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The 30th Legislature
Second Session

Alberta Hansard

Monday evening, June 14, 2021

Day 114

The Honourable Nathan M. Cooper, Speaker

Legislative Assembly of Alberta The 30th Legislature

Second Session

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New Democrat: 24

Independent: 3

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Legislative Assembly of Alberta

7:30 p.m.

Monday, June 14, 2021

[The Speaker in the chair]

The Speaker: Hon. members, please be seated.

Government Bills and Orders Second Reading

Bill 70 COVID-19 Related Measures Act

Ms Hoffman moved that the motion for second reading of Bill 70, COVID-19 Related Measures Act, be amended by deleting all of the words after “that” and substituting the following:

Bill 70, COVID-19 Related Measures Act, be not now read a second time but that the subject matter of the bill be referred to the Standing Committee on Families and Communities in accordance with Standing Order 74.2.

[Adjourned debate on the amendment June 10: Mr. Feehan]

The Speaker: Hon. members, before the Assembly is amendment REF1. It's moved by the hon. Member for Edmonton-Rutherford. Are there others? The hon. Member for Edmonton-City Centre.

Mr. Shepherd: Thank you, Mr. Speaker. I appreciate the opportunity to speak to this, to my understanding, referral amendment on Bill 70. Now, of course, we have expressed some serious concerns with this bill. We know that throughout the COVID-19 pandemic we have seen extremely serious impacts on seniors and in long-term care homes. Indeed, we note that particularly in private, for-profit facilities, we have seen some of the most extensive effects and some of the highest levels of impact, illness, and, unfortunately, death in the country, yet the priority of this government is to ensure that those same businesses, those same corporations, stakeholders, shareholders have the opportunity to not be held accountable for their decisions.

Now, we know that indeed we have seen the records that have been published in the media showing that shareholders, directors in some of these corporations walked away with some lovely bonuses this last year. They pocketed a nice bit of change despite the fact that those that were left in their care were subjected to unnecessary risk, that being the staff and the individuals that were receiving care all left in deeply troubling circumstances at cost of health, potentially long-term impact on individuals' health from long COVID, and, as we know, to the loss of life.

Indeed, as of May 20 of this year 1,253 residents in long-term care and supportive living facilities passed away due to COVID-19. According to the Canadian Institute for Health Information there are 176 long-term care homes in Alberta. Of those, about 47 per cent are publicly owned, 25 per cent are private for-profit, and 28 per cent are not-for-profit.

Now, early on in the pandemic we recognized the very real risk. We had seen this in other jurisdictions. We knew that seniors were particularly vulnerable both due to the fragility of their health and the fact that they lived in congregate care settings with many people living together in the same space. The additional risk, we knew, existed from the fact that, particularly in the case of private, for-profit long-term care, they utilized such a wide number of part-time staff to reduce costs, to avoid paying benefits, to continue to pay low wages so that individuals are forced to work at multiple jobs to

make ends meet, which again heightened the risk for seniors because we had many people moving between facilities.

One of the reasons that I believe this should in fact be referred to the Standing Committee on Families and Communities is because we knew what the risks were, yet some chose to make decisions that were questionable. Indeed, in terms of private, for-profit long-term care we saw situations where appropriate steps were not taken, and we saw massive outbreaks here in Alberta.

I think in particular of, say, locations like McKenzie Towne, owned by Revera. Between March and September of 2020 874 residents receiving care under Revera across Canada contracted COVID-19, and 266 died. We have Alberta seniors who died in the care of Revera at the McKenzie Towne seniors care centre. Those seniors died, and their families have gone to court, alleging negligence on the part of Revera. We've seen what their track record has been across Canada, and this government is moving forward with legislation to tilt the scales against those families, to back up corporate interests against the Albertans who are seeking justice for their loved ones who were lost.

The opportunity to take this to the Standing Committee on Families and Communities would give us the opportunity to determine who it was that this government consulted in putting together this bill. Did they actually speak to a single family member, a single individual who lost a loved one during this pandemic in one of these care homes? Did they speak to any of the families that have currently launched a lawsuit against the care home where their loved one died? Have they spoken with any of the front-line care workers, any of the staff in those facilities about what their experience was, what they saw? That would be the opportunity we would have should this bill be referred to the Standing Committee on Families and Communities.

Now, of course, we have heard the stories that have been going around about who the Member for Calgary-Fish Creek, who brought forward this bill, may have spoken with. Certainly, the allegations are that insurance lobbyists were included, and indeed that caused some consternation within his own caucus. Certainly, we know that they spoke with the folks that own these long-term care facilities. They have certainly spoken with everybody on one side of this issue, Mr. Speaker, but so far we have not heard any indication that they have spoken to the other. Albertans deserve the opportunity to seek justice, to take this to court, and to have their case be heard without the government putting a thumb on the scale.

Now, I recognize, of course, that there are challenges for some of these long-term care facilities. Of course, they faced some challenges early on. There was definitely a slow reaction from this government at the early stages of this pandemic to support long-term care facilities. We called for much more support early on. We looked at what other jurisdictions had done. We looked just to our west, to the province of B.C., which took some very early action to consolidate staffing between long-term care facilities and indeed for government to take over a much larger role in co-ordinating between long-term care facilities to protect seniors.

This government did not do that for some time. Unfortunately, as they have in so many cases during the COVID-19 pandemic, they acted least and acted last. That, of course, put enormous pressure on the staff at these long-term care facilities as they struggled to figure out how they were going to continue to make a living without risking their own health, how they were going to get the protective equipment that they needed, or how indeed they were going to be able to protect the patients that they were caring for. Now, I've been talking a lot about long-term care, but also, Mr. Speaker, this government has given themselves sweeping power through regulations to expand this to any other industry they should choose.

7:40

Now, we know that there were serious impacts on folks that worked in meat packing in the province of Alberta. Earlier in this debate I outlined the clear records that have been released showing that even when the Minister of Agriculture and Forestry was aware that there had been further spread of COVID-19 at the Cargill meat-packing plant after protective measures had been put in place, the same day he found that out, he went and he spoke to the workers at that plant, and he did not tell them. He told them that everything was fine; everything was safe; nothing to worry about here. It's clear that this government, time and time again, has chosen to side with their political interests over the good of the people of Alberta, has chosen to side with corporate interests over the workers who are affected, and through this bill they are giving themselves the opportunity to do so again.

Now, in the case of the long-term care facilities at least they're being explicit about what they intend to do, but in terms of the other possibilities of where they could open this up, they are not being straight with Albertans. They are once again taking the action we've seen them take so many times, where they give themselves sweeping power to do things out of sight and, to their hope, out of mind, but frankly, Mr. Speaker, that would be another opportunity we would have should this be referred to the Standing Committee on Families and Communities, where we can discuss these questions and we can get some clarity from this government about what other industries they intend to open this up to. What other industries have they spoken with? Have they sat down to speak with the owners of these meat-packing plants in the province of Alberta? It seems quite clear they have not sat down and talked to the workers. Well, I take that back. They did talk to the workers, but they certainly were somewhat less than forthright with those workers when they did.

Albertans have no reason to trust this government. It's been demonstrated time and time again. We've seen what it means when this government says that they have done consultation. It means they talked to the people that they wanted to hear from and shut out the rest. It means that they have come up with a bunch of loaded questions to try to get the answer that they wanted to get. Albertans have no reason to think that this legislation is any different when, again, we have no record that this government has spoken to the average people this impacts, those who may be denied justice, those who will have the deck stacked against them as they already have to scrounge up the dollars to go to court to stand up for their loved ones against corporations with far deeper pockets. That wasn't enough for this government, you know, to have the imbalance of the dollars at the table. The government had to also raise the bar to make it far more difficult for families or individuals to be able to meet.

Albertans deserve to have the opportunity of fair access to justice without this government's thumb on the scale, without this government prioritizing corporate interests over the interests of Albertans. That's why we need the opportunity to discuss this bill at the Standing Committee on Families and Communities. Let's have that conversation in full sight of Albertans. Let's do the consultation that it seems quite clear this government did not do. Let's take the opportunity to give Albertans the opportunity to have their voice heard publicly on the record on where they stand on this government's attempt to stack the deck against those who are seeking justice for their loved ones lost during the COVID-19 pandemic.

I think there's going to be a lot of reckoning, Mr. Speaker, to come. This government would very much like to get vaccinations done and then pretend this whole thing is behind us, try to hide their

entire shameful record on the damage they have done to this province, to so many individuals, to our health care system, to our economy through their mishandling of this COVID-19 pandemic. Bill 70 appears to be just another attempt to sweep even more under the rug. Albertans deserve far better. They deserve real transparency, integrity, accountability from their government and from those who were entrusted with the care of their loved ones. But much as this government chooses to repeatedly try to duck accountability, to gaslight Albertans, to make it more difficult for them to seek democracy and redress, they are doing so again here. I do not believe that that is acceptable, I do not believe that that is right, and that is why I support this amendment, brought forward by the Member for Edmonton-Glenora, that this bill should be referred to the Standing Committee on Families and Communities.

The Speaker: Standing Order 29(2)(a) is available. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Speaker. It's my pleasure to rise and make a brief comment, and I actually have a question for the Member for Edmonton-City Centre. I want to begin by thanking him for his comments. I think it's really important during this bill debate to provide some real, concrete examples about some of the care providers and some of the – well, challenges is an understatement – incredible problems that they had in their homes and how they were dealt with. Now, what that means for a bill that . . .

Mr. Shepherd: Retroactively.

Mr. Bilous: Thank you.

. . . retroactively takes this back to, I believe, March 1, 2020, and allows these providers who were negligent in doing everything in their power to take care of the residents that they are entrusted and paid to protect – you know, I don't know how many lawyers have been lobbying the government for this kind of bill, because they're going to have a field day debating and arguing the definition of negligent versus grossly negligent.

This bill is put forward at a time, as the Member for Edmonton-City Centre discussed, where this government has repeatedly broken the trust of Albertans time and time again. Now, I know that the Member for Edmonton-City Centre brought up an example of how this government has broken the trust of Albertans, but I was hoping that the member could maybe elaborate on other examples of how this current government has done nothing to build the trust of Albertans and on what kind of damage this bill could do to the families that are seeking justice, who have been separated from their loved ones for a year and a half now – some of their families have abhorrent stories that they've gone through – and on: what will be the impact of this bill should it pass through third reading?

Thank you, Mr. Speaker.

The Speaker: The hon. Member for Edmonton-City Centre should he choose to respond.

Mr. Shepherd: A time check, Mr. Speaker?

The Speaker: Two minutes and six seconds.

Mr. Shepherd: Thank you to the Member for Edmonton-Beverly-Clareview. I appreciate his thoughts and his questions on the impacts this is going to have on individuals. You know, one of the things that occurred to me, Mr. Speaker, and one of the challenges in this bill is that there is no definition of gross negligence, so the government is raising the bar for Albertans and sort of saying that

you can't just prove that there was negligence. You have to prove that there was gross negligence, setting a higher bar for these families to have to clear in order to get redress for the loss of their loved ones.

But there is no definition in the legislation of what gross negligence in this situation means. Now, there is, of course, a definition from common law. There is, I suppose, the reference in the Emergency Medical Aid Act, but the government has not been clear as to precisely which amongst those it intends here, and certainly the legislation does not speak to it.

7:50

That would be another opportunity we would have at the Standing Committee on Families and Communities, to have that discussion to clarify that, to bring in some legal experts who could speak to this, to provide Albertans with some reassurance that this government is not, as it has repeatedly done throughout the pandemic, simply making a decision in its best political interests for those who are lobbyists but, in fact, is indeed considering the wider impact on families like the Member for Edmonton-Beverly-Clareview was referring to. We would have the opportunity to discuss what they mean by a "good-faith effort," defined, I guess, as "an honest effort, whether or not that effort is reasonable." That's a very broad definition but is integral to this legislation in terms of determining if liability protection should be extended to that person or organization. These are questions we would have the opportunity to debate.

The Speaker: Hon. members, are there others who would like to speak to amendment REF1? The hon. Member for Edmonton-Castle Downs.

Ms Goehring: Thank you, Mr. Speaker. It's my pleasure to rise this evening to speak to Bill 70, COVID-19 Related Measures Act. I think that if anything needs to be thoroughly examined during this pandemic, it needs to be the care of our seniors. We've heard absolutely horrific stories come from loved ones who have family in continuing care facilities across the province, and it isn't an isolated event. It isn't only one portion or even one home that's being impacted.

When I look at this bill and I look at what this government is trying to do in limiting grieving families the right to seek justice, I think it's only fair that we refer this to committee. I think that when we're talking about really needing to hear from Albertans, when we're talking about the ability for families to have some sort of voice at the table on how things should proceed, I think that this is it. When we know that over 1,250 residents in continuing care facilities have died from COVID-19, I would suspect that a high number of those were preventable.

We watched in Ontario and Quebec as our Canadian Armed Forces were deployed into long-term homes. They came in in order to help. It was the start of the pandemic, and the continuing care facilities, long-term homes, needed support, and our Canadian Armed Forces came in and provided that support. We now know that within two weeks of being within those facilities, reports started to be generated about the absolutely horrific care that these seniors were experiencing. They talked about cockroaches and bug infestations, seniors calling out for help, rotting food, COVID-19 infected patients being put in the same room as those who were healthy, missed meals, seniors left in soiled diapers and linens. Those are just some of the things that the Canadian Armed Forces report highlighted when they were talking about their experience in their long-term facilities.

Now, this government has been asked repeatedly to look into the COVID-19 deaths and to create a report about the experience of

those seniors that are living in them. We hear from loved ones all across the province that are pleading – pleading – for help. We're hearing of stories where there weren't enough PPE supplies that were appropriately distributed. There weren't the staffing numbers that were put in to adequately support seniors that are quarantining, seniors that have high needs already. This government refused to respond to the cries for help, and now we have thousands of families grieving the loss of their loved ones from COVID.

These stories that came from the military weren't isolated. This is a story that could take place in any province in this country. People have begged for their province to look into the facilities where their loved ones are living. They saw this report come out, and there was a lot of conversation about this report and it finally coming to light, having a neutral third party go in to provide supports. People are asking the politicians to listen to what came of these reports, to learn from what happened, to learn from the information, but unfortunately this government hasn't done that. Their solution is to introduce legislation that prevents loved ones the ability to seek justice.

Now, when we look at the long-term homes, we know that there are definitely preventable deaths. We heard stories of family members that were going in to try and support their loved one in a continuing care facility and the horrific stories that they told, about the front-line workers that work in those facilities that are burned out, that are stressed, that don't have paid sick leave, that were going into work knowing that they're going into a risky situation made even more risky because of the vulnerable population of the seniors.

This piece of legislation is asking to be backdated to March 2020, which is when we started hearing from a lot of these health care providers, from family members, from seniors saying: "More needs to be done. We are not safe." We saw outbreaks all across this province, yet this piece of legislation that's being introduced doesn't take any of that into account. There's no report that we've seen that shows the care that occurred in continuing care facilities. There's no evidence in this legislation that any loved ones that are grieving the loss of their family member have been included.

The devastating thing, Mr. Speaker, is that some of these deaths were preventable, avoidable had this government stepped up at the beginning of the pandemic and listened to the needs of these providers. We know that the government provided financial support to some of them. We also know that some of those facilities didn't actually provide the financial support to their team. The money didn't go in to hire extra workers to come in to cover off if there was someone who had to quarantine or isolate. There wasn't money put in to help provide adequate PPE. There wasn't money put in to help support the staff that are saying: "We're short-staffed. We're burned out. We need help."

It's unfortunate that it took the military going in in those two provinces to actually do something. I heard it said that sometimes it takes something coming from traditionally male-dominated individuals to get the attention of people when the workers in these homes, most often racialized women, have been raising these concerns for years.

A lot of the employees of these homes are racialized. A lot of them are women. It's the nature of the work. It's a predominantly female career, and when we have women who are racialized sounding the alarms about what's happening, it seems that no one is listening. In this case, people are dying. These aren't just numbers. These aren't just COVID statistics that are rattled off about how many individuals died: 1,250 people. These families have the right to have their lawsuit reviewed.

8:00

They have a right to seek justice if wrongdoings were done. I suspect, based on what we've heard from a lot of these facilities, the workers, the family members, that the government failed to respond and save lives, period. When we have loved ones in a facility because we can't meet their needs, we can't care for them the way that they need to be cared for, we have an expectation. I think safety is a minimum expectation when we're turning over the care of our loved ones. When we have staff that are advocating for how they're able to keep their residents safe, I want to know why this government didn't listen, why PPE wasn't provided. When we look at these lawsuits, what are the staff going to say?

I know that when I speak to workers that have come from working in seniors' homes, working in hospitals, they want to help. They don't go in with malicious intent. They go in wanting to provide the absolute best care possible. Unfortunately, in so many of these cases, some of them could have been preventable had the right PPE been in place, had the right staffing been in place. Being able to have this referred to committee, to Families and Communities, that gives the opportunity for this government to actually listen to the loved ones that were lost, hear their stories, hear what they saw first-hand when they were trying to provide the care.

I've had friends who have loved ones in different facilities across the province. Several of them have moved their loved ones because of the care. Several of them have been providing personally for the staff: supplies, needs, doing whatever they can to help care for their loved one. I have a friend who said that her grandmother wouldn't be fed properly. They just don't have the staffing. And if she's on isolation, she's someone that needs to be fed. She is not able to feed herself. Her grandmother simply would not be fed. She was quarantined. The staff didn't feel safe. They didn't feel like they had the proper PPE to go into that room to provide the care that that woman, that grandmother, needed.

We've heard stories of gatherings in these facilities, where someone is sick and wasn't isolated, of people wandering halls, staff simply not able to meet the needs of the people that they're providing care for.

Now, having this referred to committee provides that opportunity to come forward, to listen to the families that are impacted, to listen to those families that currently have lawsuits that are now going to have to change them because of this legislation. It begs the question of who this government actually spoke to. We've seen outbreaks in some of these centres, one of them being McKenzie Towne, that my colleague from Edmonton-City Centre was talking about. How many of those deaths were preventable? We knew very early on what was required. We knew that masking was required, we knew that isolation after symptoms was required, yet some of these things weren't being addressed.

We've heard heartbreaking stories of people that could lose their job because they don't have paid sick leave and, unfortunately, went in to work sick, spreading COVID. These are the things that would help families. Those are the things that families are looking for in COVID. They want answers. They want justice for their loved ones. They want to be able to get the information about why their loved one died.

I think that when we're looking at continuing care facilities, we have so many people that I'm sure would love to be able to come to committee and express their experience. It's a wonderful consultation piece that allows all the members of the committee and any member that's interested, really, to attend, to reach out to Albertans and ask for their opinion, ask for their insight, to put this legislation before them and say: how does this help? How does this

help in the grieving process? How does this help with the ability to make things better in the future?

When we look at lawsuits like that, this is an opportunity to learn from mistakes. When we have reports that talk about what went wrong, it's a way for us to go forward and not do it again. To have those providers come to the table to talk about what went wrong in an open capacity I think is needed, and I would ask everyone to support this.

Thank you.

The Speaker: Standing Order 29(2)(a). The hon. Member for Edmonton-North West under 29(2)(a).

Mr. Eggen: Thank you, Mr. Speaker, and thank you so much to the Member for Edmonton-Castle Downs for her comments on this. I think she both echoes the sentiment around the common-sense idea of referring this to the Committee on Families and Communities but also the logic of it as well. We know that perhaps amongst the many lessons we must learn around COVID and the spread of infectious disease, none is more acute than the situation that took place and has taken place and is still taking place, in some places around the world, in congregated settings and especially in seniors' lodges, long-term care, continuing care, and so forth.

I mean, this is where in Canada we saw the most fatalities by far. The situation was beyond tragic. You know, it also started to look somewhat suspicious with, for example, the province of Ontario bringing in the military to try to work in some of these lodges and long-term care facilities and just really quite jaw-dropping spreads and fatality rates in facilities in our own province as well. I myself have quite a number of continuing care, lodges, and long-term care facilities in the constituency that I represent, and it was really very difficult – and still is – to deal with, both in regard to the loss of life but also the psychological implications of having people locked up and isolated for so long. Again, I think that we need to learn lessons, and we need to do it using all of the tools that we have available.

You know, one of the things I wanted to bring to the Member for Edmonton-Castle Downs' attention was a news report that I listened to this morning on CBC Radio talking about Canterbury Court in just sort of midwest Edmonton, kind of in the Laurier neighbourhood. It's a large facility. I missed how many people live in there, but it has three separate buildings that are adjoined to each other. For 16 months it was in effective lockdown, and during that 16 months they did not have one infectious spread of COVID amongst any of the residents at that place. There were some infections from outside, and some workers did come into contact, but there was no spread from one person to another in that place for the whole 16 months. I thought, first off, when debating Bill 70, probably in the next couple of days, that, I mean, this is perhaps the most obvious example of why we need to learn about these things and make sure that we're not leaving anything on the table that we can use as a tool to make long-term care, community care centres, extended care, lodges a safer place for now and for the future.

8:10

Canterbury Court probably has a lot of lessons to teach us, quite frankly, on how they did it. I mean, for people who know this facility, it's a little bit more expensive to stay there and, you know, was a choice that I considered for my own mom – right? – and then she picked places closer to where I live and so forth. So we had a chance to go through there. It's a place where you have to pay more money. I think it's in Laurier just down – you know where it is. I guess my point is that if they could do it, then other places could do it, too, and what did they not do in other places that Canterbury

Court did choose to make available for their patients to make sure that they were safe?

We can't exclude the possibility of using the legal system to investigate these things and to make sure that people are safe for now and in the future, because you never know who might end up – you might end up in one of these places in the future, too. I want them to be safe.

Thank you.

The Speaker: On amendment REF1, the hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Speaker, and I want to thank my colleagues who have risen to speak to this bill. As members of government, if they were paying attention at all, would note, we have significant concerns with this bill for a number of reasons that I will also outline on behalf of my constituents and Albertans, who are frustrated with how some of the facilities have dealt with the COVID-19 pandemic.

Now, I have spoken to this bill already in second reading. I believe this is my second time that I'm speaking, but I want to clarify for members of the Chamber and also for Albertans that there are seniors' care facility operators who have done an amazing job preventing the spread of COVID, taking care of their residents, ensuring that our most vulnerable, the people who built this province, have been well cared for, and I applaud them. I have examples of those facilities in my own riding of Edmonton-Beverly-Clareview. You know, I didn't actually talk about the one home, but I will name them. Emmanuel Home is a fantastic long-term care facility that has done a remarkable job.

What this bill does and one of the issues I have with it, Mr. Speaker, is that it protects the facilities who have done a terrible job, who have failed Albertans, who have allowed outbreak to occur and have done little to prevent it, have allowed seniors to live in agony in their dying days. What this bill does is that it rips away the ability for families to pursue justice. The irony here is that for a government that talks about rule of law, they're quick to protect those that should – that should – be taken through the system.

I'm not passing guilt on an operator from where I stand here; what I'm saying is that this bill strips the ability for families to pursue justice if they feel that their parents or grandparents or loved ones were neglected. I wish a member of government would stand up and talk about: who asked for this bill? Who did they consult with? Who is so desperate and scared of lawsuits that they came running to the UCP to say, "Pass a bill that's retroactive" to protect them? It's ridiculous. I ask all government members to question their own ethics and values. How could you put forward a bill that strips away a family's right to due process? How does the Minister of Justice justify this?

Again, we know, Mr. Speaker, that there are examples of facilities who have done an incredible job. I really enjoyed listening to my colleague the Member for Edmonton-North West talking about Canterbury. I didn't realize that that facility had zero cases of COVID.

Now, I recognize that most facilities were not that fortunate. I don't want to say "lucky" because I don't think it's luck. I think that if we look at the policies and procedures they had in place and the fact that I'm guessing they actually enforced them – you see, part of the reason Alberta has been hobbling along with COVID is because this government has failed, failed, failed Albertans, more so than any other government in Canada, quite frankly. Don't take my word for it, Mr. Speaker. Look at the polls of the Premier. He's in last place in the country. The white knight that came in to save

the Conservatives is about to crush and divide the UCP. I wonder what the new parties are going to be called.

The fact of the matter, Mr. Speaker, is that this bill is offensive to many Albertans. Albertans have been asking me and my colleagues not only who's asking for this but why is the government bringing forward a bill that doesn't even allow for . . .

The Speaker: I hesitate to interrupt, but I can only imagine that the hon. Member for Edmonton-Beverly-Clareview is just about to inform the Assembly how all of the reasons that he's speaking about are specific to a referral amendment and not just to the bill.

Mr. Bilous: Absolutely. Thank you, Mr. Speaker, for that reminder. I mean, it's for these reasons that I support the referral and why I'm encouraging all members to vote in favour of the referral to send this to the committee.

There are questions that need to be answered. How many families did the government consult with to come up with this bill? You know, Mr. Speaker, the number of seniors, the number of Albertans, the number of residents, the number of our loved ones that we have lost during COVID-19 in Alberta is over 1,250. Did the government talk to any of the families of these 1,250-plus residents who died? They didn't die of old age. They didn't die of the flu. They died from COVID-19.

You know, Mr. Speaker, I look at this bill. This is another reason I'm supporting the amendment. Is this a really pitiful attempt for the government to try to cover up the fact that they have completely mishandled and failed Albertans on the COVID-19 response? A few weeks ago Alberta was the leader in North America – now, this is the one example where you don't want to be the leader in North America – with the highest case counts, higher than all of the states in the U.S.

8:20

For Albertans that were watching the news throughout the whole pandemic and watching how the former President completely failed the U.S. in his attempts to handle COVID – well, first of all, he didn't believe in it, and we won't even get into half the stuff, how he tried to frame this pandemic. The point is that Alberta surpassed all of the U.S. states with case counts. That statistic, that fact alone should tell every single Albertan – I think most of them did get the memo – how this government failed, and because of their failures our economy was open and closed and open and closed like an accordion for the past year and a half.

Now, I'll take this moment, Mr. Speaker, to highlight the fact, for the members opposite, that the Alberta NDP did not call for a complete lockdown. The Alberta NDP called for moments in time for the government to take definitive action similar to countries like Australia or New Zealand, who did take definitive action and actually reduced their case count to zero. What did we do here in Alberta? We had half measures. We had measures where businesses didn't know if they were coming or going.

I hope to God the front bench actually read e-mails and letters they got from businesses who said: what are you doing? I got calls every day, not knowing: "Hey, are we open tomorrow? Well, we don't know. Depends. I mean, things keep changing. The government says that we're going to get a seven-day notice. Nope. They'll introduce new measures that take effect within a day or two." Businesses are still waiting for their first sign of support from this government. "Oh, yeah, we've rolled out hundreds of millions of dollars. It's all been a success. Hey, let's pat each other on the back. Let's go have a drink in the sky palace."

For so many businesses, because of the extremely difficult, some would argue, red tape that this government imposed to qualify for

supports, it left them with nothing or a pittance. When we talk about some of the supports the government rolled out, like this latest up to \$10,000, what the government doesn't tell you is the "up to." That's in the fine print. Oh, yeah, businesses can get \$10,000 in the latest round of the small and medium enterprise relaunch grant. Yeah. The bulk of businesses get nowhere near that.

You know, had this government shown leadership a long time ago, fewer Albertans would have died, fewer cases of COVID would have existed, the economy would have opened up much quicker, but half measures and yo-yoeing back and forth between kind of open and some shut and some with certain restrictions allowed this pandemic to drag on and on and on. The government is quick to jump up: "Oh, we did everything we could" and "Oh, if the NDP were in power" and blah, blah, blah. Yeah. You know what? Albertans would be way better off.

In fact, read the latest poll, and you'll see that Albertans also feel that they'd be way better off under an NDP government. Again, don't take my word for it. There are about 10 different polls that have come in in the last three months. Now, I don't put much stock into that, but the point is that it shows that Albertans, the majority of them, are not happy with how this government has handled COVID.

And now we have a bill which removes the right for families to pursue justice if they feel that their loved ones were mistreated. Once again, for a government and a party that claims to be the ones that are all about law and order, what are you scared of? Grieving families.

I recognize that even pursuing some kind of recourse would not bring back a loved one – nothing would – but for families, the ability to pursue justice could bring, possibly, closure on this issue. Instead, what we have is a whole bunch of questions with no answers as far as why the government is bringing this forward and who's asking for it. I would imagine it's the operators who know that they failed Albertans. I'll have much more to say on this as the debate continues.

The Speaker: Standing Order 29(2)(a) is available, and I see the hon. the Minister of Justice and Solicitor General.

Mr. Madu: Thank you, Mr. Speaker. You know, I have been listening to contributions from the members opposite. I've heard the comments made by the Member for Edmonton-City Centre, the Member for Edmonton-Castle Downs, and now the Member for Edmonton-Beverly-Clareview on Bill 70.

You know, Mr. Speaker, it is interesting that some of the last comments from the Member for Edmonton-Beverly-Clareview were looking at the polls. That is not surprising because that is the lens with which they look at everything right now. But we were elected, and we had to confront a pandemic the likes of which we've never seen before in our lifetimes. This government has had to make difficult decisions, and I am proud. As difficult as the decisions that we have had to make to protect Albertans, I am proud of a government that has got the courage to make those decisions.

Mr. Speaker, you know, there is no province in this country that has not had to deal with this pandemic. I heard the Member for Edmonton-Castle Downs saying that this government caused the loss of lives. That's what we have – and, again, I was not surprised. Not surprising at all because that is the language and the type of partisan speak that we have heard from the members opposite from the start of this pandemic.

You know, Mr. Speaker, I look at the fatalities across this country. Yes, this government mourns every single Albertan that has had to pass away as a consequence of the COVID-19 pandemic, and as someone who has spent my entire life fighting for all lives,

it is painful to see fellow Albertans that passed away because of the COVID-19 pandemic. But the idea, the accusation that this government pursued policies that caused people to die is ridiculous coming from the members opposite. It's shameful. This is something that we've become accustomed to with members opposite.

Mr. Speaker, in Quebec 11,164 people passed away. In Ontario 8,920 people passed away. Across this country you know what led to the third wave of the pandemic? There is no province in our country that has not dealt with the third wave, but listening to the NDP you would think: oh, there's something that we could have done that would have prevented the third wave. There's no province in this country that did not deal with the third wave. You know one of the things that would have helped? Vaccines. This province did not get the vaccines on time, and guess who is responsible for the vaccines? The federal government.

8:30

Mr. Speaker, has anyone in this Assembly heard the NDP stand here for once to ask the federal government why they delayed the vaccines, why they did not get the vaccines to Albertans on time to prevent the third wave? Not once. I have not read anywhere on social media. They like to spend their entire time on criticizing this government. They have not said a single word about the failures of the federal government to get Alberta and indeed the provinces the vaccines that they needed to prevent a third wave. The members opposite sit here and they spew all this nonsense.

They have no idea what Bill 70 is all about. We have a responsibility to protect – to protect – Albertans, and that's what we have done with this Bill 70. Mr. Speaker, you know, the members opposite would prefer that we not have designated long-term care facilities in this province to cater for Albertans in their time of need in this pandemic. Shame on them.

The Speaker: That concludes the time allotted for 29(2)(a).

On the referral, REF1, the hon. Member for Edmonton-Meadows has the call.

Mr. Deol: Thank you, Mr. Speaker. It's my honour to rise in the House to speak to this amendment to Bill 70, COVID-19 Related Measures Act. I will speak in favour of this amendment from the Member for Edmonton-Glenora. The amendment reads that

Bill 70, COVID-19 Related Measures Act, be not now read a second time but that the subject matter of the bill be referred to the Standing Committee on Families and Communities in accordance with Standing Order 74.2

[Mr. Yao in the chair]

Mr. Speaker, over 1,250 – I believe the numbers are no different; these are numbers from about a month ago – residents in continuing care facilities have tragically died from COVID-19. As these incidents have been viewed by experts, community activists, reporters, most of them were preventable cases where the death of those very Albertans could have been prevented. What Bill 70 does is create a higher legal threshold for families to sue continuing care operators in health facilities. The bill is also retroactive, which means that it will also throw out the current cases in courts.

Mr. Speaker, I would like to share some of the stories from Albertans that they shared with our caucus and with the media. Kathy Kaiser's mother passed away in an outbreak which took the lives of 21 residents at the Brentwood Care Centre in Calgary. Kaiser has an active class-action lawsuit against the care home that will be also affected if this bill is passed in this session. That is the other reason I am supporting this amendment. She says:

“I can’t save my mom now, but I will be a voice for her and others that have, or may, suffer the indignities she endured before her death . . . Passing this bill leaves no one accountable. Anyone’s life is worth more than that.”

Shawna Larouque lives in British Columbia and received a call in October that her mother was extremely ill with COVID-19. She immediately drove to Shepherd’s care in Edmonton. Once there, she saw her mother was left unattended as she died. She is currently part of a lawsuit against the care provider.

That’s another case that will be affected if this legislation goes through. And she says:

“I was beside my mother when she died and no one in the care home came in to help her as she breathed her final breaths. I cried for help. She was abandoned because she had COVID-19 . . . This was fundamentally wrong and there should be justice.”

Mr. Speaker, grieving families have gone through emotional, financial hardship, and these cases at the very least hope that the families can expect – and this bill does not only hinder their constitutional right to seek justice but also, like, is the same pattern I have seen since 2019, the UCP’s reason of ignoring the decades and centuries of progress, evolutions and willing to go back by attacking the very fundamental rights of citizens, in this case Albertans. I am sure that if this will pass, that will also be challenged as this attacks the fundamental rights of the people to seek justice in any society. But also on behalf of my constituents I feel this is my duty, to stand up in this House and defend the very rights of those Albertans.

[The Speaker in the chair]

I wanted to share some of the views, what the experts are saying about Bill 70 in the media. The article in the *Edmonton Journal* was published on April 22 by Lisa Johnson.

The legislation will be retroactive to March 1 of last year, before the COVID-19 pandemic began in the province, once it receives royal assent. That means plaintiffs who have already launched lawsuits will have to change their statements of claim.

Calgary-based Guardian Law is representing clients in seven lawsuits against various operators, including a \$25-million class-action lawsuit against Revera Living, on behalf of the daughter of a woman who died from COVID-19 while living at the McKenzie Towne Continuing Care Centre in Calgary.

Matthew Farrell, a lawyer at Guardian, said the bill is unconstitutional because it fails to protect vulnerable people and seniors.

“It will assuredly seek to deny justice to many people,” he said, adding that ordinary negligence is not accidental, but involves knowingly doing something wrong.

The threat of lawsuit is one of the few things left that still forces corporations to act responsibly. Why would you take that away? These are some of the views by the experts.

8:40

Also, I’m very confused about how this UCP government has come to the decision to bring this piece of legislation into this House to take away the fundamental rights of these very Albertans who are already struggling, going through all kinds of mental health issues and, you know, traumas. Instead of stepping up and helping those individuals, the government at this very time finds ways to come behind the very large corporations in this case.

I will also go through the comparative information. In this case a majority of those facilities who are facing the challenge of being sued are for-profit home care. The continuing care sector has been struck especially hard during the pandemic. This is to be noted: particularly during the first wave more than 80 per cent of Canada’s COVID-19 deaths occurred in long-term care facilities, and the

evidence shows that for-profit homes had more widespread infections and fatalities than nonprofit facilities.

It seems and it’s very much obvious that the government is basically moving on their fundamental ideology of wanting to protect the private players in health care. In this case it’s the private senior care facilities, the for-profit facilities. When this government had a chance to step up, support those very Albertans, the government did the very least. Even most of time and in most of the cases they were the last and they were the least. They failed to enforce the single staffing rule, in which case there are more than 22 exceptions to their own rule.

The news from those particular facilities was coming every single day with new deaths, and the staff from those facilities were going out into the media providing information about how complex and difficult the situation in those places was. The lives of those being treated in those facilities and also people who were working were difficult and at stake, but this government failed to address those issues. That was the second wave of COVID-19.

I feel that sometimes even it’s frustrating for myself mentioning the same thing over and over and over, but the government doesn’t seem to actually feel that shame and learn from their past mistakes.

It was not long ago that people were struggling, fighting to save their loved ones, their fellow Albertans. It was the UCP members who actually shot the videos pretending that they were sitting in their very homes, following all the rules, isolating themselves and families while they were flying abroad. While Albertans were following the rules, saving families, these UCP members knowingly, deliberately shot those videos to fool those very Albertans, Albertans who were expecting their government to do better and help them during those challenging times. Now we see that the government during that time had, actually, a very successful – I don’t know if I should say “successful” – pattern of creating distractions.

The Speaker: Standing Order 29(2)(a) is available. Edmonton-North West.

Mr. Eggen: Thank you, Mr. Speaker, and thanks so much to the Member for Edmonton-Meadows for his perspective on Bill 70. I was struck by a couple of things that the hon. member did point out, the first of which is just learning from how different facilities chose to approach COVID-19 and the various levels of success that they did enjoy or the number of infections that moved through long-term care facilities and lodge facilities and assisted living and so forth. I know that the hon. Member for Edmonton-Meadows has quite a number of these places in his constituency, as we probably all do, really.

You know, this is an essential service, really, for our seniors population to have a safe and healthy place to choose to live, quite frankly. This is a growing need in our province, as it is throughout North America, to have safe and affordable and reliable, secure facilities for our seniors population. The COVID-19 disaster that we saw not just in Alberta but across the country and indeed in many parts of the world for these types of facilities begs for us to learn from that mistake and to make sure that it doesn’t happen again. Although, you know, we are all kind of just in various degrees of shock from what we’ve experienced over the last 16 or 18 months, we all have a responsibility, particularly in this Chamber, to learn and make adaptations to ensure that we can deal with some variation of this in the future because we should expect that it’s possible to happen again in the future.

In order to mitigate that, I mean, one of the things we need to do is make sure that the highest standard of practice is being adhered to in the seniors facilities around the province. Like I said, I just

learned about Canterbury Court from a radio show that I was listening to this morning, but, I mean, if there are places that have had more success, then it's incumbent upon us to expect that highest standard in all facilities and to ensure that there is legal protection and due process for individuals who might think that they've not been treated fairly and safely and had their requirements protected by law. You know, with any law that we make here in this place and others, it's one thing to write it down on a sheet of paper, but in order to have it executed and to be followed as law, you need to have the legal system working as part of that, too.

8:50

If you remove that part of the equation, like we see with what this bill is trying to do, I think that then, you know, you can say, "Make sure you follow those rules, and if you're going to try to take action or take issue around that, well, actually those places are all protected by a special law that the Alberta government made, so you can't sue them or pursue that legal action." I mean, that is deeply not logical and, I would suggest, probably negligent on our part to suggest that something like Bill 70 could come forward.

You know, one thing I did learn in the last hour or so from the hon. Justice minister that perhaps cryptically might explain some of the reasons why we see this Bill 70 creeping onto the floor of this House is that he made some comment – he made several quite wacky sorts of comments, but this one sort of had some resonance to it. He said that, well, if we don't give protection to these people, they'll leave – right? – that the companies running these places will pack up and leave. So I thought to myself: aha, there's a clue on why this is actually happening. They had some of these large businesses come in and say: look, you protect us, or we're out of here.

I hate to give the government advice about this, but that happens all the time, folks. I hate to say it – right? – but people will threaten all the time. Your job is to rise above that and to make sure that you're doing what's best for Albertans, not for a company, not due to threats but based on the best practice of law.

Thank you.

The Speaker: Hon. members, that concludes the time allotted for Standing Order 29(2)(a).

Are there others on REF 1? The hon. Member for Calgary-East.

Mr. Singh: Thank you, Mr. Speaker. I would also like to thank the hon. member for this amendment. I rise to oppose the proposed amendment to Bill 70. I found the provisions of the bill to be of sufficient context to accomplish its intent. I cannot support the amendment as proposed for the reason that it will delay this bill, which is needed during this pandemic.

Having said that, Mr. Speaker, I want to express my appreciation to the hon. Member for Calgary-Fish Creek for introducing this bill, which will ensure new legislation to address the amazing challenges around the COVID-19 civil liability protection for health services, including Alberta Health Services, regulated health professionals, and health service facilities such as hospitals, long-term care, and supportive living facilities.

As well, I wholeheartedly thank the Premier, Dr. Deena Hinshaw, health care professionals, government leaders, and all Albertans for supporting and protecting each other during these unprecedented times. Furthermore, I would like to extend my appreciation to the stakeholders and hundreds of essential workers that have voiced their opinion on the challenging gaps faced in our system.

Mr. Speaker, the COVID-19 pandemic has been a global disaster that has affected millions of lives around the world and has caused unaccountable world-wide debts. Many countries are facing

challenges of capacity, resources in a plan to stop the mass transmissions.

The citizens of Alberta as well have experienced total upheaval in lifestyle, routine, closed schools, balancing work challenges for businesses, job uncertainty, and rising rates in death and sickness. In addition to all of this, COVID-19 has created gaps in Alberta's health care system, which continues to deliver health services to millions of Albertans. Since the beginning of the pandemic the health sector has navigated this difficult situation to deliver health services while protecting Albertans, especially in hospitals and continuing care facilities, every single day.

Even with one of the best universal health care systems, Alberta has been facing its own unique challenges. As we strive for all Albertans to get vaccinated, this will help prevent and fight off disease. Since COVID-19 is a new virus, no one has natural immunity. It is much safer and more effective to get vaccinated than it is to get infected.

Mr. Speaker, thanks to world-wide co-operation, COVID-19 vaccines were developed quickly, without compromising safety. Every approved vaccine met Health Canada's strict standards for safety, quality, effectiveness. More than 3.6 million Albertans have now received their first dose of the COVID-19 vaccination. As more Albertans get vaccinated and mandatory health restrictions are followed, then a decrease in the spike of COVID-19 will eventually fade away and protect Alberta's citizens.

The Alberta government and all Albertans have done their utmost to protect each other, resulting in a great job to bend the curve. As the number of cases compared to the last couple of months has significantly decreased, resulting in fewer and fewer cases a day, we're positive that Alberta is heading in the right direction to recovery.

As we know, Mr. Speaker, COVID-19 has put an unprecedented strain on our entire health system in terms of service and delivery, which includes maintaining the health and safety of our most vulnerable citizens. Families, clients, and residents across the province are relying on continuing care operators and workers to be able to continue to support clients' and residents' needs. Our current legislation does not specifically address the unique context in the event of transmission or potential transmission of COVID-19 and creates the condition for increased litigation.

Mr. Speaker, due to unforeseen impacts of the pandemic and gaps in the health care system it can have the potential to compromise the delivery of our health services in Alberta. With that being said, Bill 70 will create a new civil liability protection for health care services in Alberta. Other jurisdictions such as B.C., New Brunswick, Nova Scotia, and Ontario have already introduced legislation for COVID-19 liability protection, and Saskatchewan is also currently in the process of passing legislation. This will ensure that our health care professionals are protected during this troubling time. The protection will cover Alberta Health Services, regulated health professionals, and health facilities. Specifically, Bill 70 will extend COVID-19 civil liability protection to AHS, long-term care facilities, supportive living, pharmacies, paramedics, doctors, nurses, owners, employees, and everyone else identified through the consultation by the minister.

Mr. Speaker, since this is a bill that's starting from ground zero, we are putting legislation in place that would address unforeseen consequences due to COVID-19. Unregulated care providers not employed by AHS, a health services facility, a regulated health professional, or other sectors could be added through regulations in the future if needed, on which no decisions have been made at this time.

Bill 70, Mr. Speaker, the proposed legislation, focuses only on the health sector at this point. Currently the civil liability protection

specific to COVID-19 has not been included in any of Alberta's laws. Changes are necessary in order to protect our essential health care workers in the event of transmission or potential transmission of COVID-19 as Bill 70's liability protection will be retroactive to March 1, 2020, and will come into force immediately upon passing this bill. The Alberta government believes that the protection should cover entirely the COVID-19 outbreak.

9:00

Mr. Speaker, the proposed legislation strikes a balance between protecting those who have followed the rules so they can focus on delivering health care to Albertans while still permitting civil actions to proceed against those whose action may have been grossly negligent. Moving forward with COVID-19 civic liability protection will ensure that the health system continuously delivers safe health services to Albertans without being exposed to lawsuits and claims caused by exposure to COVID-19.

Gross negligence rests on conduct that allegedly breaches the duty of care. Very broadly, it is a marked departure from the applicable standard of care or conduct made with reckless disregard of the consequences. Within the context of the proposed legislation the intent is to protect the health sector, including continuing care operators that make an honest effort to follow all public health guidance, support and protect residents, clients, families, and staff in the unfortunate and unforeseen events of exposure, transmission, or potential transmission of COVID-19. "Gross negligence" appears in a number of Alberta statutes as an exemption to general liability protection, ensuring that laws are ethical and consistent.

Mr. Speaker, the civil liability protection will only be for those who have rigorously followed public health orders and guidance throughout COVID-19. It is also important to note that Bill 70 will not dismiss any existing lawsuits in Alberta related to negligence. Similar to laws brought forward in B.C., Bill 70 does not dismiss existing lawsuits. However, the claimants will need to amend their existing claims to plead gross negligence. Thus we see that even when public health orders and guidelines are rigorously followed, there is still a possibility that COVID-19 could spread from person to person within a health care setting.

Mr. Speaker, a single lawsuit could bankrupt the operators of Alberta's continuing care facilities. If this is the case, then it will lead Alberta to have even fewer continuing care facilities and fewer spaces for our citizens, especially at a time when the need for these facilities is increasingly growing. Again, Bill 70 is not about protecting big corporations. The reality is that many of the operators Bill 70 will protect are small community-based facilities with limited means. The civil liability protection will as well be included for nonprofit organizations, faith-based groups, and independent operators.

Mr. Speaker, the proposed legislation will encourage continued adherence to public health guidance as it is a requirement for civil liability protection. There is no reason to believe the health sector, including continuing care operators, could change their compliance following the introduction of this legislation. Those who do not follow public health guidance are currently subject to fines or other enforcement actions, so there are mechanisms to penalize those who are not abiding by the chief medical officer of health's orders. Regulated health professions are also required to follow guidelines and advice by their regulatory college.

Mr. Speaker, it is important to assure my colleagues and all Albertans that Bill 70 will have no impact on the current labour legislation. The Alberta government is bringing forward Bill 70 because Alberta's health care service partners have been raising the issue of lack of protection and increasing risk of COVID-19 lawsuits and the need for legislation such as this. The government has heard from many stakeholders, like the Alberta Continuing

Care Association, Alberta Seniors Communities and Housing Association, Seniors Housing Society of Alberta, and the Christian Health Association of Alberta. In addition to that, we are aware that stakeholders such as the Alberta Nonprofit Network, the Insurance Bureau of Canada, and the Alberta Family Child Care Association have raised concerns of the same manner.

Again, Mr. Speaker, Alberta, as in other jurisdictions in Canada and around the world, continues to cope with the unforeseen impacts from the COVID-19 pandemic. This includes addressing the gaps in our current legislation. Civil liability protection specific to COVID-19 does not currently exist in the Public Health Act or any other legislation in Alberta. That is why I am very pleased to report that Bill 70, the COVID-19 Related Measures Act, will only ensure that our essential workers, groups, and organizations are well protected.

In conclusion, the COVID-19 civil liability protection provided by Bill 70 will allow the health system to continue focusing on the delivery of important health services to Albertans without the fear of lawsuits caused by the exposure to COVID-19. The proposed legislation strikes . . .

The Speaker: Standing Order 29(2)(a) is available. The hon. the Minister of Justice.

Mr. Madu: Thank you so much, Mr. Speaker. Let me thank my colleague the hon. Member for Calgary-East for his comments, well-researched comments, on Bill 70, unlike the members opposite. I do want to thank him for his contributions to this debate.

You know, Mr. Speaker, I was sitting there listening to the Member for Edmonton-North West responding to this particular amendment, and you know where he went to again? He framed this bill as an attempt to protect big businesses. Any time we have the opportunity to listen to the members opposite on matters affecting business, their true colours actually come out. For them this is about their hatred toward businesses, more so the type of businesses they would want to refer to as big businesses.

But, Mr. Speaker, let's be clear about, you know, what this bill is all about. As the Member for Calgary-East noted, this bill seeks to provide civil liability protection to regulated health care professionals; health service facilities, including hospitals – all hospitals – long-term care facilities that have been caring for Albertans during this time of unprecedented COVID-19 pandemic; licensed supportive living facilities; residential addiction treatment facilities; any owner and their employees, contractors, and others in these group homes. Those are the people that this particular bill seeks to protect.

As the Member for Calgary-East also noted, there is a reason why virtually every comparable province in this country has put this particular bill in place in their jurisdictions. By the way, B.C., an NDP government in B.C., similar to the NDP in Alberta, has a bill – in fact, they began by ministerial order. Since 2020 they began to put in place a ministerial order from the start of this particular pandemic all the way until B.C. finally, you know, passed the COVID-19 Related Measures Act in July of 2020. Nova Scotia, New Brunswick: they've all put in place their own versions of this particular legislation. And you ask yourself, Mr. Speaker: why is it that the members opposite would stand here in this Assembly and oppose a bill that their sister political party and government in B.C. has already put in place? Hypocrisy. For them it comes down to politics. Hypocrisy. This is all about big businesses.

9:10

Mr. Speaker, as I said before in my previous remarks, this province and the provinces in this country encountered the third

wave of this pandemic because this country and the federal Liberal government did not provide provinces the vaccines they needed. We were the only country of comparable countries in the entire universe that did not have the vaccines at the time that Canada needed it in order to prevent the third wave. Canada entered into a sole-source contract, so only Canada can enter into a contract to procure vaccines. They delayed and waited until the third wave was upon us.

Not once in this Assembly, not once in all of their press conferences have we heard the NDP, you know, complain about the delay in the federal Liberal government procuring vaccines, but they are happy to stand before the floor of this Assembly to accuse this government that has done everything within our power to keep our people safe. We have spent billions – we have spent billions – of dollars, Mr. Speaker. [interjections] You know, they are heckling because they don't want to hear the truth. We have spent billions of dollars to make sure that we keep Albertans safe.

Mr. Speaker, they talk about PPE. We led this country – we led this country – in procuring PPE. In fact, we gave PPE out in this particular country. Shame again on the NDP.

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

Ms Sweet: Well, thank you, Mr. Speaker. I think the benefit of going after the minister is that I'll bring the tone down a little bit in the House. I know it's really hard when I can't keep up.

In saying that, though, I have a couple of things. The minister has gotten up a few times and said: you know, let's not make this political; let's talk about people that have been impacted by long-term care; let's try to focus on the issues. You know what? I would like to support those comments, but I would also like to acknowledge that when the minister says that, I feel like the minister needs to be reminded of the comments that he had already made only a few months ago, that, in fact, he needed to apologize publicly for, when – and I will quote – the Minister of Justice said:

In field and make-shift hospitals gasping for breathe because we have ran out of ventilators [and] manpower . . . My point is that I don't think it will be responsible to simply wait until we have a disaster on our hands. That's what the NDP, the media and the federal Liberals were looking for and want. We simply [won't] allow it to happen.

That's politics, Mr. Speaker. I will remind all members of this House: maybe don't throw stones at glass houses because very clearly, on the record, publicly members of the government chose to make this very issue political. Let's bring the tone down a little bit and think about words that we've said in the past and talk about why we're really here, which is about the fact that seniors have died in long-term care. Families are grieving, and they're looking for some justice.

I'm getting really tired of hearing the rhetoric from the government side trying to blame everybody else. Here are some facts. In the report written by MNP, which was just released at the end of May, the reality of it is that in Ontario residential care fatality rates percentage-wise were 30.5 per cent, in B.C. 33.5 per cent, in Alberta 30.9 per cent. Those are the facts. When the minister would like to stand and say that we were nothing like the other jurisdictions, that is not the case. Percentage-wise the fatality rates in residential care were equivalent to Ontario and B.C. in the report that was released by this government in May – these are people's lives – 30 per cent of people living in long-term care, of the fatalities that happened. It's not a political issue. We're talking about people.

I would like to reference even more of the report, on page 101, the impacts on residents' and family caregivers' overall health and well-being:

- The pandemic, and the policies put in place to combat it, have had many adverse effects on seniors and people with disabilities, whether they are living in FBCC, supportive housing settings, or at home alone, including physical and mental decline
- Family caregivers have also experienced increased stress and guilt and are mostly unaware of what is happening to their loved ones in FBCC.

In the summer of 2020 the Calgary dementia network published a report on the impact of COVID-19 on family caregivers for persons living with dementia and found that family caregivers were overburdened in their caregiving responsibilities and that many of the residents living with dementia had experienced a decline in their well-being and functionality because of the pandemic-related restriction measures. Family caregivers also expressed a great need for increased supports in their roles as caregivers for their demented family members in care; that clear, correct, and concise information on public health protocols to community and family caregivers was done via multiple media sources; that family caregivers be granted continued access to care recipients as these caregivers are considered an essential part and essential care partners and were not just considered visitors.

Clearly, even in the government's own report there have been significant impacts on family members and people living within these facilities, in the report that was released in May. Now, what is not in this report is this piece of legislation and what that means for the families that have lost loved ones in these long-term care facilities. The government had an opportunity, while this review was happening, which was the Improving Quality of Life for Residents in Facility-based Continuing Care report, which I believe the hon. Member for Calgary-Fish Creek was a part of. Not once in this report is there any indication of this piece of legislation. No discussion. What is in this report, though, is a very clear impact on Alberta families, on Alberta seniors, and the very reason why we are standing here today, because the quality of care for seniors in our province dramatically decreased during COVID-19.

It is even within the report, where it indicates that the COVID-19 pandemic was one of the most impactful events for long-term care in Canada. In fact, Canada has the highest proportion of deaths from COVID-19 in long-term care settings among the 14 OECD countries. Eighty-one per cent of Canada's COVID-19 deaths have happened in long-term care, compared with an average of only 42 per cent in other countries. The first COVID outbreak at a continuing care site in Alberta was recorded on March 11, 2020. The number of COVID-19 cases in Alberta sites during the first wave of COVID placed Alberta in the middle of the pack when compared with other provinces. However, in the second wave, when we knew better, the number of COVID-19 cases and outbreaks increased substantially – substantially – when we knew more, when we could have done better.

You know, the government will say that the minute I say, "Well, we could have done better," that becomes a political statement. It's not; it's the reality of that learning. There are experiences that need to be learned from what has happened over the last year, the last year and a half. The fact is that long-term care, where our seniors live every single day, has been substantially impacted by COVID-19. What it has demonstrated is a substantial gap in services and supports and how much our seniors rely on and how much the staff at long-term care facilities rely on family members to provide some of those most basic needs.

9:20

When we look at this amendment, which is asking that this be referred back to the Standing Committee on Families and Communities, it's because this report, that was clearly being drafted, being consulted on – as the hon. member across the way indicated, many organizations were spoken to. The hon. member listed off a whole bunch of supports: the quality of care association, the Insurance Bureau, a whole bunch of other ones. But what I didn't hear was family members. What I didn't hear was family caregivers. I heard a lot of organizations, but – and this is what I would love the government to answer for me – did anybody pick up the phone and call those family members and say, "What can we do, how can we help you grieve through this process, and what was missing in the quality of care for your loved one that we can improve on?" and not, "We're going to take away your right to due process"?

The reality of it is that as a registered social worker prior to being elected, I had a code of conduct that I had to follow. I was registered with the Health Act. That still made me responsible, and it still put me in a situation where a client had a right to review my practice. This bill doesn't remove that. So this conversation about protecting doctors and nurses and registered professions: it doesn't exist in this legislation, because we still all have a responsibility under our Health Act, under our codes of conduct, under our professional requirements to do due diligence in our work.

Where are the families' voices in all of this? I haven't heard from the families when we talk about this bill, and it doesn't make sense to me. If the government could stand up and say, "You know what? We did. We spoke to some of the families, and this is what we've learned, and this is what we've heard, and this is how we can address, maybe, some of the questions that are coming up in this piece of legislation" or "We've come up with a different resolution or a different path to resolve the issues," I'm all ears. But the reality is that I haven't heard any of that. I've heard heightened rhetoric. I've heard a lot of conversations that have literally forgotten who we're talking about and that've tried to blame everybody here, there, and everywhere. I really think that if we have this referred to the Standing Committee on Families and Communities, hopefully it would bring down the rhetoric. Hopefully, we'd be able to hear some stories of families and their experiences.

The other thing I just don't understand is: why did the government spend a year with expert panels, a member of this Legislature writing a report that doesn't even address this piece of legislation? It doesn't even speak to it. It doesn't give families a process. I guess that would be the word. What we're seeing is that this piece of legislation will remove that due process.

So what does it get replaced with? Grief? Just grief? Just a loss? Just a feeling of guilt, that because they weren't able to visit their loved one in long-term care and weren't able to provide that basic care that they were providing before, they just carry that with them? I think the reality is – and, I mean, maybe the Minister of Justice would know this as he was a lawyer before – that sometimes legal process isn't about process. It's about being able to work through a process, and you may not get the outcome that you wanted, but at least you feel like you fought for something. I think these families in their grief need to feel like they fought for something, and this would give that opportunity.

I'm not going to determine what the outcome of the judicial system would have been or what would happen, but maybe recommendations, similar to a fatality inquiry, would come out with things about how we could improve the system, about acknowledging that when Canada and Alberta have an overrepresentation of fatalities in long-term care in comparison to

other countries, there is something seriously flawed with our system. Okay. Maybe we can all agree that that's the case. I think we may not agree on how we're going to get to the end of fixing it. I will put on the record that I believe that public long-term care is far better than private, and I would never dispute that because I believe that public health care is the most accountable way to take care of people, but that's beside the point.

I think right now the point is that I would like to hear from the government about: if this is not the process that is going to help families feel like they were able to stand up and fight for their family member that died, then what is the process? What is the mechanism that these families are going to be able to use to be able to feel like they had their voices heard, that there was some justice in the end of all of this? Because that's what this process will be for most of those families, going through a process and feeling like they were able to do something on behalf of their loved ones who, unfortunately, died due to a serious pandemic at a time where a system was not set up.

I think there's fairness in saying that the system wasn't set up for it. We need to take learning from that, too, and say: "What if there was another issue like this? What if something like this happened again? What are we going to do differently? How do we keep family members safe if there is another wave?" I mean, we heard the Premier, even today, say that there might be one in October. Are we prepared for October so that we don't have another 30 per cent? That's, I think, what we need to think about. How do we provide closure for these families?

Thank you, Mr. Speaker.

The Speaker: Standing Order 29(2)(a) is available if anyone has a brief question or comment. The hon. Minister of Justice.

Mr. Madu: Thank you, Mr. Speaker. I have paid very close attention to the comments made by the Member for Edmonton-Manning. I think the one thing that we can all agree on is that a single loss of any Albertan from this pandemic is heartbreaking. The members on this side of the aisle have been clear about that, and we mourn and grieve every single Albertan that has passed away because of this pandemic.

At the end of the day there is going to be opportunities for governments here in Alberta, across our nation to go back and review the pandemic response, various governments' response to how we handled a pandemic that none of us have seen in our lifetimes before, a pandemic that essentially made the Alberta government open up the treasury. We've spent billions of dollars. Billions of dollars.

You know, Mr. Speaker, there are lawyers in British Columbia, a province governed by the NDP. There are lawyers in New Brunswick, lawyers in Nova Scotia, in Ontario, and each and every one of these provinces have, before now, put in place the pandemic civil liabilities protection legislation, and there's a reason for that. We have a responsibility to protect those who work, the same people that we have been tasking from day one of this pandemic, from unnecessary lawsuits.

Mr. Speaker, Bill 70 makes a distinction between negligence and gross negligence. This bill does not protect any health care facility or health care worker that was grossly negligent in their dealings with respect to the pandemic. It is important that we make that clear. Alberta has taken a very narrow, surgical approach compared to other provinces – compared to other provinces – in just three areas to ensure that we protect our health care professionals, who have borne the brunt of the call to respond to the pandemic. Those facilities have borne the brunt to respond to this pandemic on behalf of Alberta. Three very narrow areas in Alberta, compared to other

provinces: continuing care and congregate living facilities, health care services, and health care professionals. Those are the narrow protections that Bill 70 covers.

9:30

Compare that, Mr. Speaker, to other provinces, that have 18 different categories of protections. By and large, in other provinces you will see protections for all persons. For example, in Saskatchewan and in Ontario you see, you know, protections with respect to 18 other categories. Alberta has narrowly focused on three key areas that helped the province respond to the pandemic. We urged them to work with us to make sure that we are able to overcome this pandemic. Again, this Bill 70 does not provide liability to those who have acted in a grossly negligent manner. It is far narrower than what we have seen in other jurisdictions. I call upon members opposite to end their rhetoric.

The Speaker: Hon. members, on amendment REF1, are there others? The hon. Member for Calgary-West.

Mr. Ellis: Thank you very much, Mr. Speaker. I'll be brief with my comments. I would like to oppose the amendment being brought forward by the opposition, but I do want to make a few points before I move on. You know, this legislation doesn't remove the right to initiate a civil action and does not dismiss existing lawsuits. I think the Minister of Justice has been very clear on those points. The legislation was strongly endorsed by the Alberta Medical Association; Covenant Health, which is the Catholic health; the Alberta Continuing Care Association; the Christian Health Association of Alberta; and the Alberta Seniors Communities and Housing Association.

Many continuing care operators in Alberta are community-based operations with limited means. Operators in Alberta include many not-for-profits, faith-based operators, and independents. A single lawsuit, as indicated by the Minister of Justice, could just bankrupt these nonprofit organizations.

I think another point that has been made, which I think is very important, is that British Columbia, New Brunswick, Nova Scotia, Ontario, and Saskatchewan all have similar protection, and they also all have very similar thresholds, so what the Alberta government is doing would absolutely be consistent with what other areas across Canada have been doing.

With that, Mr. Speaker, I would like to adjourn debate. Thank you very much.

[Motion to adjourn debate carried]

Government Bills and Orders Committee of the Whole

[Mrs. Pitt in the chair]

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

Bill 58 Freedom to Care Act

The Chair: There are no amendments currently on the floor.

Are there any members wishing to debate? The hon. Member for Edmonton-Castle Downs.

Ms Goehring: Thank you, Madam Chair. It's my pleasure to rise this evening to speak to Bill 58, the Freedom to Care Act. This is a piece of legislation that I was quite hopeful to see. I was anticipating that we would see good things in here. I know that when the

government did their survey, I was able to review some of the results of that survey, not because they were published by the government but because those that contributed shared what they shared with me. I can tell you that organizations were very clear about what they would like to see when it comes to freedom to care in their sector. We know that the sector has presented many opportunities for this government to engage, to create jobs. Unfortunately, what we did see was that this government reduced funding, reduced resources, and unfortunately several organizations across this province indicated that they had absolutely no input outside of the survey into what this legislation would look like.

It was pretty clear that our nonprofits and those organizations that deal with volunteers were asking for support. They were asking for assistance in the recovery. They were asking to be a voice at the table when this government decided to roll out their plan, which we haven't really seen. Unfortunately, their voices weren't reflected in this piece of legislation. We've heard that what they were asking for was some clarity around the current exemptions that already exist. I was pleased to learn that this government has already taken an opportunity to create a website that would allow organizations to go onto the government website and look at the exemptions that already exist.

I'm not sure if this government is aware or not, but you don't actually need to produce a piece of legislation to be able to create information on a website that already exists. However, here we are. That was part of their big announcement with this legislation, this website announcement on having a kind of one-stop shop, if you will, where everybody can go and access exemptions. That was a need that came out of that survey. They were saying that they wanted to know how they could access the exemptions. It was kind of difficult. It was a lot of clicking and searching and not really knowing, so this government heard that and created a website. For that, I applaud the government, but I question why this legislation was put in when that active listening to the sector about what they needed wasn't required for legislation.

We have received quite a bit of feedback on this piece of legislation, and it was very clear that at no point in this does it actually create any jobs, does it actually provide actual, tangible support that the sector is asking for. It actually doesn't do a whole lot of what the organizations were asking for. We did hear from Food Banks Alberta, the interim CEO, Arianna Scott. She expressed concerns that speedy access to health and safety exemptions could be problematic, and quite frankly we share this concern. This was something that I heard across the board from all organizations and nonprofits, volunteer organizations, when I spoke to them about this legislation. They were concerned about what having these exemptions could mean. They were concerned about the process of how the exemptions got approved. They were concerned about what sort of exemptions would be made, considering that they already exist. These are questions that they had. They were really upset that the actual support and the voice at the table weren't provided. They provided some really great feedback on the survey. However, none of that is referenced in this piece of legislation.

9:40

You know, the examples that the government shared, even, were somewhat concerning as to why this legislation was needed. The minister shared a story about an organization wanting to house people but that wanted an exemption from the sprinkler systems. Now, that is a huge – huge – safety risk. When these exemptions are being proposed to the government, the organizations wanted to know who was approving them. Was it the minister of culture that would be getting all of these exemptions and approving them, or

would they go to the ministers that are responsible for those areas that the exemptions are being asked for? Unfortunately, it's not clear in this legislation.

When this piece of legislation was before the House earlier, there was an amendment that was put forward. Unfortunately, it was defeated. It was around the definition of nonprofits, because part of this legislation allows the minister to designate an organization as a nonprofit "for the purposes of this Act." That was denied. Nonprofits were very clear that there is a purposeful definition of a nonprofit, and why would they use this legislation, the Freedom to Care Act, to be able to provide that designation to someone? They were unsure where that came from. It's certainly not from the nonprofits because they have criteria that are in place.

When we're looking at how this helps the sector, there are questions. They're not feeling that this actually meets any of the needs that they had put forward. They were asking for supports for services. They were asking to have a voice at the table when they were talking about these things. But, unfortunately, that's not something that's being explored. Again, this is a piece of legislation that gives cabinet the ability to make all of these decisions and all of these regulations, and it takes away any of the feedback that could have been provided by the nonprofits, those that actually do the work that this act impacts.

I know that you said earlier that there were not any amendments, so at this point I would like to introduce an amendment.

The Chair: Hon. members, this will be known as amendment A2.

Hon. member, please proceed.

Ms Goehring: Thank you, Madam Chair. I move that Bill 58, Freedom to Care Act, be amended in section 1(h) by striking out "may include a director, officer, or trustee of the non-profit organization but." When we look at this piece of legislation, section 1 talks about the definitions. Specifically around the volunteers, that is what we were talking about.

"Volunteer" means an individual who . . .

It goes on to describe what a volunteer is, but it goes further and states:

and may include a director, officer or trustee.

That, to me and to the organizations that I spoke with, is a concern.

When we look at those titles, whether you're a director, an officer, or a trustee in a nonprofit organization, there's a set of expectations that come with those titles and those positions, and having them exempt is a big concern. I think that when we're looking at those titles – director, officer, trustee – there's an expectation of a higher standard of practice when it comes to the work that they do. These individuals are often the decision-makers within the organization, and if something should go wrong and there is a harm caused as a direct result of one of the decisions that they made, they should be liable. My understanding of the purpose of this is that it's a way that volunteers can go out, work within the capacity of the volunteer within the organization, and in extreme circumstances where it is clearly the fault of the volunteer, which is laid out quite nicely in this piece of legislation – outside of those circumstances they would held liable.

Now, volunteers that are not part of those three groups, aren't the decision-makers – they aren't the ones responsible for the directions that come out to the volunteers or those kind of performing the duties. I think that if you're a director, an officer, or a trustee in an organization, there's an expectation that you're aware of the risk, that you're aware of what you're asking your people to do, and you're making that decision with a whole bunch of information that supports you. So if you go out, you've made a decision that this is deemed to be something that's safe, and something happens and

damage is done, harm is done, I think that you should be liable. I don't think that as an organization you should be able to say that our decision-makers, those with the higher standard of expectations, should now be exempt from liability.

I think that as a volunteer walking into an organization, thinking that those above you are making decisions that they're liable for is a comfort. As a volunteer you want to know that the direction that you're being given has been well thought out, that there's some accountability to those people that are making the decisions. The directors, officers, and trustees, in our opinion, are individuals in an organization that qualify under the higher standard, the decision-makers. I would hope that the intention of this government is to create an easier way, perhaps, for volunteers to become involved, volunteers that are perhaps worried about risk, undue risk, that they had no intention of malicious intent when performing a responsibility or a duty while in that volunteering capacity.

It's a comfort to know that they as the volunteer aren't liable but the organization that they're representing could be, except this government is saying the "director, officer or trustee." So when you have people at the table that are making decisions and giving direction that aren't liable, as a volunteer that would make me question whether or not that was an organization that I wanted to represent, because if something goes wrong, who is ultimately responsible? As a volunteer I want to be able to walk into a place and feel that I'm being well trained in what I'm supposed to do, that what is being asked of me is something that's safe to myself as the volunteer and to those that I'm providing service for. I want to know that if a mistake is made and harm is done, someone is responsible, someone that oversaw those decisions and said that this was a safe act that, unfortunately, caused some sort of harm can be responsible in that decision.

I know that when I was a volunteer at the Sexual Assault Centre, I worked on the crisis lines, and part of that volunteer experience was extensive training. I went through numerous hours of training to make sure that when I answered that phone to talk to someone in distress, I had the skills necessary to actually respond. When I'm picking up a crisis call, I want to be able to clearly articulate what services are available, to understand what their needs are, and then to be able to make referrals as appropriate. Part of that job was doing a suicide risk assessment.

9:50

Sometimes people calling the Sexual Assault Centre crisis line were suicidal, and as a volunteer I was provided extensive – extensive – support and training on how to walk through a suicide assessment. The people that trained me and the people that sat around the board and the organization to say that this was training that was acceptable for a volunteer, that this was a task that was acceptable for a volunteer with this amount of training to do: I trusted that they were putting me in a situation that was safe for me and absolutely safe for those that I was providing service for.

I was doing something that was crisis based. People are at a moment in time where they feel they can't talk to anybody, so they pick up a phone to talk to a stranger. And thinking that if I had caused harm because of a decision that a director or officer or trustee had made and now they're not liable for that, whose fault is it? When harm happens – and it does happen – it is the exception, but someone needs to be accountable for that decision. When directives are coming out from these organizations, when we have individuals making decisions about what is safe for a volunteer to do, what is safe for people to access within their organization, those people that are the decision-makers should have some sense of liability.

This amendment is asking that we just strike those individuals out because our belief is that, like I said, they have a higher standard of practice. They're the ones who should have all of the information at their level. They make decisions that a volunteer shouldn't be expected to have access to. When they're saying, "This is a service that we provide as an organization, we're going to provide training to our volunteers, and we believe it's safe," those individuals should be responsible for the decisions that they make.

I think that when we're looking at volunteers in this province, we have so many individuals that go above and beyond when it comes to need. We have people that volunteer in many different capacities all across the province. Whether they're delivering food for seniors, whether they're sorting food at the food bank, whether they're organizing drives for seniors to access medical appointments, Albertans want to help, and their intentions are good. As a volunteer you can go out and find out what your needs are, find out what your interests are, and go to those organizations and determine whether or not that's a good fit for you as someone who wants to give back to their community.

But you should be able to trust that those that are making the decisions are liable if anything should go wrong. I think that by supporting this amendment and striking out those three positions, it makes sense that they have an expectation of liability.

There are already exemptions that exist for these individuals in other pieces of legislation but only when they're acting in the capacity of a volunteer. This doesn't say that. This contradicts other pieces of legislation that already exist and now allows them to be exempt in those positions. Other pieces of legislation acknowledge those positions and say that they are exempt when they are working in the capacity of a volunteer. So it goes against current legislation, and it provides an exemption for them in this Freedom to Care Act.

I haven't heard an explanation as to why they would want to include the "director, officer or trustee." Organizations have asked me why they would be included in that, and unfortunately I haven't heard a response. To us and to the organizations that we've talked to, this is an amendment that they would support not just because it makes sense for this legislation, but it also coincides with other pieces of legislation that already exist. When we're talking about harm that's caused as a direct result of a decision, there has to be some form of liability. You have to be able to look through and find out how that decision was made, what caused it, an inquiry, if you will, and several of the organizations I've worked with, if something happened . . . [Ms Goehring's speaking time expired]

Thank you.

The Chair: Hon. members, anyone wishing to join the debate on amendment A2? The hon. Minister of Justice.

Mr. Madu: Thank you, Madam Chair. I appreciate the Member for Edmonton-Castle Downs speaking to her proposed amendment to Bill 58. The difficulty with the proposed amendment A2 is that this really – if this amendment is accepted, it would weaken the protections that we provide to volunteers, and that is not needed in this particular bill.

Madam Chair, I want to refer the Member for Edmonton-Castle Downs to the provisions, by the way, first and foremost, the definition that deals with who is a volunteer – as she rightly stated in amendment A2 – section 1(h):

"volunteer" means an individual who

- (i) performs services for a non-profit organization or the Crown, and
- (ii) does not receive any compensation in respect of the services, other than reasonable reimbursement or allowance for expenses actually incurred while

performing the services for the non-profit organization or the Crown, as the case may be,

and may include a director, officer or trustee of the non-profit organization but does not include an individual performing the services under a court order.

The Member for Edmonton-Castle Downs is proposing that we exclude a director, officer, or a trustee that is providing their services for free. They're volunteers. The only difference is the level of responsibility, from someone who runs – let's say, you know, prepares or delivers meals to a director or a trustee who is responsible for making sure that that particular work of delivering a meal is done appropriately even though that particular director or trustee is doing this gratuitously. The Member for Edmonton-Castle Downs is proposing that we exclude these volunteers from protection. That would be unfair to those individuals, and that would actually cause more damage to those not-for-profit organizations. The goal here – the goal here – is to ensure protections for people who have volunteered their time to make sure that our not-for-profit sector, civil society, especially during this time of great need, are able to work in our communities, do their particular work to ensure that our communities are functioning well.

I just also want to refer the Member for Edmonton-Castle Downs to the scope of liability in section 3:

(1) Notwithstanding any enactment, and subject to subsections (2) and (5), no volunteer is liable for damage caused by an act or omission of the volunteer on behalf of the organization or the Crown, as the case may be, if

(a) the volunteer was acting within the scope of the volunteer's responsibilities . . .

So all of these people, provided they are acting within the scope of their responsibilities.

. . . in the [not-for-profit] organization or the Crown, as the case may be, at the time of the act or omission, and

(b) the volunteer was properly licensed, certified or authorized, if required by law, by the appropriate authorities for the activities or practice undertaken by the volunteer at the time the damage occurred.

(2) The limitations on the liability of a volunteer under subsection (1) do not apply if

Now, here are the exceptions. The exceptions. You will find that in section 3(2), why I think that this amendment is unfortunate.

10:00

To be frank, you know, I understand the intentions of the Member for Edmonton-Castle Downs, and I commend her. I commend her for participating in this particular debate and offering this amendment, but when it comes to legislation, it is critically important that we think it through and that we not just focus on a particular subsection and read parts of subsections or sections that work together and ask ourselves: what really are the drafters of these particular provisions hoping to accomplish? Only when we are able to answer that particular question – I would submit to the Member for Edmonton-Castle Downs that it is dangerous to mainly focus on the scope of volunteers.

I want to come back to section 3(1), the exceptions. It says:

(2) The limitations on the liability of a volunteer under subsection (1) do not apply if

(a) the damage was caused by wilful, reckless or criminal misconduct or gross negligence by the volunteer . . .

And we have not picked and chosen the volunteer. All of the volunteers: it doesn't matter whether you are doing the runs in the wagon or you are the director or the trustee.

(b) the damage was caused by the volunteer while operating a motor vehicle, vessel, aircraft or other

- vehicle for which the owner is required by law to maintain insurance,
- (c) the act or omission that caused the damage constitutes an offence, or
 - (d) the volunteer was unlawfully using or impaired by alcohol or drugs at the time of the act or omission that caused the damage.

Every volunteer that acts within the scope of their responsibilities, whether they are the small volunteer out there who is running water or cooking or handling paperwork, all of them, deserves the protection of this particular bill. By the way, this is a platform commitment of this particular government, and I am very pleased that this government is following through on that particular commitment.

Madam Chair, without wasting most of our time tonight, whilst I commend the Member for Edmonton-Castle Downs for speaking to this particular bill and the amendment, I think that the amendment is misguided, and I therefore urge members of this Assembly to vote down this amendment.

Thank you, Madam Chair.

The Chair: Any other members wishing to join debate on amendment A2? The hon. Member for Edmonton-Manning.

Ms Sweet: Well, thank you, Madam Chair. I just want to clarify some of the questions that the minister actually was bringing up in regard to this. I'm a little concerned, to be honest, that the minister would say that this was a platform commitment. Now, the reason that I'm a little bit concerned about this is that I think we need to make sure that we are being clear about the definitions within this piece of legislation and what is not in this piece of legislation. Currently what this amendment will do, what these changes will do, is strike out the inclusion of a director, officer, or trustee if they're with volunteer liability protections.

The issue here is that there are pieces of legislation already that exist where if, let's say, a director, an officer, or a trustee is acting in the role as a volunteer, therefore maybe on the floor working with other kids or on the call lines answering the phones, that's a volunteer role. However, if we look at the definition of a director, a director may have limited powers with respect to controlling the affairs and activity of a corporation. We could say that this is a nonprofit. A director has substantial responsibility with respect to contributing to the board's control of affairs and activities. These responsibilities arise from the director's fiduciary duties, the duties of care, and the duties of loyalty.

Now, if we look at the definition of an officer – an officer, unlike a director – each has individual duties related to managing an aspect of a corporation or nonprofit activity and affair. Such duties are generally not defined within the laws of the nonprofit but in the bylaws of the nonprofit, in a written position description, and defined in part by custom. Now, some of us may know what officers would be because many of us have had chief financial officers in our roles when looking at running as MLAs. Many of those officers in nonprofits are financial officers.

Then if we look at the role of what a trustee is, well, under trusteeship, under the Alberta government definition, a trustee takes legal ownership of an asset held on trust and assumes fiduciary responsibility for managing those assets and carrying out purposes of the trust.

I've now given three definitions of the three areas that this current amendment is addressing. All three of them have financial responsibilities in their roles. Now, the issue, of course, with this legislation and how it is written is that if you are giving them liability protection, which is what it does, you will see under the definitions, section 1:

- (b) "damage" includes physical, non-physical, economic and non-economic losses;
- (c) "economic loss" . . .

can include loss of earnings or benefits, medical expenses, related service costs, loss due to burial costs, loss of business or employment opportunities. Already within the definitions it has been defined by the minister that damage can be economic and noneconomic losses.

Well, these three roles, that I've just clearly defined, all have financial responsibility attached to them, which is why typically they are paid positions, and this is where the complication comes in. A nonprofit typically would hire people in those three roles, either a director's role, a trustee's role, or an officer's role, because of the financial component that is attached to it, because they want to make sure that if someone is going to be responsible for their finances, especially a nonprofit – when you're looking at casinos and you're looking at bottle drives and you're looking at all of these things and our very well-established nonprofits, including churches, for example, because they would fall under this, there is a substantial amount of financial responsibility, whether you're a trustee, a director, or an officer.

The issue with this piece of legislation and what my hon. colleague is trying to fix is that if they are in the role with the financial responsibilities, they are typically being paid. By changing this, the definition then says that they are within the volunteer realm, and then they're not held liable. The bill provides protection for directors, officers, or trustees in nonprofit organizations whether they are a volunteer or not a volunteer. The majority of them are not volunteers, because they're in paid roles, because there is such a huge financial cost. What this legislation will do is say that anyone in these positions, even if the harm caused is a direct result of a decision being made, can no longer be held liable for that decision. That's a problem.

I think that would be a problem for many people. Soccer coaches all of a sudden don't have any money to take the kids on a tournament because the money has wandered away. Or, you know, looking at building a new church, the congregation has been fund raising, and all of a sudden the funds are gone, and the church isn't being built. Or if we're looking at many varieties of other nonprofits where all of a sudden they think there's a whole bunch of money in the bank and now the money is gone, well, what is the repercussion of that? How does that work?

It is a serious issue when you start looking at roles that have financial responsibilities and start creating exemptions for liability, because in the long run the only people that will end up paying will be the very people that these nonprofits are trying to help or trying to run programs for or whatever variety of service it is. I think that, in fairness, this is probably why many of the nonprofits came to my colleague or had chats with my colleague in consultation and said: this doesn't make any sense; like, we want to make sure we have an ability here to hold these people to account if our bank accounts get drained.

10:10

Again, there's a difference between if you are a director and you're in the role and you're responsible for finances versus being that same individual who decides to go on the floor and play soccer with the kids. Then they're a volunteer who's just hanging out coaching soccer. But in the role with the financial responsibility what this does is actually create an opportunity for there to be no more liability, because now they can be defined as a volunteer in all of it, and I think that that is a serious concern. In fact, in legislation already it exists, the definition between when you are a volunteer and when you are not, so I don't understand why this would be

changed, because all it does is open up an opportunity to create a loophole for individuals not to be held to account when nonprofits lose out on their bank accounts.

I'll leave it there, but I would encourage the government to reconsider this when you start looking at those three roles because there is significant financial, like, responsibility attached to all three of those roles, which could have seriously negative impacts on our nonprofits.

Thank you.

The Chair: Any other members wishing to join the debate?

Mr. Madu: Madam Chair, I just wanted to quickly respond to the comment made by the Member for Edmonton-Manning. You know, I think the Member for Edmonton-Manning is, quite frankly, whilst I appreciate her comment and contribution to the particular debate, misunderstanding the roles and responsibilities of directors under various legislation in our province, whether the Business Corporations Act or the Companies Act or even under the Societies Act. You know, those responsibilities with respect to directors of those organizations are clearly well laid out.

I think the biggest confusion lies with when she begins to talk about finances and the nature of their responsibilities. Again, to be clear, these are, regardless of what they are called, volunteers, whether in the form of directors or trustees, who are providing their services without being remunerated for it. It's free service, a voluntary service. But, that said, should that particular officer or trustee act in a grossly negligent manner or in a wilful manner, they will not be caught or protected under this legislation. It is important to provide that salient difference because ultimately that is what I think the Member for Edmonton-Castle Downs and the Member for Edmonton-Manning are mistaken about.

The act is very clear – is very clear – in terms of the exceptions to their protection when they act in a manner that does not correspond with their scope of authorities, and section 3 is quite clear. All I am asking for is that the members opposite pay attention to the limitations on liability provided in section 3(1) and 3(2) so that the confusion that they have with their understanding of – they're reading this as if we are talking about a typical director of a corporation that is being paid for their service, well paid for their service. That's not what we're talking about here. None of that applies here. We are talking about volunteers for not-for-profit organizations, civil society, who have acted within the scope of their responsibilities and who have not acted in a grossly negligent manner. It is quite clear that the damages that resulted from their action that are "caused by wilful, reckless" – and this particular small piece of legislation is very clear in its choice of language – "or criminal misconduct or gross negligence by the volunteer." All of that, you know, balances out the responsibilities of the typical board of directors or trustees that the members opposite are talking about.

Again, that particular clarity is critically important in this particular condition and why I do think, Madam Chair, that amendment A2 is misguided.

The Chair: Any members wishing to join the debate? The hon. Member for Edmonton-North West.

Mr. Eggen: Thank you, Madam Chair, for the opportunity to say a few words in regard to this amendment to Bill 58, Freedom to Care Act. I believe that we have heard a number of good arguments in regard to why, I guess, this bill has some potential, I think, for positive direction for nonprofits and so forth, but, you know, we have worked in good faith to create a number of amendments that can help to make it a little better, quite frankly. That is our role. I

believe that this first one is a good example of that, because this bill, in my reading, is providing liability protection for directors or officers or trustees of a nonprofit organization.

Madam Chair, you know, by definition, when you talk about especially a trustee – and, of course, just by the definition of the word, that you are a trustee, it means that you are entrusted with the responsibility for that organization regardless if it's a paid job or if it's a volunteer position or what have you. If you're a director or a trustee, inherent in the definition of those positions is a responsibility to that organization even if that is a nonprofit organization. This means that anyone in these positions – right? – even if the harm caused is a direct result of their decisions, somehow would be nonliable for that decision. I mean, inherently and legally this bill is vaguely similar to the last piece of legislation we were looking at, where we were talking about the limitations, that the government is trying to limit the liability of a long-term care organization or of a business from litigation. Again, you need to make sure that there are laws that are established and written down but also have channels by which you can pursue and prosecute those laws.

In giving liability protection, you have to be very careful at all junctures; you know, exemptions in other pieces of legislation for these positions but only when you're acting as a volunteer and not making fundamental decisions, especially financial decisions, for an organization even if it is a nonprofit. Of course, nonprofits being by definition just that doesn't mean that, Madam Chair, those same organizations aren't dealing in tens of thousands or hundreds or even millions of dollars, right? It's important to have the recognition of liability for positions of authority, especially financial positions of authority.

10:20

I believe the hon. Member for Edmonton-Castle Downs' amendment, in this case to strike out the inclusion of director, officer, or trustee volunteer liability protection capacity, I think is eminently reasonable, and I would support that amendment categorically. I believe that the step that this bill in its current form takes could have the potential for, you know, getting more problems for a nonprofit to get insurance, for example. If the organizations have the ability to go through these steps, where does the protection lie? I suppose if you're dealing with an organization which is like, for example, the food bank Alberta organization – it's a nonprofit, but it deals in tens of millions of dollars, and they've expressed a concern around this change.

I think that it's reasonable and fair for us to make this modest amendment as well. So I speak in favour of making this change, and I hope that other MLAs here in the House will do so as well.

Thank you.

The Chair: Any other members wishing to join the debate on amendment A2? The hon. Member for Calgary-McCall.

Mr. Sabir: Thank you, Madam Chair. I rise to speak in support of the amendment brought forward by my colleague the Member for Edmonton-Castle Downs. I listened to the Minister of Justice's comments very carefully and looked up the legislation and some other examples, too, and will try again to make the case of why this amendment is important.

I do recognize that in some cases we do need these kinds of exemptions. One such exemption is found in a piece of legislation called the Charitable Donation of Food Act. What that act does is that a person who ever donates food or distributes food, unless the food was unfit for human consumption or in donating or distributing the person intended to injure some other person, is not

liable for any damages that follow. In that case, they included unincorporated organizations, their directors, and officers. That's a very specific exemption that applies to one particular sector or one particular thing, and that's the charitable donation of food.

But, in this case, this bill just puts a blanket exemption for directors, officers, and trustees, and I don't think that we need that. [interjection] The minister can wait, listen. He has spoken to this twice, and if he could listen to others, that might help him as well. We don't need those kinds of blanket exemptions and coverage for all kinds of groups. Personally, the Member for Edmonton-Castle Downs has worked for nonprofits; she has worked in children's services. The Member for Edmonton-Manning has also worked in nonprofit. I personally have worked for a nonprofit, and in some cases the directors of that nonprofit were volunteers. But that organization was dealing with millions of dollars – millions of dollars – and they were dealing with issues. They were dealing with people where their actions or lack thereof can have very serious consequences.

In many cases we have nonprofits with, like, close to a billion-dollar budget. We have nonprofits delivering children's services, child protection services. We have nonprofits delivering senior care. And when we put those people in those positions of trust and power such as director and officers and trustees, we want them to do their best with what they are in charge of. I don't think that the nature of the work they do should – I don't think that the definition of volunteer should be expanded that much that it includes everything because in the next limitations on liability it only limits it to wilful and gross negligence. This amendment will strike out “a director, officer, or trustee,” and if there is some need where we need to consider some kind of limitation on liability of some specific nonprofit's director or officer or trustee, I think we can look at it on a case-by-case basis, like it's been done previously with the charitable donation of food. In this case, this bill is way too broad, and I don't think that it's needed.

If there is some specific example, some specific organization that the government has consulted with that has asked for these kinds of exemptions, then I will invite any member of the government to help us understand this. Give us those specific examples; share with us who's asking for these changes. What's the context for these changes? Once we are able to better understand why this change is needed and warranted other than some explanation that the minister tried to provide but that doesn't help – we need to understand who the government consulted with. Who were those organizations? Were there any lobby groups involved? What was the issue they identified, and how is this fixing their problem? Without, I think, a proper explanation from the government, I don't think the definition as it stands or the legislation as it stands can be supported. Again, I'm asking the government to consider this amendment and provide us with the needed information and not just the rhetoric.

Thank you.

The Chair: Any other members wishing to join debate?

May I take this opportunity to remind members that conversations are okay but perhaps at a lower level. Thank you very much.

The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. It's my pleasure to rise and speak to this amendment. I recognize that my colleagues have laid out a number of concerns with the bill as it currently stands, which is why we brought forward this amendment. You know, I find it really curious as to the rationale behind this piece of the legislation. In the private sector directors, trustees, boards are liable. They're held liable, and the reason that they're held liable – I mean, there

are a number of reasons, but I believe that one of them is to ensure, for lack of a better phrase, that they have skin in the game, that the decisions that they are making in those positions need to be carefully weighed because there can be personal implications for those decisions, right? What I find interesting is: why is the government removing those responsibilities? Why is the government, through this bill, removing the responsibility that these directors or officers have for a not-for-profit?

10:30

You know, my fear and the reason why I'm supporting this amendment, Madam Chair, is that that there will be a couple of bad apples, a couple of examples of not-for-profits that will take this new-found exemption and abuse it. What are the safeguards against that? I'm happy if the minister or someone else on the other side can rise and speak to that. I think it's a legitimate concern because here's the thing. Again, the private sector operates within those parameters and does so remarkably well. What burden is on these not-for-profit directors that they need to be exempted from being personally accountable for their decisions? Again, I don't understand where this is coming from or who's asking for this exemption.

Now, it's also my understanding, Madam Chair, that there are exemptions in other pieces of legislation for decisions or actions that could inflict harm as a result of a decision but only when it's the capacity of a volunteer. I don't think I need to go into a lengthy explanation of why that exemption needs to exist for volunteers. I think of – quite frankly, I mean, I've volunteered for a number of different organizations. Before I became a teacher, I worked and volunteered at a number of different organizations, including, you know, for example, the Edmonton Young Offender Centre, which I first volunteered and then worked for as a corrections officer. I can tell you that for volunteers who are there because they want to make a difference and help, if there wasn't this kind of protection, I think it would be a deterrent to people volunteering for organizations because they'd be worried that if they made a mistake, they could then be held liable.

[Mrs. Allard in the chair]

That makes sense to me, Madam Chair. For people that hold positions as directors of the board, I don't quite understand the rationale behind this. Who is asking for this, and why are we providing these certain protections? Again, my understanding is – and I'm happy to be corrected by a member from government – that we're talking about exempting or providing protection, liability protection, for directors even if harm, direct harm, is caused by decisions that the board or the directors make. My question to the minister is: how, then, are directors to be held accountable for their decisions? I ask this in all sincerity.

This is not about punishing directors or those who volunteer to be on boards – I commend them – but the fact that a director can be held accountable for their decision, I would think, helps keep people honest but also helps them weigh their decisions with a much stronger sense of gravity. Not that they wouldn't, but it adds an additional layer of gravity. Again, if this exists in the private sector, why are we exempting directors from the not-for-profit sector?

Now, to my knowledge, this question has not yet been answered. I believe it's a legitimate question. I'd appreciate, quite frankly, that if I do get a response from the government, we leave the partisan comments aside. This is not a partisan question. This is not an attack on anyone. This is a legitimate question of: who is asking for this, and why are we exempting liability for board members of not-for-profits when that doesn't exist for the private sector?

Now, I would imagine the government has an answer to that. I mean, I think it's a legitimate question, so I'd appreciate a response.

I'm happy to listen to the answer with an open mind and hear the rationale behind it, but I think this amendment, because up until this point in the debate – and I know that both sides have responded and spoken to this section of the bill, but it's my understanding that the Official Opposition has yet to be satisfied with the answer to this question, which is why we brought forward an amendment which ensures that board members are held liable for their decision.

With that, Madam Chair, I'll take my seat and hope that I will get some kind of response from government to that question.

Thank you.

The Acting Chair: Thank you.

Hon. members, we on amendment A2 on Bill 58. Are there any other members wishing to speak?

Seeing none, I'm prepared to call the question.

[Motion on amendment A2 lost]

The Acting Chair: We are back on the main bill, Bill 58, in Committee of the Whole. I see the Member for Edmonton-Castle Downs has risen to speak.

Ms Goehring: Thank you, Madam Chair. It's my pleasure to rise again to speak to Bill 58, the Freedom to Care Act. I'm a little disappointed that my colleague here from Edmonton-Beverly-Clareview asked some questions of clarity, and unfortunately none were provided, yet our amendment was still defeated.

On to the next points. When we're talking about the nonprofit sector, I think that it's important to identify that in the province of Alberta there are more than 26,400 nonprofit organizations. Each year more than 1.6 million Albertans provide more than 262 million volunteer hours to support their communities. The value of volunteer time is estimated to be worth \$5.6 billion per year. We know that the nonprofit sector is an economic driver. It employs 280,000 Albertans and accounts for \$5.5 billion in GDP annually.

When we're talking about legislation that impacts this sector, I think that the number one concern is that the majority of those that are employed, involved, volunteer in this sector were not consulted. Those that did participate, like the Calgary Chamber of Voluntary Organizations, wrote a report. They talked about a submission that they gave to the UCP survey. They indicated that the most pressing barrier for the nonprofit sector is funding, not regulation barriers. When they came forward to the UCP and submitted their response to the survey, it had indicated that, in fact, they need funding, not all of these regulation barriers.

10:40

They've indicated that they feel that the issues related to government is government, with the lack of funding being the most pressing issue that is impacting the sector to date. They provided a budget analysis and indicated that the nonprofit sector is not mentioned in the Budget 2021 fiscal plan and pointed out that the ministries that interact with the sector have seen a decrease, which they said clearly reflects the priorities of this government.

We hear that this government wants to make things better in the ability for Albertans to provide volunteer hours and services, yet we don't really see anything in this legislation that they're actually asking for. When we went through and we talked about the exemptions – I went through this legislation with many in the sector – everyone that I spoke to expressed concerns about the possibility of safety risks with the exemptions by what they called well-meaning individuals and organizations. They acknowledged that it wouldn't be something that was malicious or something that was intentionally to cause harm but that by asking for an exemption, it could inadvertently cause risk.

[Mrs. Pitt in the chair]

They felt that there are tons of organizations out there that provide services that Albertans rely on. They gave an example of organizations that are insured, trained, qualified, vetted to drive seniors. They thought of a scenario where an organization in a community that might not be aware of that asks for permission to be able to provide that service. Their question was: instead of taking those well-meaning individuals who want to provide a service, instead of referring them to an organization that already provides that service, why would the government decide to approve an exemption for an organization that has no training, no policy, no understanding of everything that goes into play when it comes to driving seniors?

They also wanted to know who would be responsible for ensuring the exemptions don't compromise safety if they are exempt from regulations. When an organization is applying for this exemption, who's responsible for making sure that it doesn't inadvertently compromise the safety of the people that they're intending to provide the service for? That was a universal concern. They were worried that so many organizations provide exemplary service, and they have the needed protocols in place in order to provide those services. When it comes to asking for exemptions, they were really concerned about who was overseeing that risk. Was it the minister? Was it the responsibility of the organization that was applying for the exemption for them to lay out all of the things that had to be put in place?

If you're an organization that has never provided a service, you have a genuine need in your community, and you want to be able to fill in a gap – you're well meaning, you're well intentioned, but there are rules in place for a reason. There are criteria, there are protocols, there are regulations, and there's insurance when it comes to liability. All of these things have to be in place before that service can be approved. When an organization is applying, what is the requirement of who oversees that all the safety standards are in place? Is it a conversation with the insurance company to say: "We're now changing the way that we do service. We're offering this new service. Does this qualify under our insurance? Do we need new insurance?" Who has said, "Yes, this is safe to do"? Is that the minister that's approving the exemption? It's not clear, and many of the organizations – all of the organizations I spoke to were really concerned when it comes to the safety of not just their volunteers but of those that the service would be provided to.

With those questions in mind, Madam Chair, I have another amendment that I would like to introduce.

The Chair: Hon. members, this will be known as amendment A3.

Hon. member, please proceed.

Ms Goehring: Thank you. I would like to move that Bill 58, the Freedom to Care Act, be amended in section 5(1) by striking out "other than regulations that solely apply to non-profit organizations" and substituting the following:

other than the following:

- (a) Part 2 of the Employment Standards Regulation;
- (b) the Occupational Health and Safety Code as adopted by the Occupational Health and Safety Code 2009 Order;
- (c) a regulation that solely applies to non-profit organizations.

What this amendment will do – we know that nonprofits already have exemptions to many statutes in Alberta, exemptions that were embedded in the legislation that they were written for. What Bill 58, Freedom to Care Act, is proposing: it opens up exemptions to any piece of legislation. Any piece of legislation. The question that came from many of the stakeholders is: who is responsible? If it's not just the nonprofit sector that's being impacted, how are

exemptions going to be processed? What are the risks of opening up exemptions to any piece of legislation? Like I said, all of the stakeholders that we consulted with had concerns about reductions in safety for their volunteers, their staff, and the clients that they serve.

By opening it up to all legislation, we think that that's too broad and that we need to limit the employment standards regulation and the Occupational Health and Safety Code. This would prevent organizations from doing things like reducing the minimum wage. We have concerns that someone could apply for an exemption that would then allow the organization that applied to reduce the minimum wage. When you have a bill that is intended for nonprofit organizations, that's intended to support volunteers in our province, why would you open up legislation to everything to qualify for an exemption?

That, to me, just seems like it's an incredible overreach in what the powers of this government are asking to do. There are concerns that this would give the government a complete overreach in exemptions and, by the words of so many of our stakeholders, cause safety risk, not intended but unintended if exemptions are being made and there isn't a clear reason on how this would benefit that organization. So we want to exclude employment standards regulations and the health and safety code. Those were things that we heard quite loudly from stakeholders when we consulted with them.

Currently Alberta has 420 regulations that allow for exemptions to be granted. Four hundred and twenty. Now, the nonprofit sector was saying that there are exemptions, that they just don't know where they are, that they don't know how to access them, so it makes sense that the government created a website to outline all 420 of those exemptions.

10:50

The nonprofit sector and the organizations I spoke to couldn't identify any other need outside of the 420 that currently exist. They were worried that it was an overreach to other sectors that could apply for an exemption and have it granted without it actually being intended to fall under the Freedom to Care Act. There's absolutely no reason to allow exemptions under the employment standards regulation or the Occupational Health and Safety Code. When we talk about safety, when we talk about well-intended individuals wanting to provide services to Albertans, those two areas should be exempt. They shouldn't be allowed to ask for exemptions when it comes to the services that they're providing under any legislation.

It doesn't make sense to me why it would expand to all legislation. When an organization or a business or whoever is applying for this exemption, who oversees it? There are so many intricate details when it comes to our employment standards that have been well thought out and well attributed that opening that up and allowing exemptions under there could be very damaging to individuals, to their income, to their safety.

The Occupational Health and Safety Code is something that ensures that people that are going into the workplace, going to volunteer in that capacity, are safe, and allowing an exemption in there could potentially put the volunteer at risk, put the staff at risk, and put those that they serve at risk. There are clear details about what is outlined as things that wouldn't be exempt, the damage that the minister had gone through, which I agree with. There are certain things that are under there like a volunteer. If they're under the influence of drugs or alcohol: those are things in this legislation that make sense, and I support that. What doesn't make sense is allowing exemptions to fall under the employment standards regulation or occupational health and safety.

I know that the government heard this feedback. I know that the government heard that what this sector really needs is support. They talked about lack of access to casino funds and bingos. Now, that is money that these organizations have relied on just to keep lights on. They don't have access to that right now. They saw grant funding be reduced. They saw money not coming because they weren't able to hold events. They've come to the government with solutions, asking for things that actually would help this sector.

The unfortunate thing is that when you have volunteers that aren't being utilized, there is a risk of losing them. What the government should be doing is looking at ways to make sure that this sector continues to thrive in the province, not looking at ways to create a piece of legislation that puts people at risk. When you're providing exemptions that go above and beyond 420, there are questions about why these exemptions should be eligible. Why do all pieces of legislation have to qualify for an exemption? Why would it fall under the Freedom to Care Act?

If the intention is truly to support nonprofits and organizations that want to provide services to Albertans, it would make sense to support our amendment. We're talking about legislation that, really, should have provisions in there to ensure that there's safety. Typically, with people that we're working with in a volunteer capacity, there's a vulnerable component to that. Sometimes these individuals are already at risk. Why would we want to include more risk? Why would we want to introduce an opportunity to create exemptions all across the board, all across government, that any piece of legislation is eligible?

What we're saying is that the two pieces, the employment standards and occupational health and safety, should not be eligible when it comes to an exemption. These are two pieces of legislation that should be exempt from exemptions. If they're removed, I don't think it changes the intention of this bill. The intention of the bill is to support nonprofits and the volunteer sector in this province, and it doesn't change the intent by removing those two pieces. What it does do is that it makes sure that those very key regulations and orders can't be touched, so an exemption cannot be applied under those sections.

We know that when volunteers come forward, they have good intentions. They truly want to help. Albertans have shown over and over and over again that when there is a requirement for reaching out and supporting, they will step up. They will do whatever is needed to make sure that they can help Albertans that need it. The Fort McMurray fires were a great example of that, where we saw so many that just wanted to help. There were applications and a misunderstanding about what exemptions already exist, so unfortunately some individuals that came together that wanted to provide services but couldn't access the system to identify if an exemption existed or not were unable to provide those services. Now, with the streamlining of having everything in one spot, having all of those current exemptions laid out, it should make it easier for those organizations that want to help. It should make them eligible to help.

When we're looking at adding more than 420 exemptions, I don't see the harm in not allowing the employment standards regulation or the Occupational Health and Safety Code to be impacted. I would love to hear from the government why these two pieces are included, how that impacts this bill, what exactly the intention is by including the employment standards regulation, what types of exemptions they're anticipating could fall under those sections.

In my conversations with the nonprofits they had no idea what type of exemption they would want to apply for. They said that there would be nothing that would fall under those two categories, so excluding them doesn't do any damage to the intention of this legislation. I love it when we have the opportunity to get up and

speaking about concerns and ideas. When I spoke to the many stakeholders and individuals that provide volunteer hours in this province, none of them felt that any of the exceptions that they would ever seek would fall under those two categories, so removing them should be no issue for this government.

I would encourage all members in this Chamber to support it. Thank you.

The Chair: The hon. Minister of Justice, followed by the hon. Member for Edmonton-Beverly-Clareview.

Mr. Madu: Thank you, Madam Chair. Once again, I do want to extend my appreciation to the Member for Edmonton-Castle Downs for amendment A3. As well intentioned as this amendment is and as someone who – you know, I’ve often talked about how I came to work for the provincial government years ago. The area that is called employment standards was actually the first place I worked when I worked for the provincial government, and much of the policy work around that particular area was part of my responsibilities. I would go on as an employment standards officer to become a policy adviser and things like that in that particular area and did most of the policy work around employment standards. So this is one area I understand, you know, very well.

11:00

But I think that, again, the Member for Edmonton-Castle Downs is mistaken. She’s mistaken in thinking: oh; this particular bill is meant to allow government to exempt employers from minimum standards of employment or the minimum safety standard. That’s not true. You know, employment standards, the minimum standard of employment, the floor-level entry provisions, the occupational health and safety provisions are there to ensure the safety of our workplaces, and the act is very clear that

the Lieutenant Governor in Council may, by order, exempt a non-profit organization from the application of any regulations made under any other Act other than regulations that solely apply to non-profit organizations.

Now, we’re talking about a one-time exemption, to be clear, a one-time, short-term, temporary exemption to allow the not-for-profits to overcome a particular red tape that is prohibiting them from being able to deliver the key critical service in their community.

It is critically important that we keep this in perspective. This is not a blanket exemption, as we have heard from the members opposite all night. This is a one-time, temporary, short-term exemption, and it is the Lieutenant Governor in Council that has got the authority to order this exemption. Of course, that request has to go through the office of the minister – and it is clearly written in section 5(2) of the act – for administrative purposes.

Again, section 5(3) is clear.

An exemption made under this section must apply

(a) to specific provisions of the regulations specified in the order

of the Lieutenant Governor,

(b) to one non-profit organization at a time specified in the order,

(c) for a specified charitable purpose . . .

For a specified charitable purpose: again, the intent behind every piece of legislation, every piece of provision, section, subsection in an act is relevant to understanding what is sought to be achieved.

(d) for a limited period of time specified in the order.

Now, we know that there are all kinds of exemptions that exist with respect to different legislation, and you can find that on the government website. They are there. I don’t need to run over them. Whilst I understand the concerns of the Member for Edmonton-Castle Downs, the reality is that the amendment that is being put

before the floor of this Assembly in the manner of A3 is really overblown. It’s really, you know, by implication saying that government is going to approve exemptions that would remove a minimum employment standard requirement, floor-level entry requirement.

Mr. Bilous: But they are removed.

Mr. Madu: And that is not true. I can hear the Member for Edmonton-Beverly-Clareview heckling. That’s not true. That’s not true. This amendment really doesn’t make sense.

Again, I understand the concerns of the Member for Edmonton-Castle Downs – I get it – but the bill here speaks for itself. There are, you know, protections in place. I wonder if an employee of any not-for-profit out there, other than the current exemptions that they have, with respect to labour and employment – again you will find that on the government website. The current Employment Standards Code and the employment standards regulation provide exemptions to camp instructors and counsellors exempt from minimum wage, general holidays, hours of work, overtime, and keeping of employment records. This is with respect to camp instructors. You can find this on the government website. Those are current exemptions, but they’re in the current Employment Standards Code and regulations.

Madam Chair, this amendment is much ado about nothing, and I will urge all members of this Assembly to vote against this amendment.

The Chair: Any hon. members wishing to join the debate? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. You know, it blows my mind every time the Minister of Justice gets up and offers his comments – yeah – and not in a good way. It blows my mind for the fact that the reason we put this amendment forward and why it’s passed through Parliamentary Counsel is because the current piece of legislation opens up the ability to exempt any other piece of legislation. What the amendment does is that it ensures that this government, that I don’t trust or anybody in this province . . . [interjection] Oh; sorry. Okay. You’re right. You’ve got about 10 per cent of Albertans who trust you. The other 90 per cent don’t.

This ensures that the government will not be able to exempt not-for-profits from employment standards. Nobody trusts you. Say what you want. Look at your track record. Look at your leader’s polling in Canada. The lowest in the country. Lowest in the country.

Mr. Madu: In 2023 they will decide.

Mr. Bilous: Yeah. Call an election. You’ll be the first to lose your seat.

The Chair: Hon. member, I ask you to direct your comments through the chair.

Mr. Bilous: Pardon me, Madam Chair.

The Chair: Stick to the topic at hand.

Mr. Bilous: The Minister of Justice just lights a fire in me.

Now, Madam Chair, the reason for this amendment is to ensure that we’re safeguarding and putting a collar or limitations around the bill as it’s currently written. The Minister of Justice will know, being a lawyer, that interpreting the law has made countless lawyers rich. If there wasn’t an interpretation of the law, why do we need lawyers? This legislation enables or provides the ability to exempt

any existing piece of legislation, to exempt not-for-profits from following any piece of legislation.

Oh, that's got to be a donation to some charity somewhere. For those listening at home, a little music, a device just went off. I'll leave it at that.

On this amendment, as my colleague the hon. Member for Edmonton-Castle Downs has already articulated, currently there are, I believe, 420 exemptions that exist for not-for-profits. I'm not about to argue the merits of each of the 420 because I believe that there are legitimate reasons for some of the exemptions. The ones that this amendment prevents or prohibits . . .

[An electronic device sounded] I think that donation had better double.

. . . is that the employment standards regulation, which deals with minimum wage, cannot be exempted, and the Occupational Health and Safety Code cannot be exempted.

11:10

Now, I'm going to try to give an example. For example, I know that there was an incident a few years back of I believe it was a volunteer that was killed, was killed on the job, a volunteer, but the reality is that the person wasn't protected by OH and S. What we're trying to prevent are incidents like this from happening. I believe that members of the government also don't want to see incidents where people lose their lives. The reality of this amendment is that it ensures that safety standards cannot be exempted. Now, I appreciate that the minister, likely, when I sit down, will jump up and talk about how currently in the bill there are no exemptions to OH and S. The problem with the bill as it's currently written is that there can be exemptions. If this legislation is passed without this amendment, those types of exemptions can be put in place.

All that we're doing is ensuring that – maybe it's not the current government that would bring forward an exemption for volunteers in not-for-profits to not have to abide by basic occupational health and safety standards, but the reality is that a government could, and it's our job as legislators to ensure that we are protecting people and sometimes, quite frankly, protecting folks from a bad decision that an individual minister makes with a lapse in judgment. I mean, this is why, again, many regulations go through orders in council. They're not unilaterally passed by an individual minister because a minister is human, and they make mistakes. We all make mistakes. All we're doing is safeguarding the fact that a future government couldn't exempt a not-for-profit from this.

My colleague the Member for Edmonton-Castle Downs – and I applaud the work that she has done, meeting with not-for-profits not only in her area of Edmonton-Castle Downs. The number of not-for-profits and people in the volunteer sector that she's met with around the province: I trust that when she speaks, she is speaking on behalf of these organizations, who did not ask for this and who are raising flags – you know why? – because they want to ensure that their volunteers and workers are protected, and they're wondering who is asking the government for these changes.

Now, if there seems to be a theme tonight, to Albertans who are listening to the debate, there is a very, very clear theme, which is: who continues to ask for these changes that the government is making? We've yet to hear a definitive answer or a list. Actually, even, never mind a list; provide one stakeholder that is saying: we need this change.

Despite the fact that the Minister of Justice will say that this is not necessary, that it's not in the legislation, the Minister of Justice knows, being a lawyer, that the legislation is enabling. It opens up the ability for government to exempt on any other piece of legislation. This amendment merely closes the loophole and

restricts the government and the government's ability to exempt a not-for-profit from OH and S. That's what it does.

I don't know why the government is so scared of this amendment or is so ideological that they can't accept an amendment that the opposition puts forward. Previous governments have done it, and I'm not just talking about the NDP. There is value in having an opposition. In fact, if we don't, then we have a one-party state, and then we have bigger problems. The opposition can provide good, meaningful amendments that – if the government accepts and adopts, it shows that they're acting in the best interests of Albertans.

I've never understood governments that say – and I was told this before any member in this Chamber had a seat save the Member for Edmonton-North West and the Leader of the Official Opposition. In 2013 I had a conversation with members of government who actually said, "This is a reasonable amendment" – different bill – "but we can't accept it from you." And I said, "Why not?" And they said, "Because you're part of the NDP." And I said, "You can't accept an amendment because of the political party that I am a part of?" And they said, "Yes." Now, I can tell you that that was one of the most disappointing days that I've had in this Chamber, because I honestly believe that good ideas come from all sides in the House. There is not a single political party or a single member who has a monopoly on good ideas.

Here is an amendment – and here's the thing. Through you, Madam Chair, to the minister, even if the government would never bring in this exemption, there is no harm to accepting this amendment and codifying it in legislation. To say that it already exists – but it doesn't, because there is the ability for a government, current or future, to exempt a not-for-profit. This ensures that they cannot. If the minister is saying, "I am confident we would never do this," then there is no harm, there is no loss in accepting this amendment. In fact, the opposition will applaud the government for accepting this amendment.

With that, I will encourage the government to consider adopting this amendment.

The Chair: Any other members wishing to speak to amendment A3? The hon. Minister of Justice.

Mr. Madu: Thank you, Madam Chair. I just wanted to, quickly, once again respond to the Member for Edmonton-Beverly-Clareview to restate my opposition to the proposed amendment A3. I value the Member for Edmonton-Beverly-Clareview, his commentary, and I do agree to the extent that if we find a reasonable amendment that conforms with the intent of the bill before this Assembly and works in harmony with the provisions of the bill, there is no question that we do – and I will expect both sides of this particular House to give it the consideration that it requires. Except the Member for Edmonton-Beverly-Clareview would think that there is something else going on.

That's why I rose to speak to this amendment – yes – because, as you rightly noted, I am a lawyer, and I know how these things work, and I understand their interpretations. As I said before, even the Employment Standards Code has got exemptions and various powers given to the director of employment standards and the Minister of Labour and Immigration. We do have several pieces of legislation in our province that grant all kinds of various powers. The point I'm making is that despite those powers, they are exercised in very rare circumstances.

11:20

A not-for-profit organization is the only group of individuals that could make this application for an exemption, for a one-time exemption geared towards red tape that is making it impossible for

them to be able to operate in the community to deliver the services that they are mandated to provide. This has nothing to do with the minimum standard of employment, wages, and, you know, the occupational health and safety provisions that you are referring to, and that is where we disagree on the point that you are trying to make.

I am saying that there are checks and balances built into this small piece of legislation that first require an application to be made to the minister. Except you are arguing that the Minister of Culture, Multiculturalism and Status of Women is going to go out there to grant blanket exemptions to minimum standards of employment or safety. It is those assumptions that I quarrel with. That is not far from what I have come to see from members opposite, insinuations that the members on this particular side – I have forgotten whatever it is you guys are imagining in your minds. The minister of culture would then review those applications and then make a recommendation to cabinet, and the Lieutenant Governor in Council would then have the opportunity to weigh in on the exemption that had been requested, a one-time, temporary, short-term exemption in the nature of red tape – in the nature of the red tape – that is inhibiting a particular civil society, a not-for-profit organization, from being able to deliver their services.

You are reading into this particular bill something that we have not put in the bill. You are reading into the bill, and that's what I quarrel with. You are speaking into the record that is going to be documented in *Hansard*, and my objection is that you're reading into the bill something that is not there. There are enough checks built into the legislation to ensure that your concerns are not going to be the case.

In any case, as I said before, we have all kinds of legislation, particularly the ones you are referring to. I need you to point me to any exemption that has been granted by the director of employment standards or the Minister of Labour and Immigration or under occupational health and safety, you know, that forms the basis. Point me to an example. It is one thing for us to make a general argument, a broad argument. Point me to an example that would then be the reason for me to pause and say: "You know what? I think we have a precedent here." You have not cited one, not two. Instead, all that you have done is to read into the bill something that is not there.

Madam Chair, I restate that this particular amendment A3 is not required, and therefore members of this particular Assembly should vote down this amendment.

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

Mr. Sabir: Thank you, Madam Chair. I just want to speak briefly to this amendment. I think, the way the legislation is drafted, it's an enabling piece of legislation, and it's drafted in the broadest possible terms.

Notwithstanding any other enactment to the contrary, and subject to subsections (2) and (3) . . .

which only require that requests be in a certain manner, the Lieutenant Governor in Council may, by order, exempt a non-profit organization from the application of any [other regulations].

The Minister of Justice also mentioned that the government is open to considering amendments if they don't change the intent of the legislation and also said that they have no intention of passing any exemptions that will compromise health and safety and employment standards. If that's the stated intention of the government, I don't see why the government will not be agreeable to a simple amendment that is there to ensure greater certainty that no such exemption is available under this piece of legislation and

that will ensure that the employment standards remain consistent and uniform across this province, that will ensure that all our workplaces, whether paid employees are working there or volunteers are working there, are safe for those workers.

Looking at the government's record with respect to employment standards changes, health and safety changes, I think this argument is not enough, that the government wants us to trust them. These are very basic changes but critical changes. All Albertans should be able to enjoy the same standard when it comes to employment. All Albertans deserve to be able to go home safe from their work, and this amendment will just ensure that. I don't think that the government should be trusted on these things. The government just needs to write that explicitly in the legislation, that that's not something that will be available for exemptions. I don't think that their record on employment standards, their record on health and safety, the changes they have brought forward so far are in their favour in any way, shape, or manner, that anybody, anyone in this province, would be able to trust them.

So I urge all members of this House to support this common-sense amendment. It's good for Albertans, it's good for volunteers, and it will ensure safer workplaces and consistent labour standards.

Thank you, Madam Chair.

The Chair: Any other members wishing to join the debate? The hon. Member for Edmonton-Meadows.

Mr. Deol: Thank you, Madam Chair. Once again this is my pleasure, to rise in the House, the second time this evening, to speak to the amendment on Bill 58, Freedom to Care Act, an amendment presented by my colleague the Member for Edmonton-Castle Downs. I will speak in favour of this amendment as I did – I think I didn't get a chance to speak on the previous amendment. I was quite ready to speak on that.

Madam Chair, there are more than 26,400 nonprofit organizations in Alberta. Each year more than 1.6 million Albertans provide more than 262 million volunteer hours to support their communities. The value of volunteer time is estimated to be worth \$5.6 billion per year. The nonprofit sector is an economic driver. It employs 280,000 Albertans and accounts for \$5.5 billion in GDP annually. This is a very important sector of our economy and of our province.

11:30

The thing that really concerns me in this piece of legislation is that the government is not really open to discuss and provide the information of who from these communities, organizations, and the large sector specifically are requesting all of these changes. The changes proposed in this legislation are not only too vague, very broad; a number of those aspects being discussed – and the opposition is doing their best to merely actually strengthen the law by proposing some of the changes around those critical areas so that ordinary Albertans should not lose their fundamental rights.

Even the first amendment, that was voted down by the UCP members, was addressing the very issues that, to me, seem like they are probably in contravention of the UN universal declaration of human rights. That's why I see that the UCP House members and specifically the executive members, hopefully, are not wasting their time on this by passing this legislation, that they are not opening their way to another legal challenge. I'm very surprised to see, when nobody from the sector demands it, how this government came to the view that those very positions in those organizations such as directors and officers are deemed to be very competitive in professional positions regardless of their paid or unpaid volunteer work. But they have such responsibility not only to represent,

defend, and protect the rights of those very organizations but also the general public at large. So that was the previous amendment, trying to protect. That was defeated by the UCP government members.

I'm so sorry to see that there was no explanation of exactly why we are infringing on the rights of ordinary Albertans to stay free from harm. That is a fundamental right of the universal human rights declaration. Every ordinary person and citizen, in whichever given jurisdiction, has a right to stay free from harm. Now, by passing this legislation, the government is trying to remove the responsibility and accountability from those very professional positions of their act of negligence, their act of wrongdoing to the general public.

I was surprised to see the Justice minister standing up. I appreciate that he stands up after every debate, but he was not really touching on the very matter of how this is actually trying to strengthen the fundamental rights of ordinary Albertans.

The amendment at hand, that we are discussing, is also another effort to address this very vague legislation that opens up the path to exceptions in legislation in any way. This specific amendment at hand basically focuses on one area that is very important. There are a number of examples from various jurisdictions that bear the violation of the Occupational Health and Safety Act that have cost the lives of community members or citizens of this country of various jurisdictions.

What does this amendment say? Basically, if this is passed, the minimum responsibility and accountability on that organization for the safety of those volunteers that offer their volunteer work to the organizations and rely on such decisions of officers and directors and organizations can be provided exception if this legislation is passed as it is.

That is the very reason that I feel humbled and honoured to have the opportunity to rise in this House on behalf of my constituents of Edmonton-Meadows to support this amendment. I also ask all members of this House to at least vote in favour of this amendment.

Thank you.

The Chair: The hon. Minister of Justice.

Mr. Madu: Madam Chair, you know, we have had the time to go back and forth on this particular amendment A3. At this point in time I will move that we adjourn debate on this.

[Motion to adjourn debate carried]

Bill 66 Public Health Amendment Act, 2021

The Chair: Are there any members that are wishing to join the debate? The hon. Member for Edmonton-North West.

11:40

Mr. Eggen: Thank you, Madam Speaker. Certainly, I think we have exhausted most of the debate for Bill 66, the Public Health Amendment Act, 2021. We certainly have pointed out that many of the elements of this bill are something that needed to be done. I think that, at the same time, it was a good chance for us to, you know, review some of the elements in regard to health care and how it's been developing here in the last number of months here in the province of Alberta.

I think we spent a great deal of resources on health care, and for good reason. We've just had a poignant reminder of what our most essential job is here as legislators, to ensure the health and the safety and security of the population here in the province. There's no ministry that does this more and more significantly than our public health system, so to retain the integrity of our public health system, the strength of it, to make sure that we're investing in it and that it's just in a fair place, that all Albertans can access health care for themselves and their family when they need it is the most basic job and fundamental and important responsibility that we have as legislators and, of course, as the government on the other side.

You know, we've offered our comments on this bill, and I think that we always have to keep the channel open to speak about our public health system in an honest and authentic way. We take that responsibility seriously as the Official Opposition, and we encourage the government at every turn to do the same.

Thank you.

The Chair: Are there any members wishing to join the debate on Bill 66 in Committee of the Whole?

[The remaining clauses of Bill 66 agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Opposed? Carried.

The hon. Minister of Justice.

Mr. Madu: Thank you so much, Madam Chair. I move that the committee rise and report Bill 66 and report progress on Bill 58.

[Motion carried]

[The Deputy Speaker in the chair]

Mrs. Allard: Madam Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bill: Bill 66. The committee reports progress on the following bill: Bill 58. 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. Carried.

The hon. Minister of Justice.

Mr. Madu: Thank you so much, Madam Speaker. I do want to thank all members of the Assembly for a spirited debate on the bills that we had before the floor of this Assembly tonight. At this point in time I would move that the Assembly be adjourned until 10 a.m. Tuesday, June 15, 2021.

[Motion carried; the Assembly adjourned at 11:45 p.m.]

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