

**LEGISLATIVE ASSEMBLY OF ALBERTA**

Title: **Friday, May 12, 1978 10:00 a.m.**

[The House met at 10 a.m.]

**PRAYERS**

[Mr. Speaker in the Chair]

**head: INTRODUCTION OF VISITORS**

DR. WALKER: Mr. Speaker, it's a unique privilege today for me to introduce to you, and through you to the members of the House, two of my children, my daughter Colleen and my son Terry. They're here to see how and what their father does during his time in Edmonton.

**head: TABLING RETURNS AND REPORTS**

MISS HUNLEY: Mr. Speaker, I wish to table the report of inspection, Laboratory Animal Care and Facilities at Alberta universities for 1977, as required by statute.

MR. LOUGHEED: Mr. Speaker, I wish to file a complacent reply by the Prime Minister of Canada to my latest message with regard to grain marketing.

**head: INTRODUCTION OF SPECIAL GUESTS**

MR. NOTLEY: Mr. Speaker, I have indeed a privilege this morning, because it's not very often that I have students coming all the way from Spirit River, some 330 miles away. Seated in the public gallery this morning are 31 grade 6 students from the Spirit River elementary school and St. Marie's separate school in the town of Spirit River. They're accompanied by Mr. Jim Brandon, principal of the Spirit River elementary school; Louise Schulz and Mrs. Stranaghan, teachers; and Carol Cairns and Joyce Bryan, parents. They are collectively seated in the public gallery. I would ask that they stand and be appropriately recognized by members of the House.

MR. HYNDMAN: Mr. Speaker, today we have in the members gallery some 40 students visiting from the province of Quebec. About three months ago, on an exchange program, 40 students from Strathcona Composite high school in Edmonton visited the province of Quebec for seven days. This is the return visit.

They are in grades 10, 11, and 12. They're visiting Edmonton for 10 days. I'd like to offer them a welcome in an appropriate Canadian way, because we feel this is a wonderful way to share in the Canadian experience. In respect to introductions, last week the Solicitor General demonstrated his considerable fluency in the second official language. I've been taking lessons from him, so I'd simply like to say

to the students: *Aux étudiants, il me fait de grand plaisir et très bon accueil au province d'Alberta.*

DR. BUCK: Mr. Speaker, I would like to introduce to you, and through you to the members of the Assembly, a group of grade 9 students from the Ardrossan school in my constituency. They are accompanied by a teacher Mrs. Axelson and Mr. Chmelyk. I believe they are in the members gallery. I'd ask them to rise and receive the welcome of the Legislature.

MR. KUSHNER: Mr. Speaker, I have the privilege today to introduce to you, and through you, a couple I have served on the board of education. They're dear friends of our family, and have certainly given a lot to our church, our community, and our education system in the province of Alberta and particularly the city of Calgary: Harold Gunderson and his dear wife Shirley Gunderson. I wonder if they would come forward and receive the welcome of the Assembly.

**head: MINISTERIAL STATEMENTS****Foreign Ownership of Land**

MR. SCHMIDT: Mr. Speaker, I am pleased today to report on the positive effect that the foreign ownership of land temporary regulations have had on Alberta land sales to foreign purchasers.

As all Albertans will recall, on June 1, 1975, the government of Alberta began monitoring all sales to foreign purchasers; that is, to non-Canadians, non-landed immigrants. From that monitoring it was apparent in 1976 that purchases of rural land by foreigners were on the increase. As a result, the government of Alberta passed the foreign ownership of land temporary regulations, effective April 26, 1977, by the authority delegated to the Lieutenant-Governor under Section 33 of the Citizenship Act.

On May 18, 1977, The Agricultural and Recreational Land Ownership Act was passed. This act will be proclaimed very shortly, when the permanent regulations are implemented. The permanent regulations will have dual authority under both The Agricultural and Recreational Land Ownership Act and Section 33 of the Citizenship Act.

In August, Mr. Speaker, the foreign land ownership administration was created within the Department of Energy and Natural Resources. The administration's function is twofold: it reviews all requests for exemption under the foreign ownership of land, and makes recommendations; secondly, it monitors all rural land sales in Alberta to non-Canadians and foreign-controlled corporations. As well, the foreign land ownership administration monitors, for information purposes only, urban sales to non-Canadians and foreign-controlled corporations.

Mr. Speaker, the last seven months of 1975 saw 30,306 acres of prime rural land, or 1.76 per cent of the total rural sales, purchased by non-Canadians and non-landed immigrants. In 1976, 159,699 acres were purchased by non-Canadians; in other words, 5.2 per cent of the total rural land sales for the year. In 1977, the number of acres purchased was 64,169, or 2.2 per cent of the year's total rural land sales.

More revealing, however, is the period June 1 to December 31, 1977, when the foreign ownership of

land temporary regulations had their first effect. During this period only 14,763 acres were transferred to non-Canadians and non-landed immigrants. This figure, expressed in terms of a percentage of the total rural land sales for the seven-month period, was 0.95 per cent, a 6 per cent decrease from the same 1976 period. Clearly, Mr. Speaker, this substantial drop in total rural sales to foreigners illustrates the effectiveness of the government's foreign ownership of land temporary regulations.

Mr. Speaker, flowing from the monitoring operation of the foreign land ownership administration with regard to urban land sales in the province, it is apparent that the situation is a fluctuating one. For example, the last seven months of 1975 saw 15.1 per cent of the total urban sales in the province of a foreign nature. In 1976 the figure dropped to 7.4, while in 1977 it rose slightly to 8.4. The government of Alberta will continue to monitor the transfer of Alberta urban land, but for information purposes only, as in the past.

Mr. Speaker, from April 26, 1977, to March 31, 1978, 17 orders in council were passed under the foreign ownership of land temporary regulations. The total number of acres involved was 11,776, but due to the complete collapse of one transaction of 2,878 acres, 8,890 acres have been transferred under orders in council.

Mr. Speaker, the drop to less than 1 per cent of the total rural sales made to foreigners is indicative of the position and the progress being made by the province of Alberta to ensure that the rich soil and our picturesque recreation areas of this province continue to be owned and enjoyed by Albertans and other Canadians.

Mr. Speaker, I would like to make available to all Members of the Legislative Assembly a set of tables which provide additional data arising from the activity of the foreign land ownership administration.

#### head: ORAL QUESTION PERIOD

##### Prison Incident

MR. CLARK: Mr. Speaker, my question is to the Solicitor General. It concerns an incident last Sunday night at the Brazeau Dam prison camp. I understand that eight prisoners have been charged with gross indecency following a five and a half hour sexual assault on a 17-year-old inmate. I understand the entire incident happened only a few feet from the guards' quarters. Would the Solicitor General explain how this could happen?

MR. FARRAN: Mr. Speaker, I understand that Mr. Keen, in his inimitable style, has been distorting this ugly story this morning on the radio and pinning blame on the staff rather than the culprits.

We did have an ugly incident at the Brazeau Forestry Camp near Nordegg. I can only express my disgust for the depravity of the suspects, if the courts prove these allegations true. Above all, my pity goes to the victim. It appears to have been a gang homosexual rape. Our staff behaved admirably, and at least one correctional officer has received a commendation for the way he handled the situation. The accused are back in close custody in Spy Hill and Fort Saskatchewan

awaiting trial. The RCMP are investigating, and charges have been laid.

I regret that we have to deal with these sorts of people in our society and in our prisons. I suppose if people like Mr. Keen or the hon. Leader of the Opposition want to point fingers of blame at anyone other than the culprits, they might consider the voices in our society who, in the name of permissiveness, have undermined the basic ethics of our culture.

The staff are very thin on the ground in these forestry camps. They were housed in a trailer next door to the trailer in which this alleged incident took place. It's a minimum security environment. The incident has happened. They took forthright action, and I have no excuses to make for the correctional officers.

MR. CLARK: Mr. Speaker, a supplementary question to the minister. Can the minister confirm that the 17-year-old who was the victim of this assault did not turn up for work the next morning? And did the Solicitor General's staff investigate right at that time why the inmate was not at work?

MR. FARRAN: Mr. Speaker, I don't think we should go into a trial on the circumstances, in that this is a matter for the court. I can't tell you what the charges are, or what the evidence will be. Certainly the claim was made by the young inmate that he had been attacked by some seven or eight other inmates. The truth of that will be determined by the courts.

MR. CLARK: Mr. Speaker, a further supplementary question to the Solicitor General. Is he prepared to have someone from outside the department, perhaps a member of the provincial judiciary, investigate the circumstances surrounding the action of the Solicitor General's Department on this particular matter? [interjections] The Deputy Premier says, "unreal". It's all well and good for him to make that kind of statement. The question is simply this: are we prepared to have someone other than from the Solicitor General's Department investigate this matter?

MR. FARRAN: Mr. Speaker, I strongly resent the insinuation by the Leader of the Opposition that the staff of my department was in any way responsible for this ugly incident. We deal with the seamy side of life. You'd better understand that. They're not all angels in the prisons. It is not possible for us to stop every single offence in those prisons!

MR. CLARK: No one's asking you to stop every single offence in the prisons! [interjections]

SOME HON. MEMBERS: Shame!

MR. SPEAKER: Order please.

DR. BUCK: Easy, Horner.

MR. CLARK: Mr. Speaker, the question to the Solicitor General, over the cries of "shame" from the Deputy Premier, is simply this: is the Solicitor General prepared to have some member of the judiciary in Alberta investigate the whole matter?

MR. FARRAN: Mr. Speaker, some member of the judiciary is going to investigate this matter. Charges have been laid, and the judge in the criminal court will investigate.

MR. CLARK: Mr. Speaker, to the Attorney General then. In light of the complete reluctance by the Solicitor General to have . . .

SOME HON. MEMBERS: Distortion!

MR. CLARK: "Distortion" be darned!

MR. SPEAKER: Order please. We are obviously dealing with a very sensitive topic, and I have been carefully alert to the possibility that the questions or the answers might not be in order because of the judicial proceedings which will undoubtedly follow from this incident. The hon. member has already asked the same question twice, whether the Solicitor General was going to instigate some kind of judicial inquiry, presumably over and above the proceedings which will result from the charges that have been mentioned by the hon. Solicitor General. I didn't intervene, as perhaps I should have when it was asked the second time.

But I would respectfully suggest to the hon. Leader of the Opposition that we are in a very sensitive area, and that it may be somewhat previous to follow a line of questioning which may be designed to elicit whether or not there was any fault on the part of those who were administering that particular place of custody.

MR. CLARK: Mr. Speaker, then I'll place a supplementary question to the Attorney General. It deals with the recommendation with regard to the sentencing of the person who was attacked. The court documents contained a plea that he receive psychiatric help, and counselling under the alcohol and drug abuse program. Would the Attorney General advise the Assembly if the recommendations of the court were carried out?

MR. SPEAKER: Order please. I think we're going too far into this subject, too closely into matters which will undoubtedly be background information that will be brought up before the courts. As I would understand it, these accused, if they are charged as has been indicated, will be charged not only in the ordinary way but in respect of a breach of the terms of their custody. This latest question by the hon. leader is undoubtedly going to come up in the course of that consideration. I would therefore respectfully request that the question not be put.

MR. CLARK: Mr. Speaker, with the greatest of respect, sir, the question is: were the recommendations of the court, for psychiatric help and counselling in the area of alcohol and drug abuse, carried out before the inmate was taken to the Brazeau Dam camp? Sir, with the greatest of respect, I simply can't accept your ruling that that question can't be put to the Attorney General.

MR. SPEAKER: It's always a matter of regret to me if anything that I say or, if you wish to put it that way, rule on is not accepted. But this is undoubtedly a

matter which will come up in the course of the trial of these people who are going to be accused, and we should not be dealing with it at this point. As I see it, there is nothing in that question which would in any way be spoiled or which would interfere with its being asked after those proceedings have taken place.

MR. CLARK: Mr. Speaker, with the greatest of respect, sir, the question I'm asking deals with the 17-year-old person who was assaulted. The question has nothing to do with the other seven or eight people whom the Solicitor General says charges are being laid against. My question deals specifically with the person who was assaulted or is alleged to have been assaulted. Did that person receive psychiatric care, as was recommended by the courts? And did that person receive the benefit of counselling from the Alcoholism and Drug Abuse Commission prior to being placed at Brazeau?

Sir, I ask you as genuinely as I can to reconsider your ruling, so the question can be placed to the Attorney General. That has nothing to do with the charges being laid by the Solicitor General.

MR. SPEAKER: It may well have something to do with the charges that are being laid, because, as the hon. leader well knows, in the case of sexual offences there is always a question of the degree to which a victim may initially or at some stage have co-operated. That could very easily be a topic which is investigated when the trial, which we've been told is likely to take place, is held.

Again, with great regret, I know that an intervention in the question period should be done with restraint, and that the emphasis should be on the free asking and answering of questions rather than on restrictions. But we must have respect for the proceedings which are going to take place. We don't know how far those will go afield in the course of examination and cross-examination of witnesses and the accused. I would respectfully suggest again to the hon. leader that this question should not be asked.

MR. CLARK: Well, Mr. Speaker, with that kind of ruling, virtually any question could be ruled out in the question period. [interjections]

SOME HON. MEMBERS: Oh, oh!

DR. BUCK: Mr. Speaker . . .

DR. HORNER: Come on, grow up.

DR. BUCK: Easy, Horner. Grow up. You asked . . . [interjections]

MR. SPEAKER: Order please. Order please.

DR. BUCK: Mr. Speaker, a supplementary question to the hon. Solicitor General. It has to do with the question the hon. Leader of the Opposition asked. The question basically is: would the government consider having an independent assessment of the procedures that the Solicitor General's Department uses in making sure that subsequent incidents such as this would not happen? The reason I ask is that we want to be assured in this Legislature that it will not be an

internal investigation; that it will be an independent investigation which would remove the department from all — making it look like a stonewall.

MR. SPEAKER: The hon. member doesn't have to justify his motives for asking the question. As a matter of fact, I find the question to be quite in order.

MR. FARRAN: Mr. Speaker, the first independent investigation under our system is by the provincial court by a judge, with a defence counsel, a Crown counsel, and the evidence adduced. That is the first independent inquiry. After that I'll assess the situation.

MR. TAYLOR: A supplementary question to the hon. Solicitor General. Could the hon. minister outline the criteria used in selecting prisoners to go to the forestry camps?

MR. FARRAN: The criterion is that they should be charged with comparatively minor offences as opposed to violent offences; and that, in the opinion of a classification team, they might benefit by the Outward Bound, outdoor type of approach.

In the case of the victim of this alleged assault, he was assessed by a psychiatric medical unit at the Calgary Correctional Institution, by a classification team who concurred that Nordegg was in the best interests of the . . .

MR. SPEAKER: Order please. With respect to the minister, it would appear to me that he is now getting into an area which is exactly the subject of one of the questions of the hon. Leader of the Opposition. Again, I would ask the minister to refrain from going into that area until whatever proceedings are to take place, have taken place.

#### **Grain Marketing**

DR. WALKER: Mr. Speaker, my question is to the hon. Premier. In the response to the Premier from the Prime Minister tabled this morning, concerning grain marketing, is there any position taken or any change in policy which may encourage the Alberta government in the aggressive approach we have adopted under the Premier's leadership?

MR. LOUGHEED: Mr. Speaker, I haven't had an opportunity to fully peruse the document. On balance, I would say no, there is very little of encouragement in the response by the Prime Minister, perhaps with two exceptions, both of which we've been aware of in advance: one, the encouragement by the federal government toward improved facilities at Prince Rupert, which doesn't directly relate to grain marketing but to grain handling; secondly, the reference to the matter I raised in the Legislature on Monday, the preliminary meeting which the minister responsible, Mr. Lang, is suggesting for June 16 in Saskatoon.

Mr. Speaker, I should raise just one other aspect, since I've been asked about the matter. I reject the suggestion by the federal government, signed by Mr. Trudeau and comparable to the remark made by Mr. Lang last July, that our involvement in this matter in some way detracts from the international relations that exist for our country. I simply can't accept that.

#### **Home Insulation Program**

MR. NOTLEY: Thank you, Mr. Speaker. I'd like to direct this question to the hon. Minister of Housing and Public Works. It's a follow-up to the question put by the hon. Member for Drumheller on March 9 to the former minister, concerning the home insulation program and whether the province is prepared to supplement the federal program. Bearing in mind that the former minister will now be around for some time to advise the new minister, probably another year or so, is the minister reconsidering the province's position on this question? Or is the former minister's answer of March 9, which was essentially no, still the position of the government of Alberta?

MR. CHAMBERS: The answer is the same, Mr. Speaker.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Has the government been monitoring the federal program, and has there been any compilation of statistics to determine roughly how many Albertans have been able to take advantage of the program, bearing in mind the rather restrictive nature in terms of the age of the houses that can qualify for the federal program?

MR. CHAMBERS: Mr. Speaker, of course the age of most houses in Alberta tends to be considerably younger than in many other parts of the country. However, I don't have the current statistics on hand.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Bearing in mind the minister's answer that houses in this province tend to be newer and therefore don't qualify for the federal program, has there been any specific representation to the federal government, as a result of Alberta's decision to participate in the program, to speed up the process of moving ahead the years of the homes that would qualify for the insulation program?

MR. CHAMBERS: I'm not aware of any, Mr. Speaker.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. In view of the fact that the Alberta government does not propose to complement the federal program, is it the intention of the government of Alberta to make representation with respect to making it possible for more Albertans to qualify for this program?

MR. CHAMBERS: I have no plans under way in that area, Mr. Speaker.

#### **Education Goals**

MR. TAYLOR: Thank you, Mr. Speaker. My question is to the hon. Minister of Education, and the reason is for information that may be used in the debate later. In the goals of education, which were so excellently set out, was there any cognizance of the type of boy or girl who appears to gain little or nothing from the 10, 11, and 12 courses in our high schools?

MR. KOZIAK: I think there's an interpretation that can be given to the question, Mr. Speaker. I suppose one

could interpret the question by saying: do we route students in an academic or a vocational direction? As hon. members are aware, our course of studies now provides for a variety of vocational subjects at the high school level. Many students in the province are enrolled in those subjects.

The sixth of the goals of schooling deals with the preparation for the world of work. Perhaps that would be the goal the hon. member would be interested in when he raises his question.

MR. TAYLOR: A supplementary to the hon. minister. If I could just enlarge slightly: today if a young man wants to be a cook, before he can enter SAIT or NAIT he's required to have certain high school courses. In pursuing that goal you mentioned, is any consideration being given to eliminating courses that have nothing whatsoever to do with the particular work he wants to undertake?

MR. KOZIAK: Mr. Speaker, the follow-up that the Curriculum Policies Board will be doing once goals are adopted by this Legislature will of course take that into account. But I think we must avoid the danger, the pitfall, of streaming students in a particularly narrow direction. Although a student may want a particular vocation tomorrow, five years from now, in an ever-changing society, that one may not exist. Education has to be a lifelong rather than a near-term approach. I just leave that caution with hon. members.

#### Farm Dwelling Assessment

DR. BUCK: Mr. Speaker, my question has to do with farm dwelling assessment. I'd like to address the question to the Premier, in light of the fact that the communication was to his office. Is the Premier in a position to indicate the contents of a communication he has received from the Municipal District of Rocky View regarding the assessment of farm buildings?

MR. LOUGHEED: Mr. Speaker, no, I can't. As I'm sure the hon. member is well aware, with regard to the correspondence that flows into my office and the reference to the portfolio responsibilities of the minister, they would be responding. It may not be a document the Minister of Municipal Affairs can deal with, but I would refer the question to him.

MR. JOHNSTON: Mr. Speaker, as recently as this week I had a meeting with the Municipal District of Rocky View to discuss their concerns with respect to assessment, which focus on the question of non-farmland assessment and, in particular, country residential developments. We had a discussion of the impact, and at this point we are in discussion stages.

DR. BUCK: Mr. Speaker, in light of the fact that we've had balloon-flying the last two years about this question, can the minister indicate if the government has reached a firm decision, or any decision, on the assessment of farm buildings?

MR. JOHNSTON: It depends which members of the government you're referring to. But the government collectively has not.

#### Federal and Provincial Talks

MR. YURKO: Mr. Speaker, as we have some young representatives from the province of Quebec in the House, I thought I might direct a question to the Premier. Recently it has become fashionable for the Prime Minister and some premiers to meet with leaders of the opposition and indeed various party leaders. I wonder if the Premier has undertaken any correspondence or action to arrange a meeting between him and the new leader of the Liberal Party in Quebec to discuss national issues.

MR. LOUGHEED: Mr. Speaker, at the request of the Quebec leader of the Union Nationale Party, Mr. Biron, I met with him when he visited here, which I think is entirely appropriate. On one hand I believe that leaders of government, in creating effective intergovernmental relationships, have to respect the position of dealing government to government. However, I see nothing wrong, and considerable benefit to be gained, in improved awareness by our administration of aspirations within the province of Quebec.

So I would welcome any initiative taken by Mr. Ryan for discussions. I met with him before he became leader, and I had a lengthy discussion with him at a conference in Banff last October.

MR. YURKO: Mr. Speaker, a supplementary. I wonder if the Premier has any machinery put together to work out a middle-ground position between Mr. Ryan's position of five areas of Canada as against maintaining the independence and equality of each province with respect to constitutional matters.

MR. LOUGHEED: Mr. Speaker, I know who is doing the hard work on that, and I would refer it to the Minister of Federal and Intergovernmental Affairs.

MR. HYNDMAN: At this stage I wouldn't want to refer to the matter as a "middle-ground position". But certainly with respect to Alberta's posture on provinces and regions, we in this province would not view Canada as being made up essentially of regions, either five or any other number; rather, over the last 110 years the crucial identity has been that of provinces. So from that point of view we would not be in agreement with the views expressed by the new Liberal leader in Quebec.

MR. YURKO: Mr. Speaker, one more supplementary to the Minister of Federal and Intergovernmental Affairs. In anticipation of discussions with the new leader of the Quebec Liberal Party and his recognized view with respect to a united Canada, I wonder if the minister has undertaken, or will be undertaking, to work out a more appropriate policy with respect to the lending of heritage savings trust funds to the government of Quebec.

MR. HYNDMAN: That's a matter which not only I, Mr. Speaker, but the hon. Provincial Treasurer, indeed the cabinet and the whole government caucus, will be considering appropriately over the next year.

MR. NOTLEY: Mr. Speaker, a supplementary question to the Minister of Federal and Intergovernmental Affairs. Bearing in mind the discussions emanating

from Ottawa that there will be specific proposals for constitutional change sometime during the next few weeks or months with respect to entrenching language rights, what discussions have taken place over the last several months with the government of Alberta? Has there been any consultation with the government of Alberta by either the Prime Minister or the federal minister in charge?

MR. LOUGHEED: Mr. Speaker, because of the way the question was framed, I would have to respond. There have been discussions on that matter. Those discussions took place first when the Prime Minister visited with me last October. In addition there were discussions in Ottawa. Then, in Montreal in late February, there were extensive discussions on the matter of entrenching language rights within the constitution.

I believe the position of the province of Alberta is reflected in a statement, issued jointly by me and the Minister of Education, to the effect that it is not our judgment that it would be in Canada's best interest on a basis of unity to bring a compulsory aspect into the matter of second-language education or entrenchment of rights within our constitution. From our point of view in the provincial arena, we think it is much better that we work on a voluntary basis, as we do, encouraging people to expand second-language education. Of course we are aware, as is the hon. member, of the legislation that exists from a federal point of view.

MR. NOTLEY: Supplementary question to the hon. Premier. The Premier indicated meetings that had taken place and that an announcement had been made subsequent to those meetings. Have any meetings or consultations on this matter taken place between the federal and provincial governments subsequent to the meeting in the latter part of February that the Premier referred to?

MR. LOUGHEED: Not on that particular matter, Mr. Speaker, although these matters are very likely to form part of the agenda at the premiers' conference in Saskatchewan this August.

DR. BUCK: A supplementary question to the hon. Minister of Federal and Intergovernmental Affairs. In light of the fact that the people of Alberta have loaned two provinces nearly \$100 million, can the minister indicate if there have been any formal or informal requests from the province of Quebec to borrow funds from the Alberta heritage savings trust fund?

MR. HYNDMAN: Not that I am aware of, Mr. Speaker.

MR. TAYLOR: Supplementary to the hon. Premier. Would there be value in having more discussions with a Liberal who might become a premier and less with a Liberal who might not be a PM very long? [laughter]

MR. SPEAKER: The hon. member's proposal has undoubtedly been enthusiastically accepted.

MR. NOTLEY: Well, not entirely.

### Purple Gas Regulations

DR. BUCK: Mr. Speaker, my question is to the Provincial Treasurer. It follows up a question on purple farm fuel that I asked several days ago. Is the Provincial Treasurer in a position to indicate if he can report today on the instructions that have been sent out to bulk agents re to whom purple fuel should and should not be sold?

MR. LEITCH: Yes, I am, Mr. Speaker. Immediately following the budget speech on March 17, the department advised bulk dealers of the essence of the budget speech in this respect, which was that the tax on gasoline, diesel fuel, and liquefied petroleum gas would effectively be removed on April 1, 1978; that the 3 cents per gallon would continue to be collected on aviation fuel, and that clear gasoline and clear diesel fuel would be sold tax exempt; and that marked gasoline and marked diesel fuel should be sold only to farmers, those persons entitled to the 12 cent per gallon farm fuel distribution allowance.

In that connection I should point out that the definition of "farming operations" in the bill passed by the Assembly a few weeks ago is the same as the definition that has been in that act for some years, but which was amended in 1976. So we didn't alter the definition of "farming operations".

There were some further instructions to bulk dealers, arising from the proposed amendment to the bill which is now before the House, indicating that fuel to be used for heating purposes could be either clear or marked.

Mr. Speaker, that is essentially the communication that went from Treasury to the bulk dealers.

DR. BUCK: A supplementary to the hon. minister. The problem I was trying to get information about is that the dealers seem to feel they are in the position of having to decide who is a farmer and who is a non-farmer. Has the minister had this brought to his attention by the dealers — placing them in the position where they have to make the decision?

MR. LEITCH: Mr. Speaker, I do not think position the hon. member's question implies is accurate. As I recall the provisions of the legislation, the dealer is to sell to anyone who completes the declaration. There is a provision in the legislation to the effect that if the dealer knowingly sells to someone who would not fall within the definition, the dealer would be responsible for the amount of the allowance. But as I recall the legislation, once the person has signed the declaration the dealer is free simply to provide the marked fuel.

### Mental Health Services

MR. CLARK: Mr. Speaker, I'd like to direct a question to the Minister of Social Services and Community Health. It deals with the provision of mental health services in the Cold Lake-Grand Centre area. Is the minister in a position to indicate to the Assembly why the offices of the mental health services have been withdrawn from the Cold Lake-Grand Centre area, and mental health services will now be provided weekly from outside the area?

MISS HUNLEY: No, but I'll be prepared to inquire of the department why that administrative procedure was taken, Mr. Speaker.

MR. CLARK: Mr. Speaker, a supplementary question to the minister. When the minister is inquiring of the department, could she also inquire what plans the government has for this year with regard to mental health services in the Cold Lake-Grand Centre area, and report to the Assembly?

MISS HUNLEY: Yes. Mr. Speaker.

### ORDERS OF THE DAY

MR. HYNDMAN: Mr. Speaker, I move you do now leave the Chair and the Assembly resolve itself into Committee of the Whole to consider two bills on the Order Paper.

MR. SPEAKER: Having heard the motion by the hon. Government House Leader, do you all agree?

HON. MEMBERS: Agreed.

#### head: **GOVERNMENT BILLS AND ORDERS** (Committee of the Whole)

[Dr. McCrimmon in the Chair]

MR. CHAIRMAN: The Committee of the Whole Assembly will now come to order.

#### **Bill 1** **The Interpretation** **Amendment Act, 1978**

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to any sections of this bill?

MR. LOUGHEED: Mr. Chairman, just to paraphrase it quickly, it's an administrative bill from a convenient point of view of drafting. It merely provides that we add to The Interpretation Act that when we refer to "province" as meaning a part of Canada other than Alberta, it automatically includes the Northwest Territories and the Yukon Territory. At present the reference in the enactment to "a province of Canada" does not automatically include the two territories. It was felt that it was important to standardize this position with regard to our various legislation. That's the purpose and the nature of the provision.

[Title and preamble agreed to]

MR. LOUGHEED: Mr. Chairman, I move the bill be reported.

[Motion carried]

#### **Bill 39** **The Mines and Minerals** **Amendment Act, 1978**

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to any sections of this bill?

There is an amendment to this bill. Are you familiar with the amendment?

[Title and preamble agreed to]

MR. GETTY: Mr. Chairman, I move the bill be reported as amended.

[Motion carried]

MR. HYNDMAN: Mr. Chairman, I move the committee rise, report progress, and beg leave to sit again.

[Motion carried]

[Mr. Speaker in the Chair]

DR. McCRIMMON: Mr. Speaker, The Committee of the Whole Assembly has had under consideration Bill 1 and reports the same.

Mr. Speaker, the Committee of the Whole has had under consideration Bill 39 and reports the same with some amendments.

MR. SPEAKER: Having heard the report, do you all agree?

HON. MEMBERS: Agreed.

#### head: **GOVERNMENT BILLS AND ORDERS** (Second Reading)

#### **Bill 41** **The Alberta Hospitals** **Amendment Act, 1978**

MR. CRAWFORD: Mr. Speaker, I take pleasure in moving second reading of Bill No. 41 on behalf of my colleague the Minister of Hospitals and Medical Care, who is performing today the agreeable function of opening one of Alberta's fine new health facilities in High Prairie and so is not in the Chamber.

Mr. Speaker, the proposals in regard to the Hospital Privileges Appeal Board are matters that have been given a good deal of consideration by the government, based on an examination that has gone on for some time in regard to the operation of boards and the manner in which boards assess the permissibility, in their judgment — which is within their jurisdiction to make — of individual practitioners being granted privileges in hospitals throughout the province. The proposal in this bill is that a person, being a medical practitioner, who feels aggrieved as a result of a decision of a board, in which his privileges are either suspended, terminated, or reduced, should have another agency to which he can address his concerns about that decision. Therefore the proposed appeal board.

I think, Mr. Speaker, it would be fair to note that most procedures of government allow for some form

of appeal. This is not, as such, a procedure of government. It is a procedure of a corporation outside government in the usual sense, in that it operates in the hospital district as a governing body for the operations of that district and/or the institution or institutions involved. I think it has struck some observers as remarkable in a way that up until this time no such provision existed, that in fact the hospital board was the final authority. I recognize there are two sides to the issue in that respect, but certainly I accord with the view that unless there are strong reasons to the contrary, boards and agencies that make decisions which are not purely administrative but which affect rights — in the case of hospital privilege by a practitioner, affecting the ability to some extent to earn a livelihood — in those circumstances an appeal should be a possible course open to that person.

I think it's important to note the bill doesn't propose that the first appointment of a person to a medical staff be subject to review. In other words, the government has retained an abiding confidence in the wisdom of boards throughout the province to make those decisions, and to perform that function in the way they have traditionally. However, privileges once granted create if not a right — because it's a privilege only — a vested interest on the part of the practitioner in the continuation of those privileges. I suggest it would be very hard to say that is not so.

As the years go by and a person continues to practise in a particular environment, it surely becomes his very, very strong economic interest that he be entitled to continue in that way. For that reason it's felt that although the first appointment need not be subject to review, the subsequent variations, suspensions or terminations of that appointment should be. If it can be said in fairness that a hospital board itself can make a detached and correct judgment in individual cases, then it would defy logic to say another agency couldn't do the same thing. Of course the advantage in having an agency outside the local board itself is that degree of detachment which is of the essence of the process of appeal.

I'm not saying this is what happens, but just to make the point: an appeal to the agency that has caused the person to feel aggrieved in the first place is of course no appeal at all. Indeed both the sense and atmosphere of detachment that appears when an appeal agency, structured under statute with the make-up proposed in the bill, would achieve the purpose that is proposed. The bill specifies how the appeal board should be made up. I submit to hon. members that is a suitable way; a good spread of backgrounds and talents that will perform the function in that limited respect that the board can and has performed.

Hon. members have asked me — as recently as this morning one of my colleagues asked if it was possible, since physicians would be on the board, for one who was directly involved in the case to be involved in the appeal. The answer is clearly no. Such a procedure would be unworkable. Only with a total absence of the possibility of conflict of interest could the appeal board proceed. So I hope there's no misunderstanding in that respect.

Also, having made remarks about the fact that a practitioner once appointed acquires, I submit, a vested interest in the continuation of his privileges, I

don't want to imply that the grounds for having an appeal procedure should be solely economic. The whole issue of justice and fair play is involved in any appeal process. Any appeal process not directed toward that is failing in some respect. Therefore the intention here is that the appeal process consider all concerns in regard to the elementary, natural justice of each situation.

Once again, that is not to say the appeal board's duty will be to upset well-considered decisions. Presumably any appeal process runs some risk of making the same wrong decision as the agency that made it in the first place. So yes, it's possible that mistakes can be made on appeal. But an appeal process is an acknowledgment in itself of the possibility of human failure in the first instance. The proposal, therefore, is in a nature of a review of that, as I've said, in a rather more detached way than would be possible without an appeal.

The experience with such boards elsewhere in Canada indicates that they have a very low workload. I mention that because I think it's a fair concern to be raised that possibly the board, in supplanting in one respect the function of the hospital board, is in some way curtailing the authority of the board. I don't agree with that. Quite apart from the fact that the number of cases would be very, very few and that the proposal introduces no area other than that of reappointment, suspension, and the like for the appeal board to be involved with — it has no relevance whatever to any other role of the board in any of its day to day functions, or indeed its year by year functions. So quite apart from those two considerations, Mr. Speaker, I say again that the argument that a review procedure is in any way circumscribing the authority of an agency, cannot be made.

One has only to look at areas like The Planning Act where municipal agencies are subject to appeals internally and externally. One only has to look at the fact that a few years ago it was the law in this province that the Provincial Planning Board could change the decision of the city council, and did. In due course that process was abandoned, and I think the status of city councils as such, and their responsibilities in regard to zoning and planning and so on, made it a reasonable thing for that procedure not to be pursued in the provincial field.

But I suggest the situation here is something quite different. The number of cases will be few. There are a multiplicity of boards in the province. I'm sure most boards won't have a single case that relates to the appeal procedure; but if not, certainly on the basis of the passage of a number of years.

Mr. Speaker, when I mention concerns that have been expressed to me, I note there was another in regard to Section 31.4, I believe. In moving second reading I want to indicate that when the matter is in committee it's intended that that section will be removed and replaced by one which would say only that upon the termination of an appointment which isn't renewed, it would be deemed that the board had made a decision not to reappoint. We thought it was necessary to put that in. It's perhaps a legal requirement to look after the situation where the act sets up a procedure and a position could be found where there was no decision made that could be appealed from. To get around that, we're bringing in what we are calling the deemed refusal provision, which also



exists in other legislation, that after a certain period of time a refusal is presumed to have been made by the agency that's responsible for deciding it.

I suggest to hon. members that the withdrawal of 31.4 would answer most criticisms made at the time the bill was given first reading, and that the automatic continuation of privileges that might have been the concern of the hospital board in a particular case now will not occur. The act previously allowed that to happen. I might add that the hon. Member for Edmonton Kingsway is one of those who has made representations in that respect.

Mr. Speaker, I don't think I have anything to add. In fairness I might note that no doubt there are a number of cases that could be made the subject of appeals as a result of passing this act. The act proposes that it apply to grievances in existence at the time the act comes into force, as well as those that occur afterward. It's an important provision and should be mentioned.

Thank you, Mr. Speaker.

MR. TAYLOR: Mr. Speaker, I'd like to say a few words on the bill. The first question that comes to my mind is, why is it needed? When you review the number of cases that have happened in the province over the last several years — and I think the present section has been in force since 1948 — they're very, very few. Even those few have had an appeal to the courts. If when this comes into effect the appeal board is going to hear these cases again, when a decision has already been made by the courts, I question very much the advisability of that. It's simply prolonging something that should have been settled when the courts made their ruling.

In this bill there's still an appeal to the courts following the appeal board in the matter of law. Why isn't the present appeal to the courts sufficient? Have the courts not been making the right decisions or have they not been doing their job well? It makes me wonder why we want to inject another bureaucratic function, if I might call it that, or another item between the present board and the courts.

Most people are pretty happy with our courts. We may disagree from time to time, but generally speaking the courts in this province and in this country are very thorough and do an excellent job. One of my constituents suggested, is this really saying that the courts have not done a satisfactory job? I would like to have the minister answer that, because I think it really needs to be answered.

When it comes to the need for the bill, the government or the hon. minister must have felt there was some urgent need. But I wonder if the thought is given that this simply adds another expense, more money to be spent on administration with less money being spent on hospitals. Already we have criticism from some sections of the province that we're not spending enough on hospitals, even though the hospital vote is the highest of any department in the government. But when we spend some of that hospital money — I suppose it could be judged as being hospital money — for this type of thing, I think there has to be pretty definite and ample justification for it in the mind of the man on the street, not only in the minds of the people who are concerned.

Three or four other items connected with this bill bother me. I mentioned that as far as I know there

are very few cases that have been involved. The present section has proven itself through the test of time. Probably thousands of decisions have been made by the boards. Provisions are made for the aggrieved person to appeal to the court, and these have been relatively few.

Hospital board members, particularly in the rural part of the province, have asked, why is there now going to be circumscribed above us, as the minister put it, an appeal board? The thought is, will this appeal board now take some of the responsibility away from the board? I don't agree with that argument. The board is still going to have the same responsibility. Although one board member did say to me, you know if you keep taking these things away from us, pretty soon we're not going to have any reason to have a hospital board. This is now probably one of the major functions of running the hospital. I'm wondering if the bill is going to give a feeling to the board members that their decisions haven't been right, even though there have been very few appeals. In scores of hospitals there's been no trouble at all over the years, complete unanimity between the medical staff and the boards.

I hope this bill isn't being introduced because of one or two cases in our cities that appear to be headlines in the daily press. I don't find the rank and file of the people concerned about these things at all, certainly not in my constituency, and many of them get their hospitalization in the city of Calgary. They feel that the hospital board has to be responsible for which doctors practise in that hospital. If there are reasons a doctor shouldn't be there, then the board has to exercise that responsibility and the doctor has appeal to the courts. Surely that appeal right through the courts is sufficient. In reading the bill and talking to my people I really can't see how this is going to help anything in regard to this particular problem. It's simply putting on another level of administration, which many, many people are questioning.

The next point that comes to my mind is the responsibility of the board. The board is responsible for the running of the hospital. Its primary responsibility is for the good and welfare of the patient; not for the good and welfare of the doctor, but for the good and welfare of the patient. Everything has to be emphasized or used toward that. You can have the best medical man in the world, but he may have emotional qualities that are a problem in the hospital; he may have moral problems that are a worry in the hospital; there may even be some physical or mental problems. It's not just the doctor's medical ability that has to be considered.

I'm going to ask the hon. minister; who better than the boards would appear to have the understanding of the whole responsibility to the patient? They live with it. They talk to the patients day in and day out, and to the people who are paying the bill, directly or indirectly. They know whether the doctor is doing a job. They get the complaints or commendations from the patients.

Frankly, I can see problems in having an appeal board. Say there is an excellent doctor who has high medical qualifications, but he disturbs the patients and the staff and keeps everything in an uproar. You can't have the quiet, get-well atmosphere that most hospitals try to generate. And the appeal board says, he's an excellent doctor, therefore he should be rein-

stated. What position is the board in then? And what position are the patients in? The patients have complained to the board; the patients will not, generally speaking, complain to the appeal board.

I think there's a danger — I say this sincerely — in putting in the appeal board, because you're reducing the correspondence or the communication between the patient and the board members, making that less effective. When you make the relationship between the patient and the board members less effective, I think you have to ask yourself, what are we really accomplishing in this whole deal?

I would like the minister to take a look at that. I think that's a very important item. It's not just the medical expertise of the physician or doctor; it's the other qualities he may have. I have no reason at all to doubt the expertise of some doctors in the province, but they would be the last ones I would call, because I don't like their personalities, I don't like their gruffness, I don't like their public relations. If I had to have a doctor, I'd want a doctor I'd feel comfortable with, and that I have confidence in, not only in his medical ability but in him generally. I think that's the thing the appeal board may well overlook because they don't live with him day by day, and they don't have input from the patients.

I think the hospital board is responsible to make sure the patients get the best medical care. If the board is going to be responsible for getting the best medical care, surely the board's authority is going to be warped and reduced if an appeal board is simply going to overrule that particular decision. You may say, the same thing will happen through the courts. I don't think so. The courts are set up to settle disputes between various people. The appeal board will not have the experience or expertise of many of our board members. You will have ruling a board which does not have the day to day contact and has not had the experience of, I would say, scores of our board members who have spent their lives in hospital work.

The bill also provides a very long time — possibly this would be better discussed in Committee of the Whole — for the appeals, under 31.5. Ninety days is a long time to permit the appeals. You have to realize that tensions are created in a hospital when one of these things happens. If you leave that length of time, you simply extend that tension. Because until it's settled, people aren't going to feel at ease in that hospital, whether it's the doctor, the patients, or the board members.

I would not like to see this bill proceeded with. I would ask the government to consider, if they still feel there's a very strong need for the bill, to at least hold it over to the fall so we can get more input from the people. It really hasn't been in the House very long. I think our people are going to be very disturbed unless we're able to give them the argument that there are some pretty sound reasons for setting up an appeal board when the courts have been doing that job up to the present. If there are reasons, that you can carry the judgment of the people, well and good. But I think we're going to need time to do that.

I think it would be well to leave the bill on the Order Paper, at least until the fall, so we can get more input from the people. I certainly haven't had answers from a number of people. I've had answers from some, and they've all been against the bill, not because they want to be against it; they just don't see

any need or reason for it.

I think I covered all the points I had in mind. But I would again emphasize that the board is held responsible for the well-being of the patients, and the standard of care. That's their first responsibility. Let's not do anything that's going to reduce their effectiveness in carrying out that function.

MR. SPEAKER: May the hon. Member for Medicine Hat-Redcliff revert for a moment to Introduction of Special Guests?

HON. MEMBERS: Agreed.

#### head: **INTRODUCTION OF SPECIAL GUESTS**

(reversion)

MR. HORSMAN: Mr. Speaker, I take pleasure today in introducing to you, and through you to the Assembly, the Mayor of Redcliff, who is seated in the members gallery. I would ask that he stand and receive the recognition of the Assembly.

#### head: **GOVERNMENT BILLS AND ORDERS**

(Second Reading)

##### **Bill 41**

##### **The Alberta Hospitals Amendment Act, 1978**

(continued)

DR. PAPROSKI: Mr. Speaker, in rising and speaking on this bill, I'd like to take the opportunity to respond to some of the questions the hon. Member for Drumheller raised. I know the minister will augment those items.

He asked the question, why? Mr. Speaker, I suggest to Members of the Legislative Assembly that truly the number of cases involved on a year to year basis should not be the issue. It's the very important cases that are the issue here. I'd suggest that whether it be one or two cases a year — and probably that is the number; maybe three or four — very important cases that require an appeal, or the MD feels an appeal is necessary, he can justify an alternate mechanism.

The other question is: why do we need an appeal board in the first instance? The hon. member might want to consider the importance of the sensitivity of the board that is established. MDs, a nurse, and other lay people will be on the board. I suggest that with such a board in existence, they'll gain experience with time, they'll represent a cross-section of our public, and I think they will improve the appeal mechanism regarding such hearings quickly and efficiently because of the experience they will gain; whereas I suggest a judge may hear one case and then another judge hears another case, and he may lack that particular experience.

There is a question whether courts in fact can or will deal with the specific issue of privileges. I'm suggesting to the hon. Member for Drumheller, in addition to the matter of law which they will always deal with, as my understanding is, including this bill — in matters of law it can and will go to court. But regarding the specific point of the issue of privileges

*per se*, there is a significant question whether the courts will in fact deal with it.

There are two sides to this issue, and I suggest that as time goes on maybe we'll clarify it further. But at this juncture there is reasonable and serious doubt whether the courts have that right and, if they do have that right, whether they have in fact dealt with it at any given time in the past — possibly in one case — and whether they have dealt with it effectively. I'm not questioning their judgment at all, but whether they in fact have the experience to do that.

The hon. member might consider the costs and the awkwardness involved in going to court and as a result the probability of greater difficulty; it is not as smooth a mechanism. I am not for one minute suggesting there should be an easy, quick, smooth mechanism, and not an effective mechanism. I think the effectiveness should be as good. I suggest the appeal board, with the members on it and their powers, will be as good.

As I have already indicated, Mr. Speaker, the experience gained by such an appeal board should offer not only improved hearings, but an improved review of the issue. In the future suggestions may even be offered to other local hospital boards about such experience, and maybe they could improve their by-laws, et cetera, to deal with matters so they don't even have to go to an appeal.

Mr. Speaker, it's not because of one or two cases, but the number of cases that in fact may have to be dealt with and arise yearly. It's not because of the one or two cases we might all be thinking about that exist right now. I suggest there might be other cases too.

So finally, Mr. Speaker, the hon. member is concerned regarding the danger which exists. Obviously there is danger in every legislation we bring, and this one probably has a greater index of that. But if the appeal board truly is given judicial power — and as my understanding is it will be, the board will have quasi-judicial, not judicial power. I understand the board is to follow the laws of natural justice, and I'm confident justice will indeed prevail. If a matter of law exists, the bill also provides that of course the appeal can go to the courts.

Mr. Speaker, I'm certainly very pleased that the minister who introduced the bill today indicated that amendments will be brought in at committee stage concerning the 90-day waiting period, and therefore will assure the patient's care will be protected, the concern of the hon. Member for Drumheller. If suspension is due to incompetence or other serious problems regarding the MD's ability to care for patients, the way the bill stands now is that the incompetent MD would be able to continue to treat patients, and cause considerable difficulty. I'm pleased that will be removed, and the judgment of the local board will stand until the appeal in fact takes place. So, Mr. Speaker, I'm pleased we are dealing only with subsequent privileges, as the hon. minister has indicated.

Regarding the appeal hearing to alternate appeal boards, as I've indicated already to the hon. member and to the members of the Assembly, I feel the review, reconsideration, or reinforcement of a local board's decision should make most medical doctors in this province much more comfortable and satisfied that their case will be heard once more by a board in addition to the local board. I hope hon. members

realize that the local boards have done and are doing a good job. We're dealing only with a few very specific cases.

Even at this time a medical doctor, as I understand it, clearly can appeal to a vast majority of the local hospital boards feeling that he now will have an alternate appeal mechanism which has indeed some of his peer groups on it. But these peer groups, or any member of that board will not be able to be in a prejudicial situation, where he has served or is serving at a hospital when that hospital is involved in that particular hearing.

I'd like just to raise the issue in the Assembly for clarification, so members will clearly understand that an MD may be suspended or his privileges altered for many, many, more reasons than just incompetence or improper care. I'm suggesting that for such a simple thing as failing to complete a hospital medical chart, total privileges could be suspended. I don't know if the hon. members realize that. Not a serious matter from a doctor's point of view, but serious from the point of view of the hospital by-laws. So he is suspended for a day or two until he completes his charts. He may be suspended or his privileges may be altered as a result of failure to fill out the usual medical reports or other documents, or failure to attend prescribed medical rounds. The same thing applies if he doesn't participate in medical rounds, numerous hospital committees to which he is assigned, or if he alters his position with respect to teaching in the hospital, or fails to comply with any by-law set down by the hospital or the medical staff, which are not necessarily factors of incompetence. As a matter of fact the vast majority of those items are not matters of incompetence. He may be suspended or his privileges may be altered simply because he is unable to get along with the medical staff, the nurses, the doctors, and so forth.

If hon. members think about that, it is a valid and proper point, because in modern medicine, certainly in urban and rural settings, the team approach to medical care is so vital. A personality conflict on any medical team could be disastrous on a day to day and moment to moment basis, especially when there is a crisis.

In other words, after getting recommendations from their peer group, that is the medical staff or medical advisory committee, the hospital boards usually act on those recommendations. But, Mr. Speaker, it shouldn't for one minute be construed that in fact the medical hospital boards always act on the recommendations of the peer group. In the vast majority of cases they do, so for practical purposes I think we can accept that. But I've seen many cases on very important issues where this has not been so. Of course it causes stress, but it is usually resolved after due deliberation.

Mr. Speaker, I suggest those who argue that local autonomy of hospital boards has been removed or altered should more carefully review the matter. After reviewing this particular bill, I feel such an appeal board will really augment and assist the local boards, and not hamper them in any way. In all probability very few cases will flow to this special appeal board. When one does flow to this special appeal board, I suggest that the local board would in fact want another objective opinion, because obviously the item is serious enough that somebody wants to

appeal it. There is no doubt in my mind the MD would want another objective opinion also.

Mr. Speaker, when we're talking about hospital privileges and an MD wants to appeal, we're talking about part of his livelihood. Surely there should be a very clear mechanism to deal with it efficiently, independently, and in an alternate way. I'm confident that after the local boards review and think about this matter, they should welcome the new information that might be provided by an independent body such as the appeal board recommended in this bill.

Mr. Speaker, when I reflect on my experience in this area, having served 22 years in both an active hospital and an auxiliary hospital, and in charge of a nursing home as a medical director, and virtually all the active hospital committees including being chief of general practice at the Misericordia Hospital for two years, and serving on the medical advisory committee . . . I say that with humbleness, but because it is important that you recognize I've had some experience in this area.

Very few cases will go to an appeal mechanism, because most cases are dealt with within the peer group in the local hospital board. And they are clear-cut. The MD usually knows quite well why his peer associates advise him as they should, as the legal profession and the teacher associations I'm sure do too, about that very important gray area. Because his privileges have been suspended completely, he is cut off from the hospital, and he really doesn't in his heart believe he should have been suspended, I know all members of the Assembly would agree very quickly that he better have an appeal mechanism. Surely, although he may appeal to the local hospital board again after new evidence, or because he felt he hadn't presented his case completely, he should have an independent body apart from that hospital.

I would have hoped — and it is in the bill too — that that independent body would have medical doctors, peer groups, to look, hear, and listen to this. With respect, it's not enough to have just other members of our society, but somebody who will understand the jargon, if you wish, or the feelings or sensitivity involved in his presentation, whether it be presented by a lawyer or by himself as a witness.

So, Mr. Speaker, when all has been said and done, I feel the mechanics set up in this bill as amended or the proposed amendments at committee stage, will definitely improve the bill. Subject to any new information that comes up, and maybe new information will come up regarding courts and so forth — I hope the minister relates this to the Minister of Hospitals and Medical Care — I feel this should serve all Albertans, including the hospitals and the medical doctors, in a very improved way.

Before closing, Mr. Speaker, I'd like to compliment the many hospital boards, the many MDs, and the College of Physicians and Surgeons who have communicated with me, and I'm sure with many, many other members in this Assembly, to assist in a major way to improve this bill. They've expressed their concerns vigorously, as they should, because there were concerns. I suggest there probably are some other concerns, which I think will be worked out over time. I feel those concerns are largely alleviated and I'm sure this bill will do well.

So with those comments, Mr. Speaker, thank you.

MR. SPEAKER: Before recognizing the hon. Member for Clover Bar, would the Assembly agree to revert for a moment to Introduction of Special Guests?

HON. MEMBERS: Agreed.

#### head: **INTRODUCTION OF SPECIAL GUESTS** (*reversion*)

MR. WOLSTENHOLME: Thank you, Mr. Speaker. It's my pleasure this morning to introduce 24 students from the school in Longview in the foothills, some of the prettiest country in all Alberta. They are accompanied by their teachers Miss Reay and John Tulick, the principal Don Tannas, and their bus driver Carol Sharp. I would ask that they stand and be recognized by this Assembly.

MR. FARRAN: Mr. Speaker, I'd like to introduce to you, and through you to the House, 37 students from Georges P. Vanier junior high school in Calgary North Hill, accompanied by their principal Dave Gunderson and teacher Eleanor Yanota. They are seated in the members gallery, and I'd ask them now to rise and receive the traditional welcome from the House.

#### head: **GOVERNMENT BILLS AND ORDERS** (*Second Reading*)

##### **Bill 41** **The Alberta Hospitals** **Amendment Act, 1978** (*continued*)

DR. BUCK: Mr. Speaker, in rising to take part in the debate on this bill, I would like to say that the greatest area of concern I have on the principle of this bill is that once again it is an effort on the part of this government to take away local authority. I think members of the Legislature have to realize this is what really does happen with this type of legislation, also the fact that we really seem to be centralizing more and more power to the government itself and, in this case, an appeal board. As the hon. Member for Drumheller stated, if we keep going this route there will really be no purpose whatsoever for local boards in this province, be they hospital boards, school boards, or other locally appointed or elected boards.

Mr. Speaker, the representation made to me by hospital boards and medical staff is just the opposite to what the hon. Member for Edmonton Kingsway has stated in this Legislature, that the people he's had contact with, medical doctors, would be in favor of this appeal board. The representation I've had has just been the exact opposite.

DR. PAPROSKI: Mr. Speaker, on a point of order. I'm sorry if the hon. member misunderstood me. I suggested very clearly that I had representation and expressed concerns regarding the bill. I did not say they supported one aspect or another of the bill. I'm sorry if the hon. member misread me.

DR. BUCK: Fine, I appreciate that, Mr. Speaker, because I wanted it very clear if the member was saying the medical people were supporting or oppos-

ing the bill.

A further area of concern, Mr. Speaker, is the retroactive aspect of the bill. Is the bill coming in just to solve a specific problem? If that is why it is being brought in, then I think it is hastily and ill conceived. If we are just looking at it in the light that we want more consumer input, then are we looking at this type of legislation for all the other professions?

DR. HORNER: Just dentists.

DR. BUCK: Just dentists.

But there has to be a purpose and reason for bringing legislation to this House. The fact that the legislation is coming in rather late and, as far as I can hear from the 'scuttlebug', there seems to be a division in the government caucus, then I think this legislation should be held until the fall. The Alberta Hospital Association certainly does not feel it has had sufficient communication with the government, sufficient opportunity to have input to the bill. That's just another example, Mr. Speaker, of this government not listening. I'm trying to be as non-partisan as I possibly can and still give the message, especially to the Deputy Premier.

MR. NOTLEY: He's never non-partisan.

DR. BUCK: That's right, the Deputy Premier could never be accused of being partisan.

Mr. Speaker, I feel the most important function of a local hospital board is to make sure there is harmony, competence, and care for the patient. Let's set a scenario where a medical doctor has had his privileges suspended by the local hospital board. The reason for a suspension, as many medical people know, is either because, number one, the person is possibly not competent or, number two, he is causing great disharmony in the local hospital. Under those conditions, are the patients receiving the type of care they should be receiving? I say they would not be receiving that type of care.

As we progress and the medical doctor has his privileges suspended, he appeals. The appeal is upheld by the special appeal board, and that medical doctor or that dentist is put back into that situation. What type of care are the people in that hospital going to receive? That is really what we're talking about. It will be interesting to find out from the hon. Member for Edmonton Norwood if this is one of the recommendations that has been made by that member as the chairman of the legislative committee on professions and occupations. Because if it is, are we going to keep going this route for all the professions?

Mr. Speaker, very briefly, I cannot support this legislation at this time. The hospital boards do not seem to want it; from the representation I've received, the medical people do not want it. If we are bringing in the retroactive aspect of it to solve one or two problems, I don't think that's sufficient reason for such centralizing legislation. If we are doing it to solve a specific problem or two, we now have the amendment to The Ombudsman Act where appeals such as this could be looked at to find out if the appeal should be upheld or not.

So, Mr. Speaker, I plead with the government that this legislation be held until the fall, and the govern-

ment in its wisdom, and in the representations made to it, has a further look at this bill.

MR. NOTLEY: Mr. Speaker, in rising to participate in Bill 41 before the Legislature this morning, I'd certainly like to concur in some of the concerns expressed by the hon. Member for Drumheller.

At the outset, I would say that I don't believe the government, either the minister in introducing the bill or the hon. Member for Edmonton Kingsway, has advanced to this Assembly what the rush is. Why do we have to pass the bill this spring? Representation has been made by groups and hospital boards all over the province. Every member of this Assembly knows what the hospital boards' reaction is. Every board in my constituency has contacted me, and I'm sure that virtually every board in every constituency has contacted its MLA. We have the position of the Alberta Medical Association. So I say to the members of the House, the first thing we have to have straight from the government is why it's necessary to go with this bill now.

We haven't had an opportunity to consult our constituents. We're supposed to represent people in the Legislature. At least one of the boards in my constituency would have liked to have had an opportunity this weekend to talk with me officially about the act before second reading. Unfortunately second reading has come and gone. They've taken the opportunity to contact me by phone, fair enough.

But I say quite seriously to the members of the Assembly: where there is widespread concern, and there's no question that there is, surely there is no major reason the government can't hold this piece of legislation until the fall session whenever that is held; unless of course we have dissolution before the fall session is called.[interjections] Assuming that isn't in the cards, the fall session is going to be an opportunity for ministerial statements one after the other. I know the hon. Deputy Premier wouldn't want to miss that opportunity. We could have 15 or 20 ministerial statements over a period of three weeks. That being the case, Mr. Speaker, I assume we are going to have a fall session. With that in mind, why not hold it over until that time?

Another thing I think members of the opposition find a little puzzling is that the hon. Minister of Hospitals and Medical Care introduced the bill. It's a very important bill. We have the hospital boards up in arms all over the province. But unfortunately in this discussion of second reading, the discussion of the very principle of the bill, we have another minister introducing the bill. We have the hon. Deputy Premier I'm sure in a position to pinch-hit for the minister. I know the hon. Minister of Labour chaired the committee that drafted the bill, but the fact is that this bill does come under the purview of the hon. Minister of Hospitals and Medical Care. We're asked to approve an important principle without the minister in his place. Quite frankly, Mr. Speaker, talk about the respect of this government towards the Legislature: in second reading we don't even have the minister here to introduce the bill.

Now let's look at some of the concerns that have been expressed to me. First of all, the appeal board: the hon. Member for Edmonton Kingsway indicated there's some ambiguity as to the rights before the courts. At this stage the courts will look at law, but

there is some uncertainty as to whether they would look at hospital privileges. If that's a problem, Mr. Speaker, let's take a look at amending legislation so the courts could look at hospital privileges. But to bring in an appeal board that in fact will be a sort of super board which will make the decisions on hospital privileges, is a rather dangerous precedent in my judgment, precisely because the hon. Member for Edmonton Kingsway indicated that there are only two or three cases a year.

If there were hundreds and hundreds of cases; if we had a situation like workers' compensation where claims had to be adjudicated on an on-going basis; if we had a situation as in the next bill where we have matrimonial property and perhaps some other mechanism for handling that, then the courts system would be appropriate. But where you're dealing with two, three, or four cases a year, surely the appropriate place to review those cases, after the hospital board has made an initial decision on the hospital privileges, is in the courts. In listening to the hon. minister advance the reasons for the bill, and in listening carefully to the hon. Member for Edmonton Kingsway defend the bill, I have yet to discern a reason why the appeal to the court is not the proper route when we have only two, three, or four cases. It seems to me, if there is some ambiguity as to what the courts can undertake, look at that and change legislation accordingly, but don't bring in this provincial appeal board.

The hon. Member for Drumheller raised the concern we're getting from hospital boards all over the province: is it going to interfere with the autonomy of the hospital boards? Not in a narrow sense. I suppose you could argue that there will be no change in the normal responsibilities of the hospital boards as a consequence of this new appeal procedure. But I think the fear many of them have is the rather subtle difference that will exist. I understand that as things stand now, the hospital boards, on the advice of the medical advisory committee, set out the standards for granting hospital privileges. They can suspend or qualify those privileges, and then the thing can be appealed to a court of law. But it is the hospital boards that are in a position to set the terms. They are responsible for the standard of care in that given hospital. As I understand the law at the present time, there is provision that at the hospital boards' request there can be outside investigations by the Alberta Medical Association, the Alberta Hospital Association, as authorized by the minister. We know in the present act there can be formal public enquiries if the minister chooses, and several of those have occurred.

Mr. Speaker, the question is: should we have a new set-up which says to the medical staff, all right, if you don't make it before the local board, automatically you can appeal to this new provincial board? I submit there is some legitimate concern on the part of the board as to the impact this new automatic appeal procedure will have in terms of its ability to handle and be responsible for the standard of patient care in that hospital.

I'm pleased to see there will be an amendment. I haven't had an opportunity to read the amendment, but certainly one of the very clear concerns I got from the hospital boards in my constituency was this business of the 90-day appeal. You have a doctor who

er that doctor is no longer able to perform satisfactorily, because of incompetence, personal problems, or the myriad of reasons that may lead to suspension of hospital privileges.

The concern of the hospital boards was that for that period of 90 days the doctor would still be in place in the hospital, until the thing had been decided by the provincial board. The minister is shaking his head. I'm pleased the amendment will now, as I gather it, eliminate that possibility. The position of the hospital board will stand. I think that's certainly an improvement. No question about that.

But it doesn't really alter the fact that instead of the board making the decision and that being appealed to a court of law, we now have the board making the decision, which is appealed to a new appeal body established by the province. And only on matters of law can there be an appeal to the courts. I think the hon. Member for Drumheller was making the point that you don't really compromise the autonomy of a board when you have an appeal to a court, because courts are there to look at the natural rights of man and to adjudicate the law. But when you set up another agency in between, we really have to ask ourselves: are we not qualifying the autonomy of the board?

I'm not saying the government is coming in and trampling the autonomy of the board. I don't think the boards are making that assertion. But they are saying it is a subtle qualification of the autonomy of the boards. We've had representation from various boards who simply say, hold the fort; if any appeal can now go to this new appeal board, we're going to have an awful time fulfilling our responsibilities. I'm not surprised that the hon. Member for Clover Bar or the hon. Member for Drumheller said that one of the board members indicated to him, why have a board? I forget which member mentioned it. I've certainly had several board members phone me and say, why have a board; if you're going to run everything from the Department of Hospitals and Medical Care, why have a board; let all the decisions be made centrally, and we'll just have an administrator there who will carry out the decisions of the provincial government.

Mr. Speaker, that may be an exaggeration. But the fact of the matter is that there is legitimate concern, because where before the appeal was to a court, now the appeal is to a board under the direct jurisdiction and appointment of this government. However you slice it, I think that indicates a degree of centralization and a subtle but significant erosion of local autonomy.

Mr. Speaker, I think those are probably the major points I'd like to make during second reading. In concluding my remarks I would say again to members of the House, very seriously: why don't you consider holding it over? It will not be the end of the world. Now I know the hon. minister in charge of Calgary — it's a fairly hot issue down there. It sort of sears certain Tory members. We have a very eloquent . . .

MR. McCRAE: Point of order. I don't know how I've got into this debate. I just walked in here a moment ago, and immediately I'm the target. I just want to assure the hon. member that I'm not under any appeal on hospital or other matters.

MR. NOTLEY: Mr. Speaker, you know, the friendly smile of the hon. minister in charge of . . .

AN HON. MEMBER: Foothills Hospital.

MR. NOTLEY: . . . Foothills Hospital was such that I thought it only fair that he be mentioned. I wouldn't want to leave him out. I know he's extremely interested in and knowledgeable on one of the rather more widely publicized hospital privilege questions in the province.

But I say to the members of the House that what we're doing here is an important step. And we've had widespread representation. I appeal to the MLAs to wait just a little while. The four or five months before the fall session will give us all an opportunity to meet formally with our respective hospital boards, and there may be a series of amendments they can recommend.

We've already had one important amendment. To come in here and say, everything's fine; we have this amendment. But you know that's a very important amendment. I really wonder why an amendment that crucial wasn't in the bill in the first place. Was it just a drafting error? Do we have that kind of drafting error, that we have to bring in an amendment on a crucial issue like that? I say to the members of the House that if we were to set it over until the fall, the delay would give the hospital boards in the province, as well as other people in the medical profession, full and ample opportunity to make representation to the Assembly so that if we do proceed we proceed on the basis of consensus rather than confrontation.

DR. HORNER: Mr. Speaker, I want to get involved in this particular debate. I ordinarily don't get involved in matters relative to the profession I happen to belong to, but on this occasion I think it's rather important that I do for a variety of reasons.

In a moment I will come to the question that has been raised by both the Member for Drumheller and the Member for Spirit River-Fairview. However, I would like to draw the attention of the Assembly to the changing role occurring certainly in North America and, I would suggest, across the world, in the delivery of health care and how it is done.

There was a time when things were relatively simple. Back in the good old days the medical practitioner not only did the medical practice but ran the hospital too. Those were very simple days, Mr. Speaker, and you didn't get into these controversies we now get into. But we've had developing over the years another profession, if you like, in the health care field; that is, hospital administration. I would ask members to reflect upon the fact that one of the reasons for increased hospital costs may well be in that additional division of authority.

Some other matters should be laid out. Why now? Why not before? The whole matter that the Legislative Assembly and its special committee in regard to the Ombudsman has been delving into, as to who would be best suited to look at complaints relative to our hospital system: really, therein lies the reason for bringing forth the bill. If you're not going to give the Ombudsman the authority to look into these matters, what other mechanism should there be to ensure that natural justice is done? So it isn't at all ill conceived and sort of dropping the thing quickly on the Legisla-

ture. It's a question of natural justice, of having a procedure in which justice can not only be done but can be seen to be done.

The other important factor is that we're dealing essentially with the question of judgment of professional competency and/or that competency, ability to deal with his peers, as my colleague for Edmonton Kingsway has very ably pointed out. But there is a gray line between when the profession should be policing itself and when the hospital board should be policing the profession. There are some real problems there. One of the results of the passage of this legislation would be that the profession must either exercise its competency and ability to look after members of the profession or leave it to another appeal mechanism.

I would say to the hon. Member for Spirit River-Fairview that there will be no difference before the courts relative to those matters, because, as the hon. gentleman might be aware, in the Medical Profession Act there is an appeal mechanism that has lay people on it and is appealable to the courts, and any practitioner is quite able to go that route. If there is a case that natural justice should be done, and I believe very sincerely there is, there is absolutely no point in delaying a simple mechanism that will allow that justice to be done. I've also had some experience in these matters, being a member of the profession for some 30 years.

Section 31.4 was of some concern to the hospital boards, and I agree with that concern. In fact, it was never the intent that that should be in there. But my legal colleagues sometimes work in wondrous ways to try to put the mechanisms in place. Of course in the final analysis we have to depend on them for the interpretation, and so it should be. But in this particular case the legal mechanisms to ensure what we want to have done were sort of all-encompassing.

But there's no doubt at all that once a hospital board suspends, terminates, or diminishes a privilege for whatever reason, that privilege should not be reinstated until such time as the appeal is heard. That was the original intent, and that will be the result. It isn't just a question of waiting and having further input. The principle is pretty straightforward. The input and the discussions have been had with the various associations involved. I suppose no profession wants somebody else looking over its shoulder. But we're here not as professionals but as representatives of the people of Alberta, and we should temper our remarks in that regard.

Mr. Speaker, I haven't heard any really good case for delaying the bill. I think the bill should go forward. It's a natural, logical solution to a problem that's been out there. The decision as to whether the Ombudsman should handle these matters or whether we should have a different mechanism to handle them is the straightforward answer as to why. If one agrees with the question as to why, there is no need for delay. The question of local autonomy is a red herring that's been drawn in, and quite frankly brought upon us by the inclusion of 31.4 in a manner we didn't really anticipate. So local autonomy, no.

This bill will help hospital boards in a major way. I've spoken to them. They've had a well-organized phone campaign, and that's fair game. But I asked them: if you've got a sensitive situation in your hospital, how do you handle it? They say, we really don't

like those sensitive situations. Of course they don't. And they handle it to the best of their capacity, usually on the advice of their medical staff. But after they get over the initial sort of thing and you explain why, a number of them come around and say, yes, we agree; that will be helpful to us, because we will not be without a full and objective look at making decisions that will have a great deal of effect not only on the practitioner but certainly on some of his patients. It will give a province-wide board that can look at a situation in a locality with some objectivity. That will be very useful.

I'm sorry the hon. Member for Clover Bar has gone out of the House, because I wanted to reflect upon their position that a minister should get involved in these matters. Of course he shouldn't get involved. That is not his responsibility. It's much better to have a situation in which you have representation from a variety of recognized and able people who will sit on this particular board. I agree. I don't think the board will hear very many cases after the initial term, and that's as it should be. Those cases will then be resolved, first of all, by the College of Physicians and Surgeons, who have the responsibility of looking after those of us in the profession who might get out of line; and secondly, by the internal system now available in our hospitals, the medical staff by-laws and their recommendations to the hospital board.

Only on the rare occasion in which there is a very sensitive matter that cannot be resolved in any other way will you have an appeal board that will look at it in a different situation than the courts. Remember what I said earlier: the courts still remain for the individual practitioner to go to and deal with in whatever way he may wish.

So you have an appeal board to which he can apply to have a hearing. Some of that hearing will have to be done in camera, because there are third parties who should not and, as far as I'm concerned, will not be hurt by such an appeal mechanism. The allowance of in camera hearings in the bill is very important relative to the patients, who we're concerned about in the final analysis.

Mr. Speaker, I believe very strongly that this is a step forward, keeping pace with changes that have taken place in the practice of medicine and in the operation of our hospitals, that's important to our citizens and the care they receive. That's really the key when we're talking about this particular bill. Why now? I believe it's important to bring our entire system to protect the ordinary Albertan, who is the — I think my friend from Clover Bar called him the consumer, but I'm not sure we in the profession like to think of that; we'd rather call them patients — but to protect the patient and ensure not only that he gets the best care possible, but that the mechanisms within our hospitals are up to date, appropriate, and appealable to a fair and objective body.

Mr. Speaker, I think very strongly that this is a step forward. It's an improvement, and we should do it now. If we're agreed in principle, there is absolutely no purpose in putting it off until the fall. It may well be that once we see how it functions housekeeping amendments may be required. But the principle of the matter is so important to our patients out there, the people of Alberta.

The hon. Member for Spirit River-Fairview suggested we shouldn't be doing this without the Minister of

Hospitals and Medical Care here. I want to say very frankly to the Legislature, Mr. Speaker, that this bill is a government bill and a resolution by government relative to the matter, not just a ministerial responsibility. Naturally the minister will have the responsibility of administering the bill. But the principle we're putting before the Legislature today has been agreed upon by the government and by the caucus of the government, of course not without some discussion and, as always, a variety of opinions expressed and a condensation to a simple principle that natural justice should be done. Not only should it be done; it should be seen to be done, relative to this area we're talking about: a practitioner looking after people in the province of Alberta.

It's a step forward, Mr. Speaker, making sure the whole process is in tune with the modern and contemporary operation of our hospitals in this province. It does not take away any local autonomy or anything else. In fact it enhances the boards' ability to deal with situations in their hospitals without concern. Frankly I think it will help them considerably in being able to deal with situations in a straightforward way, knowing they have the other back-up, if they require it at any time.

I see it as a step forward. I don't see it in any way other than being a modernization of our approach to hospital administration, medical practice, and the care of the people of Alberta.

MRS. CHICHAK: Mr. Speaker, I would like to take just a few moments to carry out an undertaking I made with respect to the hospital administrators or the directors of the hospital in my constituency. Of course, like all my colleagues, I received representations from both the hospital association and the medical profession. I welcomed that communication, because in particular it brought to our attention any areas that may have been overlooked in the drafting of the legislation, which were not intended.

I'll not expound to any extent, except to say that to this point the principle of the legislation has been very clearly outlined. It has been expressed that there is a section in the bill that, to my mind and I'm sure to my colleagues', runs across the intention of the principle of the legislation being proposed. That was the section the hon. Minister of Labour referred to and indicated that in committee it was the intention to have that section deleted. I'm referring to 31.4.

In my remarks I wanted to cite that aspect, because I gave an undertaking to the people who communicated with me that we would have a very close examination of the sections that appear to give particular difficulty to the boards and the medical profession, and assured them that if they were contrary to the principle and intent of the legislation, necessary amendments would be considered. I want to confirm that that is in fact being done in this situation.

The questions have been asked and, I think, dealt with to some extent. But I would like to say again: why are we bringing this bill forward, and who has been asking for the legislation? It has been brought to my attention, in any event, that certainly the hospital boards are opposing and not requesting it, [also] the medical profession or all those agencies that might be involved in health services to the people of Alberta. I would simply like to reflect — and I want to



make clear that the example I will use was not the primary reason for bringing forward the bill, but certainly a question that must be answered.

Who requires the legislation? During the spring sittings we have had a number of petitions from the people of Alberta, asking that the government and the Legislature become involved in reviewing a decision made in a particular hospital in this province. That certainly was not a primary reason for bringing forward the bill. But I would like to say that all those citizens who presented their views to the Legislature in good faith were asking that there be some consideration and some outlet provided to be sure that natural justice is afforded every citizen and every individual.

The provision under Bill 41 will of course respond in some measure to that kind of request. It is not often, I think, that citizens in the province gather together to petition the Legislature on very sensitive areas. We hear very many quiet, individual requests. Sometimes I think we tend to consider them minor, as not having any significance or importance; that it is only one, and that that individual should not have particular consideration. I think it's not a matter of how many appeals may be heard in a time frame. But I think it is important to know whether each and every one who might require that kind of mechanism and that kind of examination, should be as important as any number of dozens of them.

In the proposed deletion of 31.4 — and certainly when Section 31.5 remains, it still leaves a time frame in which an appeal might be filed. I don't believe that should provide any difficulty to anyone. It simply affords the person who feels aggrieved, or the individual who feels he has been unjustly dealt with or considered, time to examine whether the mechanisms prior to making application to the appeal board have considered and gone through the route that is primarily available, and whether he has properly and fairly received all the considerations he might. If he still feels aggrieved, of course there is that time frame in which to make application to an appeal board. I see no difficulty for the hospital boards or for any members of the medical profession. I would guess that, as in the past, their performance will continue to be as competent, adequate, and carefully considered in each and every case that comes before them.

When there is a decision affecting any one individual — a medical doctor, and the services he might be able to provide or the earning capacity he might have as a result of their decision — if that decision has impact, not only on what happens to that particular doctor but perhaps on the patients he may have been providing service to and on the citizens around, I think the pressure by the citizens who may feel involved and affected on the hospital board and medical staff of any such institution would be great. In such a sensitive area, leaving aside the provision and the ability to take the matter to the courts, it would seem to me that to have another mechanism, some independent body to have a look and confirm — in perhaps the majority of cases, I suspect it will affirm the decision of the hospital board — can certainly take pressure off the administrators to carry on with the business that is always so important and so pressing.

The hon. Member for Clover Bar wondered whether

I would comment on where this bill takes us as to the recommendations of the report on professions and occupations. Although I don't propose to deal with that matter here, I would just like to say that the step forward is not inconsistent with the recommendations in that report. I don't think the provision in this bill was taken in consideration of that particular report and the recommendations therein, but certainly it is not inconsistent.

I'd like to go a little further, to say that some professions have in fact taken the forward step of having amendments or changes to their legislation, or in the structure of their profession, to provide mechanisms of appeal very similar to that provided in the bill. The Medical Profession Act, passed I believe in 1975, took very careful consideration and provided in the appeal mechanism lay members of the public who have nothing to do with the profession itself. So I think our direction under this bill is very consistent with the policy, feeling, and motivation that are so necessary to ensure that every step for a natural justice is available for each and every citizen.

MR. KUSHNER: Mr. Speaker, I too want to support the bill. I have served on the three hospital boards in the city of Calgary. Boards have always had to wrestle with the situation of hospital privileges, and they were not easy decisions. Many times I think we wished that someone else could have taken another look, especially when a doctor made an appeal to the board to reconsider the first position of the board that probably did not give him hospital privileges.

Many say that we do have a choice of a doctor; we don't. The only choice we have is of a doctor who in fact has hospital privileges. Unfortunately many doctors in the city of Calgary, or other towns or cities, do not have hospital privileges. As board members, we have to depend solely on the advice of the medical profession as far as giving hospital privileges is concerned. I have no doubt that hospital boards and medical profession make mistakes too. I would caution the medical profession to eliminate that mistake, and maybe not deprive a very capable and able doctor. Many times it's been said that there's some racial discrimination, or maybe leaning to your friends or the medical profession, if you're not in a core group, or whatever you may want to say. I think that in itself will caution, even in that area.

Mr. Speaker, as a former member of a few boards, I have no problem saying that it will complement and assist the board. I'm sure it will. I know sometimes a decision has been made that bothered me from the point of view of wondering if we made the right decision, if there wasn't some feeling of favoritism from the medical profession. I think this would possibly clear the air and — in terms I've used at times; maybe it's not appropriate to say it here — in fact the board member would sort of carry the can.

As a matter of fact, I sometimes felt that maybe this type of policing should be done by the medical profession itself, rather than by the board. Maybe one day another step will be made. Many times it has been referred to me: how come I did not get hospital privileges? It would be said: the board members in their wisdom have seen that there were in fact doctors who probably had better qualifications, were more competent, or whatever the case may be. But in fact it wasn't the board members. That decision had been

made, and rightfully, on the advice of the medical profession. If that is the case, naturally if you get bad information you'll be making bad decisions.

I've noticed some of the speakers have spoken against this board, or Bill 41, but I don't think they have ever served on the board or in fact had any experience of that situation. In theory and on paper it may sound very well, but in practice depriving an individual doctor of hospital privileges is a very tough decision. Further I understand, and I think I'm right, hospital privileges cannot be taken to court. Maybe the damages that result; but as for hospital privileges, I think it's quite clear that that is the responsibility of the board. Therefore, as I understand it, this board will probably have even higher responsibilities than the court as far as hospital privileges are concerned.

I don't think the Dr. Abouna situation in Foothills Hospital in the city of Calgary would have happened. Knowing Dr. Abouna as I do, I feel it would never have come to court. Going to court is a very costly process. It may be a just process, but it's a costly one that I don't think Dr. Abouna in fact was able to afford. Yet he had to do it. I'm sure there are similar situations. A town I had the privilege to go to not too long ago, Mannville, just east of Edmonton, had a very similar situation. I think it would certainly have helped that board and cleared the air, and the situation would have been much healthier, because certainly the community is split on the decision there as well.

Mr. Speaker, as an elected official from Calgary Mountain View, I felt I had a responsibility to express some of the concerns, and that it was my duty to bring it to the Legislature's attention. I support the bill.

MR. MUSGREAVE: Mr. Speaker, I'll be very brief. I just want to point out a few things. First of all, I think I'm as sympathetic and concerned about local autonomy as anyone in this House, and I would point out that hospitals will still be able to hire their staff, approve the medical staff they take on, and initiate ongoing capital additions or improvements. What this bill will do for local autonomy — and unfortunately I have to differ very severely with the Member for Calgary Mountain View on this; perhaps he doesn't quite understand the bill — is that first applications are not subject to this bill. That means the onus is now on the medical advisory committee in particular, and the board members, to ensure that when first applications are made, there is a very, very careful investigation of the background of the people concerned.

It won't be just on technical ability. It'll have to be on whether or not they're able to work on a team; whether or not they're going to be an asset to a hospital; and, as I think the Member for Clover Bar mentioned, whether or not patient care will be kept at the forefront. The bill does not address itself to the problems the hon. Member for Calgary Mountain View mentioned, such as race, color, creed, or any of these things. It has nothing whatever to do with that. It simply puts the responsibility of first hiring on the board in particular.

I would like to comment that I too have been approached by Dr. Corbet, the president-elect of the Alberta Medical Association. I've also had a telegram from Mr. Roberts, the chairman of the Calgary Gen-

eral Hospital Board. They have expressed concern on behalf of their two agencies. I think it's a natural concern, primarily because something is new. There's nothing so painful to the human mind as a new idea. Perhaps it's going to be unsettling to them that the status quo in the province of Alberta is going to change. There has been a lot of pressure in the city of Calgary in particular and, as the hon. Member for Calgary Mountain View mentioned, in northern Alberta, because while justice has perhaps been done, in the eyes of many it hasn't been seen to be done.

In rebuttal to some members of the opposition, we've been listening very carefully. Now we're being criticized for not listening some more until the fall. I think it's most important that this bill proceed. As the hon. Deputy Premier mentioned, perhaps technical skill is not going to be enough, and the members of the profession are going to have to be more careful in policing their members. No one likes to discipline a colleague, but perhaps they're going to have to be compelled to.

Finally, Mr. Speaker, I'd like to point out that other professions in Alberta — for example, the architects — would love the opportunity now enjoyed by the medical profession to police their members. I just urge that in the future the medical profession take on this responsibility more than they have in the past.

MR. COOKSON: Mr. Speaker, perhaps I could take this opportunity to thank the board members in my own constituency — and I had correspondence from other areas, too — who were so quick to respond to the legislation. I think this allays some of the concerns the hon. Member for Drumheller expressed with regard to the timing, and perhaps holding over until fall. In my experience at least, the hospital boards, which are made up of very responsible people, are pretty alert to legislation and how quickly it comes into the Legislature, and they responded accordingly. I think we've all had some correspondence from them. As a result of that particular correspondence, I want to thank the minister for bringing in the amendment to Section 34, which I think allays quite considerably some of the concerns expressed by those who called me.

The hon. Member for Spirit River-Fairview, the hon. Member for Clover Bar, and others referred to the taking away of rights of local autonomy. It's not a precedent of course. This does happen in other professions and other areas, whether or not you can say it takes away rights. One has only to cite the situation in the case of education where teachers are suspended. Of course they have an opportunity to go through the board of reference and they can be reinstated or the suspension can be upheld.

In the planning area we have appeal boards and so on which can overrule rulings at the municipal level. We have sections in the municipal act which make it possible for inspectors and so on to review and assess by-laws. While in this case we are not necessarily dealing with individuals, the fact of the matter is that there is provision for this. Therefore it is not a precedent.

We've had a good discussion this morning, and I can frankly say we had an excellent discussion on this issue at the caucus level. My personal opinion is that the amendment and the legislation may be to the

advantage of local boards. One can argue that it takes away from local authority and responsibility. But you and I know of situations where the boards would be very happy, very cheerful to refer to a higher level a decision they have made. I can't think of a better way of doing this than to establish a tribunal or appeal board of highly capable professional and non-professional people who can sit down, both in camera and in public, and assess the situation. They are at arm's length; they would be a quasi-judicial group, and could call witnesses. They are far enough away from the actual personal animosities that sometimes occur at the municipal level.

All sorts of innuendoes and issues are dragged into areas of conflict by local boards, that cause real concern, hardship, and division between groups of people and, in some cases, perhaps ethnic groups. It sometimes even crosses religious concerns. In a situation like that, I think the boards would be very happy to refer an issue such as hospital privileges not to a court — which isn't necessarily by-passed, and I think that's been sufficiently covered in the debate this morning — but to a court of a higher level and take the chips where they may fall.

If I were a board member and our board had ruled suspension and the doctor appealed to the tribunal, I would like to think — and I know the government and the minister have given pretty good assurance — that this unique group of individuals spelled out in the act will consider very, very carefully before making a decision that doesn't uphold the ruling at the board level. Perhaps that point wasn't brought out in the discussion this morning. Therefore, as a board member, I would have no qualms about a doctor's appealing to this higher level for verification of a wise decision.

Of course a risk is involved, and that's not all that bad. The risk is that the ruling will not be upheld. This has happened in a number of other cases, and again I cite the areas of education, planning, and municipal government. It does cause consternation amongst board members, but I think they have to be prepared to lay their position on the line in issues such as this. If boards totally disagree with a ruling from a tribunal and are certain of their position, they have the opportunity to resign as a public protest. But I'm certain this will be highly unlikely.

In conclusion, I want again to assure the Member for Drumheller, who has very capably expressed concerns about the tribunal, that on occasion we're all subject to test. I can't help but refer to nomination for political office, where we're exposed to the possibility of being challenged at a nomination meeting. The Member for Drumheller was close to this issue and fortunately was able to overcome the problems. We're all faced with these things in life, and I think we have to be convinced that in these issues justice not only must be done but must be seen to be done.

MR. CLARK: Mr. Speaker, it hadn't been my intention to take part in the debate, mainly because my colleague from Clover Bar had already spoken, but I believe some points should be recast before the minister concludes the debate.

Let me say at the outset, Mr. Speaker, that I share some of the concern expressed by the Member for Calgary Mountain View. It isn't always that the Member for Calgary Mountain View and I agree, but

he has alluded to the Dr. Abouna situation in Calgary. I have asked questions in the Legislative Assembly with regard to that. I think it's a regrettable situation when we see what's happened to Dr. Abouna. In saying that, I don't cast the blame totally on Dr. Abouna himself or the Foothills board or the University of Calgary. Like so many things, there's no black and white. I simply say to all of us as Albertans, that what happened to Dr. Abouna is a sobering realization for every one of us in this Assembly, Bill of Rights behind us, in front of us, or not.

With regard to the Dr. Abouna situation, before the session started I explored in some detail the possibility of the Ombudsman being used by the government as a vehicle to look at this situation. Frankly I think the government has made a wise move by proposing an amendment to The Ombudsman Act that makes it possible for the Executive Council to ask the Ombudsman to view particular matters and report to the government. When I saw that amendment to the ombudsman legislation, I fully expected that that route would be followed by the government with regard to the Dr. Abouna situation.

Following the government's getting a recommendation from the Ombudsman, I assumed the government would sit down with the board of Foothills Hospital and the University of Calgary, the college, the boards as far as the University of Calgary and Foothills Hospital are concerned, which are appointed by the government. If, in light of the Ombudsman's report, it was deemed advisable, some reasonable action would be taken. That's the sequence of events I expected the government to follow.

I know reference has been made to a situation in a hospital east of here in Mannville. As I understand that situation, this piece of legislation would not deal with that matter at all, because in that case the doctor resigned. So let's not muddy the water and indicate that this legislation would help the Mannville situation. It will not. We're simply raising false hopes in some people's hearts if we give that impression.

Thirdly, let's be very clear that this legislation is not going to deal with the problem of getting hospital privileges for doctors. I thought the Member for Calgary McKnight put that point very well. We've heard several pleas here this morning; people talking about local autonomy, but at the same time trying to make the argument that when it gets hot locally, it's sure nice to pass things off to someone else, to a board. I'm not saying the Member for Calgary McKnight made this point, but several other members have.

That's not my idea of local autonomy: when a situation gets touchy, you try to have a mechanism whereby you can funnel it off someplace else. But the argument has been made by the Member for Lacombe that as local officials, it's sure nice to have someone you can pass the buck to on occasions when the going gets tough. I don't think we should view this legislation from that point of view. Perhaps enough has been said as far as the Dr. Abouna situation is concerned; I'm very surprised the government has moved in the way they have.

I think my colleague from Clover Bar, in his very direct manner, put it well when he really said the bottom line is patient care. We in this Assembly, doctors, hospital boards, the nursing profession, and

other groups — when it's all said and done, it's a matter of what kind of care the patients have. One of the questions we have to address ourselves to is: who is responsible for that patient care? Frankly, hon. members, one of the best arguments put to me by hospital boards in my riding and in a number of your ridings is that if we follow this legislation along, and a doctor is placed back in the hospital and disrupts the situation in the hospital, who is responsible for patient care?

As recently as last night, boards have said to me: if this legislation goes through the way it's proposed now and a doctor is put back in the hospital, and there's a deterioration of patient care, whose responsibility is it? Is it ours as a hospital board? We really said we don't think this person should be practising. Who is responsible from the standpoint of libel or insurance? I've had boards raise that question too. Does the hospital board have additional responsibilities here? Is it going to open up the whole area of insurance? I think that's an area we would be very wise to look at.

I say to members: over the weekend, do some pretty serious thinking about what we're doing here. Talk to your hospital boards over the weekend. I know it's easy for boards to get on the phone and say, hold the phone, about legislation.

But keep this in mind, hon. members: today the Deputy Premier talked about the changing health care role; he made the point that this was the next logical step forward. If this is the next logical step forward as far as the changing role of health care in Alberta is concerned, why has this legislation come in at this particular time? When the government sat down with the Alberta Hospital Association, the medical association, and the College of Physicians and Surgeons, why did the government basically say to them, we're not here to discuss the principle; we want your input on the details, but we're not prepared to discuss the principle? If this is the next logical step forward as far as health care in Alberta is concerned, why wasn't this kind of legislation set out in the Speech from the Throne or introduced much earlier?

Hon. members, it really is an indication of the way the whole health care system in the province is being handled by this government today. In the course of this session we've now had five different ministers handle various components or become actively involved as far as health care legislation is concerned. From one point of view that's good. But from the other point of view, the very man who's responsible for the administration of this program — for the first time I can remember in the years I've been here, and I could be wrong, a pretty major piece of legislation is not being piloted through by the minister.

DR. HORNER: It's happened often.

MR. CLARK: It's happened often, the Deputy Premier says. I'm sure that in committee the Deputy Premier will point out the experiences we've often had where major legislation like this, which in the words of the Deputy Premier is a natural, logical, next step forward, hasn't been piloted through second reading by the minister responsible.

Mr. Speaker, also dealing with the question of patient care, or really the bottom line, I have to say to members of the Assembly, in conclusion, that as far

as the Abouna situation is concerned, with The Ombudsman Act being amended this session as it is, that can be dealt with by the Ombudsman — a recommendation coming to the government, and the government then sitting down if necessary with the boards of the Foothills and the University of Calgary, both of which are appointed by the government. That situation can be dealt with if there's a need for some action to be taken.

As far as this legislation is concerned, my plea to members of the Assembly would be this: talk pretty carefully to your hospital boards and other people over the course of the weekend. This morning we've already had an admission by the government, in fact by no less a personage than the Deputy Premier, that the legal people who have been doing work on the legislation included a portion that the government really didn't plan to have in the bill. I think this in itself indicates that all of us had better have another look at this legislation.

I'd also ask the minister piloting the legislation through the House — I planned to ask the Minister of Hospitals and Medical Care, but he's not here — if he would indicate to the Assembly when the legislation was first discussed with the major organizations; I'm thinking of the hospital association, the college, the medical association, other people and groups in the health care professions that the legislation has been discussed with.

Also, Mr. Minister, either now or in committee, I'd like you to indicate to us when the government got their response from those organizations. Because one of the hospital boards in my own riding very directly indicated to me that the government discussed the matter, that they got the response from three of the major health organizations — the hospital association, the college, and the AMA — one day and introduced the legislation the next day. This would point out to me pretty directly that the government had pretty well made up its mind before it called in those groups. I'd like to know if that's an accurate reflection. If it isn't an accurate reflection, I'll certainly advise the hospital board member from my constituency who raised that point of view.

I simply say to hon. members that I think we had better consider very, very seriously what we are doing here. Let's remember that this isn't going to deal with the question of young doctors getting privileges in any hospital in Alberta. That's a very difficult question.

As far as the Dr. Abouna situation is concerned, the Ombudsman legislation will be in place at the end of the session, so that can be handled in a manner I think would be proper.

Thirdly, if we're trying to deal with the Mannville Hospital situation, my information is that that doctor resigned. This legislation would not deal with that. That being the case, then what are ... If there are some other reasons I've missed, some other specific situations we're trying to deal with, then let's lay them on the floor next time we debate the bill.

On the other hand if it's a matter, as the Deputy Premier has pointed out, that this is the next, logical step forward as far as health care in Alberta is concerned, then I find it very strange that the major organizations affected weren't consulted until a relatively short period of time ago, and when they were consulted they were told: we don't want your advice

on the principle of the bill; we want your views on the details.

MR. LOUGHEED: Mr. Speaker, I only want to take a few moments to respond to the appalling remarks by the Leader of the Opposition. Frankly I really find it dismaying that the Leader of the Opposition, with the approach he took at the start of this session on the question of hospital privileges in requesting that justice be done and that the minister become involved, now wants to ride both sides of these difficult issues. I'm saddened for him, frankly, that he feels he can do that with any degree of credibility. But those are just the very strong personal feelings I have for him, in the sense that there simply isn't any.

The question is quite clear: on the matter of hospital privileges, surely it is important that a physician who feels he's been aggrieved have a right of appeal to some province-wide panel. Surely it is crucial, Mr. Speaker, that that panel have medical practitioners on it. It is essential that that panel have representatives of the medical profession to deal with the highly technical and complex questions. To expect an Ombudsman, esteemed as he is, to deal with the matters involved there, without himself being a medical practitioner, which he is not, is simply just not the way to provide any fairness or common sense on a matter of this nature.

I am appalled that the Leader of the Opposition wants to come into this Legislature early in the session and whine about a particular case, plead about a particular case, ask for justice to be done, and then, when he gets a little heat from his hospital's board on an issue where we're trying to respond, he tries to ride both sides of the fence. It's appalling.

Mr. Speaker, this is an important bill to provide justice; to provide fairness and justice to the people of Alberta, to the patients, to the medical care, to all the people involved. I believe in a right of appeal. I believe that matters of this particular nature and magnitude resolved in an individual community should have some way in which they're not cut off, that they do have a right of appeal to an independent body, selected with representatives across the province, with physicians involved. I believe that will bring fairness and justice.

It's a matter of principle to me. It's a matter of principle to my colleagues. It is a government proposition that deals with our view in terms that there needs to be a right of appeal here, a right to have these matters perused by an independent group. Bill 41 is a principle, a very important principle. I can't think of many bills I'm more determined to support than this one.

MR. CRAWFORD: Mr. Speaker, wanting to close debate and give full and appropriate weight to the remarks of the hon. Leader of the Opposition, I have ample time to do that before 1 o'clock. To spend very long examining some of the propositions would be perhaps an abuse of the last couple of minutes . . .

MR. CLARK: You'll have an opportunity on Monday.

MR. CRAWFORD: . . . of the sitting today.  
One of the things the hon. leader forgets in regard

to the Ombudsman and hospitals is, of course, that the vast majority of hospitals are municipal hospitals, and our local boards are not provincial institutions at all. What he's really doing is debating the suitability of changing the entire role of the Ombudsman and tucking that . . .

MR. CLARK: That's rubbish.

MR. CRAWFORD: . . . into a debate right here in respect to hospital privileges appeals.

MR. CLARK: That's rubbish, and you know it.

MR. CRAWFORD: No, it's not.

MR. CLARK: It is.

MR. CRAWFORD: You know perfectly well, Mr. Leader, that the Ombudsman does not have responsibilities in respect to municipalities.

MR. CLARK: And you know very well that . . .

MR. SPEAKER: Order please. Order please. If the hon. members wish to have an informal discussion, with or without vigor, they might do it outside the House.

MR. CRAWFORD: Mr. Speaker, I thought I had the floor, and take no responsibility for the interruptions. I leave those where they belong.

Mr. Speaker, I want to conclude in precisely one minute. One of the things that have run through some of the remarks by opposition members this afternoon is: what's going to happen when a wrong decision is made? That carries with it a presumption that the hospital board itself not only will always but has always made correct decisions. It carries with it the further presumption that an appeal board handling very, very few cases is most likely to make the wrong decision, responding as they will and as they must to the same information . . .

MR. SPEAKER: I regret to interrupt the hon. minister, but under the *Standing Orders* I'm obliged to adjourn the House, unless there's some indication of government business for Monday.

MR. HYNDMAN: Mr. Speaker, I would suggest that if the Assembly agrees we could, as indicated by the hon. minister, take a very brief time to finish the debate on this matter.

MR. CLARK: No.

MR. SPEAKER: I regret that under the circumstances — I'm not supposed to express my regret or otherwise, but I must say that in order to depart from the *Standing Orders* of course requires unanimous leave.

[At 1 p.m., pursuant to Standing Order 5, the House adjourned to Monday at 2:30 p.m.]

