LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Tuesday, July 5, 1988 8:00 p.m.**

Date: 88/07/05

[The Committee of the Whole met at 8 p.m.]

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

[Mr. Musgreave in the Chair]

MR. DEPUTY CHAIRMAN: Would the Committee of the Whole please come to order.

Bill 29
Mental Health Act

MR. DEPUTY CHAIRMAN: Mr. Minister, did you want to continue?

MR. M. MOORE: Mr. Chairman, I was practically concluded in my remarks at 5:30, but I did have one other point to make, and I wanted to make that now.

Hon. members referred to the number of letters they've received from various groups suggesting that there ought to be changes to Bill 29 in various areas. Let me briefly describe what has occurred over the last six years plus with respect to the development of the new Mental Health Act in Alberta. The Task Force to Review the Mental Health Act was established by ministerial order on January 4, 1982, by the Minister of Social Services and Community Health, the hon. Member for Taber-Warner. That's six years ago last January. The purpose of that review was to undertake a major assessment of the mental health legislation and the practices used in our province and compare them with other jurisdictions and make recommendations.

That nine-member task force, which was chaired by Richard Drewry, went about the province and had a variety of public hearings, received written submissions, and made their recommendations in December of 1983, four years ago: 199 recommendations from the Drewry task force. We then carefully reviewed all of those recommendations over a period of almost three and a half years and presented in March of 1987 Bill 3, which again was subject to very extensive comment by all of the individuals involved. Then we introduced Bill 29. I can't think of a single piece of legislation in the 17 years plus that I've been in this Legislature that has received more comprehensive review and discussion and debate than the mental health legislation.

Now, I have not met with very many groups since the tabling of Bill 29. Staff of my department have met with a number of groups to provide information and explanations with regard to various sections of the Bill. But I am convinced that if we spent another seven years studying mental health legislation, we would have just as many opinions as we've got today, and as the hon. Member for Edmonton-Centre noted, most of them are diametrically opposed. On the one side they say this; on the other side they say that. Somebody at some point in time has to make a decision that we have to have new legislation, and we're going to try it and see if it works.

I think we've got pretty good balance in this Bill. Let's put it into place, and if it doesn't work, we'll try to amend it so it will work. But I don't know any magical solution to satisfying all of the players in this business of how you provide for the treatment of people in our province who require treatment for mental illness and are unable to provide for themselves. So I think we've got a pretty good Bill. There's been ample consultation over many, many years, ample discussion with various groups, and I'm hopeful, Mr. Chairman, that members will see fit to support the Bill. Let's put it into practice. Let's deal with a new piece of legislation in the way that we should, trying to make it work. And if there are some sections of it that don't work, certainly I'd be the first person to say "Let's bring it back and change it." But let's try it first.

MR. DEPUTY CHAIRMAN: I wonder if the committee could revert to the Introduction of Special Guests?

HON. MEMBERS: Agreed.

head: **INTRODUCTION OF SPECIAL GUESTS**

MR. DEPUTY CHAIRMAN: Hon. Member for Edmonton-Strathcona.

MR. WRIGHT: Thank you, Mr. Chairman. There are in the public gallery 10 visitors from the University of Alberta Faculty of Extension exposing themselves to a late-night sitting, which is a cruel and unusual form of punishment, as a rule. But perhaps we will give them the usual warm welcome.

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

Bill 29
Mental Health Act
(continued)

MR. DEPUTY CHAIRMAN: Hon. Member for Edmonton-Centre.

REV. ROBERTS: Thank you, Mr. Chairman. We will be discussing some amendments about to be brought in by our caucus, but I would like to agree with the minister's comments just given. But there still seem to be some areas where you'd think that having had the mental health legislation study for five and six and seven years, they might get it right. I would think that one area that needs a lot more investigation and concern relates to the minister's own comments before we ended this afternoon about the fact that we're just going to designate all these facilities, three in Calgary, three in Edmonton. Any facility we want to, we can designate, says the minister. Yet I draw his attention again to one of the letters, and I would just like to think that he acknowledged the fact that Dr. Lorne Warneke, clinical head of the department of psychiatry, Grey Nuns, finishes his letter by saying:

> The current act as proposed will not work and will make the concept of designation for general hospitals very onerous indeed.

Now, I know, again, he represents one side of the balance, but it seems to me that if such a key person in such a key position can make that kind of bold statement, then we'd really better begin to look more comprehensively at it, particularly in terms of going in this direction of designation. But as the minister says -- you know, like other things the minister has done -- we can bring it back later and amend it further and fix it up down the

line, and perhaps Dr. Warneke and others won't feel too desperate about it. But I do want to note it here at the committee stage.

SOME HON. MEMBERS: Question.

MR. DEPUTY CHAIRMAN: The question on the government amendment to Bill 29.

[Motion on amendment carried]

REV. ROBERTS: Thank you. Mr. Chairman. Yes, I would like to propose a series of amendments to Bill 29, the Mental Health Act. It's a package of five that we've worked on at some length and that will bear some discussion, although they overlap with some of the things we've discussed already. But I think again they crystallize some of the areas of concern, and for someone who hasn't been working at mental health legislation for that long, I think it is pretty evident that these would help to improve it quite a bit and deserve consideration of the committee and approval by us in order to make mental health legislation as best it can be in the province of Alberta. If the government has any reasons why they shouldn't be so adopted, then I'd certainly like to hear them, and so would a lot of people throughout the community of mental health.

I think I'll just move them all as one package of amendments, Mr. Chairman, and speak to them -- although they really represent five different areas of concern -- and allow debate to go from there. Would you like time for people to . . .

MR. DEPUTY CHAIRMAN: The amendment has been approved by Parliamentary Counsel, and the hon. member can proceed.

REV. ROBERTS: Thank you, Mr. Chairman. The first part of the amendment, part A, really relates to what we've come to know to be the hallmark of progressive legislative drafting, which has to do with setting out some sort of preamble, some sort of purpose to the Act. We're sort of just jumping, after a series of definitions, right into the hurly-burly of a pretty legal entanglement of an Act. It would be good for justices or for people who want to work under such an Act to know generally what the principles of it are. I know the minister said at second reading what he sees the purposes of Bill 29 to be, but that's not good enough. As we know, whatever the minister might say in this sitting of the Legislature doesn't get printed in the statute, and who knows in the future what he might have intended the purpose to be?

I think this purpose as set out here in section 1.1 -- which, when coming right after the definitions, would set a very clear focus for what this Act is about, as far as I can tell. It does tend largely to look at the protection of persons from dangerous behaviour caused by mental disorder. Now, we've had some discussion earlier about whether it should be called the Mental Health Act or the mental disorders Act or some other name. The minister has said that the purpose of it, as he sees it, is to deal with involuntary patients. That's true to a degree, but I think when looking at these five purposes, as marked out in section 1.1 in this amendment, they provide a much more thorough understanding of the purpose and direction this Act is intended to go. It has often to do not just with protection but with treatment and states fairly much the obvious, except I think it's good to get down at the outset the purposes of the Act.

Now, I shouldn't say that this is any great wizardry of mine. Of course, it comes from the uniform mental health Act; the first four do: A, B, C, and D. Section E we've added to at least give some notice to the Drewry report and the recommendation from it that there was a legislative obligation that should be looking at community care and the continuum of care, as the Member for Edmonton-Gold Bar has already said. But basically, Mr. Chairman and members of the Assembly, this first amendment would set out these purposes and would give, as it says, quite obviously a protection to those who are suffering from mental disorder, from dangerous behaviour, and

> provide when necessary for such involuntary examination, custody, care, treatment and restraint as are the least restrictive and [least] intrusive . . .

Now, that language is in the Act already, so it's quite compatible for achieving the purposes set out in clauses (a) and (b), and then

> to protect the rights of persons who . . . may require treatment for a mental disorder.

Now, again, dealing under the new Charter as we are in Canada, the patient's rights are of great concern. So another purpose of this Act is to set out that those rights are protected.

Then, as we've said, section (e) really hits at the fact that just as the minister might have said, we don't want to deal with involuntary patients when they're in an institution. I mean, is there no end point to that? Isn't part of the purpose of the Mental Health Act to say, "Yeah, we want to deal with them and treat them and then get them rehabilitated and get them home again and get them into the community" -- to at least pick up on what the Member for Edmonton-Gold Bar and others of us have been saying about the continuity of care? Also, it complies with the Drewry commission report of the legislative obligation to go in that direction.

So, Mr. Chairman and members of the Assembly, I think this first section -- to set out these purposes, as I say, does several functions. It lets us know that this is kind of a new piece of legislation like the School Act or the labour Act or the Child Welfare Act, all of which begin with preambles which set out the basic principles and purposes and directions of the Bill. So in this first-class mental health legislation we would have this section 1.1 added, which would have these purposes, and then have the purposes clearly outlined, borrowed as they are from the uniform mental health Act but also given some nuance which would make them compatible with the Act as it currently reads and with the Alberta context. So that's the first part of the amendment, section A.

Section B deals with an area of some difficulty, and again the Drewry recommendations talk a lot about the whole area of apprehension for examination. I know the Member for Edmonton-Strathcona will want to talk about two of these amendments a bit more, but it would strike sections 10, 11, 12 as currently in the Act, Mr. Chairman, because what we're doing at this part of the Act is really depriving one of the basic civic liberties. This is the section, sort of that point of entry into the whole realm of mental health care and treatment. Insofar as it is that key point of entry where one's civil liberties and one's rights are really taken away, deprived, we feel strongly that it shouldn't be done, as in the current Act, just on a basis of what could be considered flimsy evidence. What this amendment provides for, particularly in part 3 of section 10, is that

> (a) as a result of a mental disorder, the person

has to have at least these three behaviours:

> (i) is threatening or attempting to cause bodily harm to himself or herself, or has recently done so,

(ii) is behaving violently towards another person, or has recently done so, or
(iii) is causing another person to fear bodily harm, or has recently done so.

Again, Mr. Chairman and members of the Assembly, we are arresting someone here. We're taking them off the streets. We're depriving them of their civil liberties, whether it's to take them to a judge or take them through the powers of the police officer to a remand centre or into custody. We feel strongly that to do so must necessitate that a person has in fact been behaving in these ways. I think, Mr. Chairman, it's . . .

MR. DEPUTY CHAIRMAN: I wonder if we could have a little order in the committee, please.

REV. ROBERTS: . . . much more stringent criteria by which someone can be apprehended, and again, I think it's one of the recommendations in the Drewry report.

The Drewry also goes in the other direction. I would agree with it, and I don't see it in the current Act. I don't know how we can put it in the legislation, but it would seem that another way of apprehending someone is not having them be apprehended by a police officer or sent to a judge but rather by having a care giver, a social worker or mental health worker, someone in the community whom they know, to really be with them at that point of apprehension. I know the Drewry report really wants to take that nonlegal route into the system, and I would agree with that direction. But insofar as there needs to be provision for a legal route into the whole mental health system, I think to do so requires such stringent criteria be met as we have proposed in these amendments under part B, whether through the courts or with a police officer. Now, as I said, the Member for Edmonton-Strathcona will speak to that later as well.

Then, section C, I feel, is an attempt to really look at this thorny issue of detention without treatment. As we've said, this is a major debate and is a very difficult area: what to do after someone is certified, supposedly in there for treatment, objects to treatment, and has the review panel uphold their objection to treatment. Do they just remain there, locked up, incarcerated, detained, certified, yet in a kind of zombie state where no treatment can proceed one way or other? Well, it would seem to me that despite the many submissions on this -- and I know this is probably closest to the CMHA point of view, and again it's the point taken from the uniform mental health Act, which goes in the direction of having the review panel be, in a sense, the final arbiter or the final point of direction for the involuntary patient after objection to treatment has been upheld. This would amend section 29 by adding at the end of it:

An order may include terms and conditions and may specify the period of time during which the order is effective.

So it would basically be saying that if the review panel says, "You're not to be treated, so out you go," and the person is discharged, or if the review panel says with some direction going back to care under one psychiatrist or another and recommends some form of investigating this or that form of treatment, the review panel would then be able to direct the best interests of the patient. It may well be that they would recommend in all cases that the patient just be discharged. But at least it seems by this amendment that the review panel would be at the very end not just there to review a person's objection -- whether or not to uphold that -- but then the onus of responsibility is on the review panel to make recommendations as to what then should proceed.

Now, I just had a conversation earlier today where the person was complaining that we're not only not going to have psychiatrists left in the province; we're not going to have anybody left who is going to want to be on review panels because the role of being on a review panel will be so onerous and so complicated and so difficult that there won't be people around who will want to serve in that way. I don't want to add to that burden, but it does seem to me that if we're going to have review panels and have them be effective, part of their effectiveness and responsibility would be to do as in section C, for them to have the responsibility for directing some recommendation in terms of the treatment or the order that's then given.

The fourth part of the amendment, then, Mr. Chairman, is D, where part 6 is struck out -- that's the whole minister's interpretation of what a patient advocate would be about -- and substitutes almost entirely the patient adviser service, which I feel would be going a lot further toward what we really want to have with respect to a patient adviser service right in the facility, in the institution, in the hospital. Wherever patients are being held involuntarily, there would be a patient adviser service, not just one person whose name is understood as an advocate, as a kind of a mini ombudsman who would be able to investigate this or that if they had the time or the staff or the funding or whatever. This would be a patient adviser service and patient advisers as in section 45:

. . . patient advisors shall be made by the Lieutenant Governor in Council after consultation with the Alberta executive of the Canadian Mental Health Association, the Law Society of Alberta and the Alberta Friends of Schizophrenics.

So again, if we're going to be talking about some sort of balance, let's get some balance in terms of the appointments that are to be made and have the consultations with the various groups who have real concerns in this area.

So the patient advisers, having been consulted through this more balanced process, would then have the duty of offering

advice and assistance to every involuntary patient in a psychiatric facility.

Now, this is not a mini ombudsman who's standing back waiting for some complaint or maybe sniffs around and thinks he should maybe investigate this or that. This would be a patient adviser service, which would be right inside the door, which would have a thoroughgoing service which would offer advice and assistance to everyone who's involuntarily admitted,

and to provide a patient advisor to meet, confer with and advise and assist every involuntary patient who wants such advice and assistance.

This really, Mr. Chairman, I think is much more the intent of what the Drewry report is about, what patient adviser services in Ontario and throughout the United States are about. If we're going to be, as the minister seems to indicate, removing the Ombudsman's jurisdiction, at least we need a patient adviser service that's going to have some teeth and is going to have this kind of comprehensiveness and is going to ensure that the patient's rights are not only duly met but that the patient has a real part playing out their rights themselves.

So it would then be the responsibility of the chief administrative officer to

ensure that the patient advisor service is given notice of,
(a) each decision to admit. . .
(b) . . . to change the status of a voluntary patient to that of an involuntary . . .
(c) the filing of each certificate of renewal. . .
(d) every application to the Review Board in respect of an involuntary patient; and
(e) every determination by a physician that an involuntary patient is not mentally competent.

So, Mr. Chairman, it really is the model of what we really want

to get at.

The minister has said we've worked at this five, six, seven years. Let's get it right. Let's have this kind of patient adviser service which is going to be right there to walk hand in hand with every involuntary patient and not allow just for them to get into a whole thorny system of complexity with all the different concerns, whether it's to do with treatment or deprivation of rights or whatever. They would have a personal advocate, an adviser that would go right there with them, hand in hand, and would be no doubt a thorn in the side of many psychiatrists or many administrators in the facilities, but so be it.

Let's be fair. Let's have under the Charter of Rights and Freedoms the rights of involuntary mental patients not only duly protected but promoted, so that they can in this very difficult time ensure that the best care is given both medically and legally. Again, I think, though the minister will probably reject this as being -- I don't know -- too expensive or too comprehensive or whatever, I think it's the only way to go and provides the model that we need to have here in the province of Alberta and throughout Canada for what the patient adviser service is about.

Further to that, part 6.1 really loads it up so that the Ombudsman is necessarily given jurisdiction over the patient adviser service. So it's not at all the direction that the minister's going in in terms of taking the Ombudsman out and putting this mini ombudsman in. This is providing a patient adviser service in each facility and then having the Ombudsman have jurisdiction over that as well. I think that's double assurance that the patient's rights and the patient's care is going to proceed in the best of all possible worlds, both legally and medically, and to ensure that the Ombudsman has jurisdiction over the patient adviser service.

Finally, under part E, the last amendment does get at this whole question of the Ombudsman. I think the minister really needs to say a lot more about his decision to proceed with removing the Ombudsman's jurisdiction. This under section 55 would ensure that the Ombudsman continues to have jurisdiction over all institutions which admit involuntary patients. Mr. Chairman and members of the Assembly, this is what was discussed back in 1981 when it was first questioned whether or not the Ombudsman should have jurisdiction over involuntary patients. At least the assurance then was given, even though there was no assurance in writing that the Ombudsman's jurisdiction would never be taken away, that the Ombudsman would be consulted personally before such a move as in Bill 29 would come to pass.

I think it really hits at -- I don't know -- the dishonesty or the form of jeopardy that this government has put certain of its people in insofar as saying back in 1981, "Don't worry; if we ever do take away your jurisdiction, then at least we'll consult with you first." We even have that in *Hansard*. It was good; there was even a debate between the then minister Dr. Reid and Grant Notley. The Minister of Municipal Affairs intervened at that time and said: "Why can't you take a promise as a promise? What the minister has said is a guarantee that the Ombudsman's jurisdiction would never be infringed upon without him first being consulted." Well, we have the minister now saying: "Well, I haven't got any information from the Ombudsman. He's never requested a meeting. I've never met with him," or whatever.

I think that's shameful, Mr. Chairman, and I think if we are to go in the direction that Bill 29 wants to go, then at least the Ombudsman and his office must have been consulted with personally. So this section 55 as amended would ensure that the Ombudsman would continue to have jurisdiction, because in fact we have talked with him, and we do know from him and previous Ombudsmen, both Dr. Randall Ivany and the one just before Aleck Trawick, whose name escapes me. They've all recommended that the Ombudsman continue to have jurisdiction in this fashion.

So, Mr. Chairman, this is the outline of the amendments, and I guess I end up back at the same point that the minister does often by saying that, well, at least we have to strike some sort of balance, and we're not going to keep everybody happy, and there has to be some compromise, some consensus at work, and get on with it. I certainly agree with that. But before we get on with it, let's consider some of the best kinds of amendments that we can bring to improve this Bill 29 as it's before us and to have that balance which can be struck at a much better point of equilibrium and provide for better medical and legal care for involuntary patients and set it, as it does in the purpose of the Act, into a context that's broad, that's clear, and that gets on with the job. So these five amendments I'd submit to all members for debate and discussion and for the vote.

SOME HON. MEMBERS: Question.

MR. DEPUTY CHAIRMAN: The question has been called on the amendments proposed by the hon. Member for Edmonton-Centre.

[Motion on amendments lost]

MRS. HEWES: Mr. Chairman, this afternoon I spoke to the amendments of the government in regard to this and expressed my disappointment and regret that they didn't go further. I mean that quite sincerely. I think it's too bad that we have not extended this piece of legislation into the kind of continuity of care and into the contemporary knowledge and technology that we have now in dealing with those who are or have been mentally ill. I'm interested to hear the minister say, "Let's give it a try." Certainly that's what's going to happen here, but hopefully he will be equally responsive to making amendments, as our experience calls upon us to do so.

[Mr. Gogo in the Chair]

Mr. Chairman, I too have a number of amendments that I want to submit to this Bill. I'll submit them as a package, but I would like to speak to them separately, or I can speak to them all together and then have them voted on separately. But I do believe that -- I know in the interests of time we are anxious to see this particular Bill completed in its committee stage.

MR. CHAIRMAN: Hon. member, have you distributed the amendments?

MRS. HEWES: Not as yet, but I will.

MR. CHAIRMAN: I would suggest that.

MRS. HEWES: All right. Shall I give you a minute or two to see them, Mr. Chairman, before I begin speaking to them?

MR. CHAIRMAN: The hon. member can begin speaking, and the Chair will rule whether or not they're in order during the discussion.

MRS. HEWES: Thanks, Mr. Chairman. I would hope that we could vote on them separately because, I think, unlike the former section of amendments -- which I think we should have looked at separately because they do have different consequences, one amendment to the other. Particularly the section on advocacy and the adviser: that, I believe, we should have had some individual discussion on as well. So, Mr. Chairman, if that's satisfactory, I'll speak to them all, and then if you would call the question on the amendments separately. Is that understood?

MR. CHAIRMAN: Hon. member, how many amendments? You mean A, B, C, D, E, F . . .

MRS. HEWES: All the way through. Yes sir, down to T.

MR. CHAIRMAN: You'd like a vote on each one?

MRS. HEWES: Yes, I would.

MR. CHAIRMAN: Well, we'll have to get agreement from the committee. Normally the hon. member could have proposed 19 amendments individually, and we would have voted on each one. The member is now saying consider them as a package, but vote for them severally or individually.

MRS. HEWES: Mr. Chairman, I'd be happy to submit them separately, one at a time, if that . . .

MR. CHAIRMAN: I don't think there's a need for that, hon. member, if the government and the committee would agree to that. Would the hon. members of the committee agree to the amendments being discussed as a package and being voted individually or severally?

SOME HON. MEMBERS: Agreed.

MR. CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

MR. CHAIRMAN: Hon. Minister of Hospitals and Medical Care.

MR. M. MOORE: I'm not sure what you mean by individually. There are amendments A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, right down to the end of the alphabet.

MR. CHAIRMAN: Down to T.

MR. M. MOORE: Then under each section -- like section S, there's 50(l)(a), (b), (c), (d) to (m). Is the hon. member suggesting there's going to be something like 20-some-odd separate votes on these amendments? It's a waste of the committee's time, Mr. Chairman.

MR. CHAIRMAN: Well, hon. minister, that's up to the committee. The Standing Orders say it would be clause by clause. What the Chair is suggesting is that the hon. member has the right to introduce 21 individual amendments. The member has suggested we consider them as a package but vote severally. That was done several days ago on Bill 22. However, hon. Government House Leader.

MR. YOUNG: My understanding -- and we'd better be clear, I guess -- is that the hon. member proposes to speak to these as a group in total and then expects the committee to go through them very quickly on a voice vote basis. Is that your proposition? Or are we going to have standing votes or divisions on these?

MRS. HEWES: Mr. Chairman, if I can respond, I would anticipate a voice vote, but I cannot predict what the government or the Official Opposition will do. Clearly, I can't call for a standing vote.

MR. YOUNG: Well in that event. Mr. Chairman, why don't we proceed by . . . I'm not sure it's practical to speak to them all at once, but maybe it is if they all come from the same theme. If the hon. member cares to do that. I understand that her intention is to be quite expeditious and quite brief. We can try voting them one by one. If it turns out that that's going to be a waste of time, we'll perhaps be free as a committee to consider an alternative method at that point in time.

MR. FOX: Just a suggestion. While the hon. member's speaking, I'm sure the hon. minister and government members will go over those amendments very carefully and pick out the compelling ones that they're willing to accept and let us know which of those amendments they are. Then we could assume that, because we're always outnumbered by government members, when you vote no, you're voting against each and every one of the other ones. That may be a way of proceeding. But I would hope that the amendments would be given some consideration by the government benches, and they'd let us know which ones they're willing to accept, and then we would have a chance to decide if we're supporting them or not.

MR. CHAIRMAN: Well, let's proceed, then, on the basis that committee members speak to any or all of the amendments as a package, and then the committee will vote on them severally: A, B, C, D, et cetera.

Hon. Member for Edmonton-Gold Bar.

MRS. HEWES: Thank you very much, Mr. Chairman. It would be my hope that one or two of these amendments might in fact find favour with government members and members of the Official Opposition. I can go through them briefly.

A is related to section 1(f), and that is the definition of mental disorder. It is my proposal here to amend it by adding the following at the end of it: "but does not include mental retardation." Mr. Chairman, I have no major problems with the definition of mental disorder, but I think it needs to exclude mental retardation. This makes an important distinction between mental illness and mental retardation, which does not appear in the Act and, I believe, needs to be there simply for clarification purposes. I have spoken this afternoon to the Bill, which deals, in fact, with mental illness and doesn't deal with mental health. I think the use of that term is most unfortunate. I would have hoped that the minister might be interested in changing the title of the Bill to "mental disorders treatment." Mr. Chairman, section 1(f) would improve the definition of mental disorder. It's borrowed in part from another jurisdiction, but the definition as it stands fails to exclude mental retardation or any disorder which relates to an individual's interaction with society, I think it needs to be excepted so that we clearly define and leave out -- we specify that it does not include mental retardation.

Mr. Chairman, amendment B deals with the definition of "dangerous". What we have done here is try to clarify when a person is a danger to society or himself and should be admitted to a hospital or a treatment facility of one kind or another. The present section in 2(b) of the Bill is too vague, and the definition that we have suggested here in 2(b) is a lot more specific and far less likely to be misinterpreted in the courts or elsewhere, as necessary.

Mr. Chairman, amendment C, however, is an amendment to 4(l)(b), and it strikes out "24 hours" and substitutes "48 hours." This relates to the detention period in a facility. It would provide, in my estimation, more time to assess and examine and observe the individual than the 24 hours provided for in the Act. I think it's a necessary increase in the time. Quite often in the 24-hour period, with limited medical personnel available it is difficult to assess the actual behaviour disorder, and I think it needs to be extended. I believe the result would be a far greater quality of assessment for the individual patient.

Amendment D -- am I going too fast, Mr. Chairman?

MR. CHAIRMAN: Not for the Chair, hon. member.

MRS. HEWES: Thank you. D is to include "a psychiatrist" in (a)(1), which would mean that you would take out the section that says "a physician on the staff of the facility" and substitute "a psychiatrist," simply, in this way, to enhance the chance that the assessment would be given by professional people; similarly, in section (b)(2), by striking out "24 hours" and substituting "48." I've already spoken to that.

In (b)(2)(i) and (ii), by adding "one of which must be issued by a psychiatrist," thereby, I think, adding to the professional quality of the assessment of the patient. I believe this is a necessary addition. Subsequently, in (c) (3) we have made these two conform as well to 24 hours and using "by a psychiatrist."

Mr. Chairman, I suppose if there are other designated facilities in the province that would come under this Act -- and hopefully there will be future designated facilities -- it might be more difficult to ensure that there was a psychiatrist on staff or available to do such an examination on an admitted patient, but I think this is still an important change that we have made to upgrade the quality of the initial assessment and examination of an admitted patient. I think we should start with this, and then as facilities are designated, there will be a requirement for them -- at least within the 24- to 48-hour period -- to have a psychiatrist available to examine the patient.

Amendment E, Mr. Chairman, is section 6, on admission. Once again, in clauses (b) and (d) we've changed "physician" and substituted "physician or psychiatrist" Now, in this case it appears that a physician alone can issue an admission certificate, but a psychiatrist may or may not be able to. I'm not sure if that is what was intended, to the minister, but in any event I think it should be covered to include the nomenclature that's appropriate to the Act.

In F, again, to bring it into line:

> Section 7(2) is amended by striking out "by a member of the staff. . ." and substituting "by a psychiatrist".

That way, Mr. Chairman, we've ensured that no one would be detained in a facility unless a psychiatrist had issued at least one of the admission certificates. I believe that's a protection that all patients being admitted have a right to.

Amendment G is on confidentiality and anonymity, and this deals with section 17. Mr. Chairman, I'm concerned that where we talk about confidentiality, which is a very important subject, and access to records, it suggests in this section that any and all patient records can be provided to an exhaustive list of professionals, researchers, government agencies, courts, boards, associations, individuals. The Bill, as it's presently worded, makes no differentiation between confidentiality and anonymity. I'm not sure how that was considered, and perhaps the minister can speak to that. The provision in this section "for any . . . purpose considered . . . to be in the public interest" seems to me to be rather all-inclusive and too sweeping.

I think there's been a great deal of argument here that it leaves a great deal of power in the minister's hands and a great deal of personal discretion there. Our amendment would remove the minister's ability to access files and information for any reason other than assessing the standards of care, improving facilities or procedures, which I'm sure is all that was intended and all that he would want from this section of the Act. But I believe we should reinforce the need for anonymity in releasing any documents that would be used for professional studies and research and so on, not just confidentiality to the patient but to ensure that the information that's released is anonymous and could not be used at any point to put the patient at risk.

Further, Mr. Chairman, Section 17(6) provides that information may be provided to the patient "to whom the diagnosis . . . or information relates." Well now, Mr. Chairman, I believe that the onus should be on the institution, not on the patient, to arrange for access. I think it should be the responsibility of the institution to justify why the patient shouldn't have the records, rather than the reverse. I think the institution should have to justify to a court why the patient should not have his own records and that the record should be provided to the patient or his legal representative upon demand.

Amendment H, Mr. Chairman, again is section 17.1(1), that patients, "on request, be permitted to see any diagnosis . . . or information." This is simply opening up the information. Mr. Chairman, my experience tells me that the more insight that a patient can develop into his condition and his diagnosis and his potential for recovery and to be a functioning individual in society is all to the good and that we have nothing to gain by withholding this or playing cat and mouse with a patient regarding his own information. I believe that we must do everything we can in order to open up the process to the patient regarding his diagnosis and his prognosis for the future. This amendment would give the patient the right to obtain information on their case. If the provision of that information threatens the safety of a third party, a review board could deny the patient's access, but the denial of that access could then be appealed to a court I think we must do whatever we can to open up the process and make it available rather than to be secretive about it. If one is ill with almost anything except a mental disability, Mr. Chairman, one does have access to records and X rays and diagnoses and all of the rest of the details, and I think it should be the same with this type of disorder. I see no reason to operate differently.

Amendment I is section 19(2) -- if I can find it. This relates to security. The security provided is a review at six months, and my amendment suggests that that should be three months; that is, that the security requirements of a patient could be reviewed every three months. Now, I've talked with a number of professionals, Mr. Chairman, some of whom have indicated to me that this could pose a problem for the more elderly patient whose condition is more or less stable and is not anticipated to change, and that such a review sometimes causes a lot of stress and is unnecessary. It's possible in this particular amendment that we might find a better wording that would allow for a somewhat

sliding scale or a different approach to different levels of patients in different parts of patient care. But I believe that for the acute care patient a security review every six months is too long, and I would hope that the minister would look closely at the potential to shorten this time for the person who is in there for a short period, hopefully three to four months, that the review would happen within that time.

Amendment J, Mr. Chairman, relates to the leave of absence, and what we have done here is add to section 20(3), after "the board," simply that:

> if it is of the opinion that the state of mental disorder of the patient makes the patient unsuitable for being permitted to be absent from the facility,

so that it would read:

> When a formal patient is on a leave of absence granted . . . the board, if it is of the opinion that the state of the patient [and so on] may by notice in writing given to
>
> (a) the patient. . .

This amendment would require that leave be denied only in those circumstances where the review board is of the opinion that the patient's mental disorder, as defined in section 2 of the Bill, makes the patient unsuitable for discharge. This amendment would reduce instances, Mr. Chairman, where leave is denied for punitive rather than legitimate reasons. One doesn't like to think of this happening in our institutions, but I think the potential is there. Even with the very best of intentions, sometimes a patient is threatened with denial of leave unnecessarily, and I think this would stop the possibility of that ever entering.

Can I go on, Mr. Chairman, to amendment K: "The following is added after section 26." This is related to treatment and control.

> 26.1 For the purposes of this Act, any person who is mentally competent may designate a person to be his guardian in the event that he lacks mental capacity in the future.

Now, many people who suffer from mental disorders do so in a cyclic fashion. They know from year to year and from month to month that their condition is deteriorating and that they may require hospitalization, because the large percentage of people who suffer mental disorders have an immense amount of insight into their disorder and deal with it really in a very competent fashion. But what happens then is that the person gradually deteriorates, and there is no one to make the decisions for them. Now, this section of the Bill, Mr. Chairman, would give the potential to a patient to name a guardian or a decision-maker on his behalf while his condition is such that he is declared competent to do so. This person then could be designated to be the guardian in the event that he falls ill in the future and is not able to make competent decisions on his own behalf. It's a protective move and an opportunity for people to take a reasonable decision to protect themselves. It's an insurance policy that I think we might easily provide to people who suffer from frequent bouts with mental illness.

Mr. Chairman, amendment L is an amendment to section 29. This is the rather contentious section about objection to treatment. Sections 28 and 29 are somewhat troubling in that they deal differently with the "formal patient" who is declared mentally competent and the "formal patient" who is declared mentally incompetent, and it's my view that those two types of patients should have the same rights and should be treated in the same fashion. Perhaps the minister at some point will tell us what the justification is for dealing differently with the mentally competent patient and the mentally incompetent patient under the right to object to treatment.

What we have done here in our amendments in (a)(iv) of section 29 is to strike out "may" and substitute "shall," thereby making it mandatory; in the second section by adding

> at the request of the patient, or on the request of the attending physician and at no cost to the patient,

allowing for a further examination, that would not cost the patient, in order to verify a decision about treatment.

"By striking out subsection (5)" relates to psychosurgery. It seems to me and to most of the professional people that I talk with that psychosurgery should never be performed on a formal patient, that this is a very overt intervention, and if there is an objection by a formal patient, an involuntary patient, to psychosurgery, that it should never be performed. What we've done here is -- under subsection (5) it says:

> unless
>
> (a) the patient consents to the psychosurgery . . .

We have simply removed the second section. I think it creates a much safer situation for both the medical professionals and the patients and their families so that they are not frightened or threatened by the notion that if they are, under whatever circumstances, declared incompetent and admitted as a formal patient, they could be taking the risk of having psychosurgery done even though they object to the procedure.

MR. CHAIRMAN: Hon. member, you may be aware that the government amendment has said that psychosurgery shall not be performed, so it may in fact be that your amendment is redundant.

MRS. HEWES: It may in fact be unnecessary in this case. Thanks, Mr. Chairman. Yes, I was aware of that.

The next section deals with exactly the same thing. It's dealing explicitly with that section for psychosurgery.

Amendment N, Mr. Chairman, is on the review panels. The review panels as they are presently constructed have in fact professional people on them. If you'll note in section 34(4): a chairman, vice-chairman, a psychiatrist, a physician, and a member of the public. Our amendment would have the effect of changing the composition by removing the psychiatrist and physician and adding an additional member of the general public. The intent here is in no way to remove the capacity of the physician and psychiatrist to offer advice and consultation to the review panel. On the contrary, it is essentially to make their work more complete and more professional in that they are not required to make the decision but may offer, hopefully, maximum objective advice to the review panel in order to make a very good decision on behalf of the patient. I think it's a better use of our professionals and better use of interested members of the public and gives an added dimension of protection to the patient.

Mr. Chairman, I see that I'm at O, and that's very close to the end. O is simply giving the patient an opportunity for a transcript of the proceedings of the review panel. P is an amendment that requires that a psychiatrist who is not a member of the medical staff of the institution is available to do a review at the request of the patient, simply providing the extra protection of another opinion.

Now, Mr. Chairman, Q and R relate to the patient advocate. You will note that my amendment really deals with the advocate in a different fashion and as I spoke to it this afternoon. This suggests a patient advocate co-ordinator and an advocate on site in each one of the facilities. This, in fact, then becomes the patient adviser that the Member for Edmonton-Centre was talking about. This is more inclined towards the Ontario model and, I think, would provide infinitely greater protection to the patient.

Mr. Chairman, the Ombudsman's jurisdiction has been removed, and we believe it should not be. What amendment is

that? I think it's R that replaces it and allows for the Ombudsman to have jurisdiction in these mental institutions, as with all other provincial institutions. We believe this added protection is absolutely essential.

Amendment S, Mr. Chairman, the second-but-last amendment, is the makeup of the Mental Health Advisory Council. With regret, we believe the Bill removes much of the potential of this advisory council to serve the minister and to serve the citizens of the province, and we believe the ones we have suggested would be a far more comprehensive methodology to be used.

The last amendment, Mr. Chairman, deals with the Ombudsman section, which would substitute and bring his jurisdiction to include the facilities "within the meaning of section 1(c) of the Mental Health Act" so that he would have jurisdiction over these facilities.

Thank you very much, Mr. Chairman.

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: Ready for the question?

Hon. Minister of Hospitals and Medical Care on the amendments proposed by the hon. Member for Edmonton-Gold Bar.

MR. M. MOORE: Mr. Chairman, just a couple of comments with respect to some of the amendments.

Section B is proposing to provide for a new definition. On examination, I really believe the existing definition is more than adequate. The definition proposed by the hon. member, in fact, probably narrows the definition somewhat from what it presently is in the existing Act or was in Bill 3 or is in this one, and we think there's probably an unnecessary narrowing of the definition.

The amendments with regard to substituting 24 hours for 48 hours again I think would be unnecessary. We believe the two major institutions at least can provide the necessary services within that 24-hour time period.

There are a number of sections dealing with changing the word "physician" to "psychiatrist" or substituting "psychiatrist" with "physician." The difficulty there, Mr. Chairman, is that we're dealing just with Alberta Hospital Ponoka and Alberta Hospital Edmonton. That may be okay, but we intend to designate a lot of other regional facilities and we don't have psychiatrists in all of them -- at least not readily available. The reason we were cautious about using "psychiatrist" in every case is simply because if they're not available, it's not very good legislation. If we had a better supply of psychiatrists, that may be different.

Mr. Chairman, I can make comments about a number of other proposed amendments. On balance, I think in most cases our existing legislation is adequate. There's one exception, and perhaps I could refer to it. On reflection, I think section I of the hon. member's proposed amendments, where she proposes to amend

> Section 19(2). . . by striking out "6 months" and substituting "3 months",

may be useful particularly with respect to those new hospitals we're designating as facilities that would receive involuntary patients. So what I would propose is that the government would accept amendment I, which substitutes "3 months" for "6 months" as is indicated. The rest I would like to reflect on over a period of some time, and perhaps if we have amendments to the Bill down the road in a year or two, we could look at some of the others. But for the time being, I would want to vote against all the other recommendations except recommendation I, that being section 19(2).

I leave it in the hands of the hon. member whether she wishes to vote separately on "I" and the balance as a package or vote individually, one by one. We're in the hands of the member and the committee.

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: Ready for the question?

Hon. Member for Edmonton-Avonmore.

MS LAING: Thank you, Mr. Chairman. I guess I would just like to voice some concern about amendment H in regard to disclosing to the patient a diagnosis. I have concerns about that in two areas. One is the inexactness of psychiatric diagnosis. Certainly the research indicates that there is a very low rate of inter-judged agreement on diagnosis of patients, so I get very nervous about the using of diagnostic labels or those going out generally. Not only is it very inexact, but there's a lot of mythology around a lot of the terms. So I have concerns about that.

I also have some concerns about patients at a certain stage of their illness or their treatment being very fragile in terms of being able to hear some of the diagnosis that might, in fact, be quite destructive. So I would just urge caution in regard to that particular section.

MR. CHAIRMAN: Ready for the question?

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: The committee had agreed to proceed A, B, C, D, et cetera . . . Government House Leader?

MR. YOUNG: Mr. Chairman, could I ask the hon. member: inasmuch as the minister has indicated his position, which, I want to advise the hon. member -- it won't surprise her -- will be the position government members are likely to follow . . . In that event, it would seem more expeditious if we could single out that amendment, deal with it, and then deal with the others as a group. It would save a considerable number of votes. I appreciate the eloquent expression and the work the hon. member has put into it, but I think that's the way the cookie will crumble this evening.

MRS. HEWES: Mr. Chairman, I'd be happy to do that. I'm glad to have the minister's approval of that particular one. The minister didn't comment on amendment G, which I also thought had some . . . It's a rather modest amendment and perhaps might well clear up some of the problems within the Act as well. I don't know whether he skipped over it or didn't intend to comment on it. I'd be glad to have "I" voted on separately and the others as well. I think that saves time, as long as other members don't want to speak.

MR. YOUNG: Then do we have an understanding that we'll deal first with "I" out of this set of amendments? Is that the consensus of the committee?

MR. CHAIRMAN: Does the committee agree with the proposal?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Opposed? Carried.

We will then deal with the amendment proposed by Edmonton-Gold Bar, "I", on page 2. All those in favour of the proposed amendment that Edmonton-Gold Bar denoted as "I" on page 2 of the amendments, please say aye.

SOME HON. MEMBERS: Aye.

MR. CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. CHAIRMAN: Carried.

The balance, then, of the amendments. Hon. leader of the Liberal Party.

MR. TAYLOR: Very short, Mr. Chairman. In view of the vehemence I was greeted with in questioning the Act by the hon. minister the other day in question period with respect to whether or not the Ombudsman would have jurisdiction over the patient advocate . . . He denied it, yet as far as I can see in the Act, it does remove the Ombudsman from board-operated hospitals. Could he explain to the House why that is so? The Ombudsman can have the advocate or whatever it is talk, embroil, and use his office to do investigations, yet for board-operated hospitals, I would gather the Ombudsman is not going to have any authority.

MR. M. MOORE: Mr. Chairman, I dealt with that this afternoon, but I will deal with it again. The facts of the matter are that when the Ombudsman Act was first passed by the Legislature, it did not include provincial general hospitals and still does not. The only reason it included the mental health hospitals in Oliver and Ponoka was that they were at that time operated by the Department of Social Services and Community Health and were in fact not board-operated hospitals. When they then became board-operated hospitals, the Ombudsman's jurisdiction with respect to those hospitals followed.

The decision we now had to make with this Act was whether or not we extend the Ombudsman's authority to other provincial general hospitals that may be designated facilities or not. The decision we made was not to extend the Ombudsman's authority to other facilities but rather to appoint a patient advocate and give the patient advocate tools similar to what the Ombudsman has to investigate and report and lay the report before the Legislative Assembly and so on. We felt it was inappropriate to have one Ombudsman, if you like, looking into the conduct and operation of another one, so we didn't provide that the Ombudsman would have authority over the patient advocate. Surely the patient advocate is there for one purpose only, and that's to help patients. To have someone looking into his actions would simply duplicate the authority over mental health patients by two individual Ombudsman-type people, the same situation which presently exists with regard to the Farmers' Advocate, which in my opinion is rather ridiculous.

REV. ROBERTS: Mr. Chairman, that's interesting to hear. I just wonder if the minister therefore is saying that the recent recommendation of the Hyndman commission, which was to set up hospital Ombudsmen, as I understand it, whether it's for nurses or doctors or staff or for patients in hospitals . . . Certainly the Ombudsman has jurisdiction over active treatment hospitals in Great Britain and in other jurisdictions. I just find it rather telling to think that the minister has in a sort of fait accompli said "No, we're not going to move in that direction" when, in fact, the Hyndman commission is saying quite the opposite.

MR. M. MOORE: Mr. Chairman, the Hyndman commission's recommendations have nothing whatever to do with mental health patients or other patients. They have to do with complaints or concerns nurses might have, and the recommendation was with respect to a type of Ombudsman position to deal with their concerns. That has nothing to do with this legislation.

MRS. HEWES: Well, Mr. Chairman, with respect, I disagree entirely. I think the Ombudsman Act was created in order to give the Ombudsman and give that office the opportunity to investigate where there were persons who believe themselves to be aggrieved in any . . .

MR. CHAIRMAN: Excuse me, hon. member. Could we have order in the committee, please. This is very important to some hon. members. Now, let's give due attention to the member speaking.

Edmonton-Gold Bar.

MRS. HEWES: Thank you, Mr. C h a i r m a n . . . . in any service of the government or an agent of the government. I believe the Ombudsman has, in fact, fulfilled his responsibility very well. My concern is that in appointing a patient advocate and enshrining it in the legislation, the patient advocate in this legislation as it is described appears to become the patient Ombudsman and will deal with patients who believe themselves aggrieved. In my view, an advocate for a patient would play a far more comprehensive role and function than that and would, in fact, deal with perhaps many very simple day-to-day matters to assist the patient in adjusting to the institutional care and in planning for discharge and so on. It would not simply be a case of only visiting the patient from an office removed from the site, unknown to the site, when the patient or some member of his family on his behalf had reported to the Ombudsman that some part of the care, the meals, or whatever was not satisfactory. So I don't see the advocate in the same sense as the minister does. I believe we need a patient advocate, but I think the individual or the office of the advocate needs to play a far different role.

I would commend to the minister the kind of thing the Social Services department wrote into the amendments to the Child Welfare Act that we dealt with earlier today, which defines the work of the advocate in a more in-depth fashion than has been done here in this Bill. Then on the other hand, the Ombudsman deals with the person who believes themselves to be aggrieved by their care in the institution and might or might not be dealing with the advocate or directly with the patient on the other hand. But I think we should not remove from the patient the opportunity to go to the Ombudsman if they believe themselves to be aggrieved. Mr. Chairman, patients in mental hospitals are in a very different position than those in other institutions. They're very vulnerable people in the first place, their credibility is often doubted or certainly not taken for granted, so they do need the services of the advocate. But they also need to be able to go for final resolution of a problem to the Ombudsman.

I would hope the minister will reconsider either amending this Act, as we have suggested in our very last amendment, or

amending the Ombudsman's Act to give him jurisdiction over these two mental hospitals we speak to here and the other designated institutions where involuntary mental patients will be confined.

MR. CHAIRMAN: I shall now put to you a single question based on the agreement of the committee that the 19 amendments made by the hon. Member for Edmonton-Gold Bar, A to T excluding "I", will be voted on.

[Motion on amendments lost]

MR. CHAIRMAN: Bill 29 as amended. Are there any further comments or questions?

Hon. Member for Edmonton-Strathcona. I believe your colleague was about to get up. Edmonton-Strathcona.

MR. WRIGHT: We voted on "I", didn't we?

MRS. HEWES: Yes, we voted on "I".

MR. WRIGHT: Oh, I see. Okay.

On clause by clause, Mr. Chairman, if no one has a clause earlier than 10 to consider, I would like the committee to consider clause 10.

MR. HAWKESWORTH: I have.

MR. CHAIRMAN: Hon. Member for Calgary-Mountain View.

MR. HAWKESWORTH: Thank you, Mr. Chairman. I gave to you previously a copy of the amendment I'd like to have considered. If I could, I'd like to be allowed to just have it distributed. I previously conveyed a copy earlier this afternoon to the minister.

Mr. Chairman, members will recall that during second reading debate of this Bill, I made a number of comments basically focused around the recommendations of the Drewry commission some years ago on which the basis of this Bill has been brought forward to us. I noted at that time that there were a couple of key areas this Bill did not address, and I hope that to some extent the amendment I'm bringing forward tonight will respond to those proposals made by the Drewry report. I just ask members to refer to section 1, which has to do with the definitions, particularly clause (c) which has to do with the definition of a "facility." I'd like to read into the record the amendment I'd like to make this evening.

> Section 1 is amended in clause (c) by adding at the end of it "and includes, as appropriate, an outpatient clinic and outpatient clinic program designated pursuant to the regulations".

Mr. Chairman, this Bill has to do with admission to mental health facilities by formal patients. The Bill basically outlines the procedures under which that is to take place, keeping in mind the rights of the patients themselves as well as the rights of family members and society at large. What seems to be contemplated in the Act is that a facility is a sort of hospital building: four walls and a roof and all the things that go on within that institution. So it seems to me the whole thrust of the Bill is to determine the conditions under which individual people come to be formal patients inside that system. It doesn't really address some of the basic premises the Drewry report emphasized. One was the basis on community-based services, and the other was a phrase used by the Drewry commission called "Provision of Comprehensive Treatment," in which the commission recommended:

> Wherever possible, alternatives less restrictive than compulsory hospitalization should be pursued. Intervention by the state should be a final option.

The Drewry report outlined some options to achieve that.

What I believe this amendment would do, Mr. Chairman, is add one more option in the Act to allow the various authorities and professionals in the mental health care system to look at when contemplating treatment for an individual patient so they're not forced to go all the way to admission into a compulsory hospitalized setting. It would allow for a hospital-based program but doesn't require the full hospitalization. What this amendment would do is allow patients to be directed to get treatment in outpatient programs. They could be compulsory programs, but they would not require hospitalization. This would achieve the objective of being less restrictive, which was what the Drewry report recommended. It would be a less confining option, and it would ensure that there were more than the only option of admitting to a hospital.

There are examples, Mr. Chairman. Where, for example, an individual is not taking medication or refuses to take medication to control a particular mental disorder, this option would allow a professional or the system to direct that individual and tell that individual that every morning at a certain hour, whatever, they would have to present themselves to such and such a hospital at such and such an outpatient clinic to receive their treatment or medication. So it's a way of ensuring that that treatment gets offered to that individual, but it doesn't make the system respond by going all the way to admitting that individual to a hospital.

It may be that this person is not a danger to themselves provided they follow their medication, so what it allows is a kind of intermediary step where we don't have a situation where a formal patient is admitted to hospital, their condition is stabilized, after a time they're discharged, and then when they're back in the community they no longer follow the directions for medication or treatment or whatever. Their condition deteriorates and becomes unstable. Then they're back into the hospital setting once again. They have to go back through that very formal process. In situations like that a patient could be directed to appear in an outpatient program on a regular basis, thereby maintaining their medication or their treatment and stabilizing their condition over time. It would seem to me to provide an option that's less expensive, less onerous, less dramatic.

I think it also would emphasize one of the areas the Drewry commission outlined and said was important. I'd just like to quote from the report, Mr. Chairman, about this whole area -- it was under the section "Apprehension for Examination" -- of how we can make a very strict, a very formal, cumbersome process less intrusive and more therapeutic. The report says:

> Keeping the mailer in the therapeutic setting would be advantageous. The allegedly sick person would not have to be picked up or forcibly conveyed by law enforcement officers in a manner more akin to the criminal process. There is less stigma attached to seeing a physician in the company of a mental health worker than to being transported to a facility in a police car.

What the amendment would do, Mr. Chairman, is allow for that less formal process or less formal option, where it was appropriate, to be available to those people in the mental health care system so that some patients that don't really require the more formalized, onerous option could then pursue an intermediate option.

As the amendment says, it would have to be appropriate and

it would be outlined in the regulations so it gives the minister full opportunity to lay out the terms and conditions and the checks and balances to ensure it is a viable option and the conditions under which it should be pursued. I think it would just help the process of the legislation and the workings of the legislation to allow this other option to be incorporated and developed.

Thank you, Mr. Chairman.

MR. M. MOORE: Two responses. First of all, the legislation we have before the House with respect to the definition of a facility says:

> "facility" means a place or part of a place designated in the regulations as a facility.

So we have every possibility in regulations of doing exactly what the hon. member is proposing with respect to designating a part of a facility like an outpatient clinic or an outpatient clinic program as a facility. First point.

The second point is that this Bill deals entirely with involuntary patients. I can't ever imagine a situation where we would have an involuntary patient in an outpatient clinic, because once they are released in terms of being an involuntary patient and become a voluntary patient, they're no longer covered by this Act. So it wouldn't do much good to designate an outpatient clinic as a facility, because there's nothing in the Act that controls voluntary mental health patients. At any rate, even if there was, I submit that under section 1(c) at the present time, the definition of a facility by regulation is extremely broad. We made it broad for this reason. For instance, when we designate the Lethbridge Regional hospital psychiatric ward as a facility that can handle involuntary mental patients, we don't want to designate the whole hospital, so we will designate a section of it. We could do the same with the outpatient clinic if we wanted to. So the amendment in my opinion, Mr. Chairman, is not required.

MR. HAWKESWORTH: Well, Mr. Chairman, the minister seems to say, first of all, that we can do it for the first reason; and in the second reason, he can't imagine how they could do it. I would just like to say to the minister it's my information, having talked to some mental health workers in Calgary, that this does go on in the United States. There have been a number of states the individuals I spoke to personally visited, where this very option was being pursued and it worked well. The patients would be involuntary, Mr. Chairman, to this extent: they would be required -- they would not have an option, but would be required -- to present themselves at that outpatient clinic on a regular basis and that would be spelled out. They would have no option in that case, and it apparently has proven to be helpful in some circumstances -- not all of them, but some circumstances -- where people have been refusing to take medication, one example that was given to me, and making them show up at that program ensures they receive that kind of treatment.

As a matter of fact, Mr. Chairman, there is another option which hospitals have to some small extent been forced to adopt because there aren't these kinds of provisions in the existing Mental Health Act. What's happening in some cases now is that the patients are admitted to hospitals as involuntary patients and then the hospitals let them out on a pass. So they are, in effect, a patient, but they're out on a daily pass or perhaps a weekend pass on a regular basis. So in fact they're back out in the community.

What this would do is basically allow very much a variation on that option and simply say they would have to present themselves at an outpatient clinic. As I read the term "facility," Mr. Chairman, I concur that to some extent it might be interpreted the way the minister has said it might, where it means a place or part of a place. But that has a connotation of a physical building, so you would think of a particular unit, particularly the psychiatric unit of a general hospital. What I would want to do is clarify that that could refer to a program, particularly an outpatient program, that would be part of that particular physical structure. So that was the intention, to clarify that option, to highlight it, to make sure it was obvious to someone reading the legislation that that was the actual intent of that definition.

MR. CHAIRMAN: The hon. Member for Edmonton-Centre.

REV. ROBERTS: Thank you, Mr. Chairman. I, too, just want to support my colleague in this amendment in the specific arguments he's brought forth, but also to say that in a more symbolic way -- I mean, we're beginning to see just how miserably this whole Act fails in hitting in any direction, even in a symbolic sense, at the more comprehensive care or outpatient care or community care. It is plain and simple what this minister envisions in his mind, which is a treatment for involuntary patients. You get them in an institution, and you treat them. You deal with their civil liberties and their rights as best you can, and you treat these involuntary patients. And that's such a narrow area of mental health legislation and mental health care and treatment.

What we're trying to get at, trying to talk to from the Drewry report's recommendation about the legislative obligation for community care -- and I'm sure the minister of community health and his regional mental health councils might want to talk about that; it's his responsibility. But they need to be linked. They need to be expanded, and at least some clue, some hint, some symbolic sense that, yes, we recognize this, acknowledge this, and go in this direction -- even to say that a facility includes an outpatient clinic, for heaven's sake. I mean, all hospitals are seeing the role their outpatient clinics can provide instead of inpatient care all the time. We need to begin to move in that direction, as this amendment calls for, even in a symbolic sense or the more particular sense.

So I'd certainly want to commend my colleague for bringing it forward, and condemn the minister for not moving at all on any symbolic or specific direction, which everyone is calling for.

[Motion on amendment lost]

MR. CHAIRMAN: Hon. Member for Edmonton-Strathcona.

MR. WRIGHT: Yes. I would like clause 10 considered separately, Mr. Chairman.

This is a clause that deals with apprehension. The routine is that the informant goes before a provincial judge with a complaint and the judge judges it. What's wrong with it, Mr. Chairman, is that it's a complete invasion of personal liberty and rights, and in that respect it's like our present rules. What happens is that suddenly the person, the subject of the complaint, if the complaint is accepted, finds himself arrested by police and shanghaied off to the asylum, and that's the first he or she knows of it. That's quite wrong. It goes against the basic concept of natural justice. In fact, our law recognizes it is wrong because of section 4 of the Summary Convictions Act, but it's

never proceeded with that way.

So I simply urge members to vote against this particular clause, and I require that it be voted on separately. It's a very simple point. It can be easily fixed up by amending the provision to commit notice to the . . .

MR. M. MOORE: Mr. Chairman, on a point of order. I thought we were dealing with the amendments proposed by the hon. Member for Calgary-Mountain View.

MR. CHAIRMAN: That's been defeated, hon. minister.

MR. M. MOORE: Oh. Is the member proposing a new amendment then?

MR. CHAIRMAN: No. [interjection] Order please. Under Standing Order 77, where you normally deal clause by clause, the Member for Edmonton-Strathcona is requesting, recommending, suggesting -- and it's probably in order by the Chair. The Chair is about to rule that we can deal with any section of the Bill in terms of a vote.

The Chair is about to put the question with regard to the Bill as amended to the House, excluding section 10, because we'll deal with section 10 first. That's what the hon. member is discussing. To my knowledge Edmonton-Strathcona is not proposing an amendment.

MR. WRIGHT: Yes, not an amendment; just this particular clause. It's defective, and I urge the House to not concur with section 10 but defeat it. We tried to amend it, as you know, and in the unamended form it's unacceptable for that reason.

[Section 10 agreed to]

MR. CHAIRMAN: Bill 29 as amended. Are you ready for the question?

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: All those in favour of Bill 29 as amended, please say aye.

SOME HON. MEMBERS: Aye.

MR. CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. CHAIRMAN: Carried.

[Several members rose calling for a division. The division bell was rung]

[Eight minutes having elapsed, the House divided]

For the motion:

Adair	Fjordbotten	Oldring
Ady	Getty	Payne
Betkowski	Heron	Pengelly
Bogle	Hyland	Reid
Bradley	Johnston	Rostad
Cassin	Jonson	Schumacher
Cherry	McClellan	Shrake
Clegg	McCoy	Sparrow
Cripps	Mirosh	Stevens
Day	Moore, M.	Stewart
Dinning	Moore, R.	Trynchy
Downey	Musgreave	Webber
Drobot	Musgrove	Young
Elliott	Nelson	Zarusky

Against the motion:

Barrett	Hewes	Piquette
Chumir	Laing	Roberts
Ewasiuk	Martin	Sigurdson
Fox	McEachern	Taylor
Gibeault	Mjolsness	Wright
Hawkesworth	Pashak	Younie

Totals: Ayes - 42 Noes - 18

[The sections of Bill 29 agreed to]

[Title and preamble agreed to]

MR. M. MOORE: Mr. Chairman, I move that Bill 29, the Mental Health Act, as amended, be reported.

[Motion carried]

Bill 31
Calgary General Hospital Board
Amendment Act, 1988

MR. CHAIRMAN: There is an amendment.

Hon. Minister of Hospitals and Medical Care.

MR. M. MOORE: Mr. Chairman, I move that Bill 31, the Calgary General Hospital Board Amendment Act, 1988, be reported.

MR. CHAIRMAN: Any comments, questions, or further amendments to the Bill?

Calgary-Mountain View, are you speaking to the amendment?

MR. HAWKESWORTH: To the amendment? Yes, thank you, Mr. Chairman.

I want to say a word of appreciation to the minister. At second reading, as he would recall, I expressed a concern about ensuring that the definition of the Calgary General hospital refer to both the new site at the Peter Lougheed Centre and the existing site, traditional site, now called the Bow Valley Centre. I appreciate that he's made that change in the amendments. I think it's one that will be appreciated by those on the board and addresses a major concern that had previously been brought to my attention. So I commend him for doing that.

Thank you.

[Motion on amendment carried]

[The sections of Bill 31 agreed to]

[Title and preamble agreed to]

MR. M. MOORE: Mr. Chairman, I move that Bill 31, the

Calgary General Hospital Board Amendment Act, 1988, as amended, be reported.

[Motion carried]

Bill 35
Occupational Health and Safety
Amendment Act, 1988

MR. CHAIRMAN: There is an amendment. Hon. minister?

Are you ready for the question on the amendment?

Hon. Member for Edmonton-Beverly.

MR. EWASIUK: Thank you, Mr. Chairman. I rise just to make a few comments on this Bill. In second reading I had indicated that the Bill, I think, is a general improvement to what now exists. It appears to me there is a move by the government and this minister towards some accident prevention, and I'm certainly delighted to see that. There is indication here that there is going to be better control of products, and employers will be required to provide training and education in dealing with toxic material. I think this is long overdue, and I only hope that in fact the process will be monitored well to ensure that the education and the training is being provided by employers.

I suppose the major change in this Bill has to be the increase in fines for violators, and as I said during the debate in second reading, I'm not sure this will serve as a deterrent, particularly to large corporations, because certainly a fine, even though they have been increased substantially, may not necessarily serve as something that would worry the large corporations too much.

[Mr. Musgreave in the Chair]

Mr. Chairman, we are prepared to support this particular Bill. However, I do want to hope and I ask the minister that there will be an increase in worksite inspections staff. I know there have been cuts in that area. If we're going to monitor to ensure that all the things that are being proposed in this Bill will be carried out, I do believe there needs to be an increase in the worksite inspection staff, and I hope the minister will complement this Bill by in fact carrying out that commitment.

I want to raise again my continual complaint that I think there need to be worksite committees, safety committees. Management is not going to implement a safety committee in the worksite unless, I believe, they are asked to do it. Some will, but many won't. I think there needs to be an emphasis placed by government, whether it be legislation or not, or regulation. Something has to be done to involve both management and employees in terms of safety. I think this will go a long way towards safety and prevention, because then you have both parties concerned and working towards safety in a worksite. I think you do it through the safety committee structure. I'd like to see the minister introduce some mandatory requirements in this area.

Basically, Mr. Chairman, again I repeat that I'm pleased to see this Bill before us. I do think it's an improvement over the existing legislation. I think it's a move towards prevention and safety in the worksite. I'm particularly pleased to see the changes towards the education and training of employees -- and management, for that matter -- to working in toxic material. We'll be watching and, of course, listening to people in the field to see whether it's being effective or not, and the next time around we'll be able to again hopefully provide some suggestions or recommendations for the minister to undertake as a result of this Bill.

Thank you, Mr. Chairman.

[Motion on amendment carried]

[The sections of Bill 35 agreed to]

[Title and preamble agreed to]

MR. DINNING: Mr. Chairman, I move that Bill 35, as amended, be reported.

[Motion carried]

Bill 36

Public Health Amendment Act, 1988

MR. DEPUTY CHAIRMAN: Hon. Member for Stettler.

MR. DOWNEY: You bet I'm honourable, Mr. Chairman.

Mr. Chairman, I would just briefly cover what's contained in the amendment here, and I do want to point out that we have attempted to respond to some of the concerns that were raised at second reading.

Section A deals with two items; first of all, the power of the minister to appoint an executive officer, that he is responsible for issuing permits. Another part deals with the period of infectivity, specifically for AIDS, which of course does not end at present.

Section C deals with the appeal process: clarifies and strengthens it; allows hearings to be held in private. Section D outlines the rights of anyone who is detained under an isolation order.

With those, Mr. Chairman, I move the amendment.

MR. DEPUTY CHAIRMAN: On the amendment to Bill 36, the Public Health Amendment Act.

Hon. Member for Edmonton-Centre.

REV. ROBERTS: Thank you, Mr. Chairman. We'll support these amendments, but only after these few comments. One is that it's good to see in section (a) that the period of infectivity is cleared up there. I think there are many times in which there's no end point for certain infections, and I think that's the intent of that, is it not? I think that would help to tighten it up. And it's unlike other pieces of legislation. I'd be interested in going through other Acts and seeing that in fact there is an end point for periods of what is seen to be the problem.

We have some concerns and amendments that will be following on this section 7, but it does seem at this point important to have "education and research" together there. Sections C and D are nice to have and are, I think, the kinds of provisions and protections which are nice to have after the fact, Mr. Chairman: after the certificate is issued, after the guilt is assumed, after a person with AIDS or some other incurable infectious disease has failed to comply with any other condition so prescribed. It's nice to know that these amendments provide that kind of provision and protection for such persons upon whom the guilt is presumed, the same as in section D. Our point is, Mr. Chairman and members of the Assembly, that it's just too little too late and that there needs to be a much stronger sense of due process, much more stringent guidelines about what the failure to comply

with what is. So we'll be addressing that in our amendments, which I'm sure members opposite have arguments against.

But what this does is continue the kind of power of the physician. It's a sort of 'medicalization' of it. In fact, I've heard of a number of physicians who don't want to have these kinds of sweeping powers; that in fact, even despite the protections for a person afterward, there may be many times when a physician might err. In fact, I've heard -- and I was trying to get it substantiated -- that three physicians in the province of Alberta here have been brought to the college for reprimand in terms of their dealings with AIDS patients or with patients who are homosexual. So I think if there's ever going to be a question here, it needs to be upon those who are spreading the disease, yes, but it also needs to be upon who has the power over them, and if it's just going to be the physicians in this way, then we really have to ask some more stringent sorts of questions of those people with those powers. And we're going to do that later.

But for now, section E -- yeah, we'll go along with that too. So there you go.

[Motion on amendments carried]

MR. DEPUTY CHAIRMAN: On Bill 36, as amended, the Public Health Amendment Act, 1988. All those in favour, please say aye.

Sorry. Edmonton-Centre.

REV. ROBERTS: Thank you, Mr. Chairman. I have four amendments to Bill 36 that we want to present and propose and debate. I did table them or file them. All members of the Assembly were given them about two weeks ago, but in case you had forgotten them, I've got a few more here -- certainly for you, Mr. Chairman, for the Table, and everybody else. There are about 20 here.

There are these three, Mr. Chairman, which deal with sections 11, 13, 14, and following -- the AIDS section, let's call it. I have another amendment which I'll present later which has to do with a previous section of the Bill, and we'll certainly be voting on them individually, Mr. Chairman.

We know when Bill 36 was introduced that there was a great concern raised about quarantining AIDS patients. Certainly such language hits headlines here and throughout North America these days, and maybe that was the intent of some of the backbencher members of the government caucus: that anybody with AIDS should just be instantly quarantined without due regard to their rights or even their medical condition. As we, of course, went through what the Bill was trying to do, what it was saying, there are a number of things which need to be clarified for the general public. One is, of course, that it's not quarantine as such -- which is a much broader term to talk about the roundup of a whole population -- but rather isolation, and isolation orders of particular people.

So these three amendments before you, Mr. Chairman, are amendments which try to deal more carefully with this very delicate situation, this "last resort" situation of those who would be spreading an incurable, infectious disease. AIDS obviously is the most common one in thought, word, and deed these days. But what this first amendment does is to add to section 11, following section 49(1)(a): where any person upon whom an isolation order is being served has to be a person whom it is known has "wilfully, carelessly or because of mental incompetence," exposed others to the disease or agent. Then that same language is used in section 54 of the proposed section, where any person who has to be certified also has to -- where does it read? At the bottom there -- "wilfully, carelessly or because of mental incompetence, refuses or neglects" to comply with certain conditions.

The problem with the existing amendments to the Public Health Act, Mr. Chairman, is not only that it assumes that a certain person is guilty before they're proven innocent, but it is also assumed that the person is in a sense passively, not actively, failing to comply with certain conditions or passively neglecting to submit to certain treatments. I'm even wondering whether such provision as is currently provided for in sections 49 and 54 could be grounds for compulsory testing for HIV, for instance. It would be a case in which a physician could round up someone whom they think is failing to comply with some conditions that they have set down and at least have them off to be tested for AIDS. I have heard from government and assume that compulsory testing for HIV is not the policy of government, and I agree with that wholeheartedly. I'm wondering, however, if this is the way to try to get in the back door and do that kind of compulsory testing on this grounds. No matter; it's probably related to treatment for people who actually have the virus and the last resort of those very few, if any, in the province who are out there willfully spreading the disease.

At least so we were told when Bill 36 was introduced, that these amendments were intended to get those one or two individuals out there who are maliciously spreading this incurable infectious disease. Now, the truth of the matter is, as we debated already, that it takes two to get the disease, and if someone is using their own precaution or protection, then they will not be infected with AIDS. I have said earlier that if we're concerned about prostitutes, male or female, there should be a program designed at educating the prostitutes throughout the province, and that has failed to come through.

What we have instead is the Bill as it's currently constituted before us, which is a form of forcing medical compliance and giving supralegal powers to physicians for testing or treatment. Now, this may be necessary, particularly in the world of public health and infectious diseases, that particularly trained infectious disease physicians might really identify someone out there, as Blatherwick has recently in Vancouver tried to apprehend a few people who have tuberculosis. So we would want to have powers for physicians to be able to do that, but it is an incredible precedent to give them legal powers that are above the courts and above due process and above the person's own right to appeal. Furthermore, it is flimsy evidence upon which they're being apprehended, because it's saying that all that a person needs to do is to fail to comply with certain conditions or any of the conditions prescribed. Now, if the focus is to be on that one person with that incurable infectious disease who is recalcitrant, then let's get at that one recalcitrant person as in this amendment and prove that that person is recalcitrant by saying that they are known to be "wilfully, carelessly or because of mental incompetence, [exposing] others to the disease or the agent."

Now, it seems that is the last resort; those are the people we want to be able to apprehend with isolation orders. We fully agree in that context that this is the language and these are the kinds of people that have to be seen to be, in a sense, not passively sitting back failing to comply with something they might not even be aware of, but it has to be demonstrated that they are out there "wilfully, carelessly or because of mental incompetence" spreading the disease, taking the intent, taking the action out. If that is; the case, then clearly they need to be ap-

prehended and isolated. But to leave it in the loose language that we have, that there are certain treatments or certain testing and that certain matters which a person neglects to submit to an examination or other remedial treatment or any other condition, there may be -- I can't think of them, but there may be -- a number of ways in which someone can under this currently worded proposal be apprehended unfairly and unjustly. So let's not allow that incident to occur. Let's make it clear that we're going after those recalcitrant people who are "wilfully, carelessly or because of mental incompetence, [exposing] others to the disease or the agent."

So that is what this first amendment does, Mr. Chairman. It really tightens it up. It really puts the onus on the proof needing to be there, not passively or dubiously failing to comply with the physician's order. This language, as we know and the minister knows is already enshrined in the statutes in British Columbia -- I mean, it's not where they had a major debate over the same issue, and this would seem to be the compromise. It works very well there and quelled enormous debate from all sides because it really says what we are assuming government wants to do, which is to go after those few recalcitrant people, and puts in language in which there is no doubt at all as to who these people are and why they're being isolated. So I would suggest that given this argument, given the precedents in British Columbia, and given the fact that this will put it beyond a shadow of a doubt what we're trying to do, I think it's the way to go and the amendment that's needed to amend this particular section.

MR. CHUMIR: I would like to comment, Mr. Chairman, with respect to the bundle of amendments, although with specific direction at this stage to the first amendment. Before I do so, let me make it very clear that in my mind, society is quite justified in establishing provisions to isolate those AIDS carriers who through instances of willful or reckless behaviour or mental disease endanger other members of the public. But we have to understand that in this particular instance this legislation deals not with an issue of contagion, as normal isolation legislation does, but it governs conduct. It allows AIDS victims to be dealt with on the basis of their conduct. And I must say that on an overall basis, I find that it is a somewhat authoritarian piece of legislation which goes much further than necessary in order to protect the needs of the community and provides far too little, indeed almost no protection for the rights of the individual.

Now, the first thing that we have to note is that, in fact, we are dealing with an issue of imprisonment of AIDS victims on the basis of their conduct. I've had it suggested by members of the government that in this instance we don't want to add words along the terms of the amendment. We don't want to provide for words of carelessness because that would criminalize the particular provision, and we don't want to add an element of criminalization with respect to this issue. Well, can you imagine that? Here we have a government presenting this very authoritarian, heavy-handed piece of legislation which infringes upon and endangers the rights of AIDS victims, and we have the government saying that we don't want to criminalize it. Here we have legislation allowing AIDS patients to be locked up, because that's what isolation is, on the basis of their conduct -- again conduct, not contagion -- and by order of a single medical doctor, not of a court, not of a public official, but by the order of a single medical doctor.

Now, let's call a spade a spade. You're allowing these AIDS victims under this legislation to be imprisoned by the order of an individual medical doctor. In fact, what you do is you give the legislation, you give to the actions, all of the consequences of criminalization. I mean, what's worse? What is the significance of criminalization other than it being an act which allows imprisonment? You give it all the consequences of criminalization, yet because of some nicety there -- we don't want to soil the legislation -- we refuse to put into the legislation the legislative safeguards that are usually there with respect to criminalization. In this instance that would be, first of all, a test of some form of willful or reckless conduct there. For crying out loud, why can't we put a safeguard in there? If we're going to allow these people to be isolated or imprisoned, why can't we set up some standard or test rather than using the subjective opinion of a medical doctor? Lord knows, most medical doctors are very, very responsible. In fact, I understand that most of them wouldn't want to have anything to do with this, wouldn't want to touch it with a pike pole. Nevertheless, there is room for abuse.

The second concern that I have with respect to a form of legislation which allows de facto criminalization and imprisonment is that there must be a prior order of a court before that act of imprisonment on the basis of conduct -- again, not contagion -- takes place. We don't have that in this legislation, and I know there's a lot of concern about that in the AIDS community. I have here a letter from the AIDS Calgary Awareness Association expressing these very concerns. So we have here in this legislation -- and I'll just point out the sections that concern me -- sections 49 and 50, which permit a medical officer of health to direct isolation of an AIDS patient by certificate without reference to a court. We have an amendment being provided now with respect to section 49(S) which is supposed to remedy this by providing an appeal to a court after the fact, which is certainly far different than providing a prior reference to a court.

Then we have the most problematic section of all, that of section 54, which allows a physician to grant an isolation order of an AIDS patient in the event the conduct of the AIDS patient is not to the satisfaction of that physician. I find that just totally unacceptable. I find it surprising that the government has proceeded with it in light of the fact that such blatant and patent defects have been pointed out so clearly.

But aside from the philosophy of it, Mr. Chairman, there are some overriding concerns with respect to the need to encourage co-operation of AIDS victims with the community and with the medical profession that are at issue here. I read a paragraph from the letter from the AIDS Calgary Awareness Association. In the middle of the second page of their letter they state:

> There is also legitimate concern that the mere threat of "quarantine" will prevent some individuals from seeking medical attention. This concern is certainly bound to be exacerbated by the proposed legislation, which appears to vest all of the power in the hands of the physician, with little or no power in the hands of the patient.

This legislation is certainly bound to make AIDS victims leery of their doctors and to harm relations rather than improve relations between them, I think it's very, very regressive in that regard.

Finally, we have section 57, which allows for any member of the community -- I like to refer to the person as the busybody -- any busybody who doesn't like the way in which his neighbour is conducting his personal life to, in this case, yes, go before a court, but to set in motion legal proceedings on the basis of their particular predilections. Finally, we have a court proceeding, and instead of the medical profession or a member of the board of health, it's the busybody that's allowed to go before a court. Now, British Columbia has dealt with this issue; they debated it thoroughly. I don't know whether the minister or the sponsor of

this Bill have checked out what went on in British Columbia. In fact, Ontario has -- I've checked the legislation, and it's very similar to British Columbia's. They both have provisions which require prior references to a court before an AIDS victim can be incarcerated or isolated on the basis of their particular conduct. Far beyond that, they require the process to be set in motion by a medical officer of health, which provides, in fact, an informal buffer of the process. It's an excellent idea, because the initial difficulty arises between the doctor and the AIDS patient. The medical officer of health can provide the buffer, the informal, nonpublic process of mediation that may be required in order to see whether the matter can be resolved at that stage.

Then further, there's a requirement that before a court process can be set in motion, the provincial medical officer of health has to be consulted and his or her permission has to be obtained. There is no provision, I would note, for any busybody to set the process in motion; it's a medical officer of health with the consent of the provincial medical officer of health. Now, that's a sensible model. It's a model that I would think would be the best model, but it's not the only model. The model that we need is one which provides some due process protection, and this piece of legislation doesn't do it.

Now, I've had some discussions with the hon. Member for Edmonton-Centre. I've discussed his amendments with him, and I think they do the job. I think they provide the due process protection that I referred to, and in light of that I'm going to support his proposals. I understand my caucus colleagues are going to do so. We're not going to present our own amendments in this instance because the amendments that are proposed do the job. But I think there's no doubt that amendment is needed; it's badly needed. And I must say that I am astonished that the government does not recognize this, because this is not just flawed, but it's obviously flawed.

In closing, what I would like to do is note that the AIDS Calgary Awareness Association has pinpointed the problem as well. I'd just like to read into the record a quote from the final paragraph of their letter -- and this is a letter to the minister -- that states:

> The Board would, however, urge you to consider amendments which would put the onus on citizens, physicians, and Public Health officials to obtain a warrant through the due process of law prior to any suspension of the freedoms of the patient.

I've been told that these amendments are going to meet any objections, that they do the job. Well, they don't even come close. You should scrap this heinous piece of legislation and go back to the drawing board, not because you aren't addressing a problem that doesn't need addressing; the problem is being validly addressed. But you do it in such an offensive manner, with such little regard for the human rights and civil liberties of the people who are involved, and with such shortsightedness that it calls your whole piece of legislation into question.

In conclusion, what I would like to do is simply state that when the day is over, what we musn't forget is that the bottom line in all of this has got to be education again. We have to get the community educated with respect to the responsibility of each and every member for his or her conduct, because that is the way in which we're going to beat this very, very difficult problem, and not by legislation, which may be necessary and may be useful in a very, very limited and isolated number of cases, but it is a very, very peripheral tool in the overall fight against this dread disease when compared to the very strong tool of education.

MR. DEPUTY CHAIRMAN: The Member for Edmonton-Avonmore.

MS LAING: Thank you, Mr. Chairman. I would like to also speak in support of this amendment. I believe it is absolutely necessary to tighten the legislation and to protect individuals against a violation of their civil rights. This amendment puts the onus on careful examination of behavior and intention rather than simple interpretation. We have to have some criteria before we make judgments. It's not good enough to say that a person has reason to believe this or that, because the consequences are so severe. So we have to have greater safeguards, and I believe that this amendment builds in those safeguards. I would urge the members of this Assembly to support this amendment.

MR. DEPUTY CHAIRMAN: The committee is going to vote on the first amendment, which in section A says:

> Section 11 is amended by adding the following after section 49(l)(a).

Member for Edmonton-Centre.

REV. ROBERTS: It would be A and B on this page, Mr. Chairman.

I'd like to add a further comment to the debate.

MR. DEPUTY CHAIRMAN: Government House Leader.

MR. YOUNG: Mr. Chairman, on a point of procedure, I would like to suggest, and in fact will do so by making a motion, that in the event of future divisions this evening in Committee of the Whole we proceed with 30 seconds of bells ringing, followed by one minute of silence, followed by 30 seconds of bell ringing.

MR. DEPUTY CHAIRMAN: It's been moved by the hon. Government House Leader that when a division is called, it'll be 30 seconds for bells, one minute for time interval, and 30 seconds for bells again. All those in favour, please say aye.

HON. MEMBERS: Aye.

MR. DEPUTY CHAIRMAN: Opposed? The motion is carried. Member for Edmonton-Centre.

REV. ROBERTS: Yes. I just hope that our colleagues in the annex, if they're listening, will get word of that two-minute interval to get here from the annex.

Just one final point, at least on this amendment. It's always struck me, since this Bill 36 was introduced, as to why wholesale debate on this did not take off in the province of Alberta as it did in British Columbia. When it was first introduced there -- I believe in 1986 or '87 -- it caused the ire of countless groups, both working with people with AIDS and all kinds of allies and concerns. The government, in fact, had to withdraw their Bill and then come back with a better amendment, which in fact includes this language. Yet despite some times which made the headlines here and has had, certainly, meetings with PACAIDS and AIDS Calgary and AIDS Network Edmonton and people have been concerned about it, it hasn't reached the proportion of debate that it did in our neighbour, sister province. Actually, though, in consulting with some people on it, in fact what I've heard them say and what I'd like to get on the record tonight is, "Well, you have to remember that in British Columbia, in Vander Zalm land, it was also the place where AZT wasn't made available for people with AIDS." It was also the land

where there was no education and caring program as this government has put forward. In fact, there are a whole number of other moves which government could have made in that province which they didn't.

Thankfully, in this province we have now funding for AZT under the proper Minister of Hospitals and Medical Care, and the minister of community health has made bold steps forward through his education and caring program. It's interesting the way, I think, political situations flow. When in fact the balance is up on one end, it helps the lower balance on the other end. So I guess our plea is that despite that, the good nature of the people who are battling AIDS in this province and their appreciation and the appreciation of all of us of government on the education and prevention side and how enlightened it has been to date . . . It would just again be a further plea that in terms of this kind of isolation legislation, it be as enlightened as the rest of the government's program in terms of treating and dealing with AIDS. I think that's part of why we haven't had a big debate here, but it would be more consistent, it would seem to me, if government would recognize that this amendment is what they need to make the legal aspect of isolation orders as enlightened and progressive as their program for prevention and education of AIDS in the first place.

SOME HON. MEMBERS: Question.

MR. DEPUTY CHAIRMAN: The question has been called on the first amendment by the hon. Member for Edmonton-Centre. All those in favour of the amendment, please say aye.

SOME HON. MEMBERS: Aye.

MR. DEPUTY CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

MR. DEPUTY CHAIRMAN: The amendment is lost.

[Several members rose calling for a division. The division bell was r u n g]

[Two minutes having elapsed, the House divided]

For the motion:

Chumir	Hewes	Piquette
Ewasiuk	Laing	Roberts
Fox	McEachern	Taylor
Gibeault	Mjolsness	Wright
Hawkesworth	Pashak	Younie

Against the motion:

Adair	Drobot	Oldring
Ady	Elliott	Payne
Alger	Fjordbotten	Pengelly
Betkowski	Heron	Reid
Bogle	Hyland	Rostad
Bradley	Jonson	Schumacher
Cassin	McClellan	Shrake
Cherry	McCoy	Sparrow
Clegg	Mirosh	Stewart
Cripps	Moore, M.	Trynchy
Day	Moore, R.	Webber
Dinning	Musgrove	Young
Downey	Nelson	Zarusky

Totals: Ayes - 15 Noes - 39

[Motion on amendment lost]

MR. DEPUTY CHAIRMAN: Member for Edmonton-Centre.

REV. ROBERTS: Thank you, Mr. Chairman. There are two more amendments to this Bill; we'd like to bring and vote on them one at a time. The second one has four parts -- sections A, B, C, D -- and begins by amending section 11 of the proposed amendments.

Basically, the concern with this set of amendments is, again, to try to tighten up something which has been left very open and loose in the whole discussion here. It really is the change from the existing Public Health Act to the current one where it just uses this phrase

> to comply with any other conditions that have been prescribed by a physician as being necessary to mitigate the disease.

Those are the words which give us real concern, that all a person needs to do or all a physician needs to do is to have any other conditions outlined and force compliance on those. What this amendment does is basically simply to say:

> to comply with specific conditions that have been prescribed by a physician from among those [conditions] set out in the regulations where such conditions are necessary to mitigate the disease or limit its spread to others.

Now, again, it just is really wanting to -- when we're playing with people's civil liberties here and playing with a very narrow part of the law, we'd like to make sure we know exactly what we're talking about and not just that there are "any other conditions" but, as this amendment states, "specific conditions" that are in the regulations. Now, I take it that some of them are going to be in the regulations anyway, and it'd be nice to see what those are. But it needs also to be here in statute.

Now, I know there's been a lot of talk about what safe sex or safer sex practices are, but that can be widely interpreted by a physician or by a patient or by other people. Is "any other condition" someone who fails to comply with the safer sex practices? I think that should be spelled out, because that's all that I've heard about, whether it's the use of a condom, or maybe some Victorian physician might think of a chastity belt or any other way to prevent the exchange of bodily fluids. Now, certainly we'd like to know more clearly what is being related to here in terms of "any other conditions" and how that's to be interpreted and how compliance on them is to be forced in this very delicate area. Again, I would say that some education of prostitutes in the province would probably be a better initiative than just leaving it wide open to "any other conditions."

Another point is that I'm interested if any members have seen the play *As Is*. It's a very gripping play produced first on Broadway in New York, and it played in Edmonton here a while ago. Anyway, it would be interesting to know whether under this current legislation the main character in the play *As Is* could be isolated for failing "to comply with any other conditions" laid out by this Bill. As I said earlier, Mr. Chairman, rather it's physicians who have been reprimanded by the college for homophobic activities. They often need education about HIV and its transmission and its prevention, and it would be better to get education to the physicians about these things than just leaving it wide open as it currently is.

The Member for Calgary-Buffalo's already read the letter from AIDS Calgary, but again, I'll just repeat how concerned

they are about the power that this leaves for individual physicians, that

> the proposed legislation empowers any and all licensed physicians to dictate any conditions they view as "necessary to mitigate the disease,"

when in fact many physicians in the province really don't know much about AIDS anyway and probably need more education about it than they need these extraordinary powers to force compliance to any other condition they might want to bring in.

Now, I'm sure that we're talking about infectious disease docs here, but it does leave it open as to a "physician or community health nurse." It's not the medical officer of health; it's not someone who's trained in infectious disease; it's any other "physician or community health nurse" that can force compliance on this. Again, it seems to me to leave the door wide open for all kinds of aberrations in the future by physicians or medications, issues around the whole compulsory testing question, and so on. Can someone or some group be brought to be compulsorily tested for HIV under this section?

Then, I guess, a final argument, Mr. Chairman, relates to the whole direction of these amendments. How is failure to comply or neglect or refusal to submit going to be monitored anyway? I mean, we've had the Oster cops and the Orman cops. I don't know if we're going to have the Dinning cops who are going to go out there and want to make sure that people are complying with certain prescribed conditions. AIDS is not an airborne disease, obviously. Sexual activity, the exchange of body fluids, is the only way that AIDS can be transmitted, and I'd like to know how it is that under this proposed legislation someone is going to be monitoring whether or not someone has failed to comply with "any other conditions." Is some medical officer of health or community health nurse or physician going to have a hidden video camera in the bedrooms of the province to see for sure that someone has failed to comply with a specific condition, or what? Now, it gets to be quite ridiculous . . . [interjection] I know. It's silly; it's just absolutely ridiculous. Because that's what this Bill says, hon. Member for Drayton Valley. It says that someone could be apprehended for failing to comply.

I think we should need to know how it is that that's going to be enforced, how it's going to be known or monitored. So it leaves that wide open. It's not as though it were tuberculosis, where it's someone going out of a room and sneezing, or has some kind of way of transmitting an airborne, infectious disease. AIDS, as an incurable infectious disease, is very different in its transmission, and so the monitoring of how it's spread and failure to comply with conditions to mitigate its spread, I think, are going to be very difficult to monitor indeed. So let's just get more specific and have the specific conditions listed in the regulations from which the conditions are here in this amendment

Thank you.

[Mr. Gogo in the Chair]

[Motion on amendment lost]

MR. CHAIRMAN: Hon. Member for Edmonton-Centre, the next amendment. Perhaps you could identify it for the Chair.

REV. ROBERTS: It has parts A and B to it. It's three pages in length.

MR. CHAIRMAN: Is that section 11?

REV. ROBERTS: Section 11, amending section 11: "The following is added after section 11."

MR. CHAIRMAN: Edmonton-Centre, please.

REV. ROBERTS: Mr. Chairman and members of the Assembly, this really is . . . It seems lengthy in terms of the language, but really the procedure is fairly straightforward from a judicial point of view. This amendment does what I think the government amendment to the amendment was trying to do, which was to provide better safeguards and better provisions for the civil liberties of people who are to be named for isolation orders.

This amendment in both parts A and B lays out the necessary judicial proceedings before a person is to be certified, apprehended, or detained. Again it's based on the model as is in British Columbia and touched on already by the Member for Calgary-Buffalo. But the procedure is quite simple, where a notice is sent to a person that they have failed to comply and that they'd better get ready for detention within five days. A person with legal counsel shall be able to appear before a medical officer of health and state their case as to why the situation is as it is or why they want to appeal the notice that's been sent to them.

Then a third step is that that person can then appeal to the director of communicable diseases for the province. Now, I put a lot of trust and faith in Dr. Gill, and feel that he would be the one that should go through this appeal process and to whom an appeal should go by someone who really feels that they have unfairly and unjustly been sent a notice.

Finally, the last stage is an appeal to the courts, the Court of Queen's Bench, for a judicial review. So it gives it a thorough sense of due process, all the appeals being heard at each step of the way, and is, in the legislation, as it is in British Columbia, consistent with anybody else's legislation around the deprivation of their civil liberties. They have due process of law before they can be certified or detained or apprehended, and despite, you might argue, that the time it's going to take to exhaust these appeal channels might be too lengthy -- so be it. Certainly if there is a bona fide case of someone willfully or carelessly spreading a disease and apprehension is clearly sought, then there really should be no problem.

As we said earlier, I know there's a battle that might be brewing between the powers of medical doctors on the one hand and the powers of the courts on the other hand, and where an individual person who's been alleged to have been spreading the AIDS virus, where they fall. But as I've heard, many doctors in the province don't want to even have those legal powers and want it to have due process of law through the courts, if this individual wants to have their case heard and have their challenge of appeal open to them as they should. So it's due process; it's what the medical officer of health in British Columbia, John Blatherwick, did conveniently through their new legislation just a few weeks ago. It complies with our Charter of Rights and Freedoms and, as we've already argued, is part and parcel of an enlightened approach to the isolation of anyone who's suspected of willfully spreading the AIDS virus.

MR. CHAIRMAN: Hon. Member for Calgary-Buffalo, on the amendment proposed by Edmonton-Centre.

MR. CHUMIR: Very briefly, Mr. Chairman, I'd like to just say this is a very, very sensible procedure that has been proposed. It

involves review before isolation, review by appointed medical officers of health in private before you require a public process. I would say that I think the medical profession -- and I know from talking to doctors and to Dr. John Gill that they don't want this kind of process. But just as a matter of common sense, what medical doctor would want to set in motion a process that might end them up in court for a couple of days, if the patient does appeal to the courts, which is allowed on an after-the-fact basis? I mean, you have a built-in discouragement to the medical profession here actually using this procedure even in an instance in which it may be justified. We're far better to have a medical officer of health involved.

Now finally, what I want to say is this, Mr. Chairman. I want to hear from the minister on this issue, because I've not heard a public statement from the minister on this. This is his Bill, and I think there is a duty to speak out on such controversial legislation and give the reasons why it has been necessary to follow this draconian process rather than follow a process which has been thoroughly debated, and much more thoroughly debated than in this province, to the west of us in British Columbia and to the east of us in Ontario. Now, why is it that we have to be pioneers on a basis that is so insensitive to the rights of AIDS patients?

MR. CHAIRMAN: Ready for the question on the amendment?

HON. MEMBERS: Question.

MR. CHAIRMAN: All those in favour of the amendment proposed by Edmonton-Centre, please say aye.

SOME HON. MEMBERS: Aye.

MR. CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. CHAIRMAN: The amendment fails.

[Several members rose calling for a division. The division bell was rung]

[Two minutes having elapsed, the House divided]

For the motion:

Chumir	Laing	Roberts
Ewasiuk	McEachern	Sigurdson
Fox	Mjolsness	Taylor
Gibeault	Pashak	Wright
Hawkesworth	Piquette	Younie
Hewes		

Against the motion:

Adair	Elliott	Pengelly
Ady	Heron	Reid
Alger	Hyland	Rostad
Betkowski	Johnston	Schumacher
Bradley	Jonson	Shrake
Cassin	McClellan	Sparrow
Cherry	McCoy	Stevens
Clegg	Moore, R.	Stewart
Cripps	Musgrove	Trynchy
Day	Nelson	Webber
Dinning	Oldring	Young
Downey	Payne	Zarusky
Drobot		

Totals	Ayes - 16	Noes - 37

[Motion on amendment lost]

MR. CHAIRMAN: Comments, questions, or further amendments to Bill 36?

The hon. Member for Edmonton-Centre.

REV. ROBERTS: I'm not going to leave any stone unturned, Mr. Chairman. I've one last amendment to section 7 of the proposed amendments.

MR. TAYLOR: You'll leave every turn unstoned?

REV. ROBERTS: Yeah, right.

I'm sure this one will beckon some response from either the Member for Stettler or the Member for Calgary-Shaw. I know they're just anxious to get on the record all of their astute wisdom as to these amendments and why they've brought them in and their defence of them.

But this one, for those of you with more tender hearts, has not to do with AIDS but has to do with part 2 of the proposed Bill 36, the part relating to the setting up of foundations. This has caused some considerable debate in our caucus, and it's a difficult one to look at. But as we know, it's a brand-new kind of area of surprise that this government brought in under Bill 36, that local boards of health may by bylaw establish a foundation. Now, it's awfully queasy, it makes me, to see that here's all this private capital, private investment, being brought to bear on health units and local boards of health as ways to, we are told, not allow government to get off their funding hook in terms of the amount of grants they supply to health units but to allow private foundations to gamer private-sector capital to help to supplement the work of health units and local boards of health.

Now, we've already had some discussion on this as to how the kind of inequities would creep in. I'm certainly sure that Calgary Health Services, with all those big oil companies headquartered down in Calgary, could have all kinds of private dollars flowing to the Calgary Health Services foundation. I'm not sure if that would be true in Peace River, for instance, and the Member for Peace River, I'm sure, would take great exception to the fact that Calgary would have all these extra services because of private dollars that would . . . [interjections]

MR. CHAIRMAN: Order. Order please.

REV. ROBERTS: Now the minister's responding. It's so good to finally be getting the minister to respond.

MR. YOUNIE: Capitalist plot to let industry buy the health services.

REV. ROBERTS: Now, there's a point for you.

But we have felt that certainly as hospitals have foundations and universities have foundations, do these kinds of things, and the promise from government -- and, of course, we will hold to the promise made by government, because they always keep their word with as much integrity as you can shake a statute at -- this is not a way for government to come in next year and have,

you know, 2, 3, or 4 percent cuts to health units or to offload government funding to health units and say to them: "Well, why don't you get your foundation to do a bit more work? I'm sure they can raise some money from major corporations or by gift or bequest or other ways to get these funds."

But as far as I'm concerned, the buck stops with section 22(3) as it's currently constructed, that "the objects of a foundation are" -- in part (b) there -- not just for what we were familiar with in terms of capital cost and the paying of equipment costs and other fixed costs. Rather, it goes into the area as well of saying "operation, maintenance and management of the local board's facilities." Now, that is completely unacceptable. Hospital foundations or university foundations as I'm familiar with them are for the express purpose of capital equipment or capital costs. On that basis, if a particular hospital or university or now health unit, for that matter, wants to build a new part of their building or buy some new equipment or have a onetime fixed cost, they can use moneys from their foundations with which to do that. That makes some sense because, through my experience in the church, people like to donate to something where they see some capital result from it: some new building, some tangible object. Whether that's through volunteer agencies or through, as I say, universities or hospitals, that's the way it is devised.

But to go on and to say that these foundations can be used also to fund the "operation, maintenance and management of the local board's facilities" is completely unacceptable. Let's say the Drayton Valley health unit wants to hire a new speech pathologist or speech therapist. Do they have to raise money from their foundation first? Or if they want to cut back on their funding to the medical officer of health in another health unit, can they say, "Well, you can have a medical officer of health, but crank up your foundation and get the funding for it," or any one of the number of core programs that are to be funded for the operation, maintenance, and management of the local board? That is not provisional or foundational. In my way of thinking, that is clearly statutory and needs to be coming from government in a universal, equitable way and be discussed as public policy and public moneys going to the public health system and the operation of it. So this amendment before us is basically to strike out those words from this proposed amendment to section 22.3(b).

Then further, we're not persuaded that because of the importance and urgency and priority that this minister, at least, and others have put on health promotion and health education and research . . . That is so important. Those are areas of such a core part of a health unit's programs that that, too, need not to be put on the sideline, open to the vicissitudes of foundational funding. That needs to be a clear part of a health unit's core funding program and supported by government and public dollars. So we're striking part (c) as well, because it is unacceptable that health promotion, again because of how well a foundation does or not, should be better in one place and not in another, or that health education or health research should have that kind of inequity creep into it. If we're going to understand the health care system when my children grow up and when our children's children grow up, then we're going to have to have a lot more core funding for health promotion and health education programs and not just let it be a last sort of item that gets funds only if the foundation has enough money in it this particular year or that. So we'd strike it insofar as we want it, and we would argue for it, to be part of the ongoing work of the operation of a board and its core programs and financing from the public purse for the best public health of the citizens of Alberta.

MR. CHAIRMAN: The amendment is in order. Hon, Member for Edmonton-Avonmore.

MS LAING: Thank you, Mr. Chairman. I would like to speak in support of this amendment. I think it has to be recognized that access to good public health services is a matter of the public good and needs to be funded by public dollars. It is not to be dependent on charitable dollars or charity. I think we have to recognize also that access to good health service is a matter of right and should not be dependent on acts of charity. It's a government responsibility, and it is not to be left to the financial capabilities of certain communities, because what we will get out of that is an unevenness of service because of an unevenness of availability of dollars and possibly even of priorities. So we need throughout this province for all of our systems in a fair society to have a consistent level of service.

I think again here how often I've heard from the volunteer sector throughout this province that they are at their limit in terms of finding charitable dollars and in finding hours to go out and find those charitable dollars. So there is a limit on the dollars available from the volunteer sector and a limit on the number of hours people have to spend raising this money.

I see this section of the Bill as a way of the government divesting itself of its responsibility to the people of this province. I think we must vote for this amendment, because we are talking about the ongoing availability of service to the citizens of this province, and that has to be a government responsibility.

MR. CHAIRMAN: Hon. Member for Calgary-Mountain View.

MR. HAWKESWORTH: Yes, thank you, Mr. Chairman. I've served on a small number of foundations in the past who have gone about the business of soliciting funds for the important work of parks and recreation and hospitals. So I think in terms of the general concept I have no particular disagreement with that.

But I do support the amendment that is on the floor this evening in that the question really becomes: what do we expect of these organizations, these local boards of health? Are they in the business of being public health organizations, or are they in the business of soliciting funding, almost like going out and being fund-raisers? Is that the business they're in? I think the answer, Mr. Chairman, is that most of those organizations see their business as being public health. That's what their mandate is; that's what their responsibility is; that's what they want to do.

[Mr. Musgreave in the Chair]

However, if we put in place these objects -- and the way the subsection is worded, Mr. Chairman, it says, "The objects of a foundation are," or in other words, "shall be," and then it lists them. So once a board has determined that they wish to establish a foundation, these are the only objects and this wording that they can adopt. There's no discretion given to a local board in any way to pick or choose amongst these three items in front of us. So what we have is that a foundation, once set up, is given the mandate to raise money for the operation, maintenance, and management: the day-to-day expenses of that local board. And that, Mr. Chairman, should not be the job of a foun-

dation. Its job should be out there getting the funds for the capital acquisitions of a board or of an organization, the construction, the equipment, the things that are sort of beyond the regular funding resources of the provincial government to that local board, those things that would be nice to have if we could find the money from the community to acquire. Those are the kinds of things that a fund-raising foundation should be in place to develop. An object to go out and raise money for the day-to-day operations of a local board just is not a proper mandate for such a foundation.

What it does is nothing more than window dressing for the minister. If a board ever comes to complain about the level of funding that they're getting, either in relation to other boards or just generally, all the minister can say is: "Well look, here's a portion of the Act which gives you the right to set up a foundation. If you don't like the level of funding that we're giving you, you go out and raise the extra from the community." So it doesn't deal with the issue, that being provincial government commitment to public health. All of a sudden it turns it over to the local board who are the potential victims of government policy and make them come up with the shortfall.

The same with object (c) identified here: "to further public health education." That's good; that's nice, but really that's the job of a local board. It's not something that they should be able to farm out to another organization. That's part of the mandate of public health in this province. It's the job that we've given to those local boards, and it's not something that they should have the expectation that they will farm out to another foundation. Because, Mr. Chairman, of this one word in 22.3: it says, "The objects of a foundation are." It doesn't leave it up to any discretion of the local board once they've decided that they wish to establish a foundation. The only discretion they have is to set up a foundation or not. Once they've made that decision, then it's spelled out for them exactly what those mandates are to be, and there is no variation on that or no opportunity to show some discretion in that regard. What I object to is that this requires them then to take their ongoing operating mandates and farm them off to these foundations.

I say, Mr. Chairman, let's keep public health organizations as public health organizations. Keep them in that business and don't confuse that mandate with the mandate of raising money to support the enhanced activities of those public health organizations. Let fund-raising foundations stay fund-raising foundations for the capital acquisition of those public health boards, and don't confuse the operating responsibilities with the local board and the foundations. Let's make a clear distinction, and that, Mr. Chairman, is what the amendment seeks to do.

SOME HON. MEMBERS: Question.

[Motion on amendment lost]

[The sections of Bill 36 agreed to]

[Title and preamble agreed to]

MR. DOWNEY: Mr. Chairman, I move that Bill 36, the Public Health Amendment Act, 1988, as amended be reported.

[Motion carried]

Bill 38
Pharmaceutical Profession Act

MR. DEPUTY CHAIRMAN: There is a government amendment.

MRS. CRIPPS: Question.

MR. DEPUTY CHAIRMAN: The question has being called on Bill 38 as amended.

Hon. for Edmonton-Centre.

REV. ROBERTS: I'm sorry; were you calling the question on the amendment?

MR. DEPUTY CHAIRMAN: I was calling the question on the Bill as amended.

Question on the government amendment.

[Motion on amendment carried]

REV. ROBERTS: Mr. Chairman, an amendment. The Pharmaceutical Profession Act is a massive piece of legislation, obviously. I know that it's been worked on for some time in many quarters, and the Member for Ponoka-Rimbey particularly and others have met with the Pharmaceutical Association and others about it. Certainly in terms of several issues not just to do with the profession as a profession and what this Act does to provide for that but a number of questions about the whole field of pharmacy and pharmaceutical research and sales is a major one. Though this Bill doesn't directly touch on some of the issues that we're being confronted with in terms of the cost of drugs, it is an issue that is causing great concern in the funding boardrooms of many private insurance companies and, no doubt, in the cabinet room of this government, particularly when it looks at its Blue Cross coverage for prescription drugs.

This amendment that we're proposing hits at one narrow section of all of this, which, of course, has to do with generic drugs. We, of course, are aware of the major debate in Ottawa all of last year around brand name drugs and the pharmaceutical legislation there and the giving of a 10-year patent to new drugs that brand name companies can bring out. But it's left up to the provinces as to the increased costs for the sale and availability of brand name as opposed to generics. So what we really want to do -- and this is, I'm sure, with the consent of the Minister of Hospitals and Medical Care, who has responsibility for Blue Cross, because he, too, wants, I'm sure, to see some cost reduction not only in Blue Cross coverage but in hospital costs for their purchase of drugs.

This really makes generic drugs or generic drug equivalents the first available option for persons, so that in section A we would strike out that they may dispense a drug or drug combination if it "is the generic or brand name equivalent of that named in the prescription" and substitute that the pharmacist

> shall use the least expensive drug or drug combination available to him that is the generic or brand name equivalent of that drug or drug combination used in the prescription.

So this, Mr. Chairman and members of the committee, comes with a lot of concern about the costs of drugs, realizing that the least expensive drug or drug combination available is what should and must be sold. The generic equivalent, where it is a generic equivalent, is going to save the public purse whether it's Blue Cross or hospitals or individual Alberta consumers hun-

dreds if not thousands of dollars if and when the pharmacist is forced to comply with the way in which they would make the first available option of the drug the least expensive equivalent of it.

Now, I know it is going to be argued by some capitalists over there that this is going to deny the free marketplace in the sale of prescription drugs. And it will, because we are are convinced that the drug marketplace is not a free marketplace, insofar as someone when they are very sick and when they are very ill and they're desperate for a cure will sometimes pay anything for it. So to have always hyped up through pharmaceutical manufacturing advertisements the fact, "Oh, you've got to get this and you've got to buy this; this is the hot one," and it's $10, $20, and sometimes even $100 more expensive than the generic equivalent, then certainly the consumer is getting ripped off, hospitals when they don't use them are getting ripped off, and Blue Cross plans and other group plans that cover the cost of drugs are getting ripped off.

We know from research that some of the major pharmaceutical houses are the most profitable. In *Fortune* magazine's 10 most profitable companies in the U.S., pharmaceutical companies are three of the 10 most profitable corporations in the United States. They put a lot of their money into advertising, and I'm sure would play on the fact that: "Oh well, don't buy that generic equivalent because it's really not a generic equivalent. There is something wrong with it. It's not the same combination, and so it's of inferior quality. It doesn't have our name on it so you're not going to get well as fast, or you're going to have some side effect that's going to be harmful." In fact, what this is saying is that the pharmacist

> shall use the least expensive drug or drug combination available to him that is the generic or brand name equivalent of that . . . named in the prescription.

So it does leave it kind of open even here. It's not forcing the sale of generics only, as I'm sure Blue Cross is going to have to move to eventually or hospitals have moved to as I've heard. It says that in the over-the-counter prescription drugs, the pharmacists shall at least have the least expensive drug made available to the person with the prescription.

So it's a major issue. I'm sure we're going to debate it at length in successive sittings of the Legislature, but we do want to raise it here and have it on the record particularly with respect to Bill 38.

MR. DEPUTY CHAIRMAN: The question on the amendment to Bill 38 as proposed by the Member for Edmonton-Centre . . .

MR. GOGO: Mr. Chairman, I think the hon. Member for Edmonton-Centre has made a very valid point. I have a Bill on notice dealing with the very same Act, and it seems to me -- and I'd like to hear from the hon. Member for Ponoka-Rimbey on this -- that supplying the equivalent in terms of generics . . . I recognize, as honourable physicians are well aware, that there's a certain reluctance by drug companies to do any degree of research as long as there's not ample protection under federal legislation whereby if people are allowed to copy or prescribe generics, the research capacity would be impaired. I don't agree with that. I think there's a great deal of advantage for a pharmacist, unless a physician has ordered no substitutes, to indeed prescribe substitutes. I think that in Alberta, where this government pays at least 55 percent of the administrative cost of Alberta Blue Cross and is by far the largest subscriber to it, the government would have a very great interest in seeing that pharmacies and pharmacists prescribed generic drugs.

I'd like to hear from the hon. sponsor of the Bill if he feels, in his view, that that's had ample consideration, Mr. Chairman.

MR. CHUMIR: Before he does so, I must say that my instincts are very supportive of this legislation as well. I'm sure there may be other facets and other views and arguments that might be presented. Accordingly, if there are at this stage, I'd certainly be interested to hear from the sponsor of the Bill or, indeed, from anybody else on the government bench.

MR. M. MOORE: Within the last three or four weeks I had a meeting with the president of the Alberta Pharmaceutical Association to discuss the very matter of the use of generic drugs. Members would be interested to know that Alberta Blue Cross has been doing considerable work in this area too as to finding ways in which they might reduce their overall costs. The pharmacy association has asked if we might work with them and Alberta Blue Cross to come up with some joint proposal that might be effective in controlling our overall costs.

So rather than sort of imposing some new method on the pharmacists in our province, we're asking them to work with us and Alberta Blue Cross to develop ways in which generic drugs might be more readily used to save costs in the entire system. That work will take place over the course of the next year or so, and hopefully we'll be able to come up with a proposal that could be considered by the Legislature or at least discussed here sometime in the future.

REV. ROBERTS: Mr. Chairman, that's very nice, and I know it's a big-ticket item in terms of what Blue Cross pays for coverage of prescription drug plans, but is the minister, therefore, saying that he's also entered into negotiations with them in terms of the sale to average Alberta consumers? That's what this amendment is getting at. It's not for people who necessarily have Blue Cross coverage or it's not for people in hospitals.

MR. M. MOORE: I wasn't even discussing your amendments.

REV. ROBERTS: Well, I'm not surprised. I just thought it would be important to have on the record the fact that it's nice to have government and Blue Cross talking with the association, but I think negotiations and discussions should have gone even further so that average Alberta consumers paying over the counter can have their pharmacist making available the least expensive drug or drug combination. When I'm Minister of Hospitals and Medical Care, that's what we're going to talk about.

MR. DEPUTY CHAIRMAN: Member for Calgary-Buffalo.

MR. CHUMIR: Yes. In noting and agreeing with the Member for Edmonton-Centre that this particular amendment does relate to average consumers, I'm still very interested in the comments of the minister that they are looking at this issue, because this issue of cost of drugs to the people of this province in terms of programs that we fund for seniors and for those on social assistance is a matter that has interested me for some time. Indeed, I've been doing some work on that myself. We spend many, many, many millions of dollars in this province, and I am not persuaded -- indeed, I am persuaded in the opposite direction -- that we're doing the best job we can in terms of getting the best value for the dollar for the people of this province. There's lots

of money to be saved.

I think I made a suggestion once during question period in respect of a review of whether or not similar savings might be available in terms of laboratory testing. I don't know, but I get a sense that there's a standardization of testing or there may be a role for savings in that area as well. So I hope that I understood the minister correctly to say that this issue of how we can get a better bang for our buck is going to be on the table, because I'm certainly going to be pushing it.

MR. JONSON: Mr. Chairman, just to comment on the amendment, I would say that I agree with one of the statements of the Member for Edmonton-Centre in that the topic he raises -- and that is, the concern over drug prices -- is for the most part outside of this Act. In the Act the current arrangements and the balance that needs to be achieved here is provided for. I mentioned in my remarks during second reading that seven out of 10 provinces in Canada have a similar provision in their professional legislation as we have here.

The main point that I wanted to add in opposition to this amendment is that the cost of drugs is a combination of a number of factors, one of which, of course, is the actual cost of the product. To illustrate what I'm talking about, recently in one of the provinces in Canada where they do have an automatic type of dispensing of generic drugs, there is a major concern over the escalation in the price of the dispensing fee. The point that I'm making is that the dispensing fee, the percentage markup on the commodity and so on, all go into the agreement or the arrangement that there is with, let's say, the provincial government involved or the Blue Cross association if one exists there, which lead to the overall agreement as to what the costs of drugs will be. To think that just by moving the automatic substitution of generic drugs is going to really address a much larger and complex problem of getting a handle on drug price increases is really not correct or really dealing with the whole problem, which I do think should be under overall review.

SOME HON. MEMBERS: Question.

[Motion on amendment lost]

MR. CHUMIR: I have a few questions that I would like to ask with respect to this legislation, if I can find my copy of the Act. I would, you know, very much appreciate it if perhaps the . . . [interjections] I can count. A three and an eight?

[Mr. Gogo in the Chair]

I'd appreciate any comments from the sponsor. I basically have questions and concerns. We've kind of exchanged opinions with respect to concerns on professional legislation on a Bill that the member introduced previously this session, so we'll kind of move on to consider a few other concerns that I have, one of which relates to section 8 and the provision for lay members to serve on the council of the pharmacy association. Obviously, lay members are intended to be there as representatives of the public interest, in a sense watchdogs; not troublemakers but just to represent the public interest. It constantly fascinates me to note that there are provisions as in this Bill under section 8 which provide that the members of the public, the so-called watchdogs, are to be nominated by the very council that they're to be watching. For the life of me I can't understand why that's in there. I'm lawyer and a member of a profession myself. Nobody likes to have other groups looking over your shoulder. It's nice and cozy and comfortable to be without those external, objective eyes, but I would like to hear why other than by way of . . .

MR. CHAIRMAN: Order in the committee, please.

MR. CHUMIR: They're clearly mesmerized by my comments, Mr. Chairman.

I would like to know, other than perhaps the council might have requested that they be given the courtesy of making the appointments or nominating the individuals, why we should have a provision like this.

I'm also concerned, Mr. Chairman, with respect to section 13, which deals with the qualifications for registration, for an individual to be registered as a pharmacist. Certain criteria are set out, such as Canadian citizenship and certain educational criteria, but then we get to paragraph (e), which says that the applicant must meet "any other requirements prescribed in the regulations." I fundamentally disagree with that. This is an issue of a person's livelihood, and I think the criteria under which a person should be entitled to practise a profession should be set out very clearly in criteria established under this legislation. Many other professions are established, and there's no need for regulations, for the private, backroom dealing. In any event, if there are to be regulations, I would like to see a copy of those regulations. I would like to see what one has in mind. The 1974 committee of this Legislature recommended that the regulations be presented with legislation where possible. So where are those regulations?

Now, also, I have had a long-standing point of view that there should be more price competition amongst professions. In fact, almost every profession in this province, with the exception now of the legal profession, which is leading the way -- now the optometric profession has joined them -- prohibits in their bylaws and regulations any form of price advertising. It's really a way of stopping competition. I know there are lots of arguments about professionalism. That issue is left to the pharmacy profession, and I note that you don't see price competition amongst pharmacists. I know that there are some arguments that small pharmacies will have problems. But it's left in here to the council to deal with by regulation or bylaw, and I predict that we're going to see exactly the same rule that's prevailed so far and no advertising.

Now, I note that there are a couple of schedules to the legislation, schedules 2 and 3. In section 2 of each of those schedules they deal with certain categories of drugs which are, I believe, nonprescription drugs, and the section states that

> no member or proprietor shall, in advertising a drug included in this Schedule, make a representation other than with respect to the name, price and quantity of the drug.

That provision is uncuriously absent in section 1, which deals with prescription drugs. The obvious intent is that there will be no price advertising. I think this is a piece of legislation which belongs in the 1970s, not a piece of legislation that's moving us into the 1990s, and I would like to hear the hon. sponsor's views on that.

Section 54(4), as I've mentioned in the context of other legislation, provides for costs to be levied against a complainant whose complaint is deemed to be frivolous or vexatious. I think time will prove my concerns to be quite valid. It'll take some heinous example to arise in that regard, but I raise it again.

Section 58(2), with respect to disciplinary proceedings, pro-

vides that they shall be held in private. I'm of mixed emotions in regards to that My general predilection is that they be held in public. An important development in that regard is the decision by the Law Society of Alberta to recommend changes to the Legal Profession Act that disciplinary proceedings with respect to lawyers be held in public. Now, it may be that there is some form of proceeding dealing with the pharmacists whereby that progressive view of the Law Society should not prevail with respect to pharmacists, but I think the issue should be debated and should be discussed. I'd like to fire an opening volley with respect to that issue of professional legislation, or at least an opening volley in this debate because I've raised it in other debates in the Legislature.

I think we should start asking ourselves these questions about proceedings taking place behind closed doors. The rule should be that proceedings of any kind, information of any kind should be made public unless you have good reason to keep it private. We have a legacy of the past where the presumption has been the absolute reverse, and what we really need to do is to get a mind-set to change that presumption and start thinking openness to begin with and then look for reasons for secrecy. We are still living in our legislation, again, with those presumptions of the 70s, the 60s, and the 50s.

Finally, I've had a question raised in correspondence with respect to schedule 3, which deals with a schedule of what are referred to as drugs, but I note that they deal with, for example, saccharin. I understand they would also cover such ingredients as Contac-C, 12-hour cold capsules.

AN HON. MEMBER: No.

MR. CHUMIR: I'm advised that I'm wrong in that regard, and I accept that I've received a letter to that effect. In any event, it includes saccharin. It includes a number of other items which I understand have been sold to date outside of pharmacies. I see some heads shaking, and I'd be appreciative of clarification. In any event, I have questions and not a representation, because I don't know what the answer to this problem is. Schedule 3 provides for drugs to be sold only in pharmacies and displayed in the professional products department. Now, there is no requirement that there needs to be approval of a pharmacist. You don't have to ask directions of a pharmacist. Perhaps it's thought that, well, if the pharmacist's there and if you have any questions, you can ask the pharmacist. And that may be. But on the other hand, the realities of life are such that if they're out on the open counter, you take them at face value and don't ask those questions. So what we have is, in fact, a pharmacy being given a monopoly with respect to the items in the sale of items in schedule 3. Now, that may very well be quite proper. I'm not saying that it isn't. What I am saying is that I have received correspondence with respect to it. I've looked at the correspondence, I've looked at the sections, and I've said, yes, in light of the fact that they are in the open, they are an over-the-counter item, that there is no requirement of involvement of the pharmacist, why is it that if they are safe products and don't require any form of interference by the pharmacist, they should only be sold in a drugstore? It's a curiosity rather than a representation in that regard.

So those would be my questions with respect to the Bill, and I'd be very appreciative of hearing some answers on those.

MR. CHAIRMAN: Hon. Member for Edmonton-Glengarry.

MR. YOUNIE: Thank you. A very quick point. In discussing the pharmacy Act with a doctor in Calgary, the doctor made the point that under existing legislation a pharmacist has the right, when a doctor does prescribe a drug by generic name, to fill the prescription with the highest cost brand name item if he so chooses, even if it seems obvious from the prescription that the doctor intended the generic name substitution can be made. According to the doctor, this has led to Alberta having the highest rate of any province in Canada of prescriptions being filled with the higher cost brand name items. Obviously, if that is the case, then we have a problem. So I would ask the sponsor of the Bill: is it the case right now that a pharmacist has the right to fill a prescription that is given the generic name on the prescription form with the highest cost brand name item? If so, how is that justifiable? Is it dealt with in the legislation we're looking at, and if so, in what way? It seems to me that when a doctor prescribes by generic name, then it's logical, in terms of what's best for consumers and taxpayers, that it be filled with the lowest cost item. It also seems logical, if you're a pharmacist in business, that you fill it with the highest cost item because your markup is a percentage. So obviously, it's something that should be dealt with in the legislation.

MR. TAYLOR: Mr. Chairman, I had some research done on this, so I couldn't let the hour go by without sharing some of it with the House. At least I can photocopy it and circulate it in the election.

Speaking on the generic drugs, it is worth while pointing out that this government could at least purchase generic drugs in its own hospitals at the same rates that B.C. and Manitoba did. It would save the Alberta taxpayers roughly $7 million a year, which is not big, but it's 6 percent of Alberta's drug bill. The other thing that bothers me about this is that I believe Alberta is one of the few provinces in the country where the druggist still gets a percentage on the price of the drug sold for his or her prescription fee rather than a set fee, which is against the professions of law or medicine. I could stand corrected, but at least a year ago they were getting paid in percentages rather than straight fees except in some of the chain stores.

So I think the Act is totally inadequate, Mr. Chairman. They have not done their homework. Of course, for something like this it's so hard to figure just where to attack it. For instance, generic drugs have only 1.3 percent of Alberta's $120 million market, whereas the average generic drugs in the other western provinces have 7 percent of the total market. So this is strictly a province where druggists love to come to hide because they are so protected -- not druggists themselves but the drug producers.

All in all, Mr. Chairman, seeing as I only have a couple of minutes left, I wanted to record that it's a shame the way the taxpayers are ripped off -- the patients not so much because a lot is covered by government -- all in the name of so-called free enterprise. But really what it is is a hunting licence, not a prescription licence.

MR. CHAIRMAN: Are you ready for the question on Bill 38 as amended?

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: Hon. Member for Ponoka-Rimbey.

MR. JONSON: Mr. Chairman, I should probably spend some time with the Member for Calgary-Buffalo to deal with these in

detail.

MR. NELSON: Agreed.

MR. JONSON: And the Member for Calgary-McCall agrees with me.

Very quickly, the topic that was just raised really bears upon the whole area of review of drug costs, and as I've said before, it goes far beyond the provisions of this Act. There was the concern raised about previous legislation. I don't know if it's relevant to this discussion, but it was technically possible for that type of dispensing of a more expensive drug than was prescribed to take place. But if that sort of thing was proven to be occurring, I'm sure that would have been a matter for the disciplinary provisions of the previous legislation as far as the pharmacists were concerned.

I think, Mr. Chairman, the remarks regarding schedule 3 have been covered in the debate on second reading. But schedule 3 is a very limited number of drugs which have potential harmful effects to patients who purchase them without pharmaceutical advice. They are a very limited number. I think the complaint that was referred to came at a time when it was thought by drug manufacturers and suppliers that there was a much longer list of more commonly used drugs than actually ended up on schedule 3. I believe those concerns have been allayed in this proposed Bill.

Perhaps the lawyers can lead the way in terms of moving disciplinary hearings into the private venue. However, I would suggest to the Member for Calgary-Buffalo that there are some good and beneficial reasons for these hearings being held in public. Quite often there is a rehabilitative process, a counseling process, which takes place over minor disciplinary matters which, if they were held in public, would be blown out of all proportion and be very harmful to the future of an otherwise competent person.

We've had the debate before on section 54.4 over "frivolous and vexatious," and I believe that has been dealt with and answered too.

The final two comments. The whole matter of price advertising can be long debated, but there is another point of view on the advertising of drugs, and that is that this is not something that should be used as a loss leader or promoted. We do not want that kind of reputation to surround the whole business of selling drugs, particularly those in schedules 1, 2, and 3. Finally, the provision for the association to nominate representatives of the public is a standard one. It has worked out quite well. It usually leads to very well-qualified people, who have the confidence of the association, being appointed to their council.

MR. CHAIRMAN: Are you ready for the question?

HON. MEMBERS: Question.

[The sections of Bill 38 agreed to]

[Title and preamble agreed to]

MR. JONSON: Mr. Chairman, I move that Bill 38 as amended be reported.

[Motion carried]

MR. YOUNG: Mr. Chairman, I move that the committee rise and report.

[Motion carried]

[Mr. Speaker in the Chair]

MR. GOGO: Mr. Speaker, the Committee of the Whole has had under consideration and reports Bills 29, 31, 35, 36, and 38 with some amendments.

MR. SPEAKER: Does the House agree with the report?

HON. MEMBERS: Agreed.

MR. SPEAKER: Opposed? Carried. Thank you.

CLERK: Government Bills and Orders for third reading: Bill 21.

MR. SPEAKER: Let's pause for just a moment. Bill 55 was done earlier?

MR. YOUNG: Mr. Speaker, if I'm understanding the conversations correctly, I believe Bill 55 was dealt with in the afternoon and reported in the afternoon, so it's already been reported.

MR. SPEAKER: We'll check; in the meantime, we'll assume it's true.

MR. YOUNG: We went out of committee this afternoon.

MR. SPEAKER: Thank you.

GOVERNMENT BILLS AND ORDERS
(Third Reading)

Bill 21
Employment Standards Code

[Adjourned debate on amendment to third reading, June 27: Dr. Reid]

MR. YOUNG: Mr. Speaker, I move that debate on this Bill shall not be further adjourned.

SOME HON. MEMBERS: Question.

MR. SPEAKER: Call for the question with respect to Standing Order 21. Those in favour, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: Carried. Division.

[Several members rose calling for a division. The division bell was rung]

[Eight minutes having elapsed, the House divided]

MR. SPEAKER: Before we have the division, would you remove that offensive article from the Chamber, please. I'm not pointing at a member. The coat. Thank you. It's not a cloakroom.

For the motion:

Adair	Getty	Oldring
Ady	Heron	Payne
Alger	Hyland	Pengelly
Betkowski	Johnston	Reid
Bogle	Jonson	Rostad
Bradley	McClellan	Schumacher
Cassin	McCoy	Shrake
Clegg	Mirosh	Sparrow
Cripps	Moore, M.	Stevens
Day	Moore, R.	Stewart
Dinning	Musgreave	Webber
Downey	Musgrove	Young
Drobot	Nelson	Zarusky

Against the motion:

Chumir	Laing	Roberts
Ewasiuk	McEachern	Sigurdson
Fox	Mjolsness	Taylor
Gibeault	Pashak	Wright
Hawkesworth	Piquette	Younie
Hewes		

Totals: Ayes - 39 Noes - 16

[Motion carried]

MR. YOUNG: Mr. Speaker, there's been discussion among House leaders, with the recommendation that I now make with this motion, that any future divisions of the Assembly this evening should proceed with a 30-second ring, a one-minute space of silence, followed by a 30-second ring.

MR. SPEAKER: A space of silence. We should be so lucky.

All those in favour of the motion, please say aye.

HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no. Carried.

The Minister of Labour adjourned the debate.

DR. REID: Mr. Speaker, at the time I adjourned debate, I had just started to talk on the amendment that was put forward by the Member for St. Albert, the amendment regarding returning the Bill to the committee stage to discuss benefits being prorated for part-time workers on an equivalent basis to those for full-time work. This is a matter that was discussed at very considerable length by the committee which I chaired, the committee with three members from organized labour, three members from management, three from the general public, and myself.

During those discussion and talking and talking to other people who are experts on this matter, it became obvious that while there is obviously an attractiveness to this concept, it is not just a matter of the expense to the employer and the benefit to the employee. It is in some cases the absolute impossibility of prorating the benefits. Indeed, Mr. Speaker, on that committee there was considerable discussion about this matter. The difficulty is that whereas certain items can be prorated -- and pensions are the obvious one and, indeed, are already covered by the private pensions Act -- there are other benefits where prorating is extremely difficult. It is difficult enough even where the part-time worker works a regular amount of hours in the course of the week or the two weeks or the month of the pay period.

The greatest difficulty, however, is with the irregular part-time worker. What is the difficulty? It is that where there is a premium paid for a fixed benefit such as dental insurance and others, to prorate the premium will result in a prorated benefit. When the premium is prorated on an irregular basis, then the benefit would also be prorated on an irregular basis. What would happen is that in the case of dental insurance . . .

MR. SPEAKER: Order, please, in the House. It's not a time for interruptions [inaudible].

Minister.

DR. REID: Thank you, Mr. Speaker.

In the case of dental insurance, if treatment were started one week, it would be conceivable that the benefit that week might be different from the following week, when the treatment was concluded. One can see that in those circumstances the insurance companies would refuse to carry the coverage and, indeed, would do so. If the concept that has been addressed by the Leader of the Opposition and others was accepted and put into the legislation, then the only way that the employer could conform with the legislative requirements would be to withdraw the coverage for the full-time employees. Now, that is manifestly not what anyone in this Assembly would wish.

The difficulty is that in putting forward amendments such as are suggested here, if it was to be considered at committee stage and to be adopted, one would not be ensuring that the part-time workers got prorated benefits if it was possible to do so. One would almost guarantee that one was ensuring that the full-time employees would probably lose a benefit they already had, because the insurance companies would be unable to deliver the benefit for the part-time employees. The result of this would be that instead of extending a benefit to those who do not have the benefit, one would in actual fact be removing that benefit from those who already have it. Mr. Speaker, if that is honestly what the opposition would be proposing were we to return the Bill to committee stage, then I think most reasonable people would agree that that was not a good suggestion to be making, and I'm quite sure that the Assembly would not accept it. In view of that, Mr. Speaker, there would be little point in referring the Bill back to the committee for the purpose of the amendment put forward by the hon. Member for St. Albert last week.

Mr. Speaker, it is true that there are some benefits that can be prorated, as I said, and the provisions are in the Bill, by regulation, for any provision in the statute to be applied on a restricted basis or on a broad basis. Where it is possible to purchase a benefit package on that prorated basis, then it may well be done by regulation as times permit, as the economy permits. But it will have to be done with considerable sensitivity to make sure that in no case does the requirement for provision of prorated benefits result in the insurance company or whoever it might be that was offering the service withdrawing the service for the full-time employees. That is not the purpose of the Bill, and it certainly would run counter to the concept that most Albertans, have of fairness and equity. On that basis, Mr. Speaker, I would recommend to the members of the Assembly that they reject the amendment as put forward by the Member for St. Albert.

MR. SPEAKER: Under Standing Order 21 the provision applies. We now vote on the amendment with respect to Bill 21 as proposed by the Member for St. Albert at third reading.

Those in favour of the amendment, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: Defeated. Division.

[Several members rose calling for a division. The division bell was rung]

[Two minutes having elapsed, the House divided]

For the motion:

Chumir	Laing	Roberts
Ewasiuk	McEachern	Sigurdson
Fox	Mjolsness	Taylor
Gibeault	Pashak	Wright
Hawkesworth	Piquette	Younie
Hewes		

Against the motion:

Adair	Gogo	Oldring
Ady	Heron	Payne
Alger	Hyland	Pengelly
Betkowski	Johnston	Reid
Bogle	Jonson	Rostad
Bradley	McClellan	Schumacher
Cassin	McCoy	Shrake
Clegg	Mirosh	Sparrow
Cripps	Moore, M.	Stevens
Day	Moore, R.	Stewart
Dinning	Musgreave	Webber
Downey	Musgrove	Young
Drobot	Nelson	Zarusky
Getty		

Totals:	Ayes - 16	Noes - 40

[Motion on amendment lost]

MR. SPEAKER: Those in favour of third reading of Bill 21, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: Carried. Division.

[Several members rose calling for a division. The division bell was rung]

[Two minutes having elapsed, the House divided]

For the motion:

Adair	Gogo	Oldring
Ady	Heron	Payne
Alger	Hyland	Pengelly
Betkowski	Johnston	Reid
Bogle	Jonson	Rostad
Bradley	McClellan	Schumacher
Cassin	McCoy	Shrake
Clegg	Mirosh	Sparrow
Cripps	Moore. M.	Stevens
Day	Moore, R.	Stewart
Dinning	Musgreave	Webber
Downey	Musgrove	Young
Drobot	Nelson	Zarusky
Getty		

Against the motion:

Chumir	Laing	Roberts
Ewasiuk	McEachern	Sigurdson
Fox	Mjolsness	Taylor
Gibeault	Pashak	Wright
Hawkesworth	Piquette	Younie
Hewes		

Totals:	Ayes - 40	Noes - 16

[Motion carried; Bill 21 read a third time]

MR. YOUNG: Mr. Speaker, as discussed with the respective House leaders, I would now seek the unanimous consent of the members of the Assembly to revert to Presenting Reports by Standing and Special Committees.

MR. SPEAKER: Those in favour of the motion, please say aye.

HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no. Carried Thank you. Member for Drumheller.

head: PRESENTING REPORTS BY STANDING AND SPECIAL COMMITTEES

MR. SCHUMACHER: Mr. Speaker, the committee on Private Bills has had the following Bill under consideration and recommends that it be proceeded with: Bill Pr. 16, Leslie Roy Peck Adoption Act.

Mr. Speaker, the committee on Private Bills has had the following Bill under consideration and recommends that it be proceeded with with some amendments: Bill Pr. 7, The Alberta Conference of the Seventh-day Adventist Church Act.

The committee on Private Bills has further had the following Bills under consideration and recommends that they not be proceeded with: Bill Pr. 10, Brandon Paul Lumley Limitation Act, and Bill Pr. 18, Donald Roy Deen Compensation Act.

I request the concurrence of the Assembly in these recommendations.

MR. SPEAKER: Does the Assembly concur?

SOME HON. MEMBERS: Agreed.

MR. SPEAKER: Opposed please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: Carried.

head: **PRIVATE BILLS**
(Second Reading)

Bill Pr. 1
Royal Canadian Legion Alberta Property Act

MR. GOGO: Mr. Speaker, I move second reading of Bill Pr. 1, Royal Canadian Legion Alberta Property Act.

MR. WRIGHT: Mr. Speaker, the Royal Canadian Legion, as we all know, does some very good work. In my constituency, for example, it has an excellent home for the elderly. We all know the good services rendered to veterans and ex-servicemen generally. It is in receipt of public money, however, and in petitioning us for a private Bill, it asks us to make an exception to the law for them, in this case in a way which further shields them from taxation that falls upon some others.

I ask all right-thinking members of the Assembly not to vote for this Bill for the reason that this organization, excellent though it may be and, indeed, in recent years progressive though it may be, has in its bylaws a totally shocking and unacceptable clause. Until it gets rid of that clause, we should not accommodate it. People who come to our Assembly must come with clean hands, Mr. Speaker, when they ask for our indulgence. The clause reads as follows:

> No anarchist, communist or fascist, shall be permitted to become a a member, nor shall any person, who advocates the destruction by force of the duly constituted government of the country where his branch or post may be, or any person proven to advocate, encourage or participate in subversive action or subversive propaganda be permitted to become a member.

SOME HON. MEMBERS: Hear, hear.

MR. WRIGHT: When taxed with that . . . "Hear, hear," they say. "Hear, hear." That's the measure of these troglodytes in conclave assembled. Disgusting. There were Communists who fought for this country in the last war. Communists were our allies against the fascists. Some of them had fought before that against the fascists in Spain, and to deny them membership in a publicly supported body like this is disgusting, Mr. Speaker.

It is true that at the annual meeting this year, there is a motion on the proceedings of this organization to expunge that . . .

MR. SPEAKER: Order in the whole House, please.

MR. WRIGHT: . . . provision from their bylaws. It can't stand with our Charter of Rights anyway. But until that is done, we should not accommodate them, Mr. Speaker. They say, "Well, we don't enforce it." Well, they do, because I myself want to become a member of the Legion. I admire it, and I'm an ex-serviceman. But I will not subscribe to an oath which requires me to deal with those matters. It's wrong. So I move that further consideration of this Bill be postponed until that clause is removed from the bylaws of the petitioner.

MR. SPEAKER: Is the motion to be construed as a six-month hoist? Because you're asking for something . . .

MR. WRIGHT: I believe it is in order to move to postpone consideration of a Bill until a time to be determined by a certain event in the future, Mr. Speaker.

MR. SPEAKER: A six-month hoist, yes, but not with this particular part to it. So the Chair would regard it as a six-month hoist.

MR. WRIGHT: I can turn it into a six-month's hoist, but I believe the motion as proposed is in order, Mr. Speaker. I would stand corrected.

MR. SPEAKER: Could I have the written form of the amendment, please?

MR. WRIGHT: Certainly.

MR. SPEAKER: The House is adjourned briefly.

[The House adjourned from 12:17 a.m. to 12:22 a.m.]

MR. SPEAKER: The Assembly is now reconvened.

The proper form of the amendment is this; it is a six-month hoist: that Bill Pr. 1, the Royal Canadian Legion Alberta Property Act, be not now read a second time but that it be read a second time, this day, six months hence.

SOME HON. MEMBERS: Question.

MR. SPEAKER: There is a call for the question.

Member for Edmonton-Gold Bar.

MRS. HEWES: Mr. Speaker, I just want to make a couple of statements in regard to this one. I was quite prepared to support this Bill. As we all know, the Legion is a very reputable organization and has served our communities well over many years and certainly is made up of veterans who have served the nation, so it is with great regret and reluctance that I hear of this part of their constitution. I was not aware of that fact before tonight, Mr. Speaker. I think it is one that comes as a great surprise to many of us in this House. However, the matter has been raised, and it's not going to be made to go away or vanish. I believe that in the interest of fairness to the Legion we owe it to ourselves and to Legion members and organizations to give them an opportunity to talk with us about their intent in regard to this section. I would certainly like that opportunity, having now heard it read in.

As I say, it comes as a shock to me, and it leaves me with a great dilemma because I had intended to support this. Now, having heard it, I would welcome an opportunity, as I think many of us would, to talk with our friends and colleagues in the Legion to determine what they believe about this, because many of them themselves may not be totally aware of what this means and what their constitution contains.

MR. SPEAKER: Thank you.

MR. CHUMIR: I have a similar perspective, Mr. Speaker. I'm very, very supportive of the Legion and what members of the Legion have done and continue to do for the community and would like to see this legislation passed and am prepared, all other things being equal, to support this Bill.

I must say that I was very surprised to hear the comments of

the Member for Edmonton-Strathcona, who has raised a significant issue for this House with respect to political freedoms and the Charter of Rights. This is a matter that particularly concerns myself with a background in civil liberties. There is an issue of exemption from public taxation, and it raises a broader issue of public policy that I would like to see considered on a global basis and not simply on the narrow basis of the Canadian Legion.

Nevertheless, we are faced on very short notice with having to make a decision as to what is the proper thing to do at this time. Now, I'm prepared to accept from the Member for Edmonton-Strathcona his statement that the Legion is looking at it, is at the 12th hour, hopefully, of changing that in some way. I would like to see more information. I would like to discuss it with friends who are involved in the Legion in Calgary. I think perhaps a period of six months would be a proper breathing spell, keeping in mind that in principle this is legislation that we would very definitely support but that this is a complication that goes beyond and transcends the narrow issue here and the Legion itself as an organization and raises a question of public policy that should be reviewed and discussed and not decided hastily.

Thank you.

MR. SPEAKER: Government House Leader.

MR. YOUNG: Mr. Speaker, just very briefly. My understanding is -- and I am somewhat in the same position as a number of members this evening in not having been aware of this -- that it is in their bylaws. It is not something we are legislating, but rather the concern being expressed is that we're legislating on behalf of the Legion despite this being in their bylaws. We would, if you will, with this Bill be doing them a favour.

Mr. Speaker, I find myself in this position. I've heard from the hon. Member for Edmonton-Strathcona that apparently during the committee study of the Bill he satisfied himself that the Legion was at least going to be looking at the matter that is giving him the problem. I have worked with the Legions in my riding for a long time. They do very good work. The people are of first-rate quality, the salt of the earth, if you will, and better. I think that having regard to their initiatives, I would not like to see the Bill delayed. If we were legislating in a way that legislated that offensive statement -- from the point of view of Edmonton-Strathcona's position -- into statute, then I would be much more concerned. But given that they are looking at it, I would encourage all members to support the Bill this evening and not to proceed with the hoist. I especially call to the attention of members that it has had the support of the majority of the committee, and this development at this hour does surprise me a bit.

MR. SHRAKE: Mr. Speaker, I think there's some misinformation coming out here tonight. To be a member of the Legion -- the Legion was originally formed back shortly after the First World War; that's when the Legions really got going. We were so very proud of the ones that went off and fought for our country. The object of the Legion was to provide a meeting place, for the benevolence of the members. As well, later it changed, and they did a lot of community work. They give away thousands of dollars every year; every Legion in this province does that. But the Legions were formed for members of the Canadian forces who fought for Canada, not for forces that fought for Spain or fought for the Communist cause in any country, anywhere, anyhow. You may be a member of the Legion . . .

MR. McEACHERN: That's not the issue.

MR. SHRAKE: That was an issue that was raised . . .

MR. SPEAKER: Order please, hon. member, Perhaps now, after those introductory remarks, you could deal with the amendment, the six-month hoist, please. That's the narrow focus.

MR. SHRAKE: I'll just conclude then. I don't think there's any need to put this off for six months, because if you want to be an associate member of the organization, you may be. If you are a former member of the military of this country, you can join the Canadian Legion.

SOME HON. MEMBERS: Question.

MR. SPEAKER: There's a call for the question.

The amendment is with regard to the six-month hoist of Bill Pr. 1.

[Motion on amendment lost]

MR. SPEAKER: The question with regard to Pr. 1. May the member conclude?

MR. GOGO: Mr. Speaker, I'd like to close debate on this. I think it's unfortunate that some of the things have perhaps not been said but certainly inferred. I think hon. members should be aware that we're talking about a group that has some 600,000 members in this country. As the hon. Member for Edmonton-Strathcona knows, many of them, including himself, fought for democracy, for the very right to stay here tonight to do the things we're doing at this hour. They're the people who did it for us. I recall vividly not very long ago, when the 60th anniversary of the Royal Canadian Legion hosted in this city was entertained by this Chamber, and we as members signed the articles of faith. Where were we then? Why didn't we question it then?

MR. WRIGHT: Why didn't you?

MR. GOGO: Why didn't we question it then, hon. member? For hon. members who take an oath to the Queen, I hope they note the word "royal" is only granted by Her Majesty the Queen.

MR. McEACHERN: So?

MR. GOGO: That's fine, Edmonton-Kingsway. I know where you stand about the monarchy. But that's not what we're talking about; we're talking about a very simple request by a very honourable organization, 264 branches throughout this province, that stands for very great principles, has a proud record. By inference tonight . . .

MR. McEACHERN: What a lot of nonsense.

MR. SPEAKER: With due respect, hon. member.

MR. McEACHERN: He's accusing me of things . . .

MR. SPEAKER: Hon. member, perhaps you'd adhere to Standing Orders and not interrupt the member while he's speaking unless you have a point of order. Four times is enough. Once more, and I think I'll have you take a hike for pizza.

Hon. member.

MR. GOGO: By inference tonight, Mr. Speaker, it seems to me, unless I'm unique in hearing this, people are casting aspersions. With respect, sir, it's like the lawyer in the courtroom prosecuting and saying, "I don't think we should find the hon. member guilty of this crime simply because he's been guilty of wife battering or because he was convicted twice of bank robbery. But, members of the jury, I do think we should consider it." It's the same kind of thing we're talking about tonight.

If hon. members can't stand proud for the people who fought for this country to preserve democracy without the innuendo that they somehow have within their bylaws something that's contrary to democracy, then they'd better stand up and say it, then, and not just give innuendos. The Royal Canadian Legion, the northwest command, is asking for very little here. If we have faith in our committee of this House, we should accept their recommendation, and I think that we should certainly pass this Bill at second reading.

MR. SPEAKER: All those in favour of second reading of Bill Pr. 1, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: Division.

[Several members rose calling for a division. The division bell was rung]

[Two minutes having elapsed, the House divided]

For the motion:

Adair	Getty	Oldring
Ady	Gogo	Pashak
Alger	Hawkesworth	Payne
Betkowski	Heron	Pengelly
Bogle	Hewes	Piquette
Bradley	Hyland	Reid
Cassin	Johnston	Roberts
Chumir	Jonson	Rostad
Clegg	McClellan	Schumacher
Cripps	McCoy	Shrake
Day	Mirosh	Sparrow
Dinning	Mjolsness	Stevens
Downey	Moore, M.	Stewart
Drobot	Moore, R.	Taylor
Elliott	Musgreave	Webber
Ewasiuk	Musgrove	Young
Fox	Nelson	Zarusky

Against the motion:

Gibeault	McEachern	Wright
Laing	Sigurdson	Younie

Totals: Ayes - 51 Noes - 6

[Motion carried; Bill Pr. 1 read a second time]

Bill Pr. 2
Canada Olympic Park Transfer of Title Act

MR. STEWART: Mr. Speaker, I move that Bill Pr. 2, Canada Olympic Park Transfer of Tide Act, be now read a second time.

[Motion carried; Bill Pr. 2 read a second time]

Bill Pr. 3
Paul Mark and
Cheryl-Lynne Mary Ibbotson Adoption Act

MR. PENGELLY: Mr. Speaker, I move that Bill Pr. 3, Paul Mark and Cheryl-Lynne Mary Ibbotson Adoption Act, be reported.

MR. SPEAKER: Hon. member, read a second time?

MR. PENGELLY: Yes.

MR. SPEAKER: Thank you.

MR. GIBEAULT: Mr. Speaker, I intend to support Bill Pr. 3 because I and my colleagues on this side are people who believe in trying to support families. You know, we get a lot of rhetoric on the other side here about being pro family and so on; yet while we're proposing to support Bill Pr. 3 and some of the other Bills like Pr. 16, adoption acts, which are quite common, the Conservative members of the Private Bills Committee took it upon themselves to decline to recommend Bill Pr. 5. [interjections]

MR. SPEAKER: Order. Order please. [interjection] Order please, hon. member. It is highly irregular to be commenting upon what transpired within the committee, especially once [interjections] the House has given concurrence to the report. It is now inappropriate for a member of the committee to be making the comment which the Chair thought it was hearing in the last number of minutes. Perhaps the Member for Edmonton-Mill Woods will now speak directly to Pr. 3 and that Bill only.

MR. GIBEAULT: Yes, Mr. Speaker. I want to support this because I think when people come to the Legislature asking for an adoption to support legally what has taken place in their family over the course of some period of time, we as legislators ought to support that. I simply want to indicate my regret that we're not having Bill Pr. 5 added to this list here.

SOME HON. MEMBERS: Order.

MR. SPEAKER: Order. Thank you, hon. member. I'm sorry; Pr. 3 only. This is the second time of asking. If you violate it once more, you've lost your chance to speak.

SOME HON. MEMBERS: Question.

[Motion carried; Bill Pr. 3 read a second time]

Bill Pr. 4
Warren S. Forest Bar Admission Act

MR. NELSON: Mr. Speaker. I would move second reading of the Warren S. Forest Bar Admission Act.

MR. SPEAKER: Is there a call for the question or any other amendments?

HON. MEMBERS: Question.

[Motion carried; Bill Pr. 4 read a second time]

Bill Pr. 6
Old Sun Community College Act

MR. SCHUMACHER: Mr. Speaker, on behalf of the Member for little Bow I move second reading of Bill Pr. 6, Old Sun Community College Act.

[Motion carried; Bill Pr. 6 read a second time]

Bill Pr. 7
The Alberta Conference of the Seventh-day Adventist Church Act

MR. OLDRING: I move second reading, Mr. Speaker, of Bill Pr. 7.

HON. MEMBERS: Question.

MR. SPEAKER: There's a call for the question with regard to Bill Pr. 7. Those in favour of second reading, please say aye.

HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no. Order in the House, please. The motion is carried.

MR. TAYLOR: Was it Pr. 7 or Pr. 8 that they just . . .

MR. SPEAKER: Pr. 7, hon. member.

MR. TAYLOR: Pr. 7 is not in the list to be second read, though.

MR. SPEAKER: It came in the variance of procedure. Thank you.

[Motion carried; Bill Pr. 7 read a second time]

Bill Pr. 8
Rosebud School of the Arts Act

MRS. McCLELLAN: Mr. Speaker, I would move second reading of Bill Pr. 8, Rosebud School of the Arts Act

[Motion carried; Bill Pr. 8 read a second time]

Bill Pr. 12

Canadian Southern Baptist Seminary Act

MR. ALGER: Mr. Speaker, I move that Bill Pr. 12, the Canadian Southern Baptist Seminary Act, be read a second time.

[Motion carried; Bill Pr. 12 read a second time]

Bill Pr. 16
Leslie Roy Peck Adoption Act

MR. ADY: Mr. Speaker, on behalf of my colleague the hon. Member for Olds-Didsbury, I'd like to move that Bill Pr. 16, the Leslie Roy Peck Adoption Act, be read a second time.

[Motion carried; Bill Pr. 16 read a second time]

Bill Pr. 19
Calgary Municipal Heritage Properties Authority Amendment Act, 1988

MRS. MIROSH: Mr. Speaker, I move that Bill Pr. 19, Calgary Municipal Heritage Properties Authority Amendment Act, 1988, be read a second time.

[Motion carried; Bill Pr. 19 read a second time]

Bill Pr. 20
Maskwachees Cultural College Act

MR. JONSON: Mr. Speaker, I move that Bill Pr. 20, the Maskwachees Cultural College Act, be read a second time.

[Motion carried; Bill Pr. 20 read a second time]

[On motion, the Assembly resolved itself into Committee of the Whole]

GOVERNMENT BILLS AND ORDERS
(Committee of the Whole)

[Mr. Gogo in the Chair]

MR. CHAIRMAN: Would the Committee of the Whole please come to order.

Bill 39
Insurance Amendment Act, 1988

MR. CHAIRMAN: Any comments, questions, or amendments to this Bill?

MR. WRIGHT: Mr. Chairman, this Bill is good in principle and is in fact wholesome in principle. It falls down in the execution badly, though, because the meat of the Bill is a delegation of certain powers from the superintendent of insurance to the four counselors that have been set up -- and that's a good thing; it's self-regulation and all that -- but the powers have not been set out. What is to be delegated has not been set out. What these counselors are to do has not been set out. They're to be set out in the regulations. To be frank about it, the minister has acknowledged that this is a defect and is quite aware of it, and these things cannot always be expedited even by a minister, it seems.

But I must reiterate -- I feel that I'm too often having to say this -- that this government at an earlier phase of its existence, about 14 years ago, came out with some rules about regulations.

It said a set of proposed regulations should accompany new Bills, That's all the more important when the very meat of the Bill is to be contained in the regulations. Furthermore, this Bill provides that it is an offence to make "in any form provided for in regulations . . . a false or misleading statement or representation" or deliver "incomplete or inaccurate" information. So we're making something an offence that we don't know the details of, and that, too, is offensive. I understand that the minister does have a way of trying to make this half decent, Mr. Chairman. I won't waste the committee's time by carrying on about it. I just think it's bad, and we as an Assembly shouldn't be asked to vote on Bills that are incomplete in their essentials.

MS McCOY: Mr. Chairman, I would like to say simply that the hon. Member for Edmonton-Strathcona and I have discussed this matter. The regulations are being developed in full consultation with the insurance industry, representatives from all aspects of that industry, and my department. A discussion draft has not yet been prepared, but I have said to the hon. member -- and I will say it publicly -- that when a discussion draft is available, I will present him with one and will seek his comment on that draft.

[The sections of Bill 39 agreed to]

[Title and preamble agreed to]

MS McCOY: Mr. Chairman, I move that Bill 39 be reported.

[Motion carried]

Bill 40
Miscellaneous Statutes Amendment Act, 1988

MR. CHAIRMAN: Are there any comments, questions, or proposed amendments to this Bill?

Hon. Member for Edmonton-Strathcona.

MR. WRIGHT: Yes. A good Bill, Mr. Chairman.

MR. CHAIRMAN: Are you ready for the question?

SOME HON. MEMBERS: Question.

[The sections of Bill 40 agreed to]

[Title and preamble agreed to]

MR. YOUNG: On behalf of my colleague Mr. Horsman I wish to move that Bill 40 be reported.

[Motion carried]

Bill 41
Gas Resources Preservation Amendment Act, 1988

MR. CHAIRMAN: Are there any comments, questions, or amendments to this Act?

Hon. Member for Calgary-Forest Lawn.

MR. PASHAK: Yes, Mr. Chairman. I think we had agreed that the standard procedure is to do section-by-section study. I mean, that's a practice that's often followed in this Assembly. I'd just like to move down, if we may follow that procedure, to section 4 of the Gas Resources Preservation Amendment Act itself. Section 4 of the amendment deals with an addition, 13.2, which is a whole new section that would be added into the existing Gas Resources Preservation Act. Is the minister with me on this? Just to double-check. Okay.

I think that what we've agreed to is that we could vote on that section of the Bill itself, as to whether we accept it or not. I'm in favour of the principle of this Bill but not in favour of this section 4 as it's proposed. I think the powers that are presented here are far too broad; they're far too sweeping. Just to illustrate, we could turn to 13.2(1) in the proposed addition, which says, "Except as provided in the regulations, a person who is or was engaged in the administration of this Act shall not" do certain things. Earlier this evening one member of the Assembly mentioned that there was a select committee report back in 1974, I believe, that brought to the attention of members of the Assembly that far too many regulations were not brought forward at the time Bills were introduced. I might just read that section of the select committee report. It recommended that

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

That's not done here. So that's one of my reservations about 13.2.

But the major concern I have, Mr. Chairman, is with 13.2(4), the section that reads:

> Notwithstanding any other Act or law, no person who is or was employed or engaged in the administration of this Act shall be required, other than in proceedings relating to the administration or enforcement of this Act, to give evidence relating to any record, return or other information furnished under this Act or to produce anything containing that record, return or other information.

Now, I understand the intent of this section. It's clearly that the minister, in the other parts of the Bill, is asking companies to provide a fair amount of confidential information in order that we can be assured that gas removal permits and the removal of gas more generally from the province is done according to the government's intent, and they can't enforce this unless they have the kind of information they've asked for in other sections. But the question here, Mr. Chairman, is whether they need such a -- and we've used this term as well a number of times this evening -- draconian measure. Because as I read this, it would put that information out of the hands of any other court or whatever, and I think that goes too far. There should be some opportunity in other situations to have access to that information. It shouldn't be held that secretively.

I'd just like to point out that in terms of the role I perform for our caucus as an energy critic, I often feel completely stymied in this role because I cannot get information with respect to removal contracts that I think would help to allow for a better debate and a better discussion of these issues. In fact, that's one of the reasons why earlier in the year I introduced a freedom of information and right to privacy Bill. I think governments operate in much too secretive a manner.

So, Mr. Chairman, essentially those are my reasons. I think there's perhaps, as well, enough protection already provided for the government in terms of releasing information under section 20 of the Public Service Act, where employees of the government are required to take an oath of secrecy. In addition to that, in section 35(3) and (4) of the Alberta Evidence Act there can be no attendance of civil servants without a court order. So I think there are ample provisions in other legislation to protect the secrecy needs, if you want to call them that, of government,

particularly in these matters. And I think there's no need to introduce measures that go as far as this particular measure does.

MR. CHAIRMAN: Hon. Member for Edmonton-Strathcona.

MR. WRIGHT: Yes. I agree with all that the hon. Member for Calgary-Forest Lawn has said, Mr. Chairman. In general, the records of public bodies collected at public expense should not be secret. They should be the people's records. But, naturally, confidentiality has to be respected, so that's a very considerable qualification to that right. But here there is no question of qualification. There's an outright ban on any record or other information being furnished under the Act unless the person is legally to have access to it, which I think is confined to the giver of the information.

Now, there may be a very important lawsuit between companies or citizens and a company, or it doesn't matter. And the truth that can unlock and solve the problem to a very important matter can be bound up in these records of production and the like. Now, it is true that if there is open access, then snoopers can get at information they have no right to get at and save themselves a lot of time and trouble, but there is no provision here to allow that. There is at law, as the hon. Member for Calgary-Forest Lawn has said, the protection (a) of the oath of secrecy and the Public Service Act, and (b) section 35 of the Evidence Act which says:

> (3) A subpoena shall not issue out of a court requiring
> (a) the attendance of an employee, or
> (b) the production of a document of a Department in the official custody or possession of an employee,
> without an order of the court.

So if the document or information proposed to be secured by the issuer of the subpoena or the proposed issue of the subpoena is confidential or sensitive or none of that person's business, then the court presumably will not give the order. But on the other hand, it does protect the right of citizens to have access to information publicly gathered for proper purposes. That is the defect in this clause. When this clause is voted on, I ask members of the Assembly to vote no.

MR. CHAIRMAN: Hon. Member for Calgary-Buffalo.

MR. CHUMIR: Along the same vein, Mr. Chairman, I have spoken earlier today -- in fact twice, once this evening and once this afternoon -- about the need for a maximum degree of openness and information in our government processes. Of course, this legislation deals with a government entity, albeit with information provided by the private sector. I must say that I'm somewhat at sea with respect to the varieties of information that might be provided to the board and which may merit some degree of confidentiality, but that being said, I am concerned that the absolute terms in which this legislation is phrased may in fact err too far in the direction of secrecy and deprive the community of access to information which should be available.

I am aware that much information is simply of a commercial nature; the production is being forced by the government and it should remain totally confidential. On the other hand, we have matters which may have a public policy, a public dimension very much in the nature of the Sprung guarantees I was asking for this afternoon. The problem in this instance is that no test or standard whatsoever is provided within the legislation. It's a very simplistic approach to a complex issue. It may be that the minister will be able to persuade us with some pearly words that in fact this simplistic black and white approach is the proper approach in this instance. I'm somehow dubious about that, but I would very much like to hear his views as to why it is necessary to have a provision which is this heavy without, for example, providing some form of standard or test relating to relevance or public interest or harm to a company in respect of the information being disclosed.

MR. CHAIRMAN: Hon. Minister of Energy.

DR. WEBBER: Mr. Chairman, I've checked this through legal counsel within our department. It's primarily here because of the confidentiality we wish to see in place for information provided to the government particularly as it relates to gas removal permits, information that's commercial in nature: market information, prices, the end use location of natural gas. I'm told this is a standard clause that could be used for confidentiality reasons. For example, if two oil companies end up in court, neither side could then bring any employee of the Energy Resources Conservation Board or the government into the court to get information. References have been made to the Public Service Act and the Alberta Evidence Act. I guess there's some question whether the Public Service Act applies to employees of ERCB. If it does, though, the fine associated with that Act is very, very low at $100. I'm told the Alberta Evidence Act -- it is possible for an employee to get into court when subpoenaed, and legal counsel felt it necessary and we agreed to provide this standardized clause in the Act.

MR. WRIGHT: If the minister is saying that it's possible for civil servants to get into court, of course it is, with a court order. But they'll have nothing to say, under this clause. So it doesn't help that they're in court, does it?

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: Are you ready for the question? Under Standing Order 77, hon. members, we'll deal with the Member for Calgary-Forest Lawn's proposal that amendment 4, known as section 13.2 of the proposed amendment to this Bill 41, will be dealt with separately. We'll deal with that first.

So are hon. members of the committee clear? The question I'm putting to you is: those in favour of amendment 4, which is section 13.2 in the proposed amendment?

[Motion on amendment carried]

[The sections of Bill 41 agreed to]

[Title and preamble agreed to]

DR. WEBBER: Mr. Chairman, I move that Bill 41, Gas Resources Preservation Amendment Act, 1988, be reported as amended.

[Motion carried]

Bill 42
Energy Statutes Amendment Act, 1988

MR. CHAIRMAN: This is a money Bill. There is an amendment.

[Motion on amendment carried]

[The sections of Bill 42 agreed to]

[Tide and preamble agreed to]

DR. WEBBER: Mr. Chairman, I move that Bill 42, Energy Statutes Amendment Act, 1988, be reported as amended.

[Motion carried]

Bill 43
Alberta Securities Commission Reorganization Act

MR. CHAIRMAN: There is an amendment. Are there any comments, questions, or further amendments to this Act?

Hon. Member for Edmonton-Strathcona.

MR. WRIGHT: Yes, I do move an amendment to Bill 43 . . .

MR. CHAIRMAN: Order please, hon. member. We must deal with the government amendment first, if that's in order.

[Motion on amendment carried]

MR. CHAIRMAN: Bill 43 as amended: are there any comments, questions, or further amendments to this Bill?

Hon. Member for Edmonton-Strathcona.

MR. WRIGHT: Yes, an amendment to section 1 of the Bill. I'll hand it round, Mr. Chairman. It's simply to eliminate the one-year limitation that tripped up the prosecution against some quite eminent people who were alleged to have been less than forthcoming in some prospectuses, I believe, or something like that. At any rate, there really seems to us to be no reason why the general limitation of two years in the rest of the Act should not apply to prosecutions under that part, and that's the sum and substance of the amendment. The amendment has been approved by counsel. I don't know what happened to the originally signed one, but I re-signed one for you, Mr. Chairman.

MR. CHAIRMAN: The amendment is in order.

MR. WRIGHT: The fact is that these securities matters, as the minister will avow, I'm sure, are frequently quite complicated, frequently very complicated. It does take some time to understand if some fraud has taken place, or even lesser offences than that, just inaccurate reporting. By the time it's all been assembled and a legal opinion given by those who are saddled with the task of appraising the information, a year can very easily have slipped by. It really tends to either produce potshots taken to beat the limitation before you're really sure of your grounds, which can work a great injustice to the people charged, or, the other, that it takes long enough that you're beyond the limitation. Therefore, I think this is not much more than a housekeeping type of amendment Mr. Chairman.

MS McCOY: Mr. Chairman, I would recommend that the House not accept the amendment. The other side of the argument is this. That is, when such serious investigations are being undertaken, there is a matter of justice that it be brought to trial as quickly as possible. Therefore, the one-year limitation period is appropriate.

MR. McEACHERN: Mr. Speaker, the hon. minister's argument does not hold any water. There's nothing that says because there is two years there, you've got to take two years. The problem is that the one year goes by very quickly, and you use it as an excuse -- and has been in the past a number of times by this government -- not to get around to doing something about prosecuting certain people that should have been.

[Motion on amendment lost]

MR. McEACHERN: Mr. Speaker, I think a comment should be made on this Bill. The basic premise of the Bill is that the government intends to divide the administrative function from the enforcement function for the Securities Commission. While that may be laudable, I notice that as you go through the sections where all these wording changes are made, there has been no attempt on the part of the government to strengthen some of the provisions. For instance, in the section on the degree of disclosure companies that take people's money should put forward, or the self-dealing kinds of problems: the minister has made no attempt to tighten up those provisions but has merely dealt with this somewhat cosmetic sort of aspect of the problems we've had with financial institutions or the regulation of financial institutions in this province.

I guess while I'm at it I'd like to ask the minister or the Treasurer to give us some indication when they intend to do something about putting forward some legislation on regulation of trust companies, which is another aspect of financial regulation that needs to be dealt with in this province. In fact the Treasurer has offered that he would put some legislation forward in this session if there is time. I guess time is fast running out and I wonder why we haven't seen that legislation so it could at least be before the public and perhaps come back in the fall or spring for another look at it.

[The sections of Bill 43 agreed to]

[Title and preamble agreed to]

MS McCOY: I move that Bill 43 as amended be reported.

[Motion carried]

Bill 44
Alberta Income Tax Amendment Act, 1988

MR. CHAIRMAN: Any comments, questions, or amendments to this Bill?

Hon. Member for Edmonton-Strathcona. I apologize, both hon. members. Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Chairman. I would just comment that we had a fairly good discussion on Bill 44 at second reading. We've asked a certain number of questions and mainly they've been answered, and we will be supporting this Bill.

[The sections of Bill 44 agreed to]

[Title and preamble agreed to]

MR. JOHNSTON: I move that Bill 44 be reported, Mr. Chairman.

[Motion carried]

Bill 45
Alberta Corporate Income Tax Amendment Act, 1988

MR. CHAIRMAN: Are there any comments, questions, or further amendments to this Bill?

Hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Again, Bill 4S has had good discussion at second reading, and a lot of questions were asked and answered. Again, we will be supporting this Bill.

[The sections of Bill 45 agreed to]

[Title and preamble agreed to]

MR. JOHNSTON: I move that Bill 45 be reported, Mr. Chairman.

[Motion carried]

Bill 47
Alberta Heritage Savings Trust Fund
Amendment Act, 1988

MR. CHAIRMAN: This is a money Bill. Are there any comments, questions, or amendments to this Bill?

Hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Chairman. This Bill requires a certain amount of comment, and I say at the start that we do not intend to support this Bill.

Bill 47 is asking that the amount of money to be put in the capital projects division of the heritage trust fund be raised from a maximum of 20 percent of the total trust fund to 25 percent. Mr. Chairman, that's a lot of money. That's a $750 million increase that will be allowed under this new Bill. The capital projects division now has some $2.9 billion in it. The planned expenditures for this year of $164.5 million would come close to putting that proportion of the heritage trust fund over the 20 percent of the total of some $15.5 billion, so the government has moved in this direction.

Now, the capital projects division really is made up of expenditures, or at least if not direct expenditures then things like endowment funds that we will not get back or the building of things like the Walter C. Mackenzie hospital or irrigation projects and that sort of thing -- AOSTRA, for example, nearly $400 million; Kananaskis Country, for a quarter billion dollars -- those kinds of things that we cannot recoup, yet in spite of that the government calls these assets of the fund. In fact, some of them are direct expenditures. You can't call money you've spent on food processing anything other than an expenditure, some $9 million there -- Maintaining Our Forests project, some $25 million; money in the Tom Baker Cancer Centre, which was completed several years ago, some $93 million, and so on.

So some of them are very obviously expenditures; others were investments in capital projects, or some of them in endowment funds. But any way you look at them, they are expenditures, not assets. In fact, Mr. Chairman, to call them deemed assets is a rather odd use of the term, to say the least. It causes us some considerable problem, I believe, to call them assets. When you add the $2.9 billion that's in that section to the $12.6 billion or $12.7 billion that's in the financial assets of the heritage trust fund, you end up with over a $15 billion number that has made it difficult for us to get the attention of Ottawa, for example, when we tell them we are having a hard time in this province because our resource revenues are down and that sort of thing. The government goes around bragging about this $15 billion heritage trust fund and the fact that we supposedly have the lowest taxes in the country, and then they wonder why they can't get the attention of Ottawa when they need help. So the government creates some of its own problems. In fact, they've got a rather interesting semantic problem that they try to solve in this creative way of calling expenditures assets.

In the heritage trust fund hearings in the 1986 fall session of the heritage trust fund standing committee, the Conservative members started using a term -- and in fact some of the ministers before the committee did as well -- saying they didn't want to touch the integrity of the fund. Now, we know that since we've quit putting new money into the fund and since we take out all the earnings each year, in fact inflation is eroding the capital of the fund. But I would maintain that by spending some of the capital assets out of the financial parts of the heritage trust fund under the capital projects division, we actually are also eroding the fund further, and no playing around with terminology and calling expenditures assets really changes that. So this expenditure of $164 million that we're going to spend this year will in fact erode the capital of the fund by $164 million.

Mr. Chairman, if you don't think I got it right, the Treasurer, I suppose, and the government should look at what the Auditor General says about the deemed assets of the fund. If you look at page 84 of the Auditor's report -- and he spends about two pages on this before he makes his recommendation, but I'll just read a small part of it here -- he says:

> The practice of including deemed assets and deemed equity. . .

that being the Vencap part, a small part of that $2.9 billion,

> . . . represented by deemed assets on the balance sheet is not appropriate because deemed assets are not assets of the Fund nor is the presentation in accordance with generally accepted accounting principles. Deemed assets represent amounts expended. . .

in other words, money that was spent,

> . . . which are not recoverable by the Fund and where assets do exist, they belong to other organizations. Although it has been interpreted by management that the Alberta Heritage Savings Trust Fund Act requires the disclosure of deemed assets on the balance sheet, the financial position of the Fund would be better understood if the deemed assets and deemed equity represented by deemed assets which both amount to [$2.6 billion] were not included.

That was two years ago.

So, Mr. Chairman, the government, in a rather creative move, by calling expenditures assets now kids everybody that somehow they're not using the capital of the fund. I say not only is the fund being eroded by inflation, but in fact it's being eroded by the amount we spend each year: $140 million last year, $164.5 million in the present year. So the capital of the fund is in fact being eroded. We have in fact then, Mr. Chairman, touched the integrity of the fund already. This Bill that is before the House will allow the Treasurer to touch the fund to the tune of another $750 million without properly explaining that they really are spending Albertans' money in much the same way that the money gets spent out of the budget, and to call them deemed assets doesn't really change that.

Now, I think it's time the Treasurer paid heed to the Auditor General's recommendations and quit trying to kid Albertans.

The money we're going to spend out of the heritage trust fund -- why doesn't he take it out of the heritage trust fund, put it into the general revenue account and spend it there under the budget where it can get proper legislative approval, like it should be done? Mr. Chairman, it's time we quit kidding the people of this province.

MR. CHAIRMAN: Order please. We're straying somewhat from the capital projects division of the fund, I believe. That's the intent of the Bill, and that's the principle of the Bill.

MR. McEACHERN: You've got to be kidding. I was talking about the $750 million that is the difference between the 20 percent and the 75 percent. I merely said that instead of spending it out of the heritage trust fund, it should be spent under the general revenue account How can that possibly be off topic?

There is another section to this Bill 47 that I wish to comment on, and that's the second section here. There are a couple of concerns I have with that. I'm looking at page 1, section 2, where it says "Section 6 is amended." The (a) part was the part I was just talking about, but the (b) part says:

> (b) by adding the following after subsection (6):
>
> (6.1) The Provincial Treasurer may, if authorized to do so by the Investment Committee, enter into agreements providing for
>
> (a) the lending of securities acquired or held pursuant to subsection (1)(e), and
>
> (b) the delivery to the Provincial Treasurer of collateral consisting of securities or classes of securities listed in subsection (7).

Now, that's referring to section 6, and over on the other page it talks about this section it refers to here being called the commercial investment division of the trust fund.

Mr. Chairman, the first part of the present section 6, which this adds to, says that the investment committee can do certain things in accordance with directions contained in the resolution of the Legislative Assembly. That's fine. It also says in its part (3)(b):

> in the absence of any such directions, shall be made. . . with the approval of the Investment Committee.

Then it goes on to say that the Provincial Treasurer can be authorized to make these moves by the investment committee.

Now, Mr. Chairman, the point I want to get to on this is that we never get a resolution in this Assembly to give instruction to the investment committee or the Treasurer about what to do with the commercial investment division. What I see this new section (b) doing is making it possible for the cabinet, which is the investment committee, to give the Treasurer the right to make the decisions in a general sense. I guess I'm putting it more as a question than being sure I've got it the right way around, but the way I read this, it seems to me not only do we not need to come to the Assembly for any direction in this division of the fund, but the investment committee, the cabinet, can give the Treasurer a sort of blanket "Okay, go ahead and do it" sort of thing.

Let me illustrate what I mean. The way it should be, the Treasurer should have to come to the cabinet with a specific proposal and they should approve it or not approve it. That's sort of the way I read what the instructions were in the past -- at least I assume so. What I think can now happen is that the cabinet can say to the Treasurer "Go ahead and make whatever arrangements you want. You've got the authority to do so." In other words, what we've done is handed on the legislative authority which never gets used to the cabinet by section (b) of the present Act, and then the cabinet can hand on that authority to the Treasurer in a general sense without making him come before them in a specific sense. If I'm wrong, I would certainly appreciate a comment from the Treasurer on that.

Now, since we're talking about the commercial investment division of the fund, I want to just mention a few facts about that division and ask the Treasurer a question related to it. The commercial investment division of the heritage trust fund as of September 30, 1987, had a book value of some $247 million and a market value of $496 million. By December 31, 1987, the book value was $260 million and the market value was down to $419 million. Now, that was an increase of investment of $12.7 million and a decrease in its value of $77 million, making a total loss, if you like, for the period of almost $90 million. Of course, that period encompassed the stock market crash on October 19, and the Treasurer said of that crash the next day that there was about a $50 million loss and really nothing to get excited about because, after all, the fund had done so well over the four- or five-year period that it had grown. The Auditor General, however, said that the commercial investment division had in fact as of October 31, which was some 11 days after the crash, dropped in value $124 million.

Now, Mr. Chairman, we now know that there was a $90 million loss for the three-month period from the end of September to the end of December. And since we know the market value had increased from September 30 through to the 19th, up until the crash, and after the crash it also started to increase in value again -- in other words, recovered some of the loss to December 31 -- we know now, then, that the Auditor General knew what he was talking about. Yet the Treasurer said to us on January 12 at the heritage trust fund hearings, when I asked him about this, that he could not confirm the Auditor's figures. Well, I think these numbers now bear out what the Auditor had to say. The reason I want to put that on the record is because the Treasurer, when he was before the committee, also asked the committee permission to expand the commercial investment division into world markets rather than staying in the Canadian market, which is what they presently do. The committee complied by passing a resolution suggesting that it would be okay for the Treasurer to do that.

So my question to the Treasurer is: does he intend to do that now, although the advice of almost all analysts at this stage of the game is not to play the stock markets for people that are playing with taxpayers' dollars because of the fragility of the market? We may get long-term better gains in securities than we get on bonds and just interest rates, that sort of thing, generally speaking, but right now we're into a very difficult period in the markets, and a lot of people are suggesting that we'll get further crashes. So my view is that the government should not be playing around on the international money markets with taxpayers' dollars in the heritage trust fund.

I also want to know from the Treasurer if he needs to seek legislative approval for expanding the commercial investment division beyond the Canadian market, which is presently what the commercial investment division is invested in.

So, Mr. Chairman, those were some comments and questions I wanted to put on the record and would certainly appreciate an answer from the Treasurer on some of the points raised.

MR. CHAIRMAN: Hon. Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Chairman. I'm opposing the Bill as well. The most important feature is that which increases the level of the capital fund from 20 to 25 percent of the total fund assets. In that regard, the heritage fund is an important

institution of this province in its inception, and still to some degree it had a savings feature as well as a diversification feature, although the latter was lost sight of some time ago. Events of the recent years have given us cause to pause and reflect upon the proper direction the fund should take. The Alberta Liberal Party has been and continues to be supportive of the concept of continuing to maintain the savings aspect of the heritage trust fund.

The concept was based on the philosophy that we're dealing with assets that should be preserved for future generations, because we're dealing with revenue from our wasting oil and gas resources. There ain't any more being made. These resources and revenues are now declining. All of the revenues from the fund are being paid out. No new money is being paid in. We're faced with an era of inflation. We are now up against the 20 percent limit, and we find that the assets of the fund being saved are in fact dwindling. The proposal is now to increase the capital fund expenditures to 25 percent, the result of which would be to further reduce the savings aspects of the fund.

We very firmly believe that there is a great need at this time to engage a comprehensive public debate with respect to the future of the Heritage Savings Trust Fund. Our view is that with the present economic climate and without a public mandate for significantly eroding that savings concept, we should not further erode the capital base of the fund.

At the same time, I hasten to note that we very much support many of the worthy projects of the fund. Leaving the capital fund at 20 percent maximum doesn't mean that we can't proceed with those projects. We still have the General Revenue Fund and we still have the Capital Fund and we can still do these through them. In fact, there is not and never has been a rationale for making many of the expenditures that we have done through the heritage fund to begin with, as opposed to from some other government pot. In fact, we've asked the government in many instances why it is that a certain expenditure, a hospital for example, is being paid for out of the heritage fund while another hospital is being paid for out of general revenues, and no surprise, we get no answers. Or we don't get understandable or comprehensible answers, in any event.

We also believe that maintaining the 20 percent limit and requiring future expenditures to be made out of the general revenue or the capital funds will provide the additional benefit of imposing a greater market discipline upon this government which so badly needs it. In particular, it will provide greater public visibility for the expenditure, which of course would distress the government. I repeat that we still can proceed with any projects which otherwise would proceed through other government funding sources, and we invite the government to bring forward to this House those very worthy projects for our review. But now is not the time to deplete the heritage fund further without a broad public debate on that issue, and I don't think that broad public debate has taken place. We're just starting here, and I think we should take that out to the people and solicit that. Where are these opinion polls that the leader of this party was seeking today during question period? Where is the proof that this is what the people of this province want? Or isn't the minister concerned? I'm not surprised.

MR. JOHNSTON: Where's the member who says one thing and votes the other?

MR. CHUMIR: Where is he? I can't see him. He's disappeared with his Aquascutum.

Now, I have another concern; the businessman in me trying to pop out has another concern. I'd solicit an explanation from the minister. My concern is with respect to the lending of securities. I'm not sure exactly what is happening, whether or not the provisions here, particularly in section (6.1), provide for a simultaneous lending of securities to a broker under paragraph (a) and a simultaneous receipt and delivery of a different package of securities to the Provincial Treasurer as collateral in order to cover those. Now, if we're dealing with a simultaneous delivery of securities of equivalent value, then I am satisfied. However, on the other hand, if we're simply delivering a package of securities to a brokerage house which might happen to need them in the form of overnight assets in order to meet an asset limit, then I would have serious concerns in light of the potential for brokerage houses -- heaven forbid -- to go under from time to time, as one has in Toronto recently. We're now going through the spectacular results; I'm sorry that I missed the art sale.

Normally when we loan stocks to a brokerage house, they're mingled into the general pot of the brokers so that if there should be a problem, we stand as a general creditor. I am concerned to see that we don't stand as a general creditor.

MR. JOHNSTON: No.

MR. CHUMIR: The minister is hollering "No." I hope that's so. Do we have a legal opinion to that effect?

MR. CHAIRMAN: Are you ready for the question?

SOME HON. MEMBERS: Question.

[The sections of Bill 47 agreed to]

[Title and preamble agreed to]

MR. JOHNSTON: I move that Bill 47 be reported, Mr. Chairman.

[Motion carried]

Bill 48
Department of Tourism Amendment Act, 1988

MR. CHAIRMAN: Are there any comments, questions, or amendments to any section of this Bill?

Hon. Member for Athabasca-Lac La Biche.

MR. PIQUETTE: Yes, Mr. Chairman. We generally support the principle of this Bill, and we will be supporting it in committee.

MR. TAYLOR: I was just wondering if the minister would take a quick second to explain, probably much simpler than the Treasurer does in any financial matters, how in the dickens or how in hades, as the Member for Red Deer-North would say, a revolving fund of $1 million -- what is the minister hoping to do with a revolving fund of $1 million that can't be done with his normal budget?

AN HON. MEMBER: Read it; read it in *Hansard.*

MR. TAYLOR: That's what I read, and I can't understand him.

Neither can you. It's like a bunch of cow bells over there. They've got the longest tongues and the emptiest heads of anything I've seen. All I'm interested in is what you're saying.

MR. SPARROW: Mr. Chairman, in second reading we went through it. I think the detail in the Bill speaks for itself. That is a maximum of $1 million; it is not $1 million of funds. If there's more than $1 million, it will be turned back to Treasury.

The ideas that will be funded are projects like the Spirit of Alberta articles that they wish to sell while they're on their trip. The replenishment of our photo library is very key, and we'll be using that revolving fund for projects like that. But the maximum is $1 million, and it's not a million dollars' worth of funding.

[The sections of Bill 48 agreed to]

[Title and preamble agreed to]

MR. SPARROW: I move that Bill 48 be reported.

[Motion carried]

Bill 49
Consumer and Corporate Affairs Statutes Amendment Act, 1988

MR. CHAIRMAN: Any comments, questions, or amendments to this Bill?

[The sections of Bill 49 agreed to]

[Title and preamble agreed to]

MR. DAY: I move that Bill 49 be reported, Mr. Chairman.

[Motion carried]

Bill 51
Personal Property Security Act

MR. CHAIRMAN: Are there any comments, questions, or amendments proposed to this Bill?

Hon. Member for Edmonton-Strathcona.

MR. WRIGHT: Mr. Chairman, it's been stated to me by people who know much more about this than I do that the arrangements in the Act are just what we need in principle, but in practice there are some glitches. I wonder if the hon. member can enlighten us about that. In order to fit the forms for these very important instruments into a form that's readable by the computer and can be scanned by the machinery in the registry, sometimes it's impossible exactly to describe the security within the space allotted or even exactly in the terms that the machine can read. Moreover, if you depart from a certain form, so I'm told, in any slight particular, the document is rejected. In other words, there's much less flexibility than with the present system, where the actual instrument is registered, because as I understand it, Mr. Chairman, the actual instrument isn't registered here; it's a synopsis of it or something similar that's registered and the short form.

This, in practice, so I'm told, does create considerable difficulty in registration. On the one hand, you have the whole process becoming electronically expedited, but at the same time it has to be just so, else it's kicked out. So what you gain on the swings you tend to lose on the roundabouts. Does the hon. member have any comment on that?

MR. STEWART: Mr. Chairman, just briefly in responding, there's no doubt that there are a number of complexities with respect to the implementation of a very complex Bill. There are computer systems to be established, and there are a number of other matters. That's, of course, one of the reasons why the Bill provides that it not be proclaimed until 1990.

There are a number of these things that do have to be worked out in the system. However, we are setting a definite time frame within which that can take place. I know that the Attorney General will be working along with the department and with the profession and others in order to seek the input that would have that realized.

MR. CHAIRMAN: Are you ready for the question on Bill 51?

HON. MEMBERS: Question.

[The sections of Bill 51 agreed to]

[Title and preamble agreed to]

MR. STEWART: Mr. Chairman, I move that Bill 51 be reported.

[Motion carried]

Bill 53
Provincial Offences Procedure Act

MR. CHAIRMAN: There is an amendment. Any comments, questions, or further amendments to this Act?

[Motion on amendment carried]

[The sections of Bill 53 agreed to]

[Title and preamble agreed to]

MR. STEWART: Mr. Chairman, I move that Bill 53 as amended be reported.

[Motion carried]

Bill 54
Small Power Research and Development Act

MR. CHAIRMAN: Are there any comments, questions, or amendments to any section of this Bill?

Hon. leader of the Liberal Party.

MR. TAYLOR: Yes, Mr. Chairman. I have a small amendment, which I'll allow to be passed out, bedtime reading for those ciphers over on the other side. [interjections] Spelled with a C, so don't worry about it, hon. Member for Red Deer-South.

First of all, I'll compliment the government for introducing the Small Power Research and Development Act. I think the minister of transport should be complimented in realizing that

one of the safest ways of protecting the consumers in the future is to start a small power capability in the province, and I think the hon. minister has done wisely in that respect.

However, in doing so I think that possibly he might have listened a little too closely to the privately owned power companies in the province, in that the amount of money that he's voted, 5.2 cents per kilowatt hour, is a little short. I've proposed in this amendment 5.9 -- it's not a terrific jump; it's only about 8 percent -- but also that it be adjusted every five years for inflation, which I think is reasonable. Doing it each year would probably be better, but then that's a lot of calculating to do. Every five years makes it easier.

So, Mr. Chairman, all I'm suggesting is a moderate change to what is basically a very good policy introduced by the government. But I think it makes it just a little bit more acceptable, and by putting the inflation factor in there, I think you take a great deal of the worry and concern of the small power operators down the road, and they will take advantage of what the government is trying to do . . . [interjections].

MR. CHAIRMAN: Order in the committee, please.

MR. TAYLOR: . . . which is to stabilize or to try to bring in small power people into the producing area with the idea that possibly it'll bring a more stable outlook to power and to the consumer in the long run. So it's a small increase: 8 percent on the price. But more important, it's tied to inflation, and I know this has been dear to the Premier's heart also. So I think by tying it to inflation, we're going to bring in the people we were hoping we were going to bring in -- or said they wanted to get in -- to start small power production.
Thank you very much.

MR. CHAIRMAN: The amendment by Westlock-Sturgeon is in order. Are you ready for the question?

HON. MEMBERS: Question.

[Motion on amendment lost]

MR. CHAIRMAN: Bill 54. Are you ready for the question?
Hon. Member for Athabasca-Lac La Biche.

MR. PIQUETTE: Yes. I'd like to ask the minister one question, and it's a point of clarification. Nowhere in Bill 54, in the preamble, which describes in section 1 "produces electric energy from wind, hydro or biomass," does it identify solar power generation as a small power option. Are they included as a small power production in your Bill, or is it simply wind, hydro, and biomass? I think it would be an exclusion which should be in the Bill. I thought when I read the Bill that it would also include other small power generation, so I want clarification. I'd like also to bring an amendment to the Small Power Research and Development Act, Bill 54.

While we're distributing the amendment -- I guess the minister, in terms of my question, indicates, no; solar power is not included in this Bill. Is that correct, minister of transportation? Is that the indication you gave me with no to solar power? It's not included. [interjections]

MR. CHAIRMAN: Order please. Order in the committee, please.

MR. PIQUETTE: Generally, I'd like to make a comment about the Bill, that we do support in principle the Small Power Research and Development Act in terms that it is -- after a long process, a long fight. As a member in whose riding a small power development has been proposed for the last two years and been on hold until the government decided what to do about the whole question of small power production in this province, a long two years have elapsed, and now we have Bill 54. Bill 54 I guess in principle does answer that the government is in favour of small power generation. It's upsetting to see that solar power is not in there, because that's an option where small power in the United States has made quite an impact, and I think in Alberta here we have a few companies which are going to be affected by this.

Now, section 3, where we propose amendments, we feel is not sufficient to really kick off the small power generation in this province, because it sets out at 5.2 cents per kilowatt . . . [interjections]

MR. CHAIRMAN: Order please, in the committee.

MR. PIQUETTE: . . . for the term of the contract. The contract is 20 years. The minister has indicated that there has been an inflation factor built into the 5.2 cents per kilowatt. But in fact only for the first five or six years of the contract is that inflation factor built in, and the inflation factor does not extend to the other 15 years of the contract. So this price is not enough. It will not allow for development of wind power in a meaningful way, and this is where we expect the greatest spin-off in diversification will come, in the manufacture of windmills. I think, for members in southern Alberta, you should be aware of what the president of the small power association of Alberta has indicated. He feels this Bill will not put the whole manufacture of windmills and the power generation of windmills on stream because they had called for 6.5 cents a kilowatt, or that the price that is presently 5.2 be tied to inflation.

We supported 6.5 cents as that is the avoided cost the Small Power Producers Association put forward as the avoided cost to utilities, the cost they would have to pay to get the equivalent power from a new source, from a coal-fired plant. This argument was made quite convincingly by the small powers association, but the boards and the minister chose to ignore it. If they can't have 6.5 cents per kilowatt, then they must have some method of indexing the cost, not necessarily because their costs will get higher but because they should be moving to the avoided cost, and they must make sure that their investment is met with a price that is inflation-proof. We give such increases as a matter of course to utilities, and the minister, in my conversation with him, said: yes; they can go out to the Public Utilities Board, and look at that whole inflation factor in their prices.

However, what we've done here with Bill 54 is indicate to the small power generators that this is not available to them, that they will not be able to go to the Public Utilities Board, and to claim an inflation factor to their rates increases after 1995. That's very unfortunate, because really what this Bill is -- I think it's good for the first five or six years until 1995. However, after that small power producers under this Bill will be getting paid less than contracts negotiated with the power utilities like Alberta Power and TransAlta, which by 1995 will most likely be getting more than the small power producers themselves.

So I urge all members opposite to support our amendment which calls for a prorated inflation factor to be built in beyond

the 5.2 cents per kilowatt multiplied by the proportional change in the Consumer Price Index from the signing date of the contract to the anniversary date.

MR. CHAIRMAN: The amendment by the hon. member is in order.

Hon. Minister of Transportation and Utilities.

MR. ADAIR: Mr. Chairman, just a couple of points on Bill 54. What the hon. Member for Athabasca-Lac La Biche is suggesting we do is add inflation on top of inflation that's already added on. When we established the price at 5.2 cents, that was a levelized price at the request of the small power producers in their presentation to the PUB/ERCB joint hearing, and that particular price was to ensure they had a base price so that they could have a price that would be suitable to attract investors in the early years of the project. What we have done is put that 5.2 cents in there, and what it'll do as it goes down the track, that 5.2 is guaranteed. If it should rise above it, then the consumer benefits at that point down the line. The consumer pays initially from that, and that's what we're after.

The 5.2 cents is basically 3.9 cents a kilowatt-hour plus inflation factored at 4.5 percent annually, and that was by the PUB/ERCB and not by the power companies the hon. Liberal leader suggested a little while ago.

Mr. Chairman, I would suggest we defeat the amendment and move on to the Bill.

MR. PIQUETTE: Again going back to the way the inflation index had been built into the 5.2 cents per kilowatt, you indicated that the base price, which it is inflated from or indexed from, is 3.9 cents per kilowatt. Now, again what you're really saying is: we will provide an incentive to kick off the small power producers; however, after that we'll let 'em hang in terms of their own investment. Because the return on their investment, if you're going to be capitalizing that, has to be capitalized over a long period of time.

I think what the minister is doing, in effect, with this Bill is a lot of window dressing to show that yes, we're in favour of small power producers. But in fact, when we're starting to look at the creation of the small power industry in this province, we will see probably very little of it because of the fact that it discriminates the small power producers receiving an index adjusted to inflation after 1995. I think we should at least be committing ourselves that maybe for a 10-year period we could be accepting 5.2 cents per kilowatt. But there needs to be an address over a 20-year contact if you're going to be attracting investors into this small power generation, where they see that their costs of operation will be indexed to inflation. Otherwise, there's no way that anyone will be jumping into investing in such an endeavour. There are no business operations today that operate on a 20-year contract with no changes in the last 15 years. So I think the minister is out to lunch on this, and I think he's received very strong representation from the small power association. The minister is shaking his head, but that is correct. I mean, they've come to him a number of times looking at either 6.5 cents per kilowatt or that the 5.2 cents be set to an index relating to inflation. That is not the case in Bill 54.

Now, when he's talking about 5.2 cents, where they're happy about it, was the proposal submitted to the government by Southview Fibre Tech. It was not to do with the small power association of Alberta. Their position has always been very clear 6.5 cents per kilowatt to kick off the windmill generation in southern Alberta or 5.2 cents in this amendment which I've submitted, which is their amendment presented through myself to the minister, which would tie that to an inflation factor. So the minister, I think, is really not addressing this Bill and delivering on the promise by the Premier.

MR. CHAIRMAN: Ready for the question on the amendment by Athabasca-Lac La Biche?

[Motion on amendment lost]

[The sections of Bill 54 agreed to]

[Title and preamble agreed to]

MR. ADAIR: Mr. Chairman, I move that Bill 54, Small Power Research and Development Act, be reported.

[Motion carried]

Bill 59
Telecommunications Act

MR. CHAIRMAN: Are there any comments, questions, or amendments to any section of this Bill?

The hon. leader of the Liberal Party.

MR. TAYLOR: Yes, Mr. Chairman. I'm having a bit of trouble with it; three or four points I'd like to make for their assistance. One of the things that I thought right in part 1 -- I would be interested in whether the hon. minister would consider, seeing it's a commission, ensuring that government involvement is kept up, possibly consider appointing an MLA. I don't know when the government last heard the opposition suggest they create one more patronage appointment, but this one I think might be one that's wisely done, in that part 1 is setting up the commission to take on many of the managerial functions from the cabinet. If AGT is going to continue as a Crown corporation, I think there should probably at least be one MLA on it. And if that idea of appointing government MLAs to government-owned corporations' boards has suddenly become undesirable, I'm sure one of the opposition parties would probably supply the MLA if the Premier's running out of anyone.

AN HON. MEMBER: We'll never run out.

MR. TAYLOR: I thought that would wake them up for a minute there.

The second part that bothers me a bit, and I think I'd like a little more explanation, is the lack of the regulatory mandate of the PUB over Ed Tel. If it's that way, why is the PUB so heavily represented on the special telecommunications tribunal? In other words, you've set up another special thing called a special telecommunications tribunal to look after Ed Tel; PUB is heavily represented on that, yet PUB has no authority over Ed Tel. So, I'd like to understand what the minister's reasoning was there, Mr. Chairman.

I'd like to also pose -- it's a bit hypothetical, but I see that Mr. Speaker isn't in the Chair, so maybe I'll get away with it. I don't understand, or maybe the hon. minister could fill me in, as to if Ed Tel were to privatize. If they were to privatize -- stranger things have happened, you know; maybe the mayor might want to finance his leadership campaign; it's hard to tell

-- but whatever the reason would be that they would privatize . . .

MR. CHAIRMAN: Your worship, we're getting off the subject here.

MR. TAYLOR: O k a y . [interjections] Now I've woken up my side of the House.

But if they were to privatize, where would the PUB fit in? Would that still be considered not PUB supervised, or would it? After all, it's possible to happen.

And finally, just summing up, really, if AGT is to remain a Crown corporation, it should be under a little tighter control of the Legislature than it is. Of course, if it's going to privatize, then we should get ahead and get on with the idea. But we seem to have neither fish nor fowl here. As I mentioned, I guess without plowing old ground, there's no MLA on the commission. The PUB is heavily represented on the commission looking after Ed Tel, and it doesn't have any supervision over Ed Tel. What happens if Ed Tel wholly or privately privatizes?

MR. YOUNG: Quickly, with respect to Edmonton Telephones, two questions. What happens if it privatizes or privatizes a portion thereof? It becomes subject to the Public Utilities Board for regulatory control. Why is it not under the Public Utilities Board now? Because city council is seen to be the regulator and has been treated that way in the past.

This Act continues to treat the city council in exactly the same way, with no change in those prerogatives. But on issues of difference between Edmonton Telephones and Alberta Government Telephones, that's where the special tribunal which has the Public Utilities Board component comes into the picture. That's why it comes in, because it's dealing with disputes which can affect Alberta Government Telephones, and we had to go to some neutral party. That was hammered out during the differences.

With respect to an MLA being on the commission, we'll take that as advice and may, in fact, be coming back with an amendment. But for the moment there's no particular provision for that.

MR. GIBEAULT: Mr. Chairman, I just want to make a couple of brief comments respecting the Telecommunications Act and particularly section 38, which is the section providing for settling a dispute. Of course, we know why that section is there now, Mr. Chairman: because this government didn't know how to settle a dispute some years ago when they had this battle with Edmonton Telephones, and they insisted on having AGT take an unfair amount of toll revenue from Edmonton Telephones and the customers of Edmonton Telephones; that is, the citizens and voters of Edmonton. Of course, the electoral history of our province tells us what happens when MLAs who are elected by residents of Edmonton don't represent their interests.

Now, the reason I like this so much is that section 38, which talks about settling a dispute . . . I'm going to make a prediction too, Mr. Chairman, and to the other members here tonight, that in a few years down the road we are going to have introduced in this House a labour Bill which will have provisions similar to this on settling disputes, and it will be introduced by a government that has taken a beating at the polls for the same kind of reasons that they took a beating on this telecommunications dispute they had with Edmonton Telephones. They refused to listen; they refused to negotiate in good faith. They figured they could take strong-arm tactics, stack the cards, and then come out smiling, and the voters showed them very clearly that that doesn't wash, Mr. Chairman. I mean, we still have a democracy here, and so that's why I'm pleased that we've got 38 in the Telecommunications Act that is before us. And I'm looking forward to a few years down the road, maybe even with a different government, Mr. Chairman, that we're going to have something similar in labour legislation that talks about settling disputes in a fair and equitable manner.

MR. CHAIRMAN: Are you ready for the question on Bill 59?

SOME HON. MEMBERS: Question.

[The sections of Bill 59 agreed to]

[Title and preamble agreed to]

MR. YOUNG: Mr. Chairman, I move that Bill 59 be reported.

[Motion carried]

Bill 61
Legislative Assembly Statutes Amendment Act, 1988

MR. CHAIRMAN: Any comments, questions, or amendments to any section of this Bill? Are you ready for the question?

SOME HON. MEMBERS: Question.

[The sections of Bill 61 agreed to]

[Title and preamble agreed to]

MR. YOUNG: I move that Bill 61 be reported.

[Motion carried]

Bill 63
Regulations Amendment Act, 1988

MR. CHAIRMAN: Any comments, questions, or amendments to any section of this Act? Are you ready for the question on the Bill?

SOME HON. MEMBERS: Question.

[The sections of Bill 63 agreed to]

[Tide and preamble agreed to]

MR. OLDRING: I move that Bill 63 be reported.

MR. CHAIRMAN: Moved by the hon. Member for Red Deer-South that Bill 63, Regulations Amendment Act, 1988, be reported.

[Motion carried]

MR. YOUNG: Mr. Chairman, I move that the committee rise and report.

[Motion carried]

[Mr. Speaker in the Chair]

MR. GOGO: Mr. Speaker, the Committee of the Whole has had under consideration the following Bills and reports as follows: Bills 39, 40, 41, 44, 45, 47, 48, 49, 51, 54, 59, 61, and 63; and reports the following Bills with some amendments: Bills 42, 43, and 53.

MR. SPEAKER: Does the Assembly concur on the report?

HON. MEMBERS: Agreed

MR. SPEAKER: Opposed? Carried.

head: **GOVERNMENT BILLS AND ORDERS**
(Third Reading)

Bill 24
Hail and Crop Insurance Amendment Act, 1988

MRS. CRIPPS: Mr. Speaker, I move third reading of Bill 24, the Hail and Crop Insurance Amendment Act, 1988, as amended.

[Motion carried; Bill 24 read a third time]

MR. YOUNG: Mr. Speaker, I move that the Assembly do now adjourn until later this day at 2:30 p.m.

[At 2:15 a.m. on Wednesday the House adjourned to 2:30 p.m.]