LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Tuesday, June 14, 1988 8:00 p.m.**
Date: 88/06/14

[The House resumed at 8 p.m.]

[Mr. Deputy Speaker in the Chair]

head: GOVERNMENT BILLS AND ORDERS (Second Reading)

Bill 28
Police Act

MR. ROSTAD: Mr. Speaker, I move second reading of Bill 28, the Police Act. It's somewhat fortuitous that we're back this session with a new Police Act, a new Bill. We think we've had a chance to make it even better than last year's.

Since the last Police Act was passed in 1973, there've been significant changes in the nature of policing, in the expectations of our citizens, and in the characteristics of most communities throughout Alberta. The time has come to bring our legislation on policing into harmony with the current needs of our province and to more effectively plan for the future. Bill 28 will permit municipalities to provide the type of police service they desire and can afford. Rural Alberta will be able to continue to receive RCM policing, which has proven so effective for so many years. However, this legislation also allows municipalities the choice of providing for policing through various options not presently available. Presently there are only two options; namely, establishing a municipal police service or entering into a contract with the federal government for RCMP service.

In addition to these options, this legislation will allow municipalities to enter into a contract with another municipality or to join with their neighbours to form a regional police service. Additionally, municipalities with a population under 5,000 will be permitted to receive policing from the RCMP under the umbrella RCMP Provincial Policing Agreement by sharing the cost of these services with the province. It's important to legislate these alternatives at this time so that municipalities may make plans for the future in certain knowledge of what their options will be.

Since 1973 urban communities with a population of over 1,500 have been required to provide for their own policing either by contract with the RCMP or by establishing their own police service. This placed a considerable financial strain on those smaller communities with a limited tax base. Accordingly, Bill 28 will raise the population threshold to 2,500, thus relieving a number of small communities of this burden. It's quite a significant number. There are 17 towns that are affected by this change to relieve that burden. These communities will receive provincial policing in the same manner as rural Alberta. They will also have the same options as communities over 2,500 if they wish to enhance their policing service.

Mr. Speaker, another significant achievement of Bill 28 is the clarification and refinement of the roles and responsibilities of the police commission, particularly in regards to its relationship to the municipal council and to the chief of police. This is necessary because of the increasing complexity of modern municipal management and the emergence of significant citizen interest in police policies and practices.

A related area concerns the status of persons employed to provide policing services in a municipality. There are two aspects to this concern. One is in relation to police officers, and the other relates to those employees who are not peace officers. Because of the importance of civilians in providing policing services, it is necessary to bring these positions under the management of the police commission. This Bill proposes that the commission control the number of civilian employees, how they are utilized within the police service under the operational direction of the chief of police while they remain as employees of the municipality. Similarly, police officers will remain under the general control of the commission and the direction of the chief of police. For the purposes of collective bargaining, the municipality is deemed to be the employer.

While it is essential that the independence of police officers in enforcing the law is protected, it's equally important that the police are fully accountable for their actions and how they perform their duties. This Bill will provide the commission with the necessary power to ensure that the police are ultimately accountable to the public through the police commission. The commission's power to inquire into matters concerning the police service will be enhanced, while affirming the responsibility of the chief of police for discipline within the police service.

In addition to providing the local police commission with the necessary powers to supervise the police, the Law Enforcement Appeal Board will have an enhanced role in monitoring complaint handling and discipline. In keeping with this role, the name of the board will be changed to the Law Enforcement Review Board. Police commissions will be required to provide monthly reports of details of complaints and dispositions to the board. The board will also be able to inquire into matters on its own motion and at the request of the Solicitor General.

A central principle of this Bill concerns complaints by citizens respecting the actions of police officers. Citizens should be able to register a complaint concerning either conduct of a police officer or the policies and procedures of the police service, with confidence that the complaint will be thoroughly and objectively investigated and resolved to the fullest extent possible. At the same time, it is necessary that the rights of police officers be protected and that principles of natural justice are applied. This Bill proposes that complaints of abuse of peace officers' authority are dealt with initially by an internal investigation carried out by the chief of police and, if necessary, by an internal disciplinary hearing. The complainant is to be informed of decisions regarding his or her complaint, the reasons for these decisions, and any disciplinary action taken. The citizen and any police officer subject to discipline will be able to appeal to the Law Enforcement Review Board.

A new procedure introduced in this Bill is that of complaints concerning police policies and procedures. While in recent years there has been a dramatic increase in citizen awareness of the policing services they receive, there is presently no clear process for hearing and resolving citizen concerns. This Bill makes it clear that the policies of the police services and programs provided are to be determined by the police commission. Following from this, it is appropriate that the police commission also address the concerns of citizens with respect to programs and policies. This Bill implements a procedure whereby a citizen may complain about these matters to the chief of police, who as the executive officer of the police service has the initial responsibility for responding to the concern. If it is an issue beyond the scope of the chief, the chief is required to refer it to the

police commission. If a citizen is not satisfied with the decision of the chief, the citizen may also refer the matter to the commission. This is a new procedure which will ensure not only that the citizen receives an answer to his or her concerns but also that the police commission plays a stronger role in decisions on police programs and policies.

One aspect of the legislation that is of considerable importance to a modern-day and progressive police organization is the conditions under which a police officer may be released from service. The present Police Act refers to dismissal for disciplinary reasons; however, is silent on other procedures. It is my belief that the present situation is indicative of an age in which labour relations were less complex than is the case today. I find it difficult to accept that the present Police Act intended to preclude dismissals for reasons commonly accepted in other employment situations. However, because of the wording of existing legislation it became a common interpretation among police officers and police managers that a police officer could be dismissed only for discipline and for no other reason. This interpretation has even been incorporated into some collective agreements. It is unreasonable that police officers should not be released from service in those situations where they have in some way shown themselves unsuitable for continued employment. Yet it is vital that this ability to release officers from service should be subject to a manifestly fair and agreed-upon procedure. This Bill proposes that the police officers may be released from service for reasons other than discipline and that the process be in accordance with their collective agreements. This will affirm a normal management prerogative about which existing legislation is silent.

Another aspect of the dual nature of police work addressed in this Bill is the question of liability. Traditionally, a police officer was protected from lawsuit providing he was acting within his or her authority. Additionally, the municipality employing the police officer has not been held liable for actions of the police officer. I take it as a necessity that a police officer be able to perform his or her functions without fear of personally being liable for the results of a split-second decision with the courts, sometimes after months or years of consideration, which the court might deem to be inappropriate. This Bill proposes to address these issues by establishing that the municipality is liable for the actions of a police officer in the same manner as a master is liable for the actions of a servant. Where a tort is committed, the municipality will be held responsible. This measure will protect both the police officer and the citizen and should significantly clarify the insurance responsibility of the municipality in what up to now has been a very gray area.

In summary, Mr. Speaker, this Bill provides new options to municipalities which will allow them to meet their policing requirements in future years. It increases the threshold at which municipalities must normally become responsible for their policing services. It addresses management and labour relations issues in a way that will foster a more productive and normal labour/management relationship within the policing environment It also clarifies the roles and responsibilities of municipal councils, the police commission, and the chief of police. The Bill affirms the responsibility of the local authority for supervision of the police and provides the commission with the necessary tools to perform this role. Finally, the Bill serves to increase the openness of the complaint system, ensuring that citizens' concerns are adequately and fairly addressed.

MR. DEPUTY SPEAKER: Hon. Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Speaker. I rise to comment on Bill 28, the Police Act I must state at the outset that I find this to be an acceptable piece of legislation, and I and the members of my caucus will happily be supporting it on this second reading. It provides a number of provisions which are in the nature of housekeeping and tidying up of details. There are, in addition, some significant, some important changes but nothing fundamental in respect of the philosophy of the Police Act as we have known it.

In dealing with the elements of principle, I must say, however, that there is one particular area in which I am somewhat disappointed, in the sense that I believe we could have gone farther in a certain direction than we have. That is the failure of this Bill to move us forward in any significant way with respect to providing some greater degree of independent input into the complaint process. I believe that the real challenge of policing in our age -- and it's a challenge that is being addressed by many jurisdictions -- is to, in fact, find a way to improve the degree of civilian input into the complaint process at the same time as maintaining a process which has the confidence of the police service itself. Because both public confidence and police confidence in the system are necessary to having a police service which does the job of policing effectively for our community. That, I must say, is a balance which is not easy to accomplish.

Now, I note with some amusement that the minister has made glowing comments, which are not unusual from that side of the floor, about how the complaint process has been improved in so many ways. It's almost like he's announced the invention of the wheel. In fact, he's almost veritably slapped himself on the back, and when I heard his initial comments with respect to what an improved complaint process we had, I was almost, I must say, in a frenzy of enthusiasm as I read the Bill for the first time, looking for the veritable gems of reform only to find that it's the same system with a tiny bit of tinkering. Now, it's not that the current system is a bad system or a horrendous system, but there are in fact some obvious directions in which it can and should be improved. I say directions because the exact mechanism or the detail of the changes is somewhat more difficult to accomplish. I must say that insofar as improvements are concerned, it's as in so many other things in life: we often don't see the defects of a system -- unless you are a "let's look for the defects" type, as I am -- until serious problems arise. Unhappily, we now see the police service in the city of Edmonton at somewhat of a problem stage. I hope that it will prove to be less of a problem than appears on the face.

The problem in this whole area is that it is very, very difficult over a long period of time for police services to totally police themselves and at the same time to maintain the confidence of the public. Other jurisdictions have discovered that I support the need for civilian input into this complaint process to a meaningful degree. The current system that we have provides only after-the-fact civilian, nonpolice input through the Law Enforcement Appeal Board. At the first instance, in fact, we do have a system in which the police virtually completely police themselves. While we don't have serious problems at this stage, my belief is that over the long haul we're asking for trouble and are doing a disservice to our community and to policing by ignoring that issue.

Now, in most areas of the world -- we've seen this particularly in North America where the population grows, greater numbers of ethnic groups, the possibility for misunderstanding increases. Most of these areas end up with significant problems

over the long haul. The problems that arise over this long haul have been, in some instances in some jurisdictions -- it's been established that from time to time the police complaint system in fact serves to protect police wrongdoers on occasion. That is debilitating and disruptive to the police force when that is brought out. It's corrupting.

Another difficulty is simply that even when the police service is acting reasonably and honestly, it's in the very nature to be suspicious of organizations which police themselves. We see, for example, many challenges and attacks on the way the Law Society currently polices its members, even though there are several lay benchers. So that is natural in a community, and we have to recognize and accommodate what is natural. If we do so, we will inspire public confidence.

Many other jurisdictions have recognized that, as I mentioned. They've recognized it very often only after they've had serious problems where there are crises involved. There are inquiries, investigations, and where public confidence in the police has been seriously eroded by a series of incidents. We've seen that, for example, in Toronto which just had an independent civilian monitoring system implemented, but only after a series of problems particularly with respect to nonwhite groups rose in the late '70s and the 1980s, which was destroying the confidence of whole segments of that community in the police service. The RCMP . . .

AN HON. MEMBER: The Liberals did that.

MR. CHUMIR: The Liberals implemented, wanted the independent police monitoring system . . .

MR. DEPUTY SPEAKER: Order please. Let's come back to the Bill.

MR. CHUMIR: That is incorrect; the Liberals did not do that . . .

MR. DEPUTY SPEAKER: Order please. This is a debatable motion. We can only debate in the singular.

Hon. Member for Calgary-Buffalo.

MR. CHUMIR: In Toronto, that system was implemented by the Progressive Conservative government of Ontario. Other governments have noted the need, for example, with respect to the . . . [interjection] Rabbit ears? . . . with respect to the RCMP. A new system is proposed for implementation with respect to the Royal Canadian Mounted Police. It's in 1986 legislation. It has not yet become effective, but it has been established for the purpose of providing some independent input. Many United States jurisdictions have such systems. I'm not saying that they have reached the right balance nor a balance that is appropriate for ourselves, but they are addressing the issue and have recognized the need. It's important, I believe, that we don't wait in our community for serious problems to arise before moving ahead on this issue.

Now, it's hard to find the right balance, as I mentioned. The police don't welcome outsiders who haven't had experience with respect to policing, making these judgments, and one can understand their concern. But it is a fundamentally important principle. I had some experience in dealing with this matter in 1982 when I was a member of a citizens' committee set up by the Calgary Police Commission with the purpose of making recommendations with respect to policing the police. We recommended an addition to the Calgary system, which, let me add, was not working that badly. There were honest attempts by the police service to provide proper discipline. But we decided that there was a need for a civilian complaints monitor. We recommended that it be established and that consideration be given to ultimately legislating such a monitor within the Police Act for all services in the province.

Calgary has adopted that particular proposal. It follows a certain minimal model of oversight. There are many different roles that could be given to the monitor. In fact, the monitor who held that position from 1983 to 1986 has made recommendations for an expanded role. I don't want to get into the details of that It's not essential. I simply wanted to say that I believe that form of approach reflects a healthy direction for our system, and we would do well to consider implementing it because it would help to give credibility to the process of the complaint system and help avoid public criticism and erosion of confidence before it happens, if the system works as it should. I believe the maxim in this area which should be applied is that old legal maxim about justice not only being done but being seen to be done, and that means that there must be some independence.

So I urge the minister to look hard again at this very important issue. I know we're at a very late stage, but it's my sense that there is a need for such greater civilian input, as a matter of principle, on this legislation. A legislated monitor would, I believe, provide some positive direction in that regard, and I believe that in fact that is a very humble and modest beginning in relation to the degrees of civilian input that takes place in other jurisdictions and, I believe, would be a useful move in forestalling problems and forestalling the need for greater intrusions at a later stage.

Now a second principle that I would like to comment on briefly, Mr. Speaker, relates to the degree of overall provincial control of the police service. One thing which has struck me over the years in dealing with policing issues and reviewing the past Police Act and now this one is that there seems to be very, very little oversight of the police at the provincial level. We have what I suspect is the most decentralized police system in the country. For example, we have no provincial police commission, which is common in many of the other provinces. We do have provision for a director of law enforcement, but in fact the director plays a very, very minimal role in policing in this province, unless I'm mistaken. While I'm supportive of local autonomy in many areas and allowing individual jurisdictions to run their police service on a day-to-day basis, I am concerned that it is fundamentally important that we have a base of knowledge at the provincial level that enables the minister to have a very clear focus as to what is going on at the local level with respect to policing and to be able to see problems at the very early stages in order to nip problems in the bud.

I just have a suspicion that we just haven't quite got the right balance in that regard and that we are open to problems developing at the local level, perhaps without the knowledge of the minister or officials in his department or the director of law enforcement I hope I'm wrong. It's just an instinct It's hard to tell without being involved on a daily basis. I'm not sure exactly what the answer is. I'm not pushing for a provincial police commission. I don't want to usurp the strong local roles that are working very well at this stage, but I always like to look down the line and anticipate what's going to happen as our population grows and the demographics and problems grow.

So I think there should be a ongoing idea at the provincial level in the minister's office, through his officials, through some

provincial body which has responsibility for monitoring things, to be aware of what we want from our individual police services and to be equally aware of what it is we are, in fact, getting. I would be interested in the minister's comments with respect to that issue, the balance that he sees, having been in office now for several years, with respect to these issues as we proceed in debate.

I'm close to finishing, Mr. Speaker, but I did want to mention one concern, and that is with respect to the new proposals which enable chiefs of police to discharge police officers other than through the disciplinary system. I can understand the motivation of the police administration in that regard, but I think that in terms of inspiring the long-term confidence of police officers, who do a very difficult job, it is important that we ensure that there be the greatest degree of fairness to police officers who may be subject to dismissal other than through the disciplinary process. It has been suggested in this Legislature previously that the protective process is to be through the collective agreement, which is stated to remain in effect, and that that is the mechanism through which a hearing and some form of oversight and monitoring will provide the proper check and balance in that area. Again, I would invite the minister's comments on that particular subject and the degree to which he can give this House assurance that the system will in fact work very appropriately to safeguard the rights and concerns of individual police officers.

One final concern I have, Mr. Speaker, is with respect to the powers of special constables and the role that they will play. I want to hear from the minister during the course of debate and in committee what he perceives to be the proper balance and role of these constables. I note that there is and has been some concern expressed in Calgary with respect to armed non police officers being used in our courts to fulfill duties previously fulfilled by police officers, and there's particular concern about them being armed, about the degree of training. There are a whole range and plethora of individual concerns, and I think that raises a very strong element of principle and philosophy with respect to policing that I would wish to see addressed.

But those concerns notwithstanding, the Police Act is a reasonable one. It moves us in the right direction with respect to the complaint system, although not quite as far as I mentioned I would like to see us go. So I close with, again, a statement of general support for this piece of legislation, and I await with interest the comments of my furry friend to the left here.

MR. DEPUTY SPEAKER: Hon. Member for Edmonton-Glengarry.

MR. YOUNIE: Thank you very much, Mr. Speaker. I don't promise to be as eloquent as the previous speaker, lacking his years of experience with police-related matters. I do, however, have a few points to make about the Bill and a few concerns to express.

Previously we saw Bill 16, which this is supposed to be an improvement and replacement of, and it was heralded in the throne speech at the time as a document in community-based policing, which it definitely wasn't. Unfortunately, this year's rendition really does not move towards community-based policing and, in fact, may be stepping away from community-based policing, at least as demonstrated in the existing Police Act we now operate under. It certainly does not mark any great improvement.

It seems to be based more on the assumption that the function of police is to enforce the law on people. When I talk of community-based policing, I'm talking about the fact that policing is "for" people, that we should not be dealing just with policing "of" people or policing "inflicted on" people, but we should recognize it as policing "for" people. That is a very important distinction, and we really should be looking at doing more community-based policing. I think we will see the police increasingly doing more and more in community-based policing, but it will be because they as a police force, recognizing the reality of the communities they're working in, will see a need for it, not because the need is identified and its fulfillment required by the Police Act under which they operate. It will be meeting their own responsibilities even though they haven't been told by the Police Act that they definitely must do it.

Just as an example, the existing Police Act says:

> there shall be . . . a Director of Law Enforcement who . . . may
>
> (a) carry out the necessary research and planning for and develop projects for . . .
>
> (ii) the development of any program designed to improve [the communications] between the police and communities.

Now, that's been taken out. In fact, the Act now says "there may be" -- not "shall be" but "may be" -- a director of law enforcement whose duties include a much longer list, but none of them refer to the need for developing communication between the police and the community. So if anything, that seems to be a step back from community-based policing or an improvement in the level of community policing. As I say, we've seen improvements; I just don't believe this Act embodies the need for them as it should.

I felt a little uneasy when I heard the minister talk about normal management prerogative in terms of dismissing or firing police officers. And I realize that within police forces, as within any other employed group, there sometimes is the necessity of removing people from the job for legitimate reasons. I worry, though, about what I would see as the typical Tory definition of that term "normal management prerogative." I'm less uneasy because I honestly believe this minister probably doesn't share what I see as the typical Tory definition of that term, but to me it would mean, "the right to fire anyone at any time for any reason without necessarily having to give the reason." That is what I think most Tones see as the definition of normal management prerogative, and that would concern me if that is the direction the Act is moving in, to increase the power of authorities at the top to dismiss people without protection and due process and so on.

I would argue very much that any increase in the power to dismiss must be accompanied by an increase in the safeguards that oversee that power. So whether it be in regulations or whether it be in amendments to the Act, the minister should make sure that if he's increased the power of senior level authorities to dismiss police officers, then he must increase the safeguards to prevent that power from being used indiscriminately or for nonlegitimate reasons of personal anger and so on.

I might commend to the minister the principles espoused by Sir Robert Peel many, many years ago in Britain. There are nine of them, and I won't read them all, but I would just give him one compilation of several factors; that is, policing depends on the approval of the public, the co-operation of the public, and the assistance of the public, and that is gained through obviously impartial service and an adequate level of community-based activities. Without that you won't get the approval of the public, and therefore you will not get the co-operation that makes the job of the police workable in any reasonable way in society.

I'm worried that what we're moving to in a swing to the right in North America generally is a movement towards the more paramilitary model of police forces, which are hot on lots of hardware but not hot on the community spirit. For instance, they're gung ho to catch bank robbers but show disdain for a phone call about a stolen child's bicycle. In fact, I have dealt with a nephew who phoned the police, an RCMP detachment, about a stolen bicycle, and it was just brushed off and never checked into. So I think that is an appropriate example. I would worry about us moving more to that paramilitary model and would urge the minister to make sure we try in every way possible, including in terms of amendments to this Bill, to enhance in the Act -- not in just what police forces do out of necessity and common sense but within the Act -- the role of community-based policing wherever possible.

If the minister will forgive me a more partisan comment, I would just wonder if, in fact, moving towards the paramilitary model of policing wouldn't be the government's response to the need they know will arise for enforcement of Bill 22 once they have managed by undemocratic means to get that through the . . .

MR. DEPUTY SPEAKER: Order please, hon. member. Order please.

May the sponsor of Bill 28 close debate?

SOME HON. MEMBERS: Agreed.

MR. DEPUTY SPEAKER: The hon. Member for Edmonton-Beverly.

MR. EWAS1UK: Thank you, Mr. Speaker. I too want to make a few comments relative to this Bill. First of all, I think I do want to speak to the local police forces and an increase in the thresholds that are being proposed, up from 2, 500 to 5, 000 that'll be available to the municipalities without cost. Of course, I think that's a good move because I've heard a number of municipal councillors did express some concern about those particular numbers. And then, of course, there's the other threshold level increase from the 2,500 to 5,000.

Now, again I think those are good moves on the part of the minister. However, there are some inherent problems, as I understand it, in this particular arrangement, that being that when the thresholds are moved up, particularly when it's up from 2,500 to 5,000, the municipality still has a choice. I mean, the province still takes up the costs, but the municipality has a responsibility for the police force. The problem is in the other aspect when they increase from the 2,500 to 5,000 that the municipality then all of a sudden becomes responsible for both the costs and the responsibility of running the police department, and that I believe is a rather significant jump and very difficult, I would think, for municipalities to cope with. So I would think that there might be some consideration given to a phasing in of the force plus the cost factor so that it's not a sudden, sudden cost that the municipalities have to deal with and perhaps are not prepared to deal with. So I would hope that that would be something that the minister may wish to take under consideration.

I also wanted to make a few comments on the discipline at section 36 of the Act. I'm sure the minister might well have received some comments from police associations because subsections (2) and (3) are areas of some concern to police associations, where subsection (2) states that:

> Notwithstanding the provisions of a collective agreement, the commission may terminate the services of a police officer for reasons other than disciplinary reasons.

I wondered if there could be some identification of what those other reasons might be. I think, notwithstanding a collective agreement, surely there must be some provisions for appeal for these officers in the event that they are terminated. Termination is a major act on the part of management, and to terminate for other than disciplinary reasons I think needs to be addressed. I think the police associations are concerned about that aspect of this Bill, as well as subsection (3):

> Where a collective agreement provides a process for terminating the services of a police officer for reasons other than disciplinary reasons, that process shall be used for terminating the services of a police officer under subsection (2).

So again, it's a problem for the men and for the associations to deal with these provisions. Yet under subsection (4) the Bill says that dismissal will be according to the provisions of a collective agreement, if one exists. So I feel that perhaps there may be some contradiction in those two sections, unless I'm not interpreting them correctly.

I think by and large the new Bill is of some significance in that it is going to permit police commissions to investigate some of the internal goings on in a police department relative to disciplinary action of officers. There's no doubt in my mind that the citizens have some concern when there are internal reviews, as happens now, and disciplinary action might or might not be taken, but we are never made aware. [Mr. Ewasiuk coughed] Excuse me. Probably something in the air is polluting us. I believe those changes in the Act will ease the minds of citizens that there will be an outside authority reviewing actions of police and police departments in determining what action is being taken or might be taken as a result of action carried out by police officers.

I think the need for community police, as stated by the Member for Edmonton-Glengarry, is not really evident here, yet I believe it's an area of major significance that we move into the area of more community policing. The best way to test police efficiency is the absence of crime and disorder, not the visible evidence of police in action dealing with them. I think that's significant. I think we can't address the crime problem by simply displaying more force, police driving in vehicles with shotguns in the front seats, the display of weapons. I'm not sure that serves well for the police department. I think it serves to intimidate citizens who might otherwise be of assistance to police. But I believe the action and the display of that kind of a military type of approach does not serve well police departments or the community as a whole on the long-term basis. The introduction of more community policing, a good rapport, a liaison with the community, I think would go much, much further in the prevention of crime, rather than the visible display of arms and that sort of thing.

I believe those, Mr. Speaker, are the comments I wanted to make. No doubt the chief of police has a major responsibility to deal with his men. Now that the chief and the municipalities are liable for police action, I think it also is a move in the right direction. It seemed to be at one time that the policeman was simply an employee of no one particularly. He basically held an office, and there didn't really appear to be any avenue of how people could seek redress for action of police. Proposing in this Bill that they are in fact employees of the municipalities via the police commission, I believe, is also a reasonably good move so that there is the opportunity through court action in the event that the action of the police is not acceptable.

Mr. Speaker, those are the comments that I wanted to make this evening.

MR. DEPUTY SPEAKER: Hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. Just a very few brief comments, because most of the points that our caucus wanted to make have been made. But I just wanted to say that while I'm not particularly impressed that the Bill is really moving in the direction of the kind of community policing that we envisage, as outlined by the Member for Edmonton-Glengarry, nonetheless it does allow for that.

I would encourage local communities to get involved in building more community policing, sort of, programs. I would like to say that we in fact have one in our area of Edmonton-Kingsway. The city of Edmonton is taking the initiative and putting police out on the beat They are moving police right into the community. There is going to be an office right on 124th Street. A very capable young officer by the name of Rocky Maze has now moved into the office and is getting to know the people on the street. It looks really encouraging. I think it's the direction we should go. I will say that the Bill allows that, and that's very important. I would urge all the local communities across Alberta to get involved in that kind of policing. It certainly is a better way of looking at it, of preventative police work rather than, sort of, the army type coming in and enforcing law and order after a crime happens.

So I just wanted to stand up and say that I'm encouraged by some of the people, anyway, in this province who are moving in the right direction.

SOME HON. MEMBERS: Question.

MR. DEPUTY SPEAKER: Comments by the hon. Solicitor General will close debate on Bill 28.

MR. ROSTAD: Mr. Speaker, I thank you for the opportunity, and I thank the members for their comments. I would like to commend the Member for Edmonton-Glengarry for reading Inspector Braiden's paper that he did while on secondment to the federal Solicitor General on community-based policing. He cited the three principles out of nine of Sir Robert Peel, but he forgot, in taking that, to put it into context that you can't legislate community-based policing. That is something that the community and the police service have to work together and say, "We want to do this together." And I commend the Edmonton city police -- the members, the commission, the chief -- for their efforts towards this. But you don't legislate that; you don't put it in the Act. As the Member for Edmonton-Kingsway pointed out, the Act allows community-based policing, which is correct, but you don't say you have to have community-based policing, because you can't force something like that It has to be developed by the people.

The comments on the thresholds are important, and there is flexibility. The Member for Edmonton-Beverly pointed out the fact that he thought there wasn't flexibility for a phasing in. There is, in fact, flexibility for that. Who's to say when your town or your community goes over the 2,500 whether you're going to stay there or whether you'll back up? It's important to realize that the municipality needs that flexibility.

The Member for Calgary-Buffalo, who is concerned that we need independent input into the complaint process -- I have no problem with Calgary's system of a monitor. That's something that the police commission, who has the responsibility for the police service at that level, for determining that they need that. Edmonton is looking at the same. But, again, each police force on the local scene, as against the RCMP, is different in each area, and the police commission and the community and the police officers have to determine together what level of service they want. They should have the opportunity to determine how they're going to monitor their service rather than the province coming in and saying, "You shall have a monitor there." That's the thrust of this Bill: where there is the will independently in certain communities, that they have that will.

There is the law enforcement director who does exist and is extremely active in working with each of the municipal police forces and the RCMP to ensure that there is an adequate and, in many cases, enhanced level of policing in Alberta. There are meetings with the Solicitor General as well as the law enforcement department and Deputy Solicitor General with each of the police forces to determine whether we're happy with the direction they're going or they're happy with some of the incentives we would. I am more than pleased to stand before all members and all of Alberta and say that Alberta has a very, very high level of policing from each and every police force. I think because Edmonton recently has had a number of incidences, unrelated other than the fact that some of the people happen to have been police officers, does not indicate that there's anything wrong with the police service in Edmonton; I think it's exemplary.

With that I would move second reading of Bill 28.

[Motion carried; Bill 28 read a second time]

Bill 41
Gas Resources Preservation Amendment Act, 1988

DR. WEBBER: I'd like to make a few comments relative to the Gas Resources Preservation Amendment Act, 1988. This Bill is primarily for the purpose of providing greater flexibility in dealing with gas removal permits, to allow us a greater ability to deal with the removal of gas from the province of Alberta and dealing with our gas removal permits in certain cases by getting a court injunction if necessary and also in issuing an order to stop Nova or pipelines that would be delivering gas to Nova, to cease transporting the gas intended for removal from Alberta -- moving from Alberta, which would be in contravention of the Act.

On that particular point, as a result of natural gas deregulation we have certain conditions in the gas removal permit, and if those conditions are not adhered to by the producer or whoever has that gas removal permit, then we would want to be able to stop that producer or the permitee from moving gas from the province. There are other provisions that make some changes, not of similar import. I can go over some of them. There's one section that deals with the diversion of gas. The present section authorizes emergency diversion of gas. The change clarifies the ERCB can specify how this diversion is to be effective.

[Mr. Musgreave in the Chair]

There's provision for the cancellation of a suspended permit if the permitee does not request an inquiry. This is in here in order to simplify the process. If there are no individuals or anyone that has any concerns with that process, then it can be dealt

with.

It also empowers the ERCB, as a result of an inquiry, to amend a permit; that is, to reduce volumes or duration of a term or change or add to conditions. The amendment requires the Lieutenant Governor in Council or the minister's approval. It also makes the supplying of materially incorrect information to the ERCB or the minister a basis for permit cancellation and allows the ERCB to cancel a suspended permit if the permitee does not request an inquiry. Currently where a permit is suspended and an inquiry not requested, the permit stays in a state of limbo. We want to get it out of that state, and thus the amendment would have the cancellation of that suspended permit.

As a result of information that's required from industry as a result of natural gas deregulation, some of the producers have been concerned about the confidentiality of that information. Thus, there are sections in this Bill which impose confidentiality requirements on information that would be filed under the Act. I think this is important because permitees may be reluctant to comply with the disclosure requirements if they do not have the assurance that their information will not be unjustifiably disclosed to others.

I mentioned the restraining order and the stop order. This would add power for the courts to grant injunctions restraining a contravention of the Act or the regulations or a permit or conditions on an order in council or ministerial approval. It would add power for the ERCB or the minister to order Nova or, as I indicated, pipelines delivering gas to Nova, to cease transporting that gas intended for removal from Alberta in contravention of the Act. We feel that there are not adequate remedies in place right now to effect an immediate cessation of contraventions of the Act, some of which, such as unlawful removal of gas from Alberta, may be justifiably serious to warrant immediate cessation.

Mr. Speaker, these amendments in here I think will be amendments that the industry will find acceptable. Certainly industry has been in favour of natural gas deregulation, and they recognize that with the elimination of the Alberta border price and that royalties being collected on the basis of individual sale prices, the need for more information from the companies is greater and the need for accurate information. So these provisions primarily, then, would deal with those who provide inaccurate information and also allow for an increased degree of confidentiality for those who provide us with that information.

So overall, Mr. Speaker, with the natural gas deregulation process, we've come a long way in that process. We have a few steps to overcome as yet, and I believe the amendments here will assist us further along the road for natural gas deregulation.

SOME HON. MEMBERS: Question.

MR. ACTING DEPUTY SPEAKER: Hon. Member for Calgary-Forest Lawn.

MR. PASHAK: Thank you very much, Mr. Speaker. I think this Bill is perhaps far more significant than it appears at first blush. I think it represents a clear recognition that deregulation is a failure and that the government is hereby introducing more new regulations. I'm not objecting to that, because I think those regulations are ultimately working in the interests of the people of Alberta.

But it does seem to me that this Bill has two major thrusts, one of which I think the minister neglected to mention. The first is that it's in part, I think, designed to frustrate any behaviour on the part of consuming provinces to bring low-cost, short-term gas to their core market customers. Because if regulations we pass as a province prevent that, then the minister certainly has strengthened his hand to enforce those regulations and to prevent that from occurring. The second purpose of the Bill is to ensure confidentiality of information provided to the government with respect to gas supply contracts. As the minister noted, where we no longer have a border price, it's essential that we get that information. In order to get it, we have to assure the people supplying that information that that information will be held in strict confidentiality. On the other hand, I question whether or not the measures that are included in this proposed Act, this Bill, would withstand a court challenge, because they do prevent any outside law from gathering the information that would be collected under this particular Act. I'm not a lawyer. I don't know if that's ultra vires. I would hope the minister's checked that out with his own legal department. But in any event, it seems to me there'd be enough protection already provided by the Public Service Act plus the Alberta Evidence Act.

But I think the major question in this is the issue I proposed at first, which is that the Bill can be seen as a measure to frustrate attempts on the part of consuming provinces to get low-cost Alberta gas to their core market customers. Now, I think reasons for this measure, then, can be seen to stem directly from the Western Accord and the gas pricing agreement that ensued from that accord. More specifically, Mr. Speaker, I think this Bill is a response to certain actions that were undertaken by the Manitoba government and other actions that we fear may be taken by the Ontario government in the future. I'd like to just take a moment, Mr. Speaker, to look at the Manitoba case. The Manitoba Oil and Gas Corporation had arranged to meet the needs of all Manitoba gas consumers, except for those who had arranged for their own supply. This gas would have displaced other gas previously contracted, and the National Energy Board decided it would not issue an order requiring TransCanada PipeLines Limited to transport that gas.

Now, I think this is an important issue for all members. So in order to demonstrate why I think it's important and to tie it in with the particular measures of Bill 41, I'd like to provide a little background. In March 1985 the producing provinces -- i. e., British Columbia, Alberta, and Saskatchewan -- signed the Western Accord. The accord contained a provision for a more flexible market, a sensitive pricing mechanism, and this was to be in place on or before March 1985. And a deal was struck. But again, I want to emphasize that this deal was struck only between the producing provinces and the government of Canada. We'll see in a moment why this is critical to what happened later. The three major consuming provinces -- Manitoba, Ontario, and Quebec -- were not signatory to that agreement, although in talking to some officials from the Canadian Petroleum Association, they assured me they were present at those discussions. But I think the more significant part of this is that they did not sign that agreement.

So really what we have here is a rather one-sided agreement. We have a certain group of Canadian provinces and the federal government entering into an agreement that affects the whole country. Now, I suppose I could just make a brief aside and say I think this is rather typical of the way this federal government has been operating. I guess I could go into the Mulroney trade agreement to show how provinces are set against provinces, and I think in some respects, as I mentioned during the debate on Meech Lake, again we see a parallel situation there where the

federal power is weakened. In any event, here is a federal government that I think should have taken into account the interests of all Canadians entering into agreements with just a few Canadian provinces and not all Canadian provinces.

In any event, prior to deregulation, the situation that existed was that TransCanada PipeLines bought gas largely from Alberta producers and resold that gas to distributors in eastern Canada under what are called long-term contracts, and this is critical to what happened. Prices were determined in relation to the Alberta border price, but what the gas pricing agreement did, of course, was essentially three principal things. It removed the Alberta border price. It allowed end users -- at least some categories of end users -- to buy gas directly. And finally, TransCanada PipeLines would no longer be seen as a monopoly; end users would have access to transportation through that pipeline. But one major issue was clearly left unresolved as a result of those debates. What about those long-term contracts? Were they to run their term, or were they to be abandoned?

What the NEB decision in the Manitoba case really came down to was that we really have two kinds of customers. We have the large industrial users who are free to hunt for bargains, and we have smaller residential users that are restricted in terms of their ability to get out of their long-term contracts and enter into short-term, lower priced contracts. What Manitoba in fact found, for example, was that its residential users were paying approximately one dollar more a thousand cubic feet for their gas than industrial users were. So that's why Manitoba decided to have the Manitoba Oil and Gas Company contract for new supplies at a much lower price. The National Energy Board, of course, denied Manitoba Oil and Gas Corporation this and refused to compel TransCanada PipeLines to provide transportation for the direct purchase gas. The reason for their decision essentially -- and this is really key to this whole thing -- was that self-displacement was contrary to the intent of the gas pricing agreement.

So what we have here essentially is an extremely important point. The National Energy Board, which is charged with responsibility for looking at the interests of all Canadians, just looked at what was contained in the agreement and made their decision on what was in the agreement and not on what was in the interests of all Canadians. So the NEB then substantially upheld the position of the Alberta government as presented by the Alberta Petroleum Marketing Commission, which had argued that only large industrial users were contemplated in the first case as being direct sale purchasers. Similarly, Mr. Speaker, here in Alberta, when other consumer groups attempted to enter into direct purchase agreements -- and I was present at those hearings and listened to the arguements -- the province stepped in and required that the Energy Resources Conservation Board and the Public Utilities Board jointly establish a core market concept. This is a device that ensures that customers so defined would pay a much higher price for their gas based on some nebulous security-of-supply consideration.

I don't know where the Manitoba case is at the moment I know they've applied to the Federal Court of Appeal for leave to appeal the board's dismissal of its application. I meant to check that out, and I wasn't able to do so.

So when it comes to this particular Bill, Mr. Speaker, I experience some extreme frustration in terms of providing support for a measure such as this. As an Albertan, of course, I would like to ensure that Albertans get the highest possible return for their resources. As a Canadian, though, I can appreciate the need that all Canadian consumers should be taken into account. From my perspective, it would have been a much better agreement had the consuming provinces as well as the producing province entered into the accord and entered into gas pricing agreements.

Now, this problem has been created for me by a federal government that's refused to take its national responsibilities seriously. On Meech, it weakened its authority; on free trade, it'll give up our sovereignty; and on this gas pricing agreement, it has refused to recognize the interests of both producing and consuming provinces. In the absence of that the National Energy Board, as I pointed out, had to rule in favour of the producing provinces because there is no provision there to protect consumer interests. In the final analysis I'm forced, as an elected representative here in the province of Alberta, to support this measure in spite of its obvious weaknesses.

MR. ACTING DEPUTY SPEAKER: Hon. Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Speaker. I, too, rise to support this legislation. Since I entered the Legislature a little over two years ago -- in fact, two years ago and one day; I recall our anniversary was noted yesterday -- I have expressed my concern with respect to the impact of the deregulatory process on prices which Alberta as a province and the industry in Alberta as a whole would receive for its wasting natural gas assets in the face of the very huge natural gas surplus. As we all know, a surplus of many years, reserves of many years, were by law mandated to be in place. All of a sudden deregulation took place and, in the face of the bubble, we were dealing with a situation which was calculated to inevitably drive prices down to the ground. That was, in fact, the result we have experienced since that time.

It's obvious that we needed a transition period. Unhappily, it was not provided for as a result of lack of foresight and poor negotiation on the part of the representatives of the people of this province, and the error was compounded by failure to compensate for the fact that we had sold oil and natural gas to the rest of the country over the previous 10, 12 years for approximately $56 billion less than fair market value. This further militated in favour of the reasonableness of some transition provision, and it was the absence of that transition provision that cost us so dearly and led to the horrendous budget difficulties this province has experienced in the last few years.

Now, all these factors, in my view, made it reasonable for the provincial government to manage our natural gas resource, at least during the initial period of deregulation. It made it in particular, as I argued in this House during the summer of 1986, reasonable to attempt to keep up prices in the core market where the supply had, by definition, to be secure for residential and light commercial consumers. Yet they sought prices on a spot-market basis. It also in particular made it reasonable to keep prices up when we noted that the competition was electricity, of which the comparable deliverability was at $6 per mcf or more. But the government, happily, eventually saw this. After great cost to the people of this province, it became clear that deregulation as it was implemented was not working well, fairly, or in the interests of the people of this province, and the government took initiatives to recognize that, which I was supportive of in a general sense. They belatedly decided to hold up exports from this province at prices less than $1.35 per mcf, and lately they have developed a formula in order to protect the royalties on the provincial share of production, a concept which is reasonable, although the industry, I believe, has some valid concerns with

respect to the matter of its implementation.

Now, Bill 41, this piece of legislation, in fact provides the provincial government with the power to control exports when government policy has been contravened, and in the same vein, it provides for a greater amount of and more timely information. Yes, it is a regulatory Bill at a time of alleged deregulation, but this government loves to live a life of illusion. It loves to talk free market and free trade at the same time as it is heavily involved in subsidizing almost every new industrial activity in this province. It's time for some straight talk, some pragmatism. This is a pragmatic Bill. I believe it moves us in a reasonable direction, and I'm going to support it.

I must say, however, that it is not clear where deregulation is ultimately going to take us. I'm sure the minister feels, as do most members of the oil and gas industry I've spoken to, that the situation is a very, very fluid, unsettled one. We are not sure where we're going. The reality is that there is a momentum as the industry readjusts itself. It's important that we give deregulation a chance to work itself out, subject to such limited controls as are necessary and are being imposed here, so that we can ultimately get some clear sign of the range of benefits and costs that ultimately will accrue once the dust settles. Then we can decide at that stage whether or not long-term use of the powers in this Bill will have to be made. But in the meantime the Bill suits the needs of this day. It's a pragmatic piece of legislation, and I intend to support it.

Thank you.

MR. ACTING DEPUTY SPEAKER: May the hon. minister close debate?

Athabasca-Lac La Biche.

MR. PIQUETTE: Yes. I'll also rise to speak to Bill 41, with a few questions to the minister. I'd like to start off by saying that the minister very definitely is eating crow on the whole deregulation the government so wholeheartedly supported approximately two years ago. Now we're seeing in this Bill a retraction of deregulation, where we're now going back to a reregulated market because of the supposed threat of the other consumers in Canada being able to perhaps under the deregulation process get cheaper gas than we should be due as Alberta taxpayers, and I know there's the resources.

However, in my mind this Bill does not answer the question about how the Bill will be implemented in terms of export of gas to the American market. I don't believe that under free trade this Bill will have any teeth whatsoever in terms of being able to control any export price or bottom price for the export of our natural resources and natural gas to the United States. I would like to ask the minister whether under this Bill there are, in fact, any teeth to his legislation which would negate the free trade agreement relating to the border price. I believe this Bill will not be able to do that, and all they will actually do is regulate the prices within the Canadian market to the consumer. In fact what will be transpiring is that the Americans will be able to continue to buy through a large volume purchase our natural gases at below our Canadian prices, which will be negatively impacting on job opportunities here in Canada and especially in Alberta because the Americans will probably be buying our gas cheaper than what the Alberta consumer is able to buy from the natural gas utilities.

I bring to the minister's attention, for example, that already this fall through the elimination of the gas protection plan the gas utility companies in Alberta have applied to PUB to have permission for the winter heating season to be able to have the right to charge a higher price to the consumers here in Alberta based on the demand level here in Alberta. However, I wonder whether the Americans, with their large purchasing power, will actually be paying more for a product within the winter heating season with a lot of the negotiated agreements that basically commit their sale of gas in the low heating period, where in fact you'll see the American consumers and gas users, industrial users, having cheaper access to our gas than we will as industrial and consumer users here in the province of Alberta. I'd like the minister to assure the House that this Bill will, in effect, prevent that kind of thing from happening: whether he's got any legal opinion which does protect the Canadian consumer and us as the royalty owner of the natural gas if you're in Alberta; whether we're not going to be giving away to the Americans much cheaper gas than is available here in Canada to Canadian consumers. Or is this Bill basically ensuring that we have a higher than American price for natural gas in Canada but, in fact, not the same situation existing with the Americans under free trade? We will, in fact, have free trade with the United States but not free trade within the Canadian context relating to the consumer and industrial users.

Reading through the Bill here, I just don't see where he will have any authority in order to contravene the free trade agreement. So I would like the minister to address that concern about Bill 41, which I think all Albertans and all Canadians should really be asking.

MR. ACTING DEPUTY SPEAKER: The Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. Most of the points have been very well articulated by members on this side of the House, so I won't take a lot of time. But I want to sort of focus a couple of questions a little more sharply than perhaps they've been so far.

Will this Act stand up under the free trade deal? Consider the situation we're in. The free trade deal says we cannot charge a higher price to the Americans than we can charge to Albertans for our gas and oil, but what you're proposing with this Bill is the right to say, "Well, we can charge Albertans and Canadians a higher price than we charge Americans and big industrial users." So I'm wondering if the free trade deal, which just says, "I think we have to have the same price on both sides of the border," may in fact open it to a court challenge here by users of gas in Alberta or Canada who are asked to pay the higher price to say, "Well, no, no; you can't have a different price." So I would really appreciate it if the minister would clarify some points in that regard.

One other question occurs to me from some of his remarks. How will a corporation that is trying to get some gas piped out to some particular customer in Ontario or the States or wherever outside the province -- once he's made the deal, he's put a lot of money and commitment into that. Then the minister is saying that by order in council, if the government decides it's against the best interests of Albertans -- and I'm all for them protecting the best interests of Albertans -- they can sort of just say no. Now, aren't you going to upset an awful lot of people, if they've made a contract and are in the process of about to fulfill that contract, if you suddenly are saying, "Well, no, you can't do that, because we've decided in cabinet that somehow it's against the best interests of Albertans for you to sell that"?

I just leave you with those questions.

DR. WEBBER: Well, Mr. Speaker, I'd like to make a couple of comments following some of the members of the opposition. I must commend the Member for Calgary-Forest Lawn for doing some research outlining some of the history behind the legislation coming up with natural gas deregulation; and also the Member for Calgary-Buffalo for, I think, switching his position to some degree, if I interpret his comments on natural gas deregulation from the past. We'll not get into that too far. However, I sense he was a little more gentle and a little more thoughtful about the benefits of natural gas deregulation than he had been in the past.

Such questions as: would this legislation withstand a court challenge? Obviously we would, and did, research this very carefully in terms of legal opinions on this particular legislation involved with our rights as owners of resources in the province. The hon. Member for Calgary-Forest Lawn also indicated that the agreement was between the three western provinces and the government. And that's true -- the three western provinces as the producing provinces. Certainly the interests of these producing provinces were taken into account by those three parties. The deal was between those three parties and the federal government, with the federal government, I think, looking after the interests of consumers very well. In fact, Mr. Speaker, I doubt if we would have been able to get this natural gas deregulation agreement if the federal government had not seen that because of the surplus of the natural gas we have in the west, there would be a downward pressure on prices and thus the consumers in this country would benefit. So I think the federal government certainly was concerned with the consumers in this country and took their interests into account. We as a producing province, of course, are interested in not only the consumers in the country but particularly the producers here in Alberta and the economy of Alberta and the development of this industry in the future.

Yes, when the agreement was made we had respect for long-term contracts. That was one of the conditions of the agreement, that there be respect for long-term contracts and there would not be self-displacement of system gas, that there not be direct sales taking place that would displace the system gas. However, direct sales could occur between buyers and sellers primarily in the industrial market. In the process of deregulation, over time we would see an erosion of the supplies being provided by TransCanada PipeLines and Western Gas Marketing and more individual brokers and producers in this province being involved in making these direct sales.

Certainly I think it can be said that the consumers in this country have benefited in a great way with natural gas deregulation up to this particular point. However, the producers were prepared to take the chance on prices. Of course, they did not know there would be the fall in world prices when the deal was signed; we had the tremendous crash in 1986. Even if we had regulation of prices in natural gas, there's no way we would have been able to keep the prices up to the levels they were before, particularly in the industrial markets where there were alternative sources of energy and they could switch over to the other sources. If natural gas was going to compete, the prices had to come down.

The Energy Resources Conservation Board and Public Utilities Board had the hearings with respect to the core market situation here in Alberta and made recommendations that direct sales do occur in the core area where institutions, small industrial users, and others who wanted to go into direct sales with producers could do so provided they had long-term contracts in place or came up with long-term supplies and the remaining customers in the system would not be adversely affected by these customers leaving the system. We have been assessing those recommendations and have had discussions with Ontario and Quebec to see how they would be prepared to deal with the core market. Quebec has agreed that they would allow direct sales into the core market area, but provided that long-term contracts are in place equivalent to the length of the contracts the distributors in Quebec would have, namely GMI, the distributor, and their 10- to 15-year contracts they are now negotiating with Western Gas Marketing.

[Mr. Speaker in the Chair]

I think the producing industry is very optimistic about the future of natural gas in this province. It's shown by the fact that they're out there drilling today for future supplies, drilling activity in the gas sector beyond the level of activity of a year ago at this time. So deregulation is a process they were in favour of. Certainly their expectations of the reducing of supplies in the United States are there, and most people think those supplies will decline in the future and that the price has bottomed and prices will rise in time. So those are some of the comments from the hon. Member for Calgary Forest-Lawn.

I'm not sure I fully understand the Member for Calgary-Buffalo when he was talking about the transition period. There was a transition period in place for natural gas deregulation. Mind you, it was too short, considering the fall in prices that took place. However, I think we have taken steps to move that transition period further into the future. In fact, we still are, in essence, in a transition period. We still are negotiating with Ontario; we have not got an agreement with Ontario at this stage. We still are trying to convince them that long-term supplies in the core market are in the best interests of their consumers in the future. Negotiations are currently taking place between Western Gas Marketing and the distributing companies in Ontario, and I'm hopeful they will be able to renegotiate long-term contracts with the prices to be determined by the buyer and the seller rather than the governments being involved.

Yes, regulation did take $56 billion to $60 billion of revenues from this province into the coffers of the federal government in the past. There's a regulation imposing the national energy program which we will never forget in Alberta. But having said that, with the present government that is in Ottawa, they agreed to negotiate and work with us to strive for deregulation, and I think we will all benefit from it in future.

To be blunt, I think that if the hon. Member for Edmonton-Kingsway and the hon. Member for Athabasca-Lac La Biche had left the comments to the Member for Calgary-Forest Lawn as their energy critic, the NDP would have been better off, in that a lack of knowledge did not prevent either one of them from speaking very loudly on the topic. So when the hon. Member for Athabasca-Lac La Biche talks about eating crow, he doesn't know what he's talking about. Why he's talking about why this Bill would be involved in controlling prices into the United States, I have no mortal idea, because nowhere in the Bill is there any reference to controlling prices in the United States. If the hon. member would realize that deregulation is decontrol of prices -- letting the marketplace determine the prices -- I don't think he would have even uttered those words. Prices into the United States for our natural gas have been higher in the last several years with deregulation in place than they have been here in Canada. If it hadn't been for the California market, our producers in this province would have been much worse off than

they were with the fall in world oil prices. That California market was essential and certainly helped the finances of many producing companies in this province.

So, Mr. Speaker, with natural gas deregulation and with the free trade agreement, we will let the marketplace determine what the prices are. This is what the producers want. I think it will be in the best interests of producers and consumers in both countries, and in terms of producing natural gas activity and exploration in the field, this environment will be for the benefit of Albertans and Canadians and a secure supply for North Americans in the future.

So, Mr. Speaker, I think I've addressed most of the comments from the opposition.

[Motion carried; Bill 41 read a second time]

Bill 42
Energy Statutes Amendment Act, 1988

DR. WEBBER: Mr. Speaker, Bill 42, the Energy Statutes Amendment Act, is a Bill that results in amendments to five existing pieces of legislation: the Mines and Minerals Act, the Take-or-Pay Costs Sharing Act, the Natural Gas Pricing Agreement Act, and the Petroleum Marketing Act. It's difficult to summarize the amendments that are in these five Bills. They are quite technical in nature, but I would say that they cover a variety of areas, and I'll mention a few of them in second reading here.

First of all, the amendments provide flexibility in lease continuation. What this means is that it would allow the minister to extend the current 90-day continuation period following the drilling of a well at the end of a lease term or the 90-day period within which drilling of a well must commence in order to further continue the lease. The reason for this is that there are situations, particularly in the north, where insufficient time for some lessees to take steps to effect continuation occur, weather being a primary reason for that. It would also allow the lessee to apply for continuation of a lease earlier than the currently specified period of 120 days before expiration where the minister determines earlier application is appropriate. The operators of leases in an area where a short drilling season cannot otherwise determine the status of their lease prior to entering into the final drilling season is the reason for that particular change.

There's an enabling provision for the use of an average price for the Crown to value its royalty share of natural gas. We've had many discussions with the industry, from small producers to the larger producers, about how we can simplify the royalty calculations. One of the concepts that came up was determining a corporate average price. Rather than a corporation sending to our department a multitude of prices for individual sales -- and there's been thousands and thousands of these sales occur; at last count I believe there's some 20,000 to 25,000 of these individual sales that have to be used for calculating royalties -- if we provide a system whereby a corporation can submit an average corporate price from all the sales they have, they would submit that value, that price, to the Crown, and thus we would be able to calculate the sales of their natural gas according to that one particular price.

There has been some concern with that process in that the smaller companies think this could complicate their calculations where they have a number of investors that have a piece of the action relative to drilling and production from particular fields. But the larger companies in particular are very anxious to proceed with this particular aspect, and so we are moving forward on the basis that those corporations that would want to use this corporate average price for royalty calculation purposes can do so. For those companies that think it is too administratively difficult for them, we would work with them in time to see if we can remove some of those difficulties for them to be able to proceed to submit their values on the basis of an average price rather than individual sale prices. I think this move would be very acceptable -- in fact, I know it will be very acceptable to the industry, as a result of our discussions.

Another aspect of the amendments relates to the take-or-pay levy that was imposed two years ago -- we're into the second year now -- whereby producers who make direct sales would have a levy of 10 cents a gigajoule on their gas sold, because in the past the system producers, those producers who have had these long-term contracts with TransCanada Pipelines, are involved with the take-or-pay situation and have costs associated with that. Therefore, as a result of the National Energy Board hearing, it was thought that the new players in the game -- the new producers who are coming into providing gas into the eastern market or elsewhere -- should have this levy applied also. It would be for a three-year time period: 10 cents a gigajoule, as I indicated.

But one of the other recommendations of the National Energy Board was that the neighbouring provinces of British Columbia and Saskatchewan not have a levy applied to their producers. One of the things that has happened, and to my knowledge it's only happened in a couple of instances, is where Alberta gas has been delivered to the trans-Canada pipeline system -- not in Alberta but outside of Alberta into Saskatchewan -- and thus by moving it into the trans-Canada system in Saskatchewan have been avoiding the take-or-pay levy of 10 cents a gigajoule. Amendments here would provide the province to be able to make sure that that practice did not continue. It is not a widespread practice, as I emphasize; I believe it's only been one or two instances where this has occurred. However, I think it's important for fairness that all producers be treated in the same way.

There are also amendments related to the fallback and market development incentive program which has come to an end. The amendments here would allow us to wind those funds down and allow the Crown to be able to take a share of royalty revenue that it would have been entitled to recover. This amendment particularly would authorize the Alberta Petroleum Marketing Commission to transfer a portion of a Natural Gas Pricing Agreement Act Fund to the General Revenue Fund, and there's no provision for that now. The surplus in the fund reflects the amounts by which the price adjustments should have been increased in the past, resulting in higher regulated field prices and Crown royalty. The amendment provides for the Crown to take that share of the royalty revenue it would have been so entitled to.

Mr. Speaker, there are other amendments that strengthen the audit powers of the province, primarily because of the recommendations from the Provincial Auditor. I think hon. members may wish to address those powers when we get into the committee stage of the Bill where it'd be easier to deal with that.

Also, there are amendments related to overpayment and underpayment of royalty. There have been situations with fluctuating prices where certain lessees have been attempting to minimize royalty by speculating on what the price is going to be several weeks or several months down the road. So we're making some amendments that would make sure the Crown would

not lose any royalties with that type of speculation.

Mr. Speaker, there are some other amendments not of the same import as the ones I have mentioned. I would probably leave the hon. members to address those, as I say, in committee stage, and welcome any comments from hon. members on the principles of the Bill.

MR. SPEAKER: Calgary-Forest Lawn.

MR. PASHAK: Thank you, Mr. Speaker. I'd just like to rise and compliment the minister for having anticipated all of the questions I was going to put during debate on second reading. The Bill is really a highly technical Bill. It amends five very technical Acts. There's very little in principle to debate as such. I was primarily concerned that the issues that were raised by the Auditor General were addressed, and the minister has mentioned that.

I look forward to raising questions with respect to specific changes to each of these five pieces of legislation during committee stage.

MR. SPEAKER: Calgary-Buffalo.

MR. CHUMIR: Yes. Mr. Speaker, this is a very complex piece of legislation with many technical provisions. The key thing I want to say with respect to it is that I consider it puzzling how we can have a legislative system which allows a complex piece of legislation like this to be presented without detailed explanatory notes.

Now, it's obvious that the minister has received a briefing in some form of layman's language, and he has, in fact, given a fairly reasonable explanation to this House. But I wish that those explanatory notes had been presented to this House at the time this legislation was presented. I would ask respectfully that all members -- and to the Premier, who is listening -- ask the Premier and his ministers to ensure that thorough regulatory notes are provided with respect to all pieces of legislation. It's very fundamental to a society in the way we make decisions: information is the most important thing necessary for clear decisions and clear thinking. How can we expect our province, our people, our students, our business to make the very best decisions if we're not following sensible procedures as leaders in this House?

So I find it incomprehensible to see how we would purport to run a modern, efficient province when we're living in the Dark Ages in terms of the way in which we handle information in this House. I think we would be doing a great favour to this province if we handled that better, and it's certainly very close to the top of my agenda after two years in the House.

I don't have anything comprehensive to say with respect to the legislation. I think we're headed in the right direction, from what I understand about it. I want to hear some more. I have some questions, but I'm going to support it at this second reading stage.

Thank you.

[Motion carried; Bill 42 read a second time]

Bill 36
Public Health Amendment Act, 1988

MR. DOWNEY: Thank you, Mr. Speaker. I did have some brief comments to make with regard to the principles of a Bill that I hope members are well acquainted with. There are basically five substantive changes, I guess, that we are addressing with this Act, and I'll go through them just briefly, Mr. Speaker.

The first one will allow health units to establish foundations and appoint a board of directors to direct the activities of the foundations. This should provide health units with more flexibility in dealing with local programs and priorities. The establishment of a foundation will not affect provincial funding of that health unit.

A second item, Mr. Speaker, will address the subject of health units offering programs on a fee basis. This has been occurring over a number of years in areas such as prenatal care classes, that kind of thing. The amendment will allow for regulations for the establishment of fees and fee schedules. The schedules will be developed in consultation with the health units and their association, and our aim there is to establish a consistent base across the province.

A third item, Mr. Speaker, will cover immunization regulations which will allow the minister, in certain cases -- on the advice certainly of users of day cares and health unit people -- to require the mandatory immunization of children in day cares.

A fourth item would allow physicians, in consultation, to use isolation orders against persons with incurable infectious diseases. The amendment will broaden the physician's quarantine powers by permitting the isolation of persons who have incurable diseases and who refuse to follow medical advice to avoid activities which would place others at risk. It's designed, Mr. Speaker, as a means of public protection where the patient has refused to deal in a substantive manner with that on his own.

The fifth item would allow secondary meat processors to sell an approved and inspected product which carries the Canada meat inspection stamp upon inspection of his premises for hygiene and procedures by public health inspectors.

Mr. Speaker, those are the principles that are dealt with in Bill 36. For the information of the hon. members opposite, and leading into committee study, House amendments will be introduced. They will in no way affect the principles I have just described, but the amendments will be introduced to correct any ambiguities in recognizing that there is at present no cure for AIDS and, therefore, no end to the period of infectivity; also to assure anyone under an isolation order the right of appeal, to assure privacy and his civil rights, and to allow release of such an individual if sufficient comfort, determined by physicians and/or a judge, is given that the individual will not create a risk to other members of the public.

Mr. Speaker, just in closing, I do want to point out that the department and the minister have had extensive consultations and have the support of the principal provisions of the Bill from the AIDS Network of Edmonton, also the AIDS network of Calgary, the Health Unit Association of Alberta, the medical officers of health in the health units, and the provincial advisory committee on AIDS. Those groups are all comfortable with the provisions of the Bill.

With that, Mr. Speaker, I move second reading of Bill 36.

REV. ROBERTS: Well, Mr. Speaker, it's nice to hear the Member for Stettler read the news release that accompanied the introduction of this Bill. It really didn't offer much to the debate, particularly with respect to the principles upon which these amendments are before us, and I would like to address some of those principles.

MR. SPEAKER: That's really not called for, hon. member.

Please just get on with the debate.

REV. ROBERTS: I beg your pardon, Mr. Speaker. I was looking for a lot more in terms of the principles of this debate. These amendments are very serious and call forth a great deal of explanation, and we've had that already. I would ask the member, though, upon introducing it, as he has at second reading, Mr. Speaker -- in fact, as he was talking of various sections of the amendment, he did not specify which particular amendment the secondary meat processing comes from in the amendments themselves, and I'd appreciate some information about that, because it seems to be very hidden.

But with respect to the amendment Act itself, Mr. Speaker, I think there are a great number of principles upon which public health legislation needs to be based, and I'd certainly like to enter into some kind of debate on that. Public health in this day and age is going through a number of transitions, a number of concerns from a great number of new players in community health and in terms of the protection of the public health. I would submit, Mr. Speaker -- and I'd give my support to the minister if he wanted to take on a particular project on top of his already busy schedule -- that what we really need here is a major overhaul of the whole Public Health Act, not just these amendments that come nit-picking their way through with respect to various sections that may be deficient or not.

I think a major overhaul and rethinking of the whole Public Health Act is what's necessary, Mr. Speaker. I was twigged to this when I spoke to the Canadian Nurses Association in Winnipeg at their national convention just this past November, on primary health care. Not a lot of us know about primary health care. We talk about primary care in hospitals, but primary health care is that which has been an effort pioneered by the World Health Organization. A lot of work has been done internationally about public health and community health generally and the whole area of primary health care, and I would think, Mr. Speaker, that it would be a very good principle upon which a new Public Health Act could be based. A lawyer was at this same conference and made this point very clearly: that much of public health legislation is really quite antediluvian and needs a great deal of rethinking and an overhaul with respect to some of the developments in public health internationally and how they impact on us in the so-called developed world, particularly in Canada and Alberta.

Also, Mr. Speaker, there are several principles which I don't know where these amendments fall into place with respect to: for instance, the principle of needing to establish a balance between individual freedoms and the protection of public health and safety. Now, it seems to me that is the primary principle upon which public health legislation needs to fall, and in many respects I'm divided on this series of amendments as to whether or not they tip the balance one way or the other. I'm not sure what this government, given this free enterprise, capitalistic, individual freedoms sort of orientation -- that, in fact, they haven't perhaps gone too far in the other direction in terms of public health and safety and the protection thereof.

I know one of the great debates on this whole matter is the matter of fluoridation of water, Mr. Speaker, and that's one I know the good people of Calgary are going to have to debate in time. But it's a debate which really hinges on this whole principle of the degree to which public health legislation is going to be a balance between individual freedom and the protection of public health and safety.

The other principle, Mr. Speaker -- and I really would like to get into this a bit more, because it's a very complex principle -- has to do with, as we in fact discussed with the School Act yesterday, how in public health and in the delivery of community health services there can be a sense of fairness and equity in the funding for those services. Now, I think we're going to find with some of these amendments, particularly the one around foundations and the one around user fees, that the questions of equity and fairness are questions which are really going to come to bear in community health service delivery, as they have in education policy or as they have in hospitals and medical care policy. And maybe we'll get into some of the specifics of those at committee stage. But I think it's a principle I'd like to see more clearly delineated than we've had in terms of just the recitation of the news release.

So with respect to some of the particular amendments which the Member for Stettler has raised in this Act, Mr. Speaker, I would just try, with respect to the principles I've raised, to raise these further points. One of the amendments has to do with the establishing and disestablishing of health unit boundaries, and it would seem to me that if we really want to develop a better balance here, what would be called forth is some degree of integration of health unit boundaries with hospital and auxiliary care boundaries. I note that the minister has spoken about health unit boards and hospital boards getting together and meeting from time to time and talking about what each other is doing, and that kind of integration, those kinds of joint meetings, are very useful and very important things and would, I think, help to further the good principles upon which public health legislation needs to be based. And yet that kind of 'coterminosity' between health unit boundaries and hospital boundaries is still lacking in many parts of the province. It would be, I think, an interesting exercise to see the degree to which health unit boundaries can be made to be integrated a bit more with hospital boundaries and give a much better regional delivery of service.

With respect to the foundations, here's a very thorny area. And again I think that with respect to the principle of equity and fairness in the funding there's going to be some problems here, as the good people at the Easter Seal ability council have already pointed out, and others who have looked at the establishing of foundations for health units. I feel, frankly, that it's hard to really argue against it, particularly as we know that universities have foundations to which matching grants go, and hospitals, numbers of them, are developing foundations which can be a repository and a place for private capital to be raised, particularly for construction purposes and capital improvements to their hospital or university. So I have to shrug and say: well, why not health units? It seems that foundations might well be set up to help fund certain construction and certain things to do with the health unit facilities.

[Mr. Deputy Speaker in the Chair]

But as others have said, Mr. Speaker, it will be within the realm of some health units to be able to really perhaps put together an effective foundation board that can go out and solicit some private capital, some private dollars, to upgrade the Calgary Health Services or the Edmonton board of health facility or whatever. But I'm not sure, for instance, if the South Peace Health Unit or others would have the similar ability to be able to go out and be able to hit up some big corporations or others who have lots of private dollars to give to public health enterprises. So I think inequities can begin to come into the system with these kinds of foundations at work. For instance, there

are only so many hospitals, there are only so many universities, and so they can all compete for that private foundational dollar. But with 27 health units, Mr. Speaker, if they all have foundations, I really wonder the degree to which there'll be any fairness in terms of how some can elicit those private dollars and not others.

As well, as the Easter Seal Ability Council has pointed out in a recent letter to all MLAs -- and I know people must have gotten it today -- the competition for the private dollar to go to health generally, or anything, is really under fierce competition and a lot of people are going out with charitable numbers trying to get dollars for their favourite cause. And I think we just had several examples of these dream homes which every organization was raffling off, to the degree that the dream home market got saturated and many, in fact, are losing their shirts over these kinds of deals to raise money for their foundations.

So I think we're going to get some very murky water with this one, particularly with respect to the principle of fairness and equity for the funding of community health service delivery. But I'm willing, at least for now, to try to give it a go and see how it can help to improve a system that can use every dollar it can, given the proviso, as the Member for Stettler said, that this will not affect government core funding to these health units. Again, well, I'm glad we have that in *Hansard*, and we'll be able to refer back to it in the upcoming generations, Mr. Speaker.

As well, the user fees. Now, I don't know. They're going to certainly argue that this is all outside the Canada Health Act, and there are so many services that health units want to provide -- prenatal care and foot care and bereavement counseling and palliative care -- and there will be a lot of services which can be provided, so why not slap a user fee on some of them? Forgive me if I'm mistaken, Mr. Speaker, but I did think the minister said that he was going to table regulations pertaining to which services fees would be slapped on. We'd certainly appreciate having an idea of what services would be user pay, which ones not. Now, he said that immunization, for instance, would not be one of those. I'm not sure the degree to which home care would have more of a user fee component to it, or what else.

But again, it opens up a whole can of worms which we've seen in insured medical services and around the degree to which . . . You know, young couples who have extra money and can pay for those extra prenatal classes will take them, but a lot of couples down in the inner city and other couples who may just be working to pay the rent and save a little money might be hard-pressed to pay that extra money for prenatal classes, and they might be the ones that particularly need it. As has been demonstrated historically with health services, the degree to which these kinds of user fees are going to be a deterrent to these preventative primary health care services is also an area of great worry and great concern, and we'd like a lot more specifics about it.

Now also, Mr. Speaker, I guess the mandatory immunization for day care is certainly something we'd support I would certainly like to hear more about . . .

MR. DEPUTY SPEAKER: Order please. Order, hon. member. Edmonton-Centre.

REV. ROBERTS: . . . the way in which that one child in a million who might react negatively or with a very life-threatening allergic reaction to certain immunizations might -- you know, if it's going to be a mandatory system, the liability surrounding those who would react very negatively to it. I know that's a . . .

MR. DEPUTY SPEAKER: Order please.

REV. ROBERTS: As well, Mr. Speaker, I don't know whether to get into it now or at committee stage, but there are a number of things which are being left out of here. Again, my plea for a whole overhaul of the Public Health Act and a rethinking of it might include some other thorny questions which are not present in the current series of amendments.

The one is with respect to the role of the medical officers of health. Now, we've seen how in some health units they want to do away with the MOH in order to save on their dwindling budget and in a way to send a clear message to the minister that in fact their budgets are not sufficient. There is again some debate within the community health community as to whether or not medical officers are necessary in each and every health unit, but it would be good to know just how medicalized we want to get the system.

There is no reference to the embalming of AIDS victims. I guess that's in another jurisdiction, under Consumer and Corporate Affairs, but I did think they had some public health perspective to it. Yet we've not heard anything from the government, and I wonder why, about the embalming of AIDS victims, those who have died of that communicable disease.

As well, I guess I had some questions about where a lot of these nit-picking amendments were coming from. Then when the minister fortunately tabled the Public Health Appeal and Advisory Board report yesterday, it gave a number of answers. I guess they're the ones that are responsible for coming up with a lot of these recommendations. When I saw the number of Conservative members on that board, Mr. Speaker, it really made me wonder about the degree to which the principles were going to be followed in respect of any of these amendments, in terms of a balanced way of thinking.

So, we get to the last one, Mr. Speaker, which is the most contentious of all, with respect to the extending of the isolation order for people with AIDS. I'm glad to hear, and I've been aware of the fact, that some degree of work has been done to clean up the amending sections here -- 50, 49, and the following -- and that certain amendments will be forthcoming which have the support of some major players in the prevention and care and treatment of AIDS in the province. We have some amendments, as well, on a number of other amendments, but particularly with respect to these sections dealing with the extension of the isolation order, and I will debate with the member opposite in terms of the best amendments that one can bring to these amendments. For we feel, particularly at committee stage, that ours are going to be very progressive and very tight and provide for the kind of civil liberties of people to be protected. As well, the protection of the public will be well considered with the amendments that we will bring forward.

Now, Mr. Speaker, we should just say that the whole development of AIDS as an incurable infectious disease has really, I guess, been more than anything else the catalyst for a lot of rethinking of public health and public health legislation. And I guess in some ways we should be thankful for the fact that our minds have been brought to rethinking a lot of these thorny issues. But at the same time, it's regrettable that this kind of amendment has to come, which seems to really tip the balance away from the individual's freedom and far more in the direction of protecting society's health and safety, almost at any cost.

Here we have in these proposed amendments, Mr. Speaker, a

principle upon which physicians are really given the major clout with respect to how isolation orders can proceed. Or, it says, a physician with a lab test, and as we know, 40 percent of lab tests would show that a person is HIV positive, and about 40 percent of those tests can be false positives. So that's no exclusive ground for quarantining a person. And then it even says in section 57 that "Any person who has reasonable and probable grounds to believe" that any other person is infected can make an oath before a provincial court judge.

I know the minister, I'm sure, does not intend to launch with these amendments kind of a witch-hunt for people with AIDS out there who are, as they claim, intentionally going out and spreading the virus. And I would certainly like to pin the minister down with respect to his comments about the two people in Alberta who were, in fact, going out and intentionally spreading the virus and intentionally not complying with physicians' orders. I'd like to know more from the minister: if in fact those two people exist and if there aren't better ways to deal with them under existing legislation with better care and counseling, that that kind of situation can be remedied.

Moreover, Mr. Speaker, I said in budget debate with respect to the funding for AIDS prevention that a lot needed to be done with prostitutes in the province, that if we're really concerned about the spread of AIDS and HIV, a lot of concern is still expressed about the way in which prostitutes can spread the virus. Certainly jurisdictions such as Toronto and Vancouver and other places have really begun a very intentional and very clear program to educate prostitutes and be able to get to that community in the underworld to be able to educate them and ensure that they are protective of themselves and others with this sexually transmitted disease. Yet I've heard nothing out of the minister's program for AIDS which goes in that direction. I think it would be a whole lot better -- a whole lot better -- than these proposed amendments which, it seems, really try to want to round up those one or two persons like Patient Zero, the first person who was hypothesized to have the AIDS virus, who recklessly went out and spread the virus out of his anger in terms of having the disease. I think that kind of situation is -- as of AIDS Network of Edmonton and AIDS Calgary and infectious disease doctors whom I've spoken to -- extremely, extremely rare. As we've been taught, you cannot make good legislation from bad examples. I think if they're trying to find those one or two bad examples out there and try to form some legislation around that, that's just not the way to proceed.

I agree with the Royal Society, Mr. Speaker, in its recent report on AIDS and recommendations to all levels of government with respect to prevention and care and treatment of people with AIDS, that isolation orders were the last resort, that quarantining was just the most impractical way and, in fact, would help to further the disease in terms of sending people underground. They did, I think, in one small part of a sentence say that isolation orders by physicians would be permissible as a last resort. Yet what this does is send out all the wrong signals to the community that we're most trying to get at not with isolation but with education. We know that the minister has been embarking on that course of action, and that is the course of action to continue to embark on, not to try to come back and send out mixed signals or other signals that are going to leave it so wide open that one physician who is homophobic and wants to get some gay person who he thinks might have AIDS could, with a lab test, lock him up.

Now, I think that kind of potential situation that exists with these amendments is not only clearly a violation of the Charter -- it doesn't violate our own Individual's Rights Protection Act, because homosexual men and women aren't protected under that Act -- but it does allow for that kind of possibility to occur. Or that one person can get a lab test and think there is the possibility that the person might be HIV positive and they've found out about it and they're not practising safer sex methods -- I mean, how are they even going to find out anyway? How it is going to be enforced is beyond me.

Moreover, as we know, if we're going to protect society from being infected with HIV, then in fact people have to learn how not to be infected themselves. It takes two to get the disease, Mr. Speaker. If one person is out there recklessly trying to spread the disease in some criminal fashion, they could not infect some other person if that other person was in fact protecting themselves. So on all these scores, on all these grounds, I think the direction of these proposed amendments, despite the amendments to them which are forthcoming, as I've said, clearly have been sending out the wrong signals at the wrong time. The experience of the British Columbia Legislature with respect to their trying to do the same thing a year ago has been very useful and helpful. I hope we can find some more amicable way of dealing with this last-resort kind of legislation.

So I hate to go on too much at length, Mr. Speaker, but there are some fundamental principles at stake here, and I would like to see them further debated. I welcome this opportunity to get some of them on the floor and get them open for debate in the Assembly. I would certainly want to have, as I said, a major overhaul and rethinking of public health legislation. Insofar as we have these amendments brought forth to us in whatever fashion they've been brought forth to us, I guess we'll deal with them as we can, but we're certainly going to bring in further amendments at committee stage in order to continue to not only allow for individual freedom to reign in the province but to have the highest degree of protection for our public in terms of its health and safety.

Thank you.

MR. DEPUTY SPEAKER: Hon. Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Speaker. Having supported the immediately preceding three Bills presented this evening, I rise to advise that I am strongly opposed to Bill 36 in its present form. I am opposed because of one particular feature, and that is that it is, I believe, fundamentally flawed with respect to the manner in which it proposes to deal with carriers of the AIDS virus. A cryptic reference was made by the Member for Stettler to mysterious amendments that are meeting with popular approval. I hope that they do the job and address the concerns that I have. However, absent them being before the House at this time, I propose to deal with the Bill as it is, and on which basis I am opposed.

I very much recognize the problem that is being addressed by these particular proposals. I fully recognize that occasionally a carrier of the AIDS virus may act in a manner which is willfully or recklessly careless of the health of others and spread the disease. I understand that this does not happen often.

AN HON. MEMBER: That's okay though, isn't it?

MR. CHUMIR: No, it isn't okay, and that's why I'm supportive of some form of legislation which does control that situation. I'm going to deal with that, but this legislation's not the way to do it.

It doesn't happen often, from reports, but when it does happen, there is a right and a need for society to have a mechanism in order to protect itself. I think in such isolations a mechanism providing for isolation or quarantine or whatever it's called is, in fact, justified. However, I think we have to be careful about the way in which we go about accomplishing this. A balance is needed. On the one hand, we have the needs of society and the rights of others not to have a disease spread to them, and on the other hand we have AIDS carriers who might be subjected to what is tantamount to imprisonment in respect of what we have to recognize is their conduct. We're not dealing with something such as a contagious disease like tuberculosis or other contagious diseases where mere presence in the community might spread the disease. This disease is spread by conduct, and that is the type of thing that is being controlled and has to be controlled. So we have a situation where the rights and interests of AIDS carriers and victims need to be balanced with the concerns of the community. It's my position that as we approach this issue, we have to find a way in which we provide the greatest degree of protection for the civil liberties and the human rights of AIDS victims consistent with accomplishing the goals of the community.

Now, this legislation as presented unfortunately fails, in my view, even to attempt to provide that balance. There is in this legislation an almost total absence of provisions which visibly address themselves to the concern of protecting the rights and liberties of AIDS carriers. The mechanism is one which is very much directed to doctors and doctors alone. It's my view that quarantine, tantamount to imprisonment for conduct, should be done subject only to an order of the court, but in this instance the process is very much focused on individual doctors. It allows individual doctors to make directions with respect to conduct of individual AIDS patients. It lets individual doctors, based on their own subjective point of view without any guidelines of any significance in the legislation, decide to issue an isolation order dependent on their particular view of the conduct of the AIDS carrier. In fact, it's imprisonment, as I've mentioned, with respect to conduct, on the basis of the order of individual doctors. In this province we have a great number of doctors; most of them are responsible and would act responsibly. But there are doctors who may not act responsibly, and it places AIDS carriers at the mercy of those who might not. In any event, it's certainly a system which is devoid of standards and consistency.

I might also note that there is a provision in the legislation which would allow for any member of the community who feels himself aggrieved by the conduct of an AIDS carrier, indeed any busybody, to go before a provincial court and seek some order with respect to that particular AIDS carrier. So that is the system that is proposed here. But what other system might I suggest? Well I would suggest that we look right across the border to the province of British Columbia, which went through a very significant debate with respect to how to handle this particular problem. They addressed the same problem but in a totally different way. It's a way which isn't perfect, but it provides a much greater degree of protection for the rights of AIDS victims and still, I believe, accomplishes the goal of protection of society. It is focused on the need for a court order before quarantine or isolation or, as I keep calling it, imprisonment is directed.

Now, the process also has certain administrative features which I find to be very attractive, and that is that the process centres on medical health officers. If a doctor is, for example, unhappy with the conduct of an AIDS patient, the legislation requires the doctor to go before a medical health officer, who has to set any proceedings in motion. This direction to a medical health officer provides an excellent and very sensible opportunity for informal and private mediation by a publicly appointed official. It certainly provides for greater consistency. If the medical health officer is unhappy with the conduct of the AIDS carrier at that stage and feels that he or she isn't getting the co-operation and wishes to move on to court action, then there's one further protective step that has to be taken, and that is that the provincial medical health officer has to authorize the setting in motion of court proceedings. This is another check and balance. It's sensible in light of the nature of the intrusion of the rights of the AIDS patient and provides a degree of consistency. And ultimately, as I mentioned, a court application is required, and an order of the court is required in order to isolate or quarantine a patient.

[Mr. Speaker in the Chair]

Now, I find it very hard to understand why we have not followed that British Columbia model, which I might mention is also, I understand, the model followed in Ontario. It is not a perfect model, but it's certainly much better than the model we have. I hope that we have moved very significantly, if not totally, in that direction. I might also point out that if we haven't done so, we are probably facing a challenge of our legislation under the Charter of Rights. I think there's a very excellent argument that this legislation provides for arbitrary detention, which is prohibited by the Charter of Rights or is a contravention of section 7, which provides protections for the rights, liberties, and freedoms of individuals and provides that they shall not be deprived of them other than in accordance with the principles of fundamental justice, which I believe would require intercession of a court in this situation.

Unfortunately, I believe the effect of this legislation which has been presented to this House will be to make AIDS carriers suspicious of and reluctant to consult and be forthright with members of the medical profession. This flies in the face of a need to encourage trust, consultation, and openness to deal with this very serious health problem. It's important, I believe also, that we ultimately recognize that education is the best answer we have with respect to dealing with this problem, education with respect to both providing knowledge and information about the problem and instilling a sense of responsibility with respect to each member of the community in relation to his or her conduct. We now have an advertising program in this province, but I must say that we're going to need much more punch than the pussyfooting approach which has been taken to date, but I assume that this is just a start.

In any event, those are my comments, and I propose to vote against this legislation in its present stage. I hope that the member's amendments, however, do address these problems, in which event I will ultimately support the concept.

Thank you, Mr. Speaker.

MR. SPEAKER: Member for Stettler, concluding comments.

MR. DOWNEY: Mr. Speaker, I might just briefly comment. I can assure the Member for Calgary-Buffalo that I do truly believe that he will be satisfied with the provisions that are contained in the amendment.

I did want to comment very briefly to comments made by the

Member for Edmonton-Centre. Certainly we're well aware of the comments of the Easter Seal people. I have to think that it's maybe a little uncharitable of them to not want another charitable organization operating. Certainly charities do have to compete for the dollars that are available.

Getting into committee study, Mr. Speaker -- and the Member for Edmonton-Centre did get into some detail, so I would reserve most of my comments for that.

I did want to comment on the element of education. I'll check *Hansard,* but I think I heard the member say that he's heard nothing from the minister or has seen no evidence of an education program with regards to AIDS prevention. Well, Mr. Speaker, the man has a block there somewhere between his eyes and his ears, and maybe both. Certainly I am seeing advertising on TV, and I'm seeing major efforts made by several departments to educate the public with regard to AIDS.

So with those comments, Mr. Speaker, I call for the question.

[Motion carried; Bill 36 read a second time]

Bill 39

Insurance Amendment Act, 1988

MS McCOY: Mr. Speaker, I move second reading of Bill 39.

MR. SPEAKER: Member for Edmonton-Beverly.

MR. EWASIUK: Thank you, Mr. Speaker. I rise to speak to Bill 39 primarily as a result of the lesson and learning experience that I acquired as a result of the recent disaster, the disaster of almost a year ago in my constituency and the experience that the victims and I personally have had with the insurance industry.

I thought it'd be important in debating this particular Bill that I might, for the information of the minister, read into the record some of the recommendations the victims of the tornado have submitted that I believe would go a long way in assisting the minister in dealing with this particular Bill and with the insurance industry generally. If I may, Mr. Speaker, I will read those into the record. The first recommendation is:

> 1. That independent appraisers are used to evaluate damages.
> 2. That insurance companies or agents do not try to have clients settle for lesser amounts.
> 3. That an insurance seminar be given within 5 to 7 days of a disaster advising victims of insurance matters.
> 4. That there be a random check of the independent appraisers' estimates versus the amounts paid and any discrepancies be thoroughly investigated.
> 5. That it (government) has the power to conduct reviews randomly and upon request, and that it (government) have the power to require settlements or to take matter to court on behalf of an individual if necessary.
> 6. That at the disaster centre, a resource person from Consumer and Corporate Affairs is present as a consumer advocate to advise on insurance matters.

Those are the recommendations of the victims a year later after their experience with the insurance industry as a result of the tornado. I would hope they will serve the minister well in dealing with this industry.

Coming back to Bill 39 specifically, I would like to make a few comments. Of course, I think the establishment of the four councils might serve industry well; I really don't know why they wouldn't. But I'm not sure they will. But let's assume they will. The difficulty I wish to address that I see is that the superintendent, as a result of the inquiries that were made by one of these particular councils, is not required to in fact conduct or hear an appeal. There's no requirement to conduct any inquiry solely because an appeal is filed, and the person does not have the right to appear in person or have any counsel or representative appear on his behalf before the superintendent. However, the Bill says that if there is adequate opportunity, the submission is to be made in writing and that the principle of natural justice is observed. Well, I believe that is totally unfair. Again, I think the experience that we learned from during the past year, in dealing with the situation in Edmonton particularly . . . I think there is a real flaw in this particular subsection that does not permit individuals the opportunity to appear before the superintendent when they file an appeal. That to me seems to violate natural justice, which in fact the minister wants to address.

I do have a number of questions then. I'd like to know: what are the standards an insurance company must meet? Are they laid out elsewhere in this Act, or where are they? In other words, an unsatisfied insurance person, if they need to get an engineer to do an assessment of their damage and the engineer determines that, yes, there was damage created as a result of a particular incident, who in fact pays for that engineering study? At the moment the experience has been that individuals themselves must first initiate the need for the engineer and then in fact pay before they can receive adjustments from the insurance company as a result of a disaster or damage.

In section 22(a) and section 22(a.03) this permits the superintendent to delegate any of his authority to the councils. Then if they don't act, the government can simply say: "Well, we've asked for a decision. They did not render one, so our hands are tied and we can't deal with your particular appeal." I think this is an abdication of responsibility. And this is a portion where I think the councils may not serve the consumer well, because in fact the superintendent can use these councils to abdicate responsibilities.

Coming back for a moment to the Evergreen recommendations, one of the things they do state -- well, it's not necessarily a recommendation, but they emphatically state that

> there [should] be no self or deregulation of insurance companies and that the government play a stronger regulatory/watchdog role to protect consumer interests; government has to protect government interest.

So I think what the experience has been is that while you can't brush the entire insurance industry with the same brush -- that they are all not doing a good job -- because certainly many of them did do very well and served their clients well, there are certainly those that did not. There's a concern and a fear that if the insurance industry is permitted to become self-regulating, which I believe this Bill seems to do, then there's fear that the consumer will on the long-term basis feel the impact of this and not receive the kind of services that would be expected from this industry.

I might say that this year of experience has given me a different light entirely on the insurance industry. I think there are many changes required, particularly in the area of the adjusters. It's very difficult, I believe, for an adjuster to be objective when he in fact is an employee of the insurance company. In dealing with a client, his vested interests, of course, lie with the insurance company. That was the feeling of many of the folks who were subjected because of the tornado to these particular adjusters, that unfairness in dealing with their claims, and it was initiated by the adjusters and quite frequently carried through

further into the organization within that insurance company. So to relax and to allow the insurance company to govern itself at this time would appear to be inappropriate inasmuch as there needs to be a great deal of regulating and shoring up of that particular industry.

I believe that the authority granted to the superintendent of insurance must be much more absolute so that when there is an appeal launched by a claimant, indeed the appeal is heard in a fair and just manner and, indeed, all appeals are heard. Because as is stated in this Bill, the superintendent might only hear an appeal if he feels that it is appropriate. Surely if an individual has gone through the process that he has reached an appeal stage with the superintendent, I'm sure at that point the appeal must be appropriate. Certainly my experience to date would suggest that.

I believe the interests of the consumer must be placed before that of the industry, and I believe this Bill does not do that. I would certainly suggest to my colleagues in the Legislature that we not support this Bill until at least some further amendments and improvements are made to it to meet the needs of the consumer rather than just simply the insurance industry.

MR. WRIGHT: Mr. Speaker, the Bill, I suppose, goes in the direction of further self-regulation for the industry, which is a good thing. But there are, unless I'm misreading what's going on here, some unsatisfactory features about this Bill as presented by the minister, and particularly I refer to the fact that the purposes and the functions of these four councils that are set up are nowhere set out. Well, some powers are set out but not the functions and the purposes. I don't know whether we are left to infer this from the titles of the councils or what, Mr. Speaker, but surely that's something that should be in the Act. What they are to do should surely be set out in the Act. I trust that somewhere along the line the minister will supply that deficiency.

Also, there is frequent reference to regulations throughout the Bill, Mr. Speaker. The people are to be appointed in accordance with regulations, and appeals are to be done in accordance with regulations, and so on. I presume that some at least, if not all of these, are new regulations. I remind the minister of the rule that is, happily, part of our rules here, embodied in the report of the select committee of the Assembly on regulations in November of 1974, which amongst other things says:

> that, wherever possible, a set of proposed regulations should accompany new Bills as they are presented to the Legislature for consideration.

Because so often the meat of what's going on, or some of the meat anyway, and certainly the mechanism that makes the many parts of the Act effective are contained in the regulations, and whenever they are, then we should see the regulations before we deal further with the Bill. So I hope these regulations can be before us before committee stage, Mr. Speaker, or committee stage delayed until the regulations are tabled. It may be that some of them are in existence already, but we should know about that. We must understand what the purpose of these councils are from the Bill and not be left guessing.

MR. SPEAKER: Thank you. Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. Just a few comments, since my colleagues have outlined some basic problems with the Bill. I've got to admit that I have a basic problem with the way the minister didn't introduce the Bill. I don't think any Bill, however small or insignificant, deserves that short an introduction. She just moved the Bill and explained nothing about it, what it's intended to do. If this is meant to be a Bill to allow for self-regulation of the industry, the least she could have done is got up and said so and give us some idea of what the purpose of these councils were, as my colleague from Edmonton-Strathcona said.

Now, Mr. Speaker, the Member for Edmonton-Beverly also indicated some problems that the insurance industry has had over the last year or so. I think we can look back two or three years. If we look at some of the kinds of premiums that the insurance industry was trying to charge to community hockey teams, to schools, to hospitals, that fomented a whole revolution in the way we look at insurance in this country, in the fact that we had to do something about it as legislators and start helping municipal governments, for example, local governments, and different organizations to arrange self-insurance because the industry was so greedy. Given those kinds of problems, I wonder why the minister can blandly throw forward a Bill like this that is so ill put together. I mean, she doesn't tell us what it's intended to do, how it's intended to do it, or why we're doing it -- makes no comments whatsoever and then somehow expects us just to accept it.

Mr. Speaker, I was talking to a member of the industry the other day who phoned me about this Bill wondering what was going on with it. It happened to be before the Bill had actually come in, but he had heard of it. He is someone who sells insurance. He said of insurance companies that what they do is they send out slick salesmen to sell people insurance, and then they send out adjusters to read the fine print and tell the people who paid the premiums that they don't have any insurance coming because they don't quite qualify. Because they didn't know what was in the fine print.

Now, I'm not claiming that all the industry is like that, by far. I've had some dealings with insurance companies. Certainly some of it, with the car insurance industry, for example, hasn't been the best sometimes. But some of the insurance adjusters have been very fair and very up front, and I accept that the vast majority of insurance companies intend to operate a reputable business. But where is the protection for the customers in this Bill? Where is any intention of the minister to accept her responsibility as Consumer and Corporate Affairs minister and say that she will see to it that people are protected? When a member of the industry itself says that kind of thing about the industry, what has the minister got to say about her regulatory role of that industry?

So, Mr. Speaker, I really would like to hear a few comments from the minister, at least, about this Bill before we consider passing it.

MR. SPEAKER: Thank you. Minister, summation.

MS McCOY: Thank you, Mr. Speaker. Very briefly, not dealing with details -- that I will address in committee when it would be more appropriate to do so.

First let me stress that this is delegated. It is not self-regulatory. It is not deregulation. It is delegated regulation so that the superintendent of insurance keeps all of the powers that he has embodied now in the full statute, which is long and complicated, but he is allowing the insurance councils to exercise some of those powers on his or her behalf, as the case may be, under his supervision. So what we are asking the industry to do is to increase its own accountability to the very consumers that the hon. member mentioned and, of course, which we are con-

cerned about.

There is one other point I'd like to make. There was some suggestion that natural justice would not be followed in the process of appeals. I would just point out that the superintendent is given the authority, as is given in the Administrative Procedures Act word for word, such that oral representations are not required or representation by counsel is not required if the superintendent.

> affords that person opportunity to make written representations and observes the principles of natural justice.

That's a very major qualification, and it does protect the process. The appeal may be taken by the appellant; the superintendent must hear it and must then conduct himself within the principles of natural justice.

The powers, as I say -- and I wish to re-emphasize this -- are in the Insurance Act. They are delegated powers. That is a principle that we have kept very clear in this statute which amends the other. That merely allows the exercise of some of those powers to go on in a supervised way underneath the superintendent of insurance.

[Motion carried; Bill 39 read a second time]

Bill 43
Alberta Securities Commission Reorganization Act

MS McCOY: Mr. Speaker, I move second reading of Bill 43.

SOME HON. MEMBERS: Question.

MR. SPEAKER: Call for the question.

Thank you. It's hard to keep up with slow motion. Edmonton-Kingsway.

MR. McEACHERN: I wonder if the minister could give us at least a few comments on Bill 43. I realize it's not a heavy Bill, but nonetheless it would not hurt to have a bit of a rundown on just what it is accomplishing.

SOME HON. MEMBERS: Question.

MR. SPEAKER: Question.

Minister's summation.

MS McCOY: Mr. Speaker, Bill 43 is an extraordinarily important Act that is the leader in Canada in setting up a regulatory model for a very important sector of our industry, the securities sector. What it does is split the functions of the Securities Commission between a chief executive officer and a chief operating officer. The chief executive officer and his board will take on the judging and policy-making functions of the commission. The chief operating officer will take on the day-to-day administration and vetting of prospectuses. It is a split of the commission into two.

The many detailed amendments which Bill 43 represent go through the statute in detail and effect that split of responsibility between the chairman of the commission, which is now known as the subdivision of the commission, known as the board, and the chief of securities administration, which is now the head of the agency, which is the other subdivision of the Securities Commission.

[Mr. McEachern rose]

MR. SPEAKER: Sorry, hon. member; that was the summation with regard to second reading.

MR. McEACHERN: I just merely asked her to explain a little bit about . . .

MR. SPEAKER: No; I'm sorry, hon. member. Order please. The request was made. The Chair called out "summation," and the minister responded. I'm sure the member will have more than adequate opportunity at Committee of the Whole. [interjection] And if the member doesn't care to listen to the Chair, then I'll save my breath.

[Motion carried; Bill 43 read a second time]

MR. WRIGHT: Point of order, Mr. Speaker, please.

MR. SPEAKER: We can listen to one, yes. I'd love to. I've got nothing else to do tonight.

MR. WRIGHT: I'd appreciate your listening to my point of order, Mr. Speaker. It is simply this: that we on this side don't know which order the Bills are coming up in. It's almost a game, it seems, to get the Bill on quickly and give us very little time to find the notes and so on. Normally the minister speaks, and we can understand what's coming up and collect our thoughts. It's done the other way around this time, and so perhaps in the interests of properly dealing with the matter, you might be just a little slower off the trigger.

MR. YOUNG: Mr. Speaker, speaking . . .

MR. SPEAKER: Hold it right there. Yes, Government House Leader, just a brief comment.

The last comment by Edmonton-Strathcona was really uncalled for.

Government House Leader.

MR. YOUNG: Mr. Speaker, speaking briefly to the alleged point of order. For the information of hon. members, the reason the order was not followed absolutely, other than for the absence of sponsors of Bills tonight, was an attempt to accommodate through discussions with the Opposition House Leader the exigencies of the particular critics for the opposition. So for that reason I did take some Bills out of order, to try to accommodate. But, Mr. Speaker, having made that explanation, I have no other comment except that I think we're dealing with a complaint not a point of order.

MR. McEACHERN: On the point of order, Mr. Speaker. There is a second side to that, and that is that the minister could have given us a bit of comment. I did ask her to, and then that's considered that I have spoken on the Bill. She did that on the other Bill as well. I had to ask her if she wouldn't make some comment, and she did and so okay. She could have at least, on the second time around, showed the courtesy to give us a few comments initially. When I asked her to, I don't really think that should be counted as having spoken on the Bill, nor for her to close debate. [interjections]

MR. SPEAKER: Colleagues in the House, it doesn't help to be shouting down a member, no matter how you may feel about his or her argument.

This is not a point of order, in the opinion of the Chair; it is a complaint, and the member no doubt feels very strongly that it is a very sincere complaint. Nevertheless, no matter how members may feel about whether the minister makes lengthy introductions or not, in the case of the Bill preceding this, the minister did not make an introduction. Discussion did take place, at the end of which, when the request was made for additional information, the Minister of Consumer and Corporate Affairs supplied additional information to the House and also mentioned that there would be other opportunities, which we all know, for discussion to take place at Committee of the Whole. The minister at that time, I believe, was directed by the Chair. The Chair has been quite consistent in saying: this is summation with regard to second reading. The minister gave her comments, and then the vote was taken.

With respect to the Bill that has just passed second reading, again the Member for Edmonton-Kingsway was recognized and just said: would the minister give additional information? The Chair then said: is this a call for the question? The Chair heard that and then said to the minister: does the minister wish to make remarks in summation? At that stage the minister stood and gave some additional comments. That, then, hon. Member for Edmonton-Kingsway, constitutes that you've been named, given the chance to speak. You did not take advantage of it other than ask for the question, and the Chair cannot reverse that, especially when the Chair then said, at the request of hon. members: "Question . . . summation." The summation was given, the vote was then taken, and the Bill has passed second reading.

MR. WRIGHT: It's all railroad [inaudible] Mr. Speaker.

MR. SPEAKER: With all due respect, Edmonton-Strathcona, I am not the conductor on this railroad, if you wish to call it a railroad. Due process was given to the House, and if the hon. member chose not to take advantage of it, that's the hon. member's difficulty.

[At 10:59 p.m. the House adjourned to Wednesday at 2:30 p.m.]