that we were calling for small-business supports and that that would probably not convince the government House members. The realities will come, and I will just expect that the members will realize that and they will come back to the House again and they will realize that they have more to do. If we need to see these small businesses, the actual, I would say, real players – they support our economy in many ways, not only by investing into the industry to start up a business, not only by providing employment, but also by investing their profits and their revenues back into the local communities. So one of the very key players in the economy.

This is a time when we really need to stand up, not only for the sake of helping small business, but if we will not help the small business, that will have huge, negative impact on the economy of the province.

Madam Speaker, I owned a small business. When I looked through my window around my plaza – I don't know – you can count how many thousands of people are working in that very small place. This is how the small businesses serve our community, spending long hours, sometimes even making little. I was one of those.

When we're discussing some of the plans, I have some concerns. As a real, actual business owner I understand the logistics, how it works. Let me put on the record that I was also part of a table conversation, it was Monday, I believe, where I helped the negotiation between the landlord and five of his tenants. They finally agreed to apply for the federal Canadian emergency commercial rent assistance program. Their landlord has to participate and contribute, you know, 25 per cent of the rent cost. That is the very voluntary option, and most of the landlords, specifically those, are large corporations.

I do remember the comments from one of the tenants who set up a new business not long ago, maybe seven or eight months ago, and got into this situation. They didn't even start withdrawing their wages properly. They were thinking that, you know, there was still time. Their commitment was to invest their time and their salary back to the business to let it grow. Their landlord did not sit with them, did not agree to participate in this federal program, and with more of this the tenant was quite angry. She said: when I went on the website, even though this large corporation claims being a corporation with \$12 billion, they were not willing to participate in that.

That is why I, you know, rose in the House before. I would say today that the federal rent assistance program is kind of incomplete. Our provincial government needs to get it on the table and play their

role. Right now what I understand is – I'm happy to listen and learn if my information is not complete or correct – that the federal program provides 50 per cent, the tenant participates by paying in 25 per cent, and the landlord bears the other 25 per cent. That's where the problem is. That's where landlords choose to participate or not to participate in this program.

I remember that part of the – there was the business town hall, where there were more than 270-plus business people on the Zoom town hall party spearheading this.

The Deputy Speaker: Standing Order 29(2)(a) is available. Any members wishing to speak?

Seeing none, any other members wishing to speak to Bill 23 in second reading?

Seeing none, would the minister like to close debate? All right.

[Motion carried; Bill 23 read a second time]

Government Bills and Orders Committee of the Whole

[Mrs. Pitt in the chair]

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

10:00

Bill 17 Mental Health Amendment Act, 2020

The Chair: Are there any members wishing to speak? The hon. Member for Calgary-Buffalo.

Member Ceci: Thank you very much, Madam Chair. It's my pleasure to address this bill in Committee of the Whole. I think I'd like to start out by identifying my concern for the mental health system in its entirety as a result of the current government cutbacks to services, not only during COVID because there are many, many changes that are occurring as a result of COVID; for instance, the acute services provided in Rockyview hospital for people who are suicidal. The workers there, I'm told, have to not meet in person with their clients, their patients. They meet through video conference, and that's one of the things that's talked about in this amendment, that video conferencing will be something that can take place to facilitate access.

But I can tell you that in the case of the Rockyview facility, where that video conferencing takes place with highly suicidal individuals, the service those people get, the treatment those patients get is less robust; it's less effective. If we're talking about very suicidal people, that's a problem, obviously. The system is being defunded in ways that are challenging for the professionals who are delivering services to them, and the patients are receiving less effective, efficacious treatment as a result.

That's the first thing I really am concerned about with regard to this amendment act: we don't seem to have a government in place who is providing all the necessary resources, and that's indicative of why this amendment act is before us. It's the result of a horrendous case of keeping a person locked in a ward and treating them for months and months and months. When finally this situation became known to a judge as a result of that issue being brought to the courts, the judge believed that the person's rights were being violated. He was being treated in a way that was not in keeping with his constitutional rights, and the judge gave the government a period of time to correct this in terms of the amendment that's before us. It's an attempt to correct this wrong that was delivered through the mental health ward that the person

was on, and we should be glad that the judge pointed these things out, Madam Chair. We should be glad the judge ruled in this regard.

But the ruling that the judge gave was to strike down a number of parts of the Mental Health Act. Regrettably, this bill only amends a fraction of those parts of the act that were struck down, so the question needs to be raised: what is going to be done to meet the judge's intent in his decision in the other places where we don't see adherence to the judge's decision? I'm left with that question. I'm sure everybody is left with that question. What's the next step with regard to this? Will we be very soon in the place of debating this once again, likely when other portions of the work done by the government to address the judge's decision come forward? I think the improvements are important, and we need to listen to the views of the judge. We, of course, need to ensure that patients' rights are respected. Even people who have serious mental health problems have rights, Madam Chair.

I see that there is some attempt here to look at expanding the role of the Mental Health Patient Advocate. I don't know who currently occupies that role. I do know that the track record of the government with regard to matters of health advocacy are not good, Madam Chair. We've seen a situation where an insider to the government was appointed to that role of Health Advocate, and having no previous experience with the health system that I'm aware of, they were put in the role. It doesn't speak very well to expanding the role of the current health patient advocate if this government is treating the advocacy needs of mental health patients like they treat the needs of health patients in general.

The actions that need to take place are numerous. I've got an outline of the recommendations from the ruling from the judge. In no uncertain terms the judge was not pleased with the current Mental Health Act and its use with regard to detaining the individual in question and the many issues that were overlooked with regard to this patient that weren't consistent with the Mental Health Act. The summary and conclusions from the judge are clear, and they are concerning, and they should be concerning for anyone who has taken a look at them and read them. He goes after the detention provisions, and he cites six areas where he believes there were infringements taking place with regard to the detention of that individual.

As I said, the thing that concerns me and should concern all of us is that the amendment act before us only touches on two of those, which is in and of itself pretty unexplainable. I don't know what the reason is that the government has chosen to come forward with only part of the work done in regard to the questions posed by the judge and, in fact, the decision posed by the judge. So I'm disappointed that we didn't see further recommendations. I don't know why some of them were ignored or partially included in this legislation.

Another issue that has come up as a result is the expansion of people who can make decisions with regard to the mental health status of people who are experiencing mental health problems. The one addition that I think is clear is that nurse practitioners will be able to examine and supervise patients receiving community treatment. They'll also be able to work with psychiatrists and physicians to look at committing people under mental health orders. Now, that's in and of itself not a bad thing, but of course we want to ensure that the nurse practitioners in this case have adequate knowledge, they have support, and they have the ability to consult readily with psychiatrists and others who are in the facilities. As I started out saying, I'm concerned about all of that because of the pressure that the system is under as a result of the government's underfunding of the system, the pressure that patients are under as a result of not having adequate resource people in place, not only nurse practitioners but therapists, social workers, physicians, and psychiatrists.

10:10

The example I gave in terms of the Rockyview hospital, the real one: they have been under tremendous pressure. Their treatment space where people could stay has been reduced to give way to the amount of a kind of surge space that was talked about being necessary in the event of hospitalization of COVID-19 patients, so they've had to give up space, they've had to give up direct face-to-face counselling with people, and they've had to step back and use electronic means to make all that happen. As I say, I think that's very challenging in terms of knowing what a person's mental health status is when you are only able to connect in video conferencing with them.

Certainly, video conferencing is something that we all needed to have done a lot of over the last three months or so, but it's not an ideal medium for the kind of emotive understanding, the picking up of nuanced feelings and emotions that even people who are in the throes of mental health challenges and breakdown express. So, Madam Chair, I think that some of these provisions that are in the amendment act bill aren't necessarily improvements for the work that needs to be done to treat people with mental health challenges.

I think the parts of this bill that, as I said, make sense are strengthening patient rights. Some of the things that are in Bill 17 that would provide greater patient rights include providing the patient with free, timely access to their medical records, information about legal counsel, and information about the Mental Health Patient Advocate. Those are three things that the judge very strongly recommended that people need recourse to. In fact, you know, they need information, they need their own records, and they need to know what their avenues for support are outside of those people who are treating them. They need to know who can be there as a resource for them to challenge those people.

Madam Chair, I am concerned that we don't have all the information necessary to make a good decision based on the information that's before us and that that will only come at a later date when the government comes back with further information on Bill 17 to address the missing parts here. The issues that I brought up won't go away without further amendments, and the judge's ruling won't be something that gets adhered to until further information comes before us. These are some of the concerns I have, and I think colleagues of mine will also be talking about similar things.

I, of course, think that Alberta Health Services is working as best they can in some pretty challenging times, but this issue came before us, came before the individual far before COVID, and it points to some long-term issues that need to be addressed. We have the benefit of a judge's review, and that review, as I said, is only partially being addressed, so the changes to the Mental Health Act aren't complete, in my estimation. I'm happy to see what legislation has been brought forward. I understand that some additional professionals will be put to the service of people who have mental health challenges, and that's good. I understand there may be some additional mediums allowed to make decisions on people as in video conferencing. That's challenging, but it does, in the case of rural and remote situations, provide more timely access, potentially, for people who need the support of mental health professionals.

We also know that the previous legislation had a sunset clause in it, which this one overlooks. That's not a good thing because, as the judge has indicated, a review of the Mental Health Act was certainly warranted in the treatment of one person, and there should be regular consideration of whether the Mental Health Act continues to meet all the needs of people in Alberta who are held under that act. Without the presence of that in this legislation, this amendment legislation, in terms of a sunset clause we will similarly be in the

situation we're in today, where bringing the Mental Health Act and the reasons this person was held in hospital to court is the only way that there seems to be a review of the act unless it's brought forward by government. There's no indication that there's a sunset clause that will do that.

Madam Chair, with all of those things evident before me, I still remain highly concerned that we don't have the full reasons that the court case of the individual was reviewed and addressed by the judge before us in this amendment. Without some substantial changes to it I'm not in a position at this point to address it.

The Chair: Any other members wishing to speak to Bill 17 in Committee of the Whole? The hon. Member for Edmonton-Rutherford.

Mr. Feehan: Thank you, Madam Chair. I appreciate the opportunity to speak again to Bill 17. I had an opportunity to do so at an earlier stage and was able to address one aspect of my concerns, but tonight I have two. The underlying concern is still there, that this bill is largely an inadequate response to the judicial decision that instigated it. I certainly will be addressing that later in the evening with an amendment.

10:20

But before I do that, I also wanted to address some concerns that have been presented to me by people in the community who are family members, who have an adult member who is dealing with mental health issues, and their concern that while the nature of this bill is very much directed at a very specific legal problem, the government has chosen to open up this act and address the act without actually looking at the larger issues that could have been addressed in amending the Mental Health Act. Certainly, it's not a criticism about the desire to address the problems as identified by the justice in this case. What they are concerned about is: if you were taking the time to actually write and present a bill, could you not have done that plus more?

They do have a number of ideas and thoughts about what that "more" could be about, and that's really focused around trying to shift the Mental Health Act from being an act which is about social control to an act that is more about therapeutic response. That would help us to address these mental health issues in a way that really is from much more of a helping perspective and less from a legalistic, controlling perspective. They would like to see the introduction of more nonconfrontational responses, just as in the justice system, for example, we have incorporated things like healing circles or restorative justice practices and so on. They would really have liked to have seen this act include more of those kinds of therapeutic problem-resolution pieces rather than this very narrow focus on absolute rights, not that that isn't very important – we all support that – but they're asking for a plus/and in terms of responding to the Mental Health Act.

They also have made some requests that we really look at the role of police in this process and that we really try to avoid the sort of criminalization of mental health and mental illness. While, you know, there's an acknowledgement that there is a need for police involvement in some situations, we have seen all too often that a legalistic, police-oriented response to mental health issues can be quite problematic as we've seen the deaths of some members of the indigenous community in Canada recently and other individuals when the response was about social control and not about therapeutic intervention. Again, these family members thought that this was an opportunity, while you were presenting the bill in the House, to actually look at: how can we make that shift away from

that kind of police-control response to more of a social intervention, supportive response?

The third piece, of course, that they're asking for is just to take a more holistic approach to dealing with mental illness so that we can try to really reduce the problem with the revolving door, of people going in and out of treatment and not being in an effective, supportive place.

I just wanted to share some of the ideas from some of the family members who are saying that while they understand the purpose of this bill and what it was trying to do in terms of addressing the justice's concerns about the rights of the patient, they also thought it was an opportunity to add more and to make the shift that is being called on by many people in the community right now to find more therapeutic, restorative ways of dealing with issues of mental health and not always confining ourselves to the legalistic, controlling ways.

Having said that, because I think that is extremely important, I would like to go on to some suggestions for changes to the bill itself in addressing the concerns. As a result, I would like to introduce an amendment at this time. If the chair could let me know, I will read the amendment in.

The Chair: Just wait till I have a copy.

Hon. member, do you have the original?

Mr. Feehan: Is that top one not the original?

The Chair: No.

Mr. Feehan: Oh, it's here. Oh, it's in the wrong hands. Sorry.

An Hon. Member: Question.

The Chair: That's okay. This will be known as amendment A2, and we will sort this out.

Please read it into the record and proceed.

Mr. Feehan: I'll read it. I move on behalf of the Member for Edmonton-Manning the following amendment to Bill 17, Mental Health Amendment Act, 2020. It reads as such: Ms Sweet to move that Bill 17, Mental Health Amendment Act, 2020, be amended in section 9 in the proposed section 8.1 (a) by renumbering section 8.1 as section 8.1(1), (b) in subsection (1) by striking out clause (c) and substituting the following:

- (c) provided to
 - (i) the detained person or formal patient, and
 - (ii) each person referred to in section 28(1) who may make treatment decisions on behalf of the detained person or formal patient.

And (c) by adding the following after subsection (1):

- (2) If, during its review of an admission certificate or renewal certificate under subsection (1)(a), the board determines that the certificate has not been completed in accordance with sections 6 or 9, respectively, the board must
 - (a) not take any further action under subsection (1) in respect of the certificate,
 - (b) return the certificate to the qualified health professional who issued it with instructions specifying its deficiencies, and
 - (c) suspend the certificate's validity until the board is satisfied, on re-submission of the certificate for its review, that the deficiencies have been addressed.

I just want to take a moment to talk a little bit about the need for these amendments to Bill 17, essentially working to just clarify some of the information that is in the act, in the revisions as they are being presented now. Look, for example, at the addition of (c), which is "If,

during its review of an admission certificate or renewal certificate under subsection (1)(a), the board determines [it] has not been completed in accordance.” Clearly, that would mean that if there is a problem with the certificate as it’s been issued, then I think it’s very important that we be very clear in the act what needs to be done to remedy that problem so that it is not allowed to continue to be in force or in effect for a period of time while the remedy is being sought.

10:30

I think it’s really important that we not simply, you know, sort of identify that there is a problem with the certificate but that we actually have a mechanism for ensuring, first of all, that no action is taken in response to that certificate given that it is deemed to be inadequate. And we want to be sure that the board itself discontinues their deliberations if they deem the certificate to be inadequate so that they don’t suggest: well, there’s a problem with the certificate, but we’ll go on with the discussion of what we’re going to be doing or we’re going to take other action subsequent to, you know, the thought that perhaps we will resolve the inadequacies with this certificate and then come back in. At the point at which the inadequacy is determined, it is very important that the process stop at that time and that the act is very clear that the process should stop at that particular time and that the certificate should be returned to the qualified health professional who issued it, which the previous act did say that it should do, but in this case we’ve added that it also must have instructions specifying its deficiencies.

So it isn’t enough simply to say that somehow this certificate is inadequate and therefore is not being accepted; the board has a responsibility to identify what those deficiencies are so that they may be specifically readdressed. It’s just a matter of providing clarity, and I don’t think it’s particularly significant in changing the intention of this act at this particular time. But it certainly provides direction to the board to ensure that activities do not continue in a way that may be deemed to be illegal later on. Having been able to identify the specific deficiencies in the certificate, then that will allow the board to be able to identify subsequently whether or not those deficiencies have been specifically addressed. So it’s just a matter of setting out the process to be very clear about what it is that’s problematic and therefore being able to identify that the problems have been identified but meanwhile also being sure that the certificate’s validity is suspended until such time as the deficiencies have been resolved.

We don’t want to end up in a situation where somehow the actions taking place in response to the certificate are continuing down the road or somehow are still being employed, either partially or in anticipation of the fixing of the certificate. If we just add this clarity to the act, then it would ensure that all the participants involved, whether it be the members of the board, the individuals who are subject to the certificate, or the family members, will understand where they stand with regard to the legal aspects of the validity of the certificate. Then they’ll be able to respond to the validity of the certificate in an appropriate way and know that in their response they’ll be able to re-establish the certificate’s validity appropriately. I don’t think there’s anything particularly mysterious about that change. It just adds some clarity to the act, and therefore I think would be well worth doing.

The other section, the changes to section (b), I think are also very important in that having made this kind of decision, we also need to make sure that the appropriate people are properly identified in terms of when a certificate is issued and, of course, when a certificate is deemed to be invalid, and that is that we are making sure that the

certificate does go to the person who is detained or the formal patient in this case, and, further, that it also goes to other people, who are referred to in section 28(1), who may make treatment decisions on behalf of the detained person or the formal patient.

I think that that’s important, that when a certificate is issued, all the people who will be governed by the nature of the certificate in terms of being provided some authority or having some of their rights diminished subsequent to the certificate are well aware that they are in the position of being responsible for the intent of that certificate and therefore are able to act appropriately. If it’s in the case of the patient or the person who’s being detained, they can see that they have indeed been subject to a certificate and are able to respond to it in a way that they feel appropriate, perhaps by seeking legal counsel, as we’ve recommended previously in terms of amendments we’d like to see, or some other kind of advocate to work for them. Of course, for people who are in the mental health field who are working with that patient, that they also are very clear that a certificate has been issued and that their medical practice at this point is now something that is guided by the certificate itself. So everyone involved just knows that the certificate is there. They’ve seen it, they’ve had it delivered to them, and they can act appropriate to that information.

I would ask the House to seriously consider these amendments. They are just supportive and intended to help this act.

At this point I would like to adjourn debate on the amendment.

[Motion to adjourn debate carried]

The Chair: The hon. Minister of Transportation.

Mr. McIver: Thank you, Madam Chair. It’s that time of the evening where I think we’ve made pretty good progress, and there’s been some pretty good debate, and at this point I would move that we adjourn the House until 1:30 p.m. tomorrow.

The Chair: You’re going to rise and report?

Mr. McIver: First we’ll rise and report if that suits the House.

[Motion carried]

[The Deputy Speaker in the chair]

The Deputy Speaker: The hon. Member for Bonnyville-Cold Lake-St. Paul.

Mr. Hanson: Thank you very much, Madam Speaker. The Committee of the Whole has had under consideration a certain bill. The committee reports progress on the following bill: Bill 17. I wish to table copies of all amendments considered by Committee of the Whole on this date for the official records of the Assembly.

The Deputy Speaker: Does the Assembly concur in the report? All those in favour, please say aye.

Hon. Members: Aye.

The Deputy Speaker: Any opposed, please say no. So carried.
The hon. Minister of Transportation.

Mr. McIver: Now, Madam Speaker, this brand new Member of the Legislative Assembly would like to move that the House adjourn until 1:30 p.m. tomorrow.

[Motion carried; the Assembly adjourned at 10:40 p.m.]

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