

Legislative Assembly of Alberta

Title: **Monday, April 9, 1990 8:00 p.m.**

Date: 90/04/09

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

head: **Government Bills and Orders**

Committee of the Whole

[Mr. Schumacher in the Chair]

MR. CHAIRMAN: Order. Order in the committee, please. The Committee of the Whole will please come to order.

Bill 8

Individual's Rights Protection Amendment Act, 1990

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to this Bill? I'll recognize the hon. Minister of Labour.

MS McCOY: Well, Mr. Chairman, I'll just briefly reiterate what I said in introducing the Bill on first and second readings, and that is that this Bill proposes 15 amendments to the Individual's Rights Protection Act.

These changes reinforce and clarify our human rights law and expand its protection to some of the more vulnerable members of our society. They bring the IRPA into line with recent Supreme Court of Canada decisions and with the Canadian Charter of Rights and Freedoms.

Thank you.

MS M. LAING: I wish to speak to this Bill at this stage to restate a couple of the statements I made and move some amendments. First of all, I'd say that we welcome the Bill. Particularly we welcome the principle of this Bill which we see in human rights legislation, which is the principle of an ever more inclusive legislation to protect people in more and more categories. This Bill, then, would deal with three different categories. That is: the category of mental disabilities, throughout the Bill; marital status, in some sections of the Bill; and pregnancy, in another section of the Bill.

I think we recognize that the principle of human rights legislation is to widen the circle of human beings included as entitled to be treated with respect and dignity, not to be subject to the indignity of discrimination that comes out of ignorance, stereotypes, and prejudice based on that ignorance and those stereotypes. This Act is a Bill that amends the human rights Act. That already includes the categories of race, religious belief, colour, sex, physical disability, age, ancestry, or place of origin. The principle of this Bill, then, is to extend protection in the three ways that I have mentioned.

It is interesting to reflect on only one of the categories included in regard to sex – or "gender," as the minister has proposed, something I thank her for, because "sex" is often confused as to the exact meaning of the word. In 1928 the Supreme Court of Canada held that while women were persons, they suffered from legal or civil disability and therefore were not eligible to hold a seat in the Senate because to qualify, a person must be fit and qualified, a requirement which excluded criminals, the lunatic or imbecile, as well as women. This is

from the Supreme Court decision of the Persons Case of 1928. I would recognize that the Privy Council also acknowledged the holding of women as suffering from a civil disability.

At other times women have been excluded from exercising certain rights and privileges by virtue of being unmarried. During the First World War the vote was extended first to women who were related to men who were in the service or serving in the war effort. Throughout time, even in this century, marriage has seemed to be somehow an exemplary state, giving rise to special status. We have at the present time legislation in the name of the Widows' Pension Act that would hold that people who have never married or are divorced are less worthy of receiving financial benefit or aid and assistance. I think we have to really question this notion of only if a person is married do they somehow contribute to society in a way that is more exemplary or more socially acceptable than people who never married or are divorced. I think of unmarried adult children who care for family – for aging parents, for younger children – who in fact move to a stage when marriage is unlikely before they are freed of those encumbrances. If, in fact, for some reason they then fall upon hard times, they do not have as a right the same relief as someone who has married and is widowed. Similarly, a person who has divorced is held somehow to be less worthy. Again, I think of the single mother, the divorced woman, or the divorced father who have raised their children well without the aid of a second parent. How dare we suggest that somehow their contribution to society is less worthy of society's support than the person who has married and then suffered the death of a partner?

This Bill, then, already amends the category of sex, or gender. It would extend under certain conditions in matters of employment that discrimination on the basis of marital status will be prohibited. However, discrimination in regard to the provision of services and programs continues. As I have said, the widows' pension is a particular example of this, and I think this is clearly wrong. This Act must protect all individuals and groups from discrimination. They must be treated equally. It can also serve an educative function to indicate that in fact all people are worthy of equal protection.

I would at this time wish to move an amendment to the Bill that extends marital status to sections of the Act which do not presently contain that section. I would just read that into the record.

A. Section 3 is amended by adding:

- 3.1 In the following provisions, "marital status" is added after "physical disability":
- the Preamble;
 - section 2(1);
 - section 3;
 - section 4;
 - section 16(1)(a) and (c).

This would extend, then, the service provisions of this Act to protect people from discrimination on the basis of marital status.

I think I have spoken to the injustice. Certainly many of us have heard from men and women who are divorced or never married who suffer financial hardship when they are between the ages of 55 and 64 and are unable to *access* the kind of service, the financial support, and many of the benefits that flow from the widows' pension. This is but one example of the discriminatory nature of some parts of our society that need to be corrected. This Act, then, can be used to educate other people as to the wrongness of that, can mediate and correct wrongs. So I would in this case, then, ask for support for this amendment.

MR. CHAIRMAN: Are there any further comments? The hon. Member for Edmonton-Gold Bar.

MRS. HEWES: Mr. Chairman, we haven't seen the amendment as yet. Is it being circulated?

MS M. LAING: Well, it should be.

MRS. HEWES: Mr. Chairman, I haven't seen the amendment, but having heard the Member for Edmonton-Avonmore speak to it, I can agree wholeheartedly with it. I have spoken in the House on a number of occasions, as have other members, about the potential for discrimination, in particular related to the widows' pension, against women who have never been married or women who have been married and are divorced and still do not have access to the same benefits. I hope to have another opportunity to speak at length to other parts of the Act, but I believe this is a good and proper amendment and one that is very friendly to the Bill and should in fact be included.

MR. CHAIRMAN: Any further comments? The hon. minister.

MS McCOY: Mr. Chairman, on the matter of making marital status a protected category in all areas covered by the IRPA, let me just say that in our careful review of the Act, there did not appear to be a need to extend protection for marital status to other areas of the Act; namely the tenancy, the public services, and the accommodation. I should emphasize that discrimination on the basis of marital status is prohibited. It's prohibited in the areas of employment and membership in trade unions and employers' organizations and occupational associations. As I say, these areas are the only ones in the IRPA in which marital status would appear to require protection.

Thank you.

MS M. LAING: Well, Mr. Chairman, that is exactly the point that we're making: that it is only in areas of employment and those kinds of matters arising around employment that marital status is a protected category. What we're saying is that it must be also a protected category in the areas of service provision, that one should not be excluded from pensions because of marital status. That is the point we're making. Clearly, from the amount of mail I get, the letters I get, and the fact that this matter is before the Supreme Court of Canada in regard to a Charter challenge, this particular Act violates the notion of equal access to service. So service beyond tenancy, employment, membership but service like pensions – people should not be excluded. That is an irrelevant attribute when it comes to determining whether one should have a pension: whether or not they have married, whether or not their spouse has died.

The relevant attribute – and I think that's what we're talking about when we're talking about discrimination – is discrimination on the basis of irrelevant attributes. What we have in things like the widows' pension is that instead of looking at the attribute, which should be need, we look at the attribute as to the marital status, and that is clearly unfair and wrong.

MR. CHAIRMAN: Any further comments? Is the committee ready for the question?

HON. MEMBERS: Question.

[Motion on amendment lost]

MS M. LAING: Mr. Chairman, in keeping with the principle of this Bill, which is to extend protection to additional categories or groups of people, I would speak of those people that face discrimination on the basis of sexual orientation. They are discriminated against in regard to tenancy, to employment. They are subject to harassment and perpetuation of negative images. Some of the information that has come across my desk in regard to sexual orientation borders on hate literature. In fact, if I hadn't thrown what I got in the garbage, I would have asked the Attorney General to assess it in terms of hate literature. I think this is one area where there is great prejudice based on misunderstanding, on stereotypes, on ignorance. By including sexual orientation in the human rights protection Act, we would protect people on this basis from the kinds of things that have already been mentioned; that is, employment, tenancy, service: those kinds of things. But we would also have an opportunity to educate people. Much of what happens to people who are not of the heterosexual orientation is a result of fear. People do not understand what homosexuality is about, and they are afraid of it. Ten percent of the population are homosexual in orientation.

MR. CHAIRMAN: Order please, hon. member. I think we have to stay with the principle of the Bill. The hon. member really is straying past the principle as was approved in second reading. [interjections]

The hon. Member for Edmonton-Highlands.

MS BARRETT: Thank you. On the point of order, that would not be the case, and I'd like to make some citations and point out some historical examples. The amendment that just failed attempted to expand the group of people who would benefit from protection under IRPA; in fact, that is the sole intention of the amending Bill itself. So it occurred to me last week that I would go and look up some prior debates in which similar types of amendments were made. I found that not only were similar types of amendments made, for instance, under consideration of Bill 1 of 1988, which was the – what the heck was the name of that? Just a second. It was the Premier's council on persons with disabilities, methinks, or something like that. But anyway, the Rev. William Roberts sponsored an amendment on Bill 1 which expanded the group of people to be covered under consideration of the mandate to that council. I looked at Bill 10 from 1988. Not only was there an expansion of the concept, but there was in fact a partial reversal of the amending Bill itself at committee stage. This was allowed, and I think legitimately so. The reason, I think, it was allowed and other instances I have from 1987, 1988, and whatever year Bill 44 was – the year you guys started losing seats in droves, anyway: that year.

AN HON. MEMBER: Excellent research, ma'am.

MS BARRETT: Oh, well, just keep going, guys. We can hardly wait for your next bit of legislation.

The reason I think these amendments were allowed would relate to particularly *Beauchesne* citation 698(8)(b), which says:

An amendment may not amend sections from the original Act unless they are specifically being amended in a clause of the bill before the committee.

What that means, Mr. Chairman, is that we all have the right to offer amendments once the clause of the original Act is under consideration by this committee. That's why some of the other ones weren't ruled out. I think that's an ironclad case for

allowing such an amendment, and particularly considering we did just allow an amendment based on the same principle.

But I would add that there is an *Erskine May* citation that might be appropriate as well. It would be reference (1) on page 491, and it says:

An amendment is out of order if it is irrelevant to the subject matter . . .

which, of course, this is not. This is a matter of extending human rights protection to a broader group of people.

. . . or [if it's] beyond the scope of the bill . . .

Obviously, it's not. The entire principle of the Bill is meant to address that.

. . . or if it is irrelevant to the subject matter or beyond the scope of the clause under consideration.

Obviously, it couldn't be beyond the scope of the clause under consideration, because this is precisely what the minister is attempting to do. Finally, it says:

Amendments which are irrelevant to the clause under consideration should, as a general rule, if they are within the scope of the bill, be moved as new clauses.

I note that when I looked up some of the other Bills that we'd amended in this way in the past, not only ourselves but our predecessors in this Assembly – Grant Notley, Jim Gurnett – they had done the same thing. What they did is offer the amendment as an added clause to the Bill. In those instances it's been allowed, and I would argue on the basis of obvious, pure reason that it should be allowed now, Mr. Chairman.

MR. CHAIRMAN: The hon. Member for Edmonton-Avonmore, on the point of order.

MS M. LAING: Mr. Chairman, I would argue also that these amendments are in order because they are in keeping with the intent of the Bill. We have several protected categories added. The intent of this Bill is to extend protection. What we are doing is simply taking that intent and extending it further. I cannot see how it cannot be held to be in order. It is not irrelevant. It is not contradictory. It does not make light of the Bill before us, but it is in keeping with the very purposes of this minister in this Bill; that is, extending the categories group of protection under human rights legislation.

MR. CHUMIR: I would rise to speak in favour of allowing the amendment, Mr. Chairman. We are dealing here with the broad category of the topic of human rights. The purpose of the legislation, I would agree with the hon. proposer, is that of expanding the ambit of legal protection against discrimination in its broadest sense. The legislation itself already protects with respect to discrimination relating to race, religious belief, colour, sex, physical disability, age, ancestry, and place of origin. This Bill itself adds the category of mental disability. It adds the category of sexual harassment in respect of domestics and farm workers. It deals in addition with gender discrimination. I would submit that to add another category would fall within the broad principle of this legislation and the amendment and that, indeed, there is nothing inconsistent nor contradictory to this particular Bill contained in the amendment with respect to sexual preference, which we as a Liberal caucus would be supporting.

Rule 568 of *Beauchesne* is relevant, which states that it is imperative

that every amendment must be relevant to the question on which the amendment is proposed. Every amendment proposed to be made, either to a question or to a proposed amendment, should be so framed that, if agreed to by the House, the question or

amendment as amended would be intelligible and consistent with itself.

I could see no reasonable suggestion that the amendment, if accepted, would render the question itself either unintelligible or inconsistent. So we would ask and submit, Mr. Chairman, for a ruling that this matter is in order.

MRS. HEWES: In support of the point of order raised, Mr. Chairman, I'd just like, perhaps, when you give your ruling, if you would comment further. It seems to me that we just minutes ago debated an earlier amendment that, too, extended the protection to persons related to marital status, extending that description of those who are already protected within the Act and those that are being added by this amendment that's before us tonight. I'd like, then, to have your explanation, if this next amendment is out of order, as to why the amendment related to marital status was not ruled out of order. I believe that to be consistent, they either both are in or the earlier one should not have been acceptable either, sir.

MR. CHAIRMAN: Well, hon. member, I didn't rule any amendment out of order. I was calling the hon. member to order for really making some debating points that the Chair felt would be more properly made at second reading when discussing the principle of the Bill. Then we got into the argument about what is the principle of this Bill. As far as the Chair is concerned, the principle of this Bill is to add one new category – that is, mental disability – and, secondly, to expand an existing category, marital status. That was the principle adopted by the Assembly at second reading.

Reference to Bill 18 in 1988 I don't feel is quite applicable, because that was a Bill that established a brand-new subject of legislation. It wasn't an amending Bill, so the principle there was pretty well open. You could argue that maybe the general principle was too narrow, but this is an amending Bill, and the principle of this Bill is to add one new category and to expand another.

MS BARRETT: That's what that concept's about.

MR. CHAIRMAN: Well, the arguments of the hon. Member for Edmonton-Avonmore would be much more appropriately expressed at second reading.

MS BARRETT: But you're not allowed to amend at second reading.

MR. CHAIRMAN: Well, there can be some reasoned amendments. You can make your points. That is the time to make those debating points, at second reading.

MS BARRETT: They were.

MR. CHAIRMAN: Well, fine. And I recognize that all hon. members try to make them once, twice, three, or four times during the course of the – that's fair ball, if you can get by the rules. But the Chair interprets that at this stage, in committee, we are dealing with clause-by-clause study of the legislation. We're not dealing with the principle. That was approved at second reading. We are not to go beyond the principle of this Bill. The interpretation of the Chair is that the principle of this Bill is the addition of a new category plus the expansion of an old one. I think we all recognize that some members really

regret that the principle isn't wider to allow for another new category, but that isn't the principle we're dealing with.

MR. McEACHERN: It occurs to me that the principle of the Bill is not to expand the categories. The principle of the Bill is to protect certain groups of people, certain categories of people. How you could move an amendment in Committee of the Whole, which is the proper time for an amendment, without referring to the idea that some people should be protected I do not know. So when you bring in an amendment, as the Member for Edmonton-Avonmore has, that says that there should be another group protected, it is part of the very essence of the Bill. Surely it is not a criticism of her to argue that she is somehow expanding on and talking about details that should be in the Bill which embodies that principle. I mean, that is the very essence of the Bill, and there is no way around that. So if she suggests another category in order to justify it, she of course has to refer to the principle of the Bill. In Committee of the Whole is there anything wrong with referring to the principle of the Bill if it serves the argument . . .

MR. CHAIRMAN: Hon. member, I would say there's . . . [interjections] Order please. I'll answer the hon. member. There's nothing wrong with referring to the principle of the Bill. The disagreement in the Chamber . . . I'm sorry; I am going to stick by my ruling. The Chair has ruled that the principle of this Bill is as I enunciated; that is, to add a classification of disability plus . . .

MR. McEACHERN: That's not a principle.

MR. CHAIRMAN: Order please, hon. member. That may be your opinion. I am giving the ruling, and that is the ruling of the Chair.

Something new, hon. member?

MS BARRETT: Well, I'm just wondering: are you ruling that you will not accept an amendment to include sexual orientation in this Bill?

MR. CHAIRMAN: That is my ruling.

REV. ROBERTS: Well, Mr. Chairman, I just cannot accept that.

[Several members rose]

MR. CHAIRMAN: Well. Order please. [interjections] Order please. Order. [interjections] Order.

The proper remedy if you disagree with the Chair's ruling is to appeal the Chair's ruling to the Assembly. [interjections] Is there an appeal?

MS BARRETT: Yes.

MR. CHAIRMAN: Therefore, I adjourn the committee, and we will reassemble in the Assembly.

[Mr. Speaker in the Chair]

MR. SPEAKER: Order please. Perhaps hon. members would be good enough to turn in their Standing Orders to section 62. The Member for Drumheller.

MR. SCHUMACHER: Mr. Speaker, as Chairman of Committees I ruled that sexual orientation was beyond the scope of Bill 8. The Member for Edmonton-Highlands appealed that ruling to the Assembly.

MR. SPEAKER: Standing Order 62 is fairly explicit as to what procedure comes into operation. So we have now dealt with subsection (6), and in subsection (7) the Chair is directed to put the following question to the House without debate: that the decision of the Chairman be confirmed. Those in favour, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: The motion carries, in the opinion of the Chair.

REV. ROBERTS: Oh, come on. Don't be so ridiculous. That's absolutely ridiculous.

MR. SPEAKER: Hon. member, Standing Orders of the Assembly are there . . .

REV. ROBERTS: Are there to close debate on a very important matter for Albertans, and you know it.

MR. SPEAKER: Hon. member, once more . . .

REV. ROBERTS: Well, I am leaving. That's enough. I've had enough of this kind of nonsense and injustice. I just can't stand our Chairman [inaudible] the perpetrator.

MR. SPEAKER: Sergeant-at-Arms.

Order. Order, hon. member. Don't create such a disturbance and do disservice to yourself.

REV. ROBERTS: Oh, come on. What kind of Standing Orders . . .

MR. SPEAKER: Sergeant-at-Arms, would you please.

Hon. member, Mr. Roberts, I name you to this House. Please take your leave.

REV. ROBERTS: It's about time.

MR. SPEAKER: Hon. member, without comment.

[The Associate Sergeant-at-Arms followed Rev. Roberts out of the Chamber]

MR. McEACHERN: Why don't you attempt . . .

MR. SPEAKER: Hon. member.

MR. McEACHERN: . . . for yourself instead of . . .

MR. SPEAKER: Hon. member, please.

MR. McEACHERN: I just asked a question, a reasonable one.

MR. SPEAKER: Hon. member, if you're asked a third time, you'll be joining him.

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

[Mr. Schumacher in the Chair]

MR. CHAIRMAN: Are there any further comments?
The hon. Member for Edmonton-Avonmore.

MS M. LAING: Mr. Chairman, I would like to introduce another serious series of amendments, which may be less contentious: that protection be extended to people who have been convicted of a criminal "offence for which a pardon has been granted" and – this is included in the Canadian Human Rights Act – that "family status" be included as an extension of marital status. In 1988, 48 complaints in employment in regard to this category were received in Canada, 66 complaints received in relation to services. "Source and amount of income" to prevent discrimination against pensioners and people who live on social assistance. We have heard . . .

MR. CHAIRMAN: Hon. member, it would be very helpful to the Chair if the Table could have one copy of the amendment. It would help us, but carry on till we've had a chance to look at it.

MS M. LAING: Thank you. We would include source and level of income to protect people from discrimination because they are pensioners or because they are people who live on social assistance. We've heard of people who have not been given tenancy because they are on social assistance or people who do not want to hire people who are on social assistance.

The other area is, of course, that the divorced woman who is receiving maintenance payments may be denied certain rights because it is held that the maintenance is not something that can be depended on. It would seem to me that is nobody's business but the person who is applying for the apartment or the job or the credit card. So I would ask for support of this amendment.

MR. CHAIRMAN: Hon. member, the Chair agrees with you that these proposed amendments are not as controversial as the other one; unfortunately, they fall into the same category as the Chair's objection to your previous amendment, and that is adding a new category. This goes outside the principle.

MS BARRETT: Mr. Chairman, point of order.

MR. CHAIRMAN: Yes. The hon. Member for Edmonton-Highlands on a point of order.

MS BARRETT: Thank you. I know what you're getting at here, but it's so vaguely expressed and so ill-defined that I cannot support the contention that these concepts are determined to be out of scope when other concepts are not. This appears to be an arbitrary decision.

Now, perhaps the Chair would like to make a definition about what is out of scope. I think what you're going to find is that once you open the clause to the Bill, which the minister herself has opened, and the entire subject matter, the entire purpose of opening that clause, is to expand the groups of people who will benefit from the protection extended by this Act, there can be no logical conclusion with respect to who should be considered,

who should be in there. I could argue that short people, for instance, could be in there. I could.

You see, what you're not telling us, Mr. Chairman, is why it is that you're deciding some issues are relevant and within scope when it comes to an expansion of this group of people and why some are not. Again I would refer you to the citations I gave you before. This is absolutely in proper territory. It's been done before. The rules say you don't amend a part of the Bill that isn't up for consideration. The rules say if it's irrelevant to the subject matter, you can't do it; if it's beyond the scope of the Bill. This is not beyond the scope of the Bill. I think I've made that case. It's not irrelevant to the subject matter, and neither is it beyond the scope of the clause under consideration. Better yet, even if we failed all of those tests, Mr. Chairman, even if you failed those tests, there is another factor, and that is the citation from *Beauchesne* which says that if you are going to do this when it would otherwise be out of the scope of the Bill, there is one way you can do it, and that is by adding a new clause.

Mr. Chairman, we were thorough in our approach to these amendments. Obviously we're very serious about the intent of them. Will you please tell us in black and white, as clearly as possible, how you can define the scope of the clause of this Bill in such a way as to exclude some people and include others?

MR. CHAIRMAN: Order please. I've been advised that it has been traditional on a point of order that generally one caucus gets to get its point made, and now I see two more members of the same caucus wishing to amplify what the House leader of the Official Opposition has had to say.

MR. McEACHERN: Perhaps we have something else to add to the argument, and that's why we stand up.

MR. CHAIRMAN: Still, the tradition appears to have been in this committee that it goes by caucuses.

MS BARRETT: Could I clarify that for you?

MR. CHAIRMAN: Yes, I'll recognize you.

MS BARRETT: Mr. Chairman, the House leaders' agreement with the Speaker was that that would obtain on points of order when we're in the Assembly. I don't believe we ever made any provisions with respect to Committee of the Whole or Committee of Supply. In other words . . .

MR. JOHNSTON: They apply the very same, and you know it.

MS BARRETT: No, we didn't actually, Dick. [interjection] Cool it, mister. We didn't actually discuss it, okay? We didn't. All we talked about were rules of the Assembly, not Committee of the Whole or Committee of Supply, so I can't clarify it.

MR. FOX: We all plan on speaking on this.

MR. CHAIRMAN: Well, the Chair is not inclined to be too restrictive here. I'll recognize the hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Chairman. Could I ask for the attention of all the members of the Assembly for my argument? Because it is they who decide . . .

AN HON. MEMBER: You know we never listen to you.

MR. CHAIRMAN: Order please.

MR. McEACHERN: Please.

Most of you were not listening to the ruling nor the arguments pro and con last time, when we called in the Assembly, and yet you had the right to make the decision as to whether or not the Chairman would be upheld on the decision without having listened to the essence of the argument, just on the assumption that because he's a Conservative, he must be right.

I want to make the basic argument, and it's really very short and very simple. Okay? This Act says that a particular group can be added to that group of people – let's say there are half a dozen groups – that are protected under the Individual's Rights Protection Act. The minister has introduced a Bill saying that another group – let's call it group A rather than worrying about who it really represented – would be added. Now, the Member for Edmonton-Avonmore is suggesting the addition of group B and group C and group D, and just because they happen to represent different groups than the original group A added by the minister does not mean there is anything different in essence between the process being used to add group B compared to group A, and it is not possible for anybody by any twisted logic to . . . [interjections]

MR. CHAIRMAN: Order please.

MR. McEACHERN: It's not possible for anybody to suggest that there is anything different in kind or in essence or in principle or in any other way between deciding to add group A, B, or C, until you know what those groups are, and even then it's not a substantive difference. It's just that it happens to be a different group you want to protect. So the principle remains the same, the process remains the same, and it is not possible that you could suggest that putting in group A is a procedurally right thing to do and putting in group B is procedurally not a right thing to do. You can decide not to put in B for substantive reasons but not procedurally. So, therefore, I submit, Mr. Chairman, that there is a not a reason in the world why the Member for Edmonton-Avonmore shouldn't be able to suggest a half a dozen different groups to be included for protection under the Individual's Rights Protection Act. [interjections]

MR. CHAIRMAN: Order please. Well, the Chair, will perhaps give another example of what's going through its mind. For example, in the House of Commons, if the government introduces some fairly minor amendments to the Criminal Code, some other people in the House of Commons might say that because the Criminal Code's principle is generally to protect people, they would entertain amendments to bring back capital punishment, outlaw abortion. Those wouldn't be held to be in order because they wouldn't be within the scope of those rather minor housekeeping amendments to the Criminal Code. That is the rationale behind the Chair's ruling that we do not add new classes. This Bill chose two classes: mental disability and marital status, one being a brand-new class and the other being an expansion of an existing class.

Hon. member, I have heard your argument.

MR. McEACHERN: Well, but there is an argument against your argument, really.

MR. CHAIRMAN: The Chair has made a ruling. [interjections] I'm sorry, hon. Member for Edmonton-Kingsway. Unfortunately, the Chair has made a ruling, and the Chair is not prepared to hear further argument on it.

Hon. Member for Edmonton-Gold Bar, on the Bill itself or . . .

MRS. HEWES: Yes, Mr. Chairman, on the Bill itself. I have a few comments and a number of questions for the minister, if I may. As I understand it, the Bill is to extend the rights and protection of the IRPA to those with mental disabilities and certain other categories that are defined, and I appreciate that there is a definition of mental disability in the Act.

Mr. Chairman, as times have changed and our thinking about mental disability and those who have suffered mental illness has expanded and we have greater understanding not only of the disease itself but of the methodology of treatment and the capacity of individuals who have suffered from mental disease, I think we've become far more tolerant. But the fact remains that people who have suffered from mental disorders or who do suffer from mental disorders still are often involved in discrimination relative to housing, to employment, to social opportunities, to education and training, and a number of other opportunities in their lives.

The same things apply to those who are mentally disabled, Mr. Chairman. We are finally beginning to recognize the strength in people who are mentally disabled and their immense capacity in some opportunities. But they are still widely open to exploitation, and I believe this Act is quite properly extended to that category. It, in fact, of course, cleans up gender as well. The Human Rights Commission has been pressing for these amendments as well as for the amendment that is not present that I'll speak to in addition.

The first question that I have for the minister, Mr. Chairman, is related to the category of mental disability. Will the minister inform the House whether or not the Act has been looked at in respect of the report of the Premier's council? There are some excellent recommendations in here, most of which I think are very practical and sensible, related to employment, related to housing as well, and related to education. I would like the minister to comment to the House on whether or not it has been looked at in relationship to those recommendations, which I believe are excellent and well thought out and probably will come into force in some kind of plan of action in the near future. Hopefully the Art has been reviewed relative to those. I think it would be a great pity if it does not conform and we're in a position of having to open it again within a few months.

Mr. Chairman, some of the other questions that I have are on section 9. The section about farm workers in the Art now includes

- (a) a domestic employed in a private home, and
- (b) a farm employee who resides in the private home of the farmer who employs him.

I would like to ask the minister, and I think I mentioned this before when I spoke to it: what is the distinction between farm employees that reside in the farm home and those who do not reside in the farm home? Does that mean that workers living off the farm do not have the same protection? Why is there a different distinction here from the domestics? There is no mention whatsoever of where a domestic must live in order to be protected.

I would also like to ask the minister about whether or not the department has a definition of sexual harassment. There is no

definition here, and it occurs to me that that is absent. It's referred to in the Act, but it is not clearly defined.

Mr. Chairman, I've already indicated that I agree with the changes to clear up gender. One of the questions I had related to new subsection 29.1(1) about the carriage of the proceedings. The Act does not explain the process of the procedure of the carriage of the proceedings, and I wonder if it is the intention to provide further to this Act guidelines as to when individuals can be called, additional parties called, to appear before the inquiry or when individuals could be substituted. If an individual is called halfway through the proceedings, does that jeopardize the proceedings or the person's right in the hearing?

Mr. Chairman, another question I had is related to the part about compensation when a person is found to have been discriminated against. Section 31(1)(v) is very vague, allowing the board

to take any other action the board considers proper to place the person [dealt with contrary to the Act] in the position he would have been put in but for the contravention of this Act.

Mr. Chairman, it occurs to me that it may be impossible to put a person back into the same position. There may have been far too much embarrassment, humiliation suffered, and so on to put them back. Then what, if any, would be the addition of punitive damages to be paid in circumstances where this might occur? The Act does not cover that.

Further, Mr. Chairman, in that vein, there is no evidence to me that the Act has been strengthened in terms of fines levied where there are offences. There is no real clarification of implementation, no defined process for getting people well-versed in human rights to investigate complaints in order to make this Act expansive.

Mr. Chairman, I'd like to question the minister on the guidelines as to who will be serving on the board, specifically outlining the qualifications of members, the process for selecting a person to sit on a board of inquiry, and are there qualifications required?

Another question relative to the board, Mr. Chairman, that I believe it would be helpful if the minister would answer is if there will be an allowance for public hearings with provisions for confidentiality. These have not been provided in the past. Whether or not all parties called to appear before the inquiry are entitled to be represented by a lawyer: these have not been stipulated, and I believe they should be.

Mr. Chairman, just finally, I regret that we have not been able to have an amendment to this Act, or it hasn't been opened, to place sexual orientation in the list of the protected categories. I think that's regrettable and unfortunate. The Human Rights Commission recommended that it be included in the early '70s. It's been under consideration since then, and I think it's a great pity that when this is finally opened, the minister and the cabinet have not seen fit to put it in. I think it's a glaring loophole, and it opens the door for bigots, fearful people in powerful positions to take advantage of others. I think it's a most unfortunate circumstance where sexual orientation being overlooked simply underlines what the government has failed to do more than what it has done. Mr. Chairman, while speaking to my support of the Act, because I have long awaited the inclusion of mental disability as one of the protected categories, I believe that it certainly is very obvious by the omission what the government has left out, and that I believe we will all come to regret.

Thank you, Mr. Chairman.

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

MS M. LAING: Thank you. As the Member for Edmonton-Gold Bar has said, I certainly support the minister for bringing in these amendments. However, they do not go far enough, and certainly I believe the principle of the Bill was to extend protection and not specific categories.

However, this Act fails 10 percent of our population, which is the number of our population that is homosexual or bisexual in orientation, and the Human Rights Commission has called for inclusion, as we've heard, from the 1970s. So, again, this Bill does not extend marital status protection nearly far enough, so that people can still be denied service on the basis of marital status. I would ask, however, that in the context of marital status we do not see a definition of marital status, and I would wonder what the minister means by this. Will it include common law relationships? In fact, many of the protected categories are not defined in the definition section. I believe that causes some difficulty in administration of the Act. So I would ask the minister to answer, if she can, the question in regard to marital status, inasmuch as she has included a definition of mental disabilities.

In closing, I believe that this Act, although it does do some things, is woefully inadequate, and I would ask this minister to bring it back forthwith and extend protection to all Albertans.

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

MR. WICKMAN: Thank you, Mr. Chairman. I welcome the amendment that is in front of us to amend the Individual's Rights Protection Act. It's a long time coming. The current Minister of Labour responsible for the Individual's Rights Protection Act was not here in the '70s when I can recall that the lobby started to make changes to the Individual's Rights Protection Act. At that time, after a great deal of lobbying and a great deal of pressure from various groups in the community working towards improving the life-styles of disabled persons, both physically and those that are mentally disabled, the government did, under the leadership of the former Premier, make changes to the Individual's Rights Protection Act that included the physically disabled. But even back at that time, Mr. Chairman, and I'm talking 15 years ago, community groups were already asking for this amendment that is now in front of us. So it has been a long time coming, and it is welcomed that it is here and that it appears it will get approval. By my account it appeared in three different throne speeches that it was to come forward and it was to be introduced, and by the time it came around the third time, some groups were getting skeptical as to whether it in fact would ever become reality.

Mr. Chairman, my wise colleague from Edmonton-Gold Bar made reference to the Premier's council, and I'll make reference to the Premier's council, the report that was recently released, on the basis that this is one of the recommendations they advocated. I would hope that the other recommendations in that report aren't going to have to go through the same time consuming process, aren't going to take the same period of time that this particular amendment has taken, and that the other recommendations that have to come forward will come forward and be dealt with on a much more prompt basis: action will be taken a lot quicker.

Mr. Chairman, just to conclude, I would have visualized this particular amendment to the Bill as opening up a matter that dealt with the principle. One has to look at what that principle is, and that principle is a question of the protection of individual

rights. The ruling, of course, that was made by the chairman limits the amount of discussion that can occur. But I think it does go against the grain of parliamentary procedure, in that I was always led to believe and advised that once a principle is established, like in this particular case, then the whole subject matter becomes wide open, and that in fact any areas that are related, then, to that subject matter are open game, and those areas can be taken into consideration, can be debated and so on. But, unfortunately, our discussion won't be extending to that degree.

Just to wrap up, Mr. Chairman, I do welcome this particular amendment, and I would hope that it gets the support of all members of this House.

MR. CHAIRMAN: Thank you.

The hon. Member for Edmonton-Highlands.

MS BARRETT: Thank you, Mr. Chairman. Of course members of this Assembly would welcome the contents of this Bill. It's like saying that if you get to see a little bit of the sunrise, you're not going to say yes to it, when you know in fact that were the universe normal, and under parliamentary rules, we'd be able to see the entire sunrise.

The fact of the matter is that while this Bill is a tiny step in the right direction, it is only that. There are a lot of people who suffer discrimination in our society, and if you don't believe me, come down to Boyle Street and see them sometime, see the way these people are treated. It's because some of them are poor; it's because some of them live on social allowance. These people are not going to benefit. They're as human as you or me, and they will not benefit from the basic protection we could have had if the minister had sponsored a Bill that was expanded beyond that first step, that first ray of sunshine.

Similarly, and I speak as a single person here, I think that single people also suffer discrimination. I remember one time when I lived with one of my sisters, Jennifer. She came home in an absolute, screaming rage. She worked for a bank and had applied for a particular credit card. Do you want to know, Mr. Chairman, what happened? She was denied the credit card because she was single. This is a long time ago, but, you know, it can still happen. That's outrageous.

I don't know if you Conservatives know what it is that you're excluding here. I suspect that many of the Conservatives here are homophobic and that's why the minister couldn't get the sexual orientation amendment through caucus. What a pity. What do you think about homosexuals? Do you think they're weird? Do you think they are entitled to fewer rights because they choose to love somebody of their own sex? Is that so wrong? That's like telling people that they can't choose to fall in love with somebody who's tall or somebody who's short or somebody who's got brown eyes. What a ridiculous series of assumptions.

Finally, if this guy is so fair – and I've practically memorized the Family and Social Services minister's responses to questions every day. Do you want to watch the imitation? "Mr. Speaker, we care." He does it every day: "We care." Well, why don't you people figure out how to care through legislative means? There are people who have received pardons, and rightly so, from convictions for an offence under the Criminal Code, and they can still suffer discrimination because this Bill is lacking, because the Conservatives have decided who's in their circle of friends and who's not. If you're poor, you're outside. If you're single

or a pensioner, you're outside. If you're a former convict, you're outside. If you're gay, you're really outside; you're in the cold.

Well, let me just offer one little piece of political advice. It's absolutely the stuff that I was predicting, starting in 1983, and sure enough, it turns out to be true. The more you people identify who your friends are and make that enunciation clear, the more the people who are not identified as your friends will figure out which side of the fence they're on and which side you're on. And when they realize that they're in the majority and you guys are in the minority, you guys are going to be sitting in the opposition because of deficient Bills like this, and we're going to be the government and change this legislation.

[The sections of Bill 8 agreed to]

[Title and preamble agreed to]

MS McCOY: I'd ask that the committee report the Bill.

[Motion carried]

Bill 5

Insurance Amendment Act, 1990

MR. CHAIRMAN: The hon. Member for Banff-Cochrane.

MR. EVANS: Thank you, Mr. Chairman. As I mentioned at second reading of this Bill, the Bill is not long. However, it is an important piece of legislation because it addresses two specific matters. One is the issue of responsiveness to change by moving matters dealing with amounts, terms, and conditions of accident insurance benefits from the Insurance Act into the regulations so the changes can come about more expeditiously. Secondly, it makes penalties that can be imposed under the Act much more effective.

Members will recall that the Member for Edmonton-Strathcona raised an issue at the time of second reading; namely, he was concerned as to whether draft regulations could be brought forward at the time of Committee of the Whole. I regret to advise the hon. member that the regulations are not completed at this time. However, I've discussed this matter with the department, and they will be made available to the hon. member as soon as they are completed.

MR. FOX: Then hold up the Bill.

MR. EVANS: And, hon. Member for Vegreville, that's certainly your option. If you feel it's that important or if any of the members of the Official Opposition feel that the Bill should be held up, it's their prerogative to act accordingly. However, I think the people of this province, and I believe all of the hon. members as well, will recognize that this is a very progressive and responsive piece of legislation, and accordingly I'm sure the hon. members will approve of it. I'd be happy to answer any additional questions that any hon. members may have.

Thank you, Mr. Chairman.

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

MR. WRIGHT: Yes. Mr. Chairman, I do remind the hon. member that one of the complaints of this present administration, the lot that started in 1971, about the previous administra-

tion was the habit of putting things in regulations so you didn't really know what you were voting on. That was a constant complaint, and the result of it was embodied in a report that was issued in 1973 saying that the regulations that really put the guts of what you're talking about should be there – they just say "if possible." But we haven't heard why it isn't possible at the committee stage so that there could be a chance to discuss it. It's all very well saying they'll be available as soon as possible. That's always the case, I suppose, but that could be after the Bill's gone by. I don't think it's terribly, terribly important in this case, because one sees what the point of shifting the thing out of the Act into the regulations should be. But we've drifted back into the same old business, and in some Bills it is very important. I think it's not quite so important in this Bill, but I just wish they'd follow through with their own rules, Mr. Chairman, and have at least a draft of what the regulations are going to be at the time we say, "Okay; we're going to shift this into the regulations."

[The sections of Bill 5 agreed to]

[Title and preamble agreed to]

MR. EVANS: Mr. Chairman, I move that the Bill be reported.

[Motion carried]

Bill 7 Change of Name Amendment Act, 1990

MRS. B. LAING: Mr. Chairman, as stated earlier, Bill 7, the Change of Name Amendment Act, 1990, will address some of the discriminations on the basis of gender which exist in the present Act. In most cases these amendments change the gender words such as "mother" and "father," "wife" and "husband," to those of "parent" and "spouse," which are more acceptable under the Charter of Rights and Freedoms.

In today's society it is not uncommon for a father to have lawful custody of children, and this amendment would prevent the prejudicing of either parent's application for a change of name for their child under the Act. Presently the Change of Name Act makes provisions to change the names of children of widowed parents in S6 and divorced parents in S7, but does not make provision for children of legally annulled marriages. Not providing for the changing of the names of these children could be viewed as discriminating against a class of persons, and therefore contrary to the Charter.

In today's society we have many blended families. Having the same name as others in the family helps the child feel a more integral part of the family. A matter which helps strengthen a family's bonding is right and necessary, and an Act which complies with the Charter of Rights and Freedoms is essential in today's complex world.

Thank you.

MR. CHAIRMAN: The hon. Member for Edmonton-Gold Bar.

MRS. HEWES: Mr. Chairman, thank you. I spoke to this Act before and supported the theme of the Act. The essence is really a housekeeping one. It does a number of things: it cleans up the gender-specific diction throughout the Bill, and it distinguishes between children of annulled marriages and

children born out of wedlock, and I appreciate that that has been necessary.

Mr. Chairman, I do have some amendments that I would like to circulate to you and members of the Assembly. These amendments simply are presented in the interest of fairness to extend what the Act, I believe, is intending to do. But the Act, it seems to me, doesn't go quite far enough in that it relates to certain things such as patronymic without using the opposite gender, matronymic, and including it in the substance of the Act. I believe that in the interests of fairness to both mothers and fathers, wives as well as husbands, these amendments should be extended. I'll present them as a package because I believe they fit together, Mr. Chairman.

If members have the amendments before them, they'll note the first one is the one I've already referred to, and that is:

Section 1(i) is amended by striking out "and patronymic" and substituting "patronymic and matronymic"

which simply extends it to the maternal parent.

Section 2 is struck out and the following is substituted: you strike out "mother" and substitute "wife or mother," which conforms to "husband or father."

Further, Mr. Chairman, section 5 is amended as to the proposed section 11 by adding the following after subsection (6):

(7) A father who has lawful custody of a child born out of wedlock and who is not cohabiting with the mother of the child may apply to change the surname of the child to the surname of the mother,

once again extending the same rights and privileges to the father as the Bill does to the mother.

The last amendment, D, Mr. Chairman, I think is equally easy to understand. The following is added after section 5:

5.1 Section 13 is amended

- (a) by striking out "may not apply" and substituting "may apply"; and
- (b) by adding "but only with the consent of that other person" after "wife."

This, Mr. Chairman, in the final amendment, D, simply changes it to a positive amendment requiring that the person may apply only with the consent of the other person.

Mr. Chairman, I think this is a Bill that has been needed; it does go a long way to cleaning up the gender requirements in the Act. But this simply, in the interests of fairness, extends the same rights and privileges to husbands and wives, to the notion of patronymic and matronymic, and simply clarifies those points. I do not believe that in any way it inhibits the intent of the Bill being brought forward but, in fact, makes it a fairer and more sensible and rational Bill from the standpoint of all persons who would be involved in one of these situations.

Finally, Mr. Chairman, I hope all members of the House will support these amendments.

MR. CHAIRMAN: Thank you, hon. member. If the Chair could inquire: did the hon. member want them dealt with separately in due course, or as a bundle?

MRS. HEWES: Mr. Chairman, I'm content to have them dealt with together because they all embody the same intent, but, of course, other members may want them separated.

MR. CHAIRMAN: Any other comments?

The hon. Member for Edmonton-Gold Bar has moved four amendments to Bill 7. Is the committee ready for the question?

HON. MEMBERS: Question.

MR. CHAIRMAN: Oh, sorry. The hon. Member for Calgary-Bow.

MRS. B. LAING: Thank you, Mr. Chairman. I really don't feel that these amendments are necessary. In 4.1, for instance, the Act does mention permitting naming children after the mother as well as the father, as well as hyphenated names of both mother and father. So I believe that amendment is covered.

Also, in the other sections, "wife and mother" instead of "mother," section 4.1(1)(a) and 4.2(1)(c) and 4.2(2) – section 4.1 of the Act restricts the surnames which a child may have, and although this list of names may be expanded to include surnames of the wife and the father's new wife, it's suggesting that it may be discriminatory to exclude the name of the wife from the list. But this is in line with our current customs and is the way that society sees things right now. So I don't feel that it's really necessary to make those kinds of changes.

Thank you.

MRS. HEWES: Mr. Chairman, if I could just close on the amendments. That is my point. I don't believe that the Act really does conform with present customs. I think we're all observing new family relationships and new families being formed, and this Act, I think, was constructed and the amendment was brought to us in order to begin to deal with some of the new realities of family life that we face and to make it possible for people to bring legal conformity to circumstances where there are one or two children in an extended family that may or may not have the same surname as the husband or father or the wife or mother. I think in bringing the Act forward that was the intent, but the Act simply does not do it. It doesn't deal with the kind of family construction that we are now seeing in a fair way. I see no reason why a husband or a father should have opportunities and rights that the wife or mother does not. If the surname of the stepmother's name is the one to be chosen, then I think that person should have an equal opportunity with the father. Mr. Chairman, it's simply that I think in bringing the Act forward, the idea was to make it conform to present day family life, and it doesn't do it.

My amendments, I submit, Mr. Chairman, will go a long way to making it equal for all partners in a marriage and to make it possible for a fair naming of children in their circumstances, whether they are children of an annulled marriage or children born out of wedlock, and to create a fair circumstance for those children and their parents.

MS M. LAING: Mr. Chairman, I would like to speak in support of these amendments as put forward by the Member for Edmonton-Gold Bar. I think what you're doing in this Bill is giving a primacy to the biological connection between the mother and child by denying the wife of a biological father, if she is not married to the father – not giving that wife an opportunity to allow the child to carry her surname, whereas, in fact, if a woman marries and that man is not the biological father of the child, his name can still accrue to that child. So it seems to me there is some discrepancy, and what we'd be looking at is having children in a marriage all having the same hyphenated name. I would think that may be prohibited as the Bill is before us, and the amendment would correct that.

MR. CHAIRMAN: Are there any further comments on the amendments?

SOME HON. MEMBERS: Question.

[Motion on amendments lost]

[The sections of Bill 7 agreed to]

[Title and preamble agreed to]

MRS. B. LAING: Mr. Chairman, I move that Bill 7 be reported.

[Motion carried]

Bill 11 Petroleum Incentives Program Amendment Act, 1990

MR. CHAIRMAN: The hon. Member for Calgary-Forest Lawn.

MR. PASHAK: Bill 11, is that the petroleum incentives Bill?

MR. CHAIRMAN: You got it.

MR. PASHAK: Yeah, right. Okay. Sorry.

I just have a number of questions that I'd like to ask . . .

AN HON. MEMBER: Didn't we go through the pretensions of . . .

MR. PASHAK: I just assumed that the minister was going to get up and make a statement about . . .

AN HON. MEMBER: Go ahead.

MR. PASHAK: Okay. Yeah, I looked over your comments at second reading. So we're in Committee of the Whole. Okay.

I just have some basic questions that I'd like to put to the minister, Mr. Chairman, because this program was a very expensive and costly program as far as the province of Alberta is concerned. It might be instructive for the minister to explain, just from his point of view, why we got into this agreement in the first place, what it really cost us – I'd just like to check and see if his figures agree with mine – and the purpose that it served. In doing that, maybe we can come to some conclusions about whether or not this is the kind of program we should get into in the future. Maybe there are some lessons to be learned from it.

As I understand it, we got into the Petroleum Incentives Program Act as a result of the September 1, 1981, energy agreement between Alberta and the federal government. The hon. Merv Leitch at that time, when he introduced the Bill – it was Bill 78, which was the Petroleum Incentives Program Act – for second reading, said that under the terms of that agreement, referring to the provincial/federal agreement, the province of Alberta agreed to administer and pay the petroleum incentives program payments. Now, we had a situation at this time where the federal government had established a PIP. The money from that program went essentially into offshore exploration, it went into the Beaufort, it went into paying for exploration costs on federal lands, and they were amenable to opening that up for provincial governments as well. Saskatchewan, for example, took advantage of the program.

But here in Alberta, for whatever reason, we chose not to do that, Mr. Chairman. We made our first payments in the financial year ended March 31, 1983. In that year alone we paid out some \$684 million; in the subsequent year we paid out \$372 million; the year ended March 31, 1985, almost a half billion dollars; similarly in 1986, until we started to wind it down. My just quick calculation is that the program cost us approximately \$23 billion. Now, for what purpose? As I understand what was happening at that time, the federal government could have paid that amount of money if Alberta had wanted to participate in the federal program. So rather than having Alberta taxpayers pay \$23 billion for whatever reason, whether we wanted to thumb our nose at the feds or just what was going on at that time – and perhaps I am missing some significant point here – we took on a responsibility for paying an enormous sum out of the provincial Treasury. Perhaps the minister can give us a little background with respect to that.

I mean, I obviously have no problems with the Bill. We've wound down the fund, and all this is doing is just terminating, grandfathering any responsibilities or liabilities, as far as I can understand. So maybe the minister, if he would care to, would indicate whether my figures are approximately right, why we got into the program in the first place, and whether he thinks there was any reasonable benefit that the people of Alberta gained from this rather significant expenditure.

MR. CHUMIR: Well, as the industry would say, Mr. Chairman, of this program: it was great while it lasted. In fact, the only comment that I have is in fact identical to that made so eloquently and with such excellent research by my friend and former client, the hon. Member for Calgary-Forest Lawn. That, very, very simply, is something that has troubled me for some period of time, and that is: why did we, the province of Alberta, undertake to pay these APIP payments when the federal government was apparently prepared to make and did make payments for all of the rest of Canada under the PIP? It was very, very expensive, and I'm wondering whether this was another one of those parochial decisions made at a time when we appeared to have endless sums of money, whereby we preferred to spend our money and not attorn to the jurisdiction or decision-making authority of the federal government in any way. If so, it was an expensive exercise of hubris.

MR. ORMAN: Mr. Chairman, I guess I could answer the question in one sentence, and that is that we had the Alberta petroleum incentives program to offset the ravages of the national energy program as a result of the Liberal government in Ottawa.

Now, with regard to the research, if the hon. Member for Calgary-Forest Lawn and the hon. Member for Calgary-Buffalo have researched the annual statements filed in this Legislature for the Alberta petroleum incentives program, then I would agree with the veracity of the figures. If not, then I would refer them to those documents.

MR. CHAIRMAN: Are there any further comments? The hon. Member for Calgary-Forest Lawn.

MR. PASHAK: Perhaps the minister could tell us whether he's just refusing to answer out of stubbornness, or is it because he just doesn't know the answer?

MR. CHAIRMAN: Any further comments?

[The sections of Bill 11 agreed to]

[Title and preamble agreed to]

MR. ORMAN: Mr. Chairman, I move that the Bill be reported.

[Motion carried]

MR. STEWART: Mr. Chairman, I move that the committee now rise and report progress.

[Motion carried]

[Mr. Speaker in the Chair]

MR. SCHUMACHER: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills. The committee reports the following Bills: 5, 7, 8, and 11. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

MR. SPEAKER: Thank you. Does the Assembly concur in the report?

HON. MEMBERS: Agreed.

MR. SPEAKER: Opposed? Carried. Thank you.

head: **Government Bills and Orders** **Second Reading**

Bill 15 **Workers' Compensation Amendment Act, 1990**

MR. SPEAKER: The minister of Occupational Health and Safety.

MR. TRYNCHY: Thank you, Mr. Speaker. It's my pleasure to provide second reading to such an important Bill. It's timely that we have a look at the Workers' Compensation Act in that the last review was done in 1986. There's been a need to improve the system and allow the board more flexibility in responding to the needs of the injured workers.

The number of amendments to the Act, Mr. Speaker, will allow all appeals to be heard now by an independent appeals commission. In the past these appeals were heard by the board of directors, and that's been changed. At the present time we have four groups of three under the Appeals Commission which hear appeals throughout the province, and it's working very, very well. As I said before in my estimates just the other day, this board is independent and acts on all information provided to it. Under section 51, under disability pensions, the \$730 per month under the present Act will be increased to \$900 a month, an increase of some 23 percent. Pensions now under the \$675 range will increase to \$900, and section 65 strikes out the \$150 pension, with a substitute amount of \$165. Section 66 provides for an increase also, and so on.

Mr. Speaker, an important factor of this amendment is that Alberta is the only province in Canada that contributes to the Workers' Compensation Board from general revenue.

MR. SPEAKER: Order, please, in the House, the Member for Vegreville. Thank you. We're not in committee. Thank you.

Mr. Minister.

MR. TRYNCHY: Under the amendment, Mr. Speaker, this will be changed. The funding provided this year from general revenue will be some \$13.8 million. Over the next five years that will be decreased and eliminated, and the Workers' Compensation Board assessment will cover the full payments to the pensions.

Under section 53 the cost of living adjustments in the future will not have to have legislative approval. These approvals will come from the board upon full review by the board and then be submitted to and approved by the Lieutenant Governor in Council. Therefore, that can be done on a yearly basis or a monthly basis or whatever. The cost of living allowance will be increased by some 10 percent this year. In reviewing the past history of pensions to the Public Service Act and the cost of living across Canada, this figure is very much in line with those increases in pensions.

The last change, Mr. Speaker, in the amendments allows the board to register a charge in the Personal Property Security Act.

I believe those cover all the amendments to this Act that are very important. I'd ask all members of the Legislature to support the amendments to Bill 15.

MR. GIBEAULT: Mr. Speaker, I have to register a number of serious concerns about Bill 15, the Workers' Compensation Amendment Act, 1990. They come out of concerns that were brought to my attention from constituents and discussions with colleagues about the various problems that are brought to our attention regarding workers' compensation. As I have said in this House on a number of occasions before, we tend to get more complaints about the workers' compensation system than we do about any other government agency or service.

Mr. Speaker, in terms of Bill 15 I was hoping, after all we've been through with the Millard report and various meetings this minister has had with injured workers and the representations that have been made to him, that we would have something much more substantive than what we have before us in Bill 15. In fact, looking at this, it wouldn't be hard – and people have already been telling me this: they feel that more and more the government is betraying the original social contract that workers' compensation was based on. We want to remember what the purpose of workers' compensation was. It was to provide compensation to workers, but very particularly, the trade-off was that this protected employers from legal liability from their employees. While that latter purpose of protecting employers from legal actions has certainly been served, the purpose of protecting employees and providing for them and compensating them for their injuries and disabilities is very, very questionable in the minds of many injured workers. It's difficult for me to look at Bill 15 and to be encouraged with what I see there, Mr. Speaker, because it seems that this Bill here doesn't do anything to address or to put before the Assembly some indication that this minister and this government are really trying to move towards restoring that social contract, that working together, that co-operative effort on behalf of employees and employers to deal in a compassionate, humane, and prompt way with workers who have been injured or disabled on the job.

In fact, we've referred earlier to the confrontations that this minister and this government seem to prefer with injured workers. We've had the cases of injured workers protesting here at the Legislature. We've had the changes at the Workers' Compensation Board office itself, which has every message

except "welcome" and "we're here to serve you." All the opposite messages: that you're not welcome here; that we have to have security guards to look after you people because we don't trust you; we've got video cameras watching your every move; and the whole sort of hostile message that is sent out to injured workers. So perhaps it's very understandable, Mr. Speaker, that there's a really low trust level between injured workers and this government in terms of workers' compensation.

Mr. Speaker, there are many provisions in this Act that I want to refer to briefly, and I want to put this minister on notice that we're going to be submitting amendments to this Bill when we get to committee stage of the Bill. For example, it would seem to us, Mr. Speaker, that a government that is concerned about injured workers – and we want to remember that this is a minister who likes to call himself a friend of the injured worker – would not have before us on page 3 of this Bill the kind of provision that says that the board may, for the purpose of maintaining parity with the cost of living, make adjustments, et cetera. Now, the current system is bad enough. This one is really no better, because it does not require that cost-of-living adjustments be made every year. It says: "the Board may." "May" means that they may or they may not, and we want to have something in here which is much more decisive. We'd like to see something that says that the board "shall" each and every year make adjustments for the cost of living, and the full cost of living, not the half measures that this government has been doing for the last number of years.

I mean, we had just recently this minister announcing a 10 percent increase to the pensions of injured workers. On the face of it, that sounds interesting, until you realize that the last increase was in 1986. I've submitted to this minister the figures that I see from Statistics Canada's consumer price index that demonstrate an increase of over 18 percent since that last increase in 1986. I challenged the minister before, and I'm still waiting for him to present his numbers that justify only a 10 percent increase. When we have that kind of half measure, Mr. Speaker, injured workers don't trust this government with a provision that says that the board "may" make an increase, and no guideline or directive as to on what basis the increase should be made. So we could have, if we pass this kind of a Bill, that the board may periodically, from time to time, make recommendations for increasing cost-of-living payments and pensions to injured workers. But they may not, and what if they don't? Is there a provision in here for some kind of action so that injured workers can require the board to make an increase in pensions? Well, I don't see it. That's why this Bill is simply not acceptable in terms of providing protection for the purchasing power of those pensions.

Now, those pensions at the best of times are not that great, Mr. Speaker. Just earlier last week there was a rally organized by workers with injuries in Edmonton here, discussing many of these things. Regrettably, the minister chose not to appear. Of all the members on the board, none of them chose to appear either, regrettably.

MR. SPEAKER: Hon. member, that's really not germane to this Bill.

MR. GIBEAULT: Well, it just indicates the attitude of this government, Mr. Speaker, and that is truly regrettable.

MR. SPEAKER: Would you go back to the Bill, please. Thank you.

MR. GIBEAULT: So, Mr. Speaker, the question, of course, that we're trying to deal with here is pensions. As I said here, many of those who receive pensions have got very little to deal with in the first place. At this meeting last week that I just referred to, one gentleman indicated that he had a monthly pension of \$4.75. Now, I challenge anybody to live on \$4.75 a month, but he told us that there was an increase, and so now he's up to \$5.11 a month. It probably doesn't need to be said that he wasn't very impressed with that. Another individual at that particular meeting indicated that they were trying to somehow scrape by on a pension of \$70.79 per month. I mean, that's not a pension, Mr. Speaker; that is an insult to the injured workers of this province.

Any Bill of a government that is trying to be compassionate, that is trying to be friends of injured workers, has got to have a provision that protects the integrity of their purchasing power. Now, as I said, this last increase which was just announced recently had a 10 percent increase, and it was supposed to cover the almost 20 percent cost-of-living increase since 1986. This is compounded – I mean, that would be bad enough – by the fact that in 1986 there was an increase of about 8 percent, I believe, which was somehow supposed to cover the inflation of the last four years since 1982. Again, it was less than half the actual cost-of-living increase. So injured workers are consistently seeing the purchasing power of their pensions – and some of them, as I pointed out, are very, very marginal at the best – eroded even further. Mr. Speaker, that is simply not acceptable. Surely part of this social contract that we have with injured workers and with workers in this province is that when you have an injury, when you suffer a disability through your employment, once a pension is awarded for permanent partial or total disability, as a society the Workers' Compensation Board's commitment has got to be to protect the purchasing power of that compensation. That is not happening now, and that, Mr. Speaker, is not going to be protected in Bill 15, which is why we have no intention of supporting this Bill unless it's changed.

Mr. Speaker, to go on to a couple of other items. We have a provision in Bill 15, if we turn to page 6, that talks about the limit to the compensation that will be paid, the \$40,000 limit. Then there is a provision saying that such larger amount may be allowed subject to an order of the board and then, of course, subject to that being approved by the cabinet. Now, Mr. Speaker, how can we have such a provision in a Bill here? A provision like that is really a fundamental violation of the social contract of workers' compensation, because there is no limit whatsoever on the protection that employers get from legal liability from their employees – none. There's no provision in the Act that says that employers are only protected for the first \$40,000 of legal liability; it's not there, Mr. Speaker. They are protected unconditionally from legal liability, and so surely the comparable part of the Act for workers is that there should be no restriction on the limit of their wages that are subject to compensation.

Now, why this arbitrary \$40,000 number is in there, in this proposed new amendment which is not going to be helpful at all . . . A larger amount subject to the approval of the board and the cabinet: I mean, that's so much additional bureaucracy, Mr. Speaker, that that is simply unacceptable. The workers' compensation process is already bureaucratic enough. Surely the minister must know that after all the workers he's met with and all the complaints he's heard and so on. We don't need to make the system more bureaucratic; we need to make it much less bureaucratic. So we want to take that section right out there.

There should be no restriction whatsoever on a worker's wages. If a worker happens to be reasonably talented, reasonably skilled, and able to perhaps put in a few hours of overtime during the course of the year and makes more than \$40,000 – \$45,000, \$50,000 a year – why should they not be entitled to full compensation if they have an accident which prevents them from making that income? There has to be that quid pro quo in the legislation, Mr. Speaker. There is, as I said, no restriction on the employer's legal liability, and therefore the corresponding part of the Act should say that there is no limitation on the employee's compensation.

Now, another part related to that, Mr. Speaker, is that if you have an accident, God help you, and you file a claim with Workers' Compensation, all you're entitled to – and I wonder if all members of the Assembly realize this – is 90 percent of your net pay. Of course, that can't go over \$40,000 under the legislation. Now, why is it that a worker should face a 10 percent penalty in their net pay simply because they have an accident? Why do we want to punish injured workers for that? I just don't understand that. It's another thing that has got to change in this Act. This is not acceptable. Surely to goodness we are not going to punish a worker on top of the injury: the pain, the suffering, the difficulties that creates on the worker, the psychological trauma, the family difficulties and everything else, and then to turn around and say, "On top of that, by the way, Mr. Injured Worker or Ms Injured Worker, we're going to penalize you another 10 percent, assuming that your income is not over \$40,000 a year in the first place."

On top of that, of course, is all the bureaucratic hassle workers have to go through. No wonder there's such bitterness out there, Mr. Speaker. Any MLA, I'm sure, who's doing their job and listening to workers who have problems with the WCB bureaucracy knows that. So that has also got to be changed. As I said, it's the same provision I mentioned earlier. There is no limitation on the employer's legal liability and therefore, correspondingly, there should be no restriction on the employee's right to be fully compensated for their loss of earnings: fully, 100 percent and without limit to their earning potential; not 95 percent, not 90 percent, not 80 percent.

Mr. Speaker, another problem we've got with this Bill is that it does not address one of the ongoing problems that has been brought to the attention of the government, I know, by a number of workers' organizations. That is that once you get injured, you get 90 percent of net pay, but what that means is that your benefit package goes right out the door. Most employers and employees recognize that the benefit package is worth up to 25 percent of the wage or salary the employee earns. So what you have is a situation that they become injured; they get 90 percent of their net pay, but their health care premiums are not paid, their dental premiums are not paid, their pension payments are not made. You have employees, then, that are not able to maintain their health care, not able to maintain dental care for themselves and their families as they had before they were injured in their workplace, and their pension payments are not being made. So once they reach 65, they discover, "Oh my Lord, I don't have a pension here," or "It's just a fraction of what it should have been if I'd been able to continue working in my previous occupation and making those pension payments."

Once again, a government and a minister that want to consider themselves friends of injured workers have got to have legislation that says, "All right; once you've been injured, we're going to ensure that you are not going to suffer a penalty of your lost earnings, and you are also going to be able to maintain

your health care coverage, dental coverage, and pension payments so you're not totally destitute once you turn 65." And that's not in here, Mr. Speaker. It must be in here. A compassionate government would ensure that it is in here, and the New Democrats intend to fight to make sure this Bill is amended so it does have that kind of compassionate coverage. Workers should not be penalized for their misfortune or negligence of their employers.

Another element of this Bill that does concern us is that we have heard from this minister again that he wants to work with everybody. He talked about partnerships and co-operatively working together. I am very much troubled that we don't have in this Bill any provision for ensuring that the various stakeholder groups in this province involved in Workers' Compensation are represented on the board of directors. Now, there are nine members of the board, and the provision is something to the effect that we have three representatives from employers and three from labour and three from the public. But, Mr. Speaker, the largest labour organizations in this province made recommendations to the minister for nominees to the board and the minister just chose to ignore them. What kind of partnership or co-operative approach is that? I just don't understand why the minister wants to pursue that confrontational kind of approach.

Mr. Speaker, we just had today . . . Members might remember the report of the seniors' advisory council. There were people on that council who were appointed and designated to represent different parts of the province and different communities. The Medical Association, for example, had a representative on that council, and others. I have to wonder why the minister has not . . . I put it to him – and I hope he's responsive and open to this – that the makeup of the board should be beyond political manipulation. We ought to say right in the Act that we want to have the Alberta Chamber of Commerce appoint their representatives to the board, we want to have the Alberta Federation of Labour appoint their nominee to the board, we want to have the Alberta and Northwest Territories Building Trades Council appoint their nominee to the board, and we ought to have a representative of the various injured workers' groups in this province on the board.

Now, at one time the minister said, "Well, you know, we have an injured worker on the board." But what he didn't say was that that injured worker was not nominated by any injured workers' group in the province. Mr. Speaker, at the meeting of workers with injuries that we had just last week here in Edmonton, at which there were some 70 workers, I asked them how many know who the injured worker representative on the board is: hands up. Not a single hand went up. So how is that individual supposed to represent the concerns of the injured worker when there is no accountability whatsoever to the injured workers of this province? It can't be done, Mr. Speaker. So that has to change if we really want to have that co-operative effort of employers and labour working together and with injured workers represented to ensure that the system works properly and meets their needs. That is not happening at this time.

[Mr. Jonson in the Chair]

I also want to mention the composition again of the Appeals Commission, and the same thing applies there, Mr. Speaker. I want to see in the Act where the various stakeholder groups have got their representatives nominated to the Appeals Commission to make sure injured workers can have confidence

in the integrity of that body as well. That is not presently happening either.

So I put it to the minister that if he's really concerned, he will make sure he'll protect himself and this government from future charges of crass political appointments to boards like the Workers' Compensation Board and the Appeals Commission of the board. Let's have it in the Act, saying that different representative groups who are involved with workers' compensation have their nominees to the board. The process will have integrity and will be beyond question, which it does not now enjoy.

Mr. Speaker, one of the other problems I have with Bill 15 – the minister referred to them briefly in his opening remarks here – is the various sections which provide for particular limits or minimum payments for various conditions. Now, the problem I have is not so much with the particular numbers we have here, but the idea of having numbers in legislation, actual dollar amounts, troubles me. As the minister said, the last sort of significant review of workers' compensation legislation was some four years ago. The problem with having these various clauses in Bill 15 with specific amounts as minimums is that they can become maximums and they're not changed for perhaps another four or five years. I would like to see those simply taken out and have those provisions, all compensation payments, subject to the annual review of the board to ensure that they are in fact protected by the increase in cost of living and not have them embedded in legislation where it's such an effort to have the Bill come back before the Legislative Assembly, the cabinet, the bureaucracy, and so on. It could be another four or five years again before we see these amounts increased. So I'm very nervous about putting into legislation like that the exact, specific dollar amounts. As I said, if we do that, we run the risk that those minimum amounts will become maximum amounts.

[Mr. Speaker in the Chair]

Mr. Speaker, another thing that's got to be changed in the Workers' Compensation Act – and this amendment, Bill 15, doesn't do it, so it's unsatisfactory from this point of view as well – is the process of appeals. Now, the process of appeals has been streamlined somewhat, but the process is still unsatisfactory in the sense that the total onus of an appeal is on the worker and there's none on the board. So what you have is a situation where an adjudicator will make a determination to terminate a worker's benefits and then turn around and say, "Well, if you don't like that decision, you can appeal it." So the injured worker puts an appeal in to the Claim Services Review Committee, and that may take unknown numbers of weeks or months, however long it takes to get a hearing before the committee. In the meantime that injured worker has nothing, and it's pretty hard to live on nothing. If you've ever had the problem of trying to look after yourself and your family when your ability to earn a living has been taken away from you in an accident or industrial disability, you know that you cannot live on nothing while an appeal is pending. Then, of course, if the Claim Services Review Committee decision is considered unsatisfactory by a worker, they can appeal it to the Appeals Commission. Again, how many months go by while the worker is left starving?

The solution to this, of course, is to ensure that workers are given the benefit of the doubt: having the provision in the Act so that if an official of the Workers' Compensation Board makes a decision to terminate benefits or otherwise reduce benefits that are available to an injured worker, the worker can appeal that,

but in the meantime, until the appeal is heard, those benefits continue. So if it takes six months for an appeal to be heard, if the bureaucracy *is* that slow and that ineffective, then the onus should be where it belongs, on the board, and not on the injured worker who, as I said, is trying to get by on nothing and very often turning to welfare or somehow trying to make ends meet in ways they should never have to do.

The idea, Mr. Speaker, is a sort of principle of natural justice, that the person must be considered to be innocent until proven guilty or proven that some change should be made. So if we had a situation where injured workers were able to maintain their benefits until their appeals had been exhausted, the Claim Services Review Committee and the Appeals Commission, two things would happen: one, workers would be able to maintain their dignity until such time as they had exhausted the natural procedures of justice; and the second thing you would find, that I'd be willing to bet my house on, is that the bureaucracy would speed up a great deal, because as the clock is ticking, they would know that the payments are being made to those injured workers. There would be an incentive on the board to make those appeal hearings much more speedily than is now the case, because now there's absolutely no incentive for the appeal bodies, the Claim Services Review Committee and Appeals Commission, to hear those claims promptly. In fact, there is an incentive to delay it as long as they can, because that means they don't have to pay the benefits or pay interest on those benefits for as long as they can delay it.

So the answer, as I said, has got to be a provision that we incorporate that principle of natural justice; that is, that people are considered innocent until they have exhausted the appeal mechanisms available and a determination is made that they are not entitled to benefits. That way you would find, Mr. Speaker, that not only would the bureaucracy go much faster, appeals would be heard much more promptly, but workers would have a much greater confidence level in the board and in the system. Right now what happens so often is that it takes so long to get appeals through the bureaucracy that workers are basically starved into submission and the board, I think, almost . . . I almost sometimes think it's a strategy that we try to make life so difficult for injured workers that they simply give up in total frustration and don't try to collect the benefits they're entitled to. That has happened repeatedly, and we've got to correct that. That is simply not acceptable.

Mr. Speaker, there are so many things about compensation that we could get into. We've covered a few that are covered by the Act and some that are not covered by the Act. There are a number of changes that really have to be made if, as I said, we want to be faithful to the original purpose of workers' compensation, that it is a social contract between employers and employees. We don't want to have the whole system bogged down in endless litigation. We want to have a system that prevents unnecessary litigation – with all due respect to our lawyer friends – but provides proper benefits for compensation, full benefits and not benefits that are chiseled away here as the current legislation provides for, and ensures that appeals are heard promptly and expeditiously and employees and injured workers can once again have some confidence.

Mr. Speaker, I've outlined a number of deficiencies in Bill 15. I hope the minister was making notes and we'll see some amendments from the government side in committee stage of this debate, because if the government doesn't make the amendments, the NDP certainly will do so.

MR. SPEAKER: Edmonton-Whitemud.

MR. WICKMAN: Thank you, Mr. Chairman. I first want to say through you . . .

MR. SPEAKER: We don't have a Chairman in here tonight, hon. member.

MR. WICKMAN: Mr. Speaker, to you and through you to the minister. I do want to say that I appreciate his quick response in setting up meetings with the persons I've sent over his way, in the form of completing the form he had sent to all of us. I've done as he's requested and photocopied it and given it to other injured workers. I would hope that it's not just a matter of those three that will be met with but others that make that request will be met with; but even more important than that, when these meetings are held, that there is a very serious attempt to resolve problems so workers leave satisfied that their concerns have been addressed and that they feel they were shown fairness, that they believe in a system that they would then perceive as being a little more just to them. I think that's very, very important.

Mr. Speaker, when we look at the whole concept of workers' compensation as it relates specifically to this Act, workers' compensation, of course, is there for a reason and it's to compensate for loss of earnings.

MR. DINNING: It's an insurance fund.

MR. WICKMAN: Some people, Mr. Speaker, would deem it an insurance fund.

MR. DINNING: Well, it is.

MR. WICKMAN: Mr. Speaker, if the Minister of Education would wait until he's recognized by you, he would have the opportunity to philosophize.

Mr. Speaker, when we look at workers' compensation and look at the very nature of it – let's call it an insurance fund, if that's what the Minister of Education wants to refer to it as. Nevertheless, it's there to compensate for loss of earnings. I think that's the most important point about the whole concept. I think we also have to look at it as well as a program that not only impacts on injured workers, not only impacts on employees, but also impacts on employers. So there have to be limitations on both sides. The Act has to be fair; the Act has to fulfill its original intention. I don't have any difficulty with certain aspects of the Act, even though others may argue that there's a reason why there shouldn't be any limits and why certain areas should be compensated for over and above.

MR. SPEAKER: Order please in the House. It's a bit difficult to hear.

MR. WICKMAN: Capping, Mr. Speaker, as it applies to workers' compensation I think is reasonable as long as that capping or that ceiling is done on a reasonable basis. To have it totally unlimited, we could end up with a situation where we could be compensating a Wayne Gretzky \$3.6 million based on his ability to earn \$4 million playing hockey. That's getting a little unrealistic. So there are a lot of arguments as to why ceilings on these types of programs that provide compensation for a loss of something. I guess one could draw the same

parallel with unemployment insurance benefits, where, again, we see capping.

In terms of the 90 percent of net wages, again, Mr. Speaker, I don't have a problem with that, because one also has to look at the other side of the coin. When I say I don't have a problem with it, I don't have a problem with it if the board fulfills what I feel are other obligations, which I'll speak to later. But when we look at the 90 percent factor, 90 percent compensation of net earnings, we also have to take into consideration, in addition to some of the items the hon. Member for Edmonton-Mill Woods pointed out, some of the other tangibles on the other side of the coin. Workers' compensation, once you're on a pension, is secure. It's secure in the sense that it's there for life or it's there until you're 65. It's not like normal employment, where one day you could be working and the next day you could lose your job. So you do have that greater sense of security as far as income is concerned. Also, it is tax free, although that is taken into consideration when the 90 percent factor is used. But where it's of benefit at the present time, Mr. Speaker, is that a person on workers' compensation can go out and earn additional money — unlike other government programs: assured income, social assistance, whatever — without paying any penalty or having any of their basic pension deducted. Of course, that pension remains tax free. So if one is retrained, re-enters the work force, and puts this pension on top of that new level of income, of course that tax benefit becomes even greater. If, on the other hand, one chooses not to be retrained and not to re-enter the work force, then, of course, that person doesn't encounter employment expenses most people would encounter going back and forth to work and other expenses that relate to having to work. So I'm satisfied with the 90 percent factor.

I want to talk about some of the areas I'm not happy about. I'll say through you, Mr. Speaker, to the minister that increasing the \$730 to \$900 a month on the minimum is a step in the right direction. It was a 23 percent increase. But let's not only look at percentages. We've heard this argument so many times, even within this House, that percentages in themselves don't mean anything without looking at the figure that percentage is based on. In other words, if you're making \$5 a month and you get a 400 percent increase, it's not that much of an increase. So we've got to look at the \$730, and we have to look at the increase being \$170 to bring it to \$900. It is still better than the assured income for the severely handicapped in that it does provide some additional benefits, independent allowances, whatever the case may be, that other programs like the assured income won't. But I would submit that I would not want to see . . . In fact, I would like to have actually seen that basic pension increased to a higher level, because I think that's the end we have to tackle, those that are living with the least, and not worrying about trying to protect those with the unlimited ceilings that can get 90 percent of anything. I think we have an obligation to look at those that are trying to exist on very small amounts of money.

Also going in hand with these minimum pensions . . . The minimum pensions were normally established during periods of time when the same opportunities weren't there for disabled persons to get retrained to re-enter, let's say, the educational system or the work force. So there's a much greater chance, Mr. Speaker, that a person that is getting the minimum pension is less likely to have that minimum pension supplemented, because they've gotten themselves retrained and they're making more bucks from elsewhere. That's why I stress so much that that's the area that really has to be addressed. Nine hundred dollars a month: you equate that on an annual basis; we're talking in

terms of what? A little less than \$11,000 a year, which is well below the poverty level. So I would hope we don't see that \$900 figure stuck there too long. I'm not optimistic that the minister is going to say we should have increased it more; we should have increased it to maybe \$1,000 or \$1,100. But I would hope that if not this year possibly next year again we can look at increasing that minimum permanent total disability until we get it to a more reasonable level.

The other area that we've got to look at — and here I'm not as sympathetic as I am to those who are at the minimum level. It still has to be recognized that when we talk in terms of a ceiling — and I said that I don't have a problem with a ceiling — that ceiling has to be reasonable; it has to be fair. We've seen the current ceiling frozen now for four years. It's going to continue to be frozen for a period of time. Through you, Mr. Speaker, to the minister. The intent is very clear that there's no intention at this time to increase the pension of those that are at the top end. They've been at that top end in some instances for the last four years. I'm not totally clear on this, and maybe the minister could address it. The way I interpret the Bill, the Lieutenant Governor will have the right to allow for cost-of-living adjustments provided they don't go over that 90 percent of that \$40,000 figure. I'm not sure if what is being said is that this Assembly would first have to adjust or if the cabinet would have to adjust that \$40,000 ceiling to a higher ceiling to allow the Lieutenant Governor the right to allow for cost-of-living adjustments. So that's something that has to be cleared up.

Now, I realize there are not that many people who may be in that particular category affected by the freeze at the ceiling, but if that freeze continues and continues, it does start to cause a hardship. We all tend to live within our means, and without that cost-of-living increase, whether you're making a little or a little more or a lot more, it's still some hardship, although I agree it's not the same hardship.

I touched previously on temporary long-term compensation victims, people who have been caught up in that particular situation for a period of time, six or seven years in some cases, and the minister, through you, Mr. Speaker, has agreed to address that. One of the areas of real concern that I have, however, is the cost of living, the fact that there is no formula. There is nothing spelled out that will ensure that on an annual basis somebody has to review the pensions and make recommendations pertaining to a cost-of-living index. That's not in there. That could have been achieved by putting in a formula that would have assured the injured workers that they would receive a cost-of-living increase automatically. Then, of course, there could have been provision for the government to allow the increase of that minimum pension over a period of time till we got it to a more reasonable amount.

Mr. Speaker, the area of concern to me here I think can be very clearly illustrated by what's happening with the assured income for the severely handicapped. We've seen that frozen for eight years at \$720 a month. That's a great loss of purchasing power. There have been editorials on that.

MR. TRYNCHY: That's not compensation.

MR. WICKMAN: Mr. Speaker, I'm trying to draw a parallel as to what can happen if there isn't a mechanism that assures that there is a cost-of-living increase put in place each year. That's one example I'm using to demonstrate what can happen. It did

happen with workers' compensation for four years, but four years is not as bad as eight years.

Mr. Speaker, I want to go to a few more points. When we have a Bill of this significance, with this impact on so many people throughout the province, I would think it's an opportunity to address some of the major concerns and in fact act upon those major concerns. The amendments to that Bill are in front of us, and they do address to a degree the question of increased compensation, increased pension. However, there are many, many areas that could have been addressed that weren't. I would question why the minister didn't look at the picture from a much broader point of view. Why not at this particular time or leading up to this particular occasion, take some of the recommendations of the Millard report and enact those with the legislation during this period of time when we're considering amendments to that Bill in any case?

An area of concern to me, Mr. Speaker is the Appeals Commission. Now, I know the board is attempting to streamline the process. I know the board is attempting to narrow that period of time an appeal takes. However, while the appeals still continue to take much too long, that frustration in the injured workers continues to build, and that has to be an emergent item to be dealt with. Somehow the minister and the board have to come to grips with the appeal procedure quickly to ensure that the minimum hardship is being created for injured workers. I'm still not satisfied that the process is perceived by injured workers to be totally independent. For example, the perception that the workers' advocates are serving two masters: I've raised this before. They're responsible for the interests of the worker they're representing at the appeal, but at the same time the people they're appealing to are part of the organization, part of the corporation that signs their paycheques. That to me is two masters, and that problem has to be addressed.

I think, Mr. Speaker, that the area the Millard report emphasizes, the most important principle in that whole report – the sooner it can be addressed the better. That, again, is getting back to what compensation is all about, the real nature of compensation. The real nature of compensation, of course, is loss of earnings. There are so many situations where a person's disability may be leveled or assessed or pounded out or hammered out to be 20 percent, yet the loss of earnings may be 40 percent because it creates totally different career opportunities for that person. So that loss-of-earning factor really has to be looked at. The whole thrust of compensation has to get away from the concept – and we have to some degree – of simply putting the individual on a pension and saying, "Now, we've done our job." Rather, emphasize the importance of rehabilitation, emphasize the opportunities to retrain those individuals to allow them to re-enter the work force, allow them to re-enter the community.

Mr. Speaker, it may be difficult for some members of this House to visualize, but it's not that many years ago when it was standard practice that if one were injured on the job and deemed to be 100 percent disabled, whether that person was a paraplegic or a quad, that person would go through an active hospital, a place like the Glenrose hospital, and then be shuffled off to a health care institution, a nursing home, or in a lot of cases an auxiliary hospital. It was called the rehab process. There weren't really any serious attempts to even get him back into the community. The Workers' Compensation Board back then didn't really see that as their role, as part of their mandate. Now, more and more they have. Without question, attitudes have changed, and the Workers' Compensation Board has

changed with those attitudes as well. My concern is: have they changed fast enough? Are they keeping up the pace?

In addition to the basic pension that a worker may receive – and that's where I go back now to my earlier statement that I don't have a problem with 90 percent of net earnings or having a cap, provided that what I feel are the real obligations of workers' compensation to the worker are being met; that is, the rehabilitation, the retraining, giving that person an education allowance on top of their pension to allow them to go back to school, to cover their tuition fees, that type of thing. Paying that person a personal care attendant allowance if necessary so the person doesn't have to go into an institution, so that person's partner, spouse, or a person hired can provide that attendant care right within the home: an independent allowance to compensate for those types of things that a paraplegic or quadriplegic can't do that they may have to pay to get done. Those, I think, are the real goals that the Workers' Compensation Board has to be heading towards in addition to that basic workers' compensation pension.

[An hon. member sat at another member's desk]

MR. SPEAKER: Order please, hon. member. Hold it. When the other member who's been . . . Thank you very much.

MR. WICKMAN: I don't want to leave the impression, Mr. Speaker, that the Workers' Compensation Board hasn't tackled any of these things, because they have implemented programs where they have provided in some instances the personal care attendant allowance, independent allowances, and so on and so forth. But I fear that as the Workers' Compensation Board is more and more under pressure – I believe that because of restraint, because of resistance amongst employers, concern about their assessment levels, more and more the compensation board finds it tighter to operate because of their thrust to try and get the assessment rates down. It's sort of like a life insurance company, and life insurance was referred to earlier. As their income is being reduced for whatever reason, because of the economy, there is a reluctance to pay out because there are fewer dollars coming in. So they, of course, don't want to pay out as much.

My concluding statement, Mr. Speaker, to the minister would be that in our thrust to address the question of pensions and such, which have been addressed to a degree, let's not at the same time overlook the other important benefits that go along with the whole workers' compensation process.

MR. SPEAKER: May the hon. minister sum up?
Edmonton-Jasper Place.

MR. McINNIS: Thank you. I would like to address a few comments to Bill 15 because this is a very important piece of legislation and I don't think it should pass the Assembly without due and proper consideration. Workers' compensation is one part of a system that deals with the fact that far too many people get hurt on industrial worksites by way of injury, by way of industrial disease, and by way of all manner of ailments that crop up later in life because of the things people are required to do in order to maintain their employment status in the workplace. There are many very difficult and demanding jobs that Albertans and, of course, others around the world are required to do on a day-to-day basis in the workplace, and they sometimes suffer the consequences.

One side of the equation, and the minister is responsible, is the health and safety side, where we attempt to prevent industrial accidents and disease. I would have to say that in my brief experience as a Member of the Legislative Assembly, that side of the equation doesn't seem to work very well at all from the point of view of workers on the worksite. I think of the situation up at Hinton at the Weldwood plant, where the company persuaded the government that they should be allowed to continue operating a pulp mill 24 hours a day, 300-plus days a year while construction work crews were on site attempting to build and expand that particular pulp mill. Well, I think the results would be predictable to anyone who sort of thought about it for a few moments ahead of time. If you have two different work crews attempting to do two quite different things, one group attempting to make a pulp mill operate on a 24-hour basis and produce pulp in the presence of all those noxious chemicals that the pulp industry uses to make pulp out of our trees and another group of workers attempting to not simply construct an additional mill but make vital alterations in the existing mill at the same period of time, it's not likely to work very well, and it didn't.

There were employees who were gassed with chlorine on not one but numerous occasions. I recall those being discussed in this Legislative Assembly last summer. I recall construction workers on the site going on a wildcat strike in order to indicate their concerns so that somebody would finally listen to the fact that some of them were being gassed with chlorine on the job. I recall most vividly the current minister stating in December that he had not been made aware of those particular problems. How we can have an industrial worksite that produces as many accidents and as many injuries as the Weldwood site did and the minister responsible not be aware of it, is — I wanted to say beyond me, but I have lived through it and I've seen, so I can't really say that. It's just an incredible situation, especially when those very same workers downed tools and went on a wildcat strike to make their concerns known.

That wasn't the extent of the matter. There were many, many other types of injuries and accidents that occurred on that particular worksite because of the chaos and the things that were going on. Along with quite a few others, I would certainly like to know why there's nothing this provincial government and this particular department is prepared to do with people who are being hurt on a routine basis. I believe it was something close to a Guinness book of accidents record set on the Weldwood site, particularly in the last few months of the job towards that construction.

I think also of the case of the Alberta Recoveries & Rentals operation in Medicine Hat, where there were workers who seemed to be aware that all of this red dust and powder that was settling all over the building was in some manner harmful to their health. All of the things they did and all of the people they talked to seemed to result in a number of worksite inspections. It seems to me this particular minister said, with something that I thought was close to pride, that his employees had been on that worksite 16 times over a period of time to show their level of concern about what was going on in that operation. Nonetheless, it continued to happen day in, day out. People went there and were exposed, and because of the lack of precaution they took garments home that were contaminated, and their children, their families, were exposed as well.

MR. SPEAKER: Order please, hon. member. With due respect, we've had 10 minutes of dealing with the broad lines of

second reading here, but you're getting into some material which seems to be somewhat farther removed than what this Bill is pointing out.

MR. McINNIS: Thank you, Mr. Speaker. I will leave the point that the prevention side doesn't appear to work very well for the benefit of the people who are working on the job in Alberta and deal rather with how we care for the victims. That's what the workers' compensation system is all about, not necessarily how we cure the victims of industrial disease and industrial accident but what arrangements we make to take care of them.

My colleague representing Edmonton-Mill Woods dealt with the social contract that workers' compensation is all about. We have to go back to that whenever we evaluate proposals that are done in this area, because there was an historic trade-off: workers gave up their right to sue employers for negligence, for damage, in return for a workers' compensation system. This was never, on that account, to be a social welfare type of program. It wasn't supposed to be the kind of thing where the government of the day would decide what an injured worker would be entitled to in the same way that they do with . . .

MR. SPEAKER: Order please. Hon. Member for Edmonton-Mill Woods, it's not the custom of the House to turn your back on the Chair. It happened with another member in the House on the government side earlier. Thank you.

Edmonton-Jasper Place, please continue.

MR. McINNIS: It was never intended that these pensions and compensation would be set in the same way that other social welfare programs are. It was an historic social contract; I think that's the only term to describe it. What was given up was admittedly a flawed remedy in the first place. It was a flawed remedy that workers should sue to try to establish a tort in the case of an injury, because it's a very time-consuming process, legal fees are expensive, and anytime you go to court on any issue, I submit that there is an element of uncertainty as far as what the result would be.

I, too, deal with an awful lot of workers' compensation cases, and it's not because there are a lot of people in my constituency who are trying to take advantage in some way of the system or trying to gain a benefit that they're not entitled to. The people I meet with are obviously and genuinely injured in some way, but the difficulty they have is establishing that their particular injury is covered by the terms of this so-called insurance scheme which is being operated by the government of the day.

So many of the health complaints that people have are simply not recognized as a matter of board policy, and it's because they have something that they call presumptive recognition. There are only certain types of injuries and illnesses which are related to certain types of employment and occupations in the Workers' Compensation Board scheme of things. Unless you fit category A and category B together, you have a very difficult time establishing your case. In fact, if your illness or injury isn't on the schedule linked to your particular type of employment, then the onus is put directly on the worker to prove that the disease is industrial in origin and that it arose out of his or her employment. That is to say, it's up to the employee to gather that type of information, and that's a tremendously difficult and, I would say, costly type of thing to try to prove up to a standard of proof. That problem accounts for a great many of the cases that I have to deal with.

A lot of illnesses, especially those that strike later in life as people get, say, to 45 and 50 years and beyond, are related to the particular types of stresses and strains of their occupation, and at that stage it becomes difficult to prove, and it then becomes difficult for them to find other types of employment. If you've been working on one and only one type of occupation, say construction work for example, for 25 to 30 years, to suddenly go and find a new occupation is extremely difficult. So they're stuck in the workers' compensation system, and they're stuck with whatever that particular system comes out with.

Another type of concern is related, especially in the construction business. A lot of people in the construction business find themselves unemployed from time to time because they go from job to job. When a project is built, everyone is laid off. That's a normal and expected part of that business. But you go back to work in a construction job and if you get injured in the first week or 10 days, which is fairly likely because that's the time when the worker is least likely to be fully trained and skilled in the operational requirements of that job — you know, chances are that if you get through the first few weeks of a construction job, you're less likely to be hurt than you are in that first period of time — what do they do? They average out the income over a long period of time. If you've been off work for a period of time and you're hurt, they average your earnings. So you may have only had two weeks of paid employment. They don't include your unemployment insurance, if you've been on unemployment insurance ahead of time. I have one case I'm dealing with where the compensation offered works out to \$170 a month, maybe \$173, in that range, which, I mean, nobody can live on realistically. I thought the case of \$5 a month was beyond comprehension but, I mean, \$170. This is a current case that somebody is expected to try to live on. So that sort of thing happens as well, and it happens more frequently than some

members like to admit.

So we have before us a Bill that says that the Lieutenant Governor in Council can increase the present earnings limit to \$40,000. Well, I have an objection to the fact that it's up to the cabinet to decide that. It seems to me that more and more of the legislation we see is of the type which allows the cabinet to do this or not do this as a situation warrants. It reminds me of another piece of legislation I saw in draft form, which I'm not going to debate at this point in time, but this is that type of legislation which is permissive of what the cabinet may or may not do. So we don't know for certain what the outcome of that may be. I take the point that if this is a social contract in which a worker is to receive compensation for wage loss due to an industrial accident or disease, that compensation should be full and complete. It should not be limited arbitrarily in any sense.

Now, there's much more to this Bill and many more arguments to make, but in view of the lateness of the hour, I'd like to move adjournment of this debate on second reading.

MR. SPEAKER: Thank you. Having heard the motion to adjourn, those in favour, please say aye.

HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no. Carried.
Deputy Government House Leader.

MR. STEWART: Mr. Speaker, by way of advice to the Assembly, the business of the Assembly tomorrow evening will be the estimates of the Department of Family and Social Services in Committee of Supply.

[At 10:42 p.m. the House adjourned to Tuesday at 2:30 p.m.]

