

Legislative Assembly of Alberta**Title: Monday, April 30, 1990 8:00 p.m.****Date: 90/04/30**

[The House resumed at 8 p.m.]

[Mr. Speaker in the Chair]

MR. SPEAKER: Be seated, please.

head: **Government Bills and Orders**

Third Reading

Bill 1

Premier's Council on Science and Technology Act

MR. GETTY: Mr. Speaker, I beg leave to move third reading of Bill 1, Premier's Council on Science and Technology Act, standing in my name on the Order Paper.

MR. SPEAKER: The Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. I would just like to reiterate a few of the words I said last time and maybe add one or two cautions. I said last time that if this council does nothing else but enhance the understanding of the population about the importance of science and technology, it will have achieved something. But I also said that I thought the Premier had chosen the worst possible kind of committee to set up, and I do believe that. He could have set up a truly arm's-length committee; he could have set up a committee that he pretended was at arm's length. But he chose to set up a blatantly political committee that will be controlled by the department, by the government. I'm sure they'll choose 28 members – well, he's already named a couple, so 26 members – that are Conservatives and think the same way as the Conservatives do and not worry too much about representation from labour unions and women's groups and farm groups and education groups throughout the province. The number and variety of people – professional groups, engineers, chemists, biologists, environmentalists: there's an incredible list of people that should be considered for membership on that committee. I do hope he will take those remarks into consideration when he chooses the committee and hope they don't just choose a political committee. If they were going to choose a political committee, the least they could have done was made it an all-party committee and put some commitment into choosing from a wide variety of people in the population.

He could also have greened up the Bill a little bit. I find it incredible that the Premier's flagship Bill would have nothing in it in reference to the environment in any way, shape, or form after the claim by this government that they've become environmentalists and are so green.

The other thing is the committee is a very big committee, 28 people, and the stipulation is that they only need to meet twice a year. Now, they may meet more than that, I suppose, but I can't see why a bunch of friends of the Premier should be appointed to a committee as a sort of patronage appointment and then only have to meet twice a year. There should be something in there that insists that they work a little bit harder than that. So in some ways I'm disappointed in this Bill, because it had the potential to be a lot better than it is.

In any case, we will support it, because I guess it's better than nothing. We must have some attempt on the part of the government to deal with the problems of science and technology. I would recommend to the Premier that he take a good look at the comments from all sides of the House and say that I'm disappointed in the comments that he didn't make about this Bill. It's supposed to be his flagship Bill, and he has given us hardly any sense of purpose or direction on it – a few reactions to some of the things we've said, but not even a very thorough review of that and not a very thorough set of answers to the kinds of questions we raised in second reading and Committee of the Whole. So I don't think he's thought out his flagship Bill very well. If he has, he certainly isn't imparting very much of the information or intentions to this Assembly and to the people of Alberta through this Assembly. So it is a somewhat disappointing Bill in that regard.

MR. SPEAKER: The Member for Edmonton-Centre, followed by the minister.

REV. ROBERTS: Thank you, Mr. Speaker. I'd like to echo some of the comments of my colleague from Edmonton-Kingsway with respect to the Premier opening up an important area here but in some ways seeming not to go far enough. It's hard, I guess, for some of us to tell what is going to be on the agenda at these meetings, but I was a bit disappointed myself after the government spent \$4.2 million on the Premier's Commission on Future Health Care for Albertans. This has nothing to do with the greening of Alberta but with improving the health status of Albertans.

Among their many recommendations are a couple that have to do with improving health research and health technology. I would have thought that after the commission had done its work in this area – and I think members will find a very interesting section, recommendations 14 and 15 of the Hyndman commission, which talks quite a bit about the interface between the various scientific and research programs in the government and in the province and how that interacts with the important work that needs to go on with respect to health research and health technology. No mention of it in this Bill. As I say, maybe it'll come up in discussions when the council meets, but it does leave, I think, in limbo or in abeyance at a very crucial time the Premier's health commission recommendations.

With the Premier's Bill 1 here for a council on science and technology, I think there needs to be some cognizance of the fact that the Hyndman commission has called for the foundation for medical research being changed to the heritage foundation for health research and also the Hyndman commission calling for the government to broaden the Alberta Research Council to be the Alberta research and technology council to better deal with health technology issues. So though we might not see any specific mention of it in this Bill, I would think that if the Premier is going to be consistent and government policy is going to look in a coherent fashion at what technology is doing, not just in the scientific field but also in the health field, that the recommendations of the Hyndman commission are integrated into that overall policy and we'll see the fruits of these recommendations be born and not just sit on the shelf and be disregarded while we have this Bill 1 slide through now third reading and not bear witness to what this is calling for. So I would make a representation on their behalf, on behalf of the Hyndman commission, that this kind of thinking needs to go on

with respect to Bill 1 as well. It could be much better and stronger, and it's too bad that it's not at this point.

MR. SPEAKER: The Minister of Technology, Research and Telecommunications.

MR. STEWART: Thank you very much, Mr. Speaker. I just wanted to rise for a moment or two to speak in this third reading of this very important Bill. Unfortunately, I was not able to be here at the time of second reading and didn't have an opportunity, therefore, to address the principles, but I'd just like to make one or two comments.

First off, Mr. Speaker, I think it's very significant and very important that our Premier be chairing this particular council. I think it gives a particular positioning to the whole matter of science and technology and the importance of science and technology to this province. The advanced technologies are obviously taking their place as part of the diversification of this province. It's remarkable in the period of just a few years the progress that has been made, as the particular sectors of our advanced technologies which result in building on the strengths which were first established through the oil and gas industry and moved on from there take their place as part of a very important part of our economy.

As we look ahead, Mr. Speaker, I think we see a number of challenges that are out there, and I believe that the Premier's Council on Science and Technology is a very fundamental and significant way of addressing those challenges. First off, we have a global economy, a global marketplace, much different than ever, ever before experienced, and Alberta is in the centre of that. Competitiveness will be a key word. Competition is going to be a much greater factor as we look ahead in that global marketplace, and it's going to be absolutely essential for Alberta businesses and industry to take their place on the cutting edge with respect to technology, the thing that will establish competitiveness. Technology will in fact be a key word, and it's so dynamic and brings with it so many ramifications, both from the standpoint of the capital investment required as well as the human resources that are so essential in order to ensure that, indeed, competitiveness is achieved. There'll be new corporate alliances. There'll be international alliances, as we've already seen through the European Economic Community and the free trade market and other international alliances.

The other thing this will do, Mr. Speaker, is a very intangible type of quality, but the whole business of awareness . . .

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

MR. STEWART: . . . making people much more aware not only of the opportunities that exist through the advanced technologies here in Alberta but the awareness among our younger people of the opportunities that exist in meaningful careers in science and technology.

This is not a committee, as one of the hon. members referred to it. It is not a commission, to be compared with the Hyndman commission. This is an ongoing, living council that will provide ongoing advice to government on the very important factors that bear on the advanced technologies within our province. I suggest that we judge it by its actions and by the opportunities that will exist for the very widespread membership of this particular council, coming from all corners of our province, a variety of backgrounds, and taking into account the linkages

with universities, with other educational institutions, and indeed with business generally within this province.

So, Mr. Speaker, I'm very proud that our Premier has taken this Bill, the Premier's council on science and technology, through the House. I'm proud that he will be chairing it and taking a very active and meaningful role within its activities. I look forward to a great deal of very good things that will evolve from this as we move ahead.

MR. SPEAKER: Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Speaker. I, too, would like to rise and speak briefly on this very important Bill. I'd like to compliment the Premier on implementing this Bill. I think it's long overdue. I think it's an excellent move, and I applaud that direction. [some applause] Thank you.

Having said that, I do want to make a few comments about the Bill. I think there are a number of concerns that I hope the council will be addressing in the future; in particular, a number of concerns, for example, with research funding currently in place for our university professors who are knowledgeable and have the expertise to research in the various areas. Although it's not specifically mentioned in the Bill, looking at directives, how we can compete with other members in terms of research funding, I think, is an important concept. We need to have a plan, a five-year plan and perhaps even longer. Perhaps a 10- or even a 20-year plan needs to be implemented. I know that in the past the government had a white paper that was produced in 1985 that talked about the plan for the future. That five-year plan has now passed the five-year period, and we need to look at developing that. So I hope the Premier's council which is going to be created will in fact look at long-term plans, because I believe firmly, and it's a bias of mine, that there is nothing that is going to affect our lives and the lives of our children and grandchildren more than science and the technologies that come out of that science. From that regard the potential impact of this Bill is perhaps greater than any other piece of legislation which may go through this House. So from that standpoint I believe this is a crucial piece of legislation for this province and, in fact, for this country.

Having said that, I think one of the things we need to do and one of the things the council needs to consider is legislation that has been put in place in other jurisdictions; for example, Japan. We have a great problem, in a sense, competing with Japan, great competition in that regard. Our high-tech companies need to get the funding in place, but we need to get companies in place that can have a base, a platform upon which they can build other successful ventures. What we need are companies that can get started with a base, with a product they can market, and then use that as their cash generator to develop other research funding, other research projects so that the government doesn't continually have to put money into them. I believe that in the long haul technology and technological industries are going to be the most important to this province, partly because in the long term we will see a reduction in the natural resources which are nonrenewable. So we need to look at other areas for development.

It ties back to my own personal interests, and, again, it's not particularly developed here, but I hope one of the things the council will examine is the promotion of science in education amongst our young people. [interjections]

MR. SPEAKER: Order please. This is not Committee of the Whole. Thank you.

MR. BRUSEKER: I'm talking also about the development of an interest in science in our young people. From my past experience there are too many people in junior high school and in senior high school that get turned off science and don't continue with it. I think that in order to develop these high-tech industries, we need, first of all, to have qualified instructors at all educational levels: high school, junior high school, university professors. So we need to promote that. I hope the council, even though it's not particularly addressed in the Bill, will consider how we can promote that interest, particularly, at the risk of sounding sexist, to promote it amongst the girls in the schools, because girls tended to get turned off science more quickly than did the boys I taught over the years. I think one of the things that can really be a boon for this province is if we can have more equal representation in that area. So I hope those are things that will be considered.

Having said that, I do believe that there is tremendous potential here for development of the province – development of the province's industries, development of the province's economy – so I applaud the Premier in instituting this Bill. I hope the Premier's council will work closely with the Minister of Technology, Research and Telecommunications, develop a five-, 10-, 20-year plan for the development of this province, and that it will lead us to be leaders in technology and technological industries in the world.

Thank you.

MR. SPEAKER: Edmonton-Belmont.

MR. SIGURDSON: Thank you, Mr. Speaker. I, too, want to add just a few comments to final reading of Bill 1. I have one concern, and that's the reporting mechanism that I don't see contained inside this Bill. I know that the program is to advise the government and the minister, the Premier as the Chair of the council, but I don't see any reporting mechanism back to the Legislative Assembly, and I think that's an important component that ought to be inside this piece of legislation. [interjection] Well, I suppose that some . . .

MR. SPEAKER: Order please. Through the Chair.

MR. SIGURDSON: Some suggest that I might be a little picky, but let me tell you, Mr. Speaker, we've got a particular part of the Bill that says that the council is going to be able to collect some form of remuneration. Well, if the public is going to be paying the lodging expenses, the meal expenses, and some form of remuneration for members that are serving on this council, as rightfully ought to be there, then I think that rightfully that information they discuss at these council meetings ought to be made public. I don't see that provision in the legislation. I regret that I don't have an amendment here in front me in order to hand out to all members, but I would hope that the minister or the Premier would undertake to make sure members of the Legislature will receive copies of the discussions, the minutes of the meetings the council may hold, and reports that may come out so we don't have to have that kind of request put on the Order Paper. This is indeed an important piece of legislation. It is beneficial to all Albertans as we develop our industry from hewers of wood and drawers of water to high-tech industry in a service-sector economy. This is the kind of legislation we need.

But I want to make sure that there's going to be some kind of reporting mechanism back to the Assembly, to the public, and to the taxpayer.

Thank you, Mr. Speaker.

MR. SPEAKER: Is there a call for the question?

HON. MEMBERS: Question.

MR. SPEAKER: May the Premier sum up? Any concluding comments? Thank you.

[Motion carried; Bill 1 read a third time]

Bill 3

Department of Consumer and Corporate Affairs Amendment Act, 1990

MR. ANDERSON: Mr. Speaker, I move third reading of Bill 3, the Department of Consumer and Corporate Affairs Amendment Act, 1990.

MR. SPEAKER: Any comments? The Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. I rise to support this Bill on my own behalf as well as on behalf of my colleague from Edmonton-Strathcona. It's a move that's not before its time. The minister has heard me say before in this House that we on this side had some concern that the regulation of financial institutions in this country has been rather in a strange state the last few years as we've seen the breakdown of the four pillars of the financial world. This Bill goes some way to linking the provincial jurisdictions with federal and foreign government jurisdictions in terms of trying to regulate financial institutions, and certainly that's a move that's not before its time given the kind of globalization that's going on in the world. One might point out that probably the regulation of financial institutions in this country as envisaged by the Fathers of Confederation was that the federal government would control all those things, but history has developed otherwise and each province has developed its own laws and control over its own financial institutions. It's time, and I have urged this government on several occasions to make sure, that they co-ordinate with other provinces and the federal government and even start talking to international institutions in the business of regulating the finances of the world. So I'm glad to see that the minister is moving in that direction, and I will be supporting the Bill.

MR. SPEAKER: Additional? Call for the question?

HON. MEMBERS: Question.

[Motion carried; Bill 3 read a third time]

Bill 4

Licensing of Trades and Businesses Amendment Act, 1990

MR. ANDERSON: Mr. Speaker, on behalf of the hon. Member for Calgary-Glenmore, I move Bill 4, the Licensing of Trades and Businesses Amendment Act, 1990, in third reading.

MR. SPEAKER: Thank you. Edmonton-Kingsway.

MR. McEACHERN: Yes, Mr. Speaker. Just a couple of comments on this Bill. We do have some concerns about it. The previous debate would indicate that this Bill is much like a number of others we've seen where the minister's powers to regulate have been handed over to a board, in this case trade or industry run boards as opposed to professional run boards as we've previously seen in other Acts over the last few years. [interjections]

MR. SPEAKER: Forgive me, hon. member. It's difficult to hear you. Perhaps the whole House could whisper much more quietly.

MR. McEACHERN: I would like to say, Mr. Speaker, that this Act will profoundly affect those trades and businesses that fall within its jurisdiction, and it is not clear at this stage that the government did the requisite amount of public lobbying for this Bill or working with the trades and industries that will be affected. So we would like to have seen this Bill held over till the fall and have a little more public input to this, much as they've done in some of the other cases. However, the minister, I believe, has decided not to do that and is pushing ahead with it at third reading. That is very obvious at this stage.

I would like to just draw the attention of the minister to a particular section that we will be watching with some concern, and that is the wide powers of search and seizure that are built into section 12 for the director of these boards and industry run boards. That, of course, replaces some of the present rather more limited powers in section 17. It would seem to me that that section could end up giving the director quite an incredible amount of power for search and seizure of information – well, as it says here, in much the same manner as a court, without, maybe, some of the safeguards of the courts. So we will be watching how this legislation is handled over the next few years and what the implications are in the industry and trades affected by it. We have some qualms, and I would like to just put that on the record.

MR. SPEAKER: Thank you. Additional?

MR. ANDERSON: Just very briefly, Mr. Speaker, to reiterate what was indicated in second reading to the hon. Member for Edmonton-Kingsway, this Bill enables us to delegate to business organizations with consumer representation that authority that they are ready to accept, so consultation with any industry would take place to a very considerable degree before it happened. An example is the funeral industry, which we have a working group in now, and the automotive industry, which we're doing the same in. No degree of delegation of authority would happen until that consultation has taken place.

[Motion carried; Bill 4 read a third time]

Bill 5
Insurance Amendment Act, 1990

MR. EVANS: Mr. Speaker, I move third reading of Bill 5, the Insurance Amendment Act, 1990, standing in my name on the Order Paper.

MR. SPEAKER: Comments? Call for the question?

HON. MEMBERS: Question.

[Motion carried; Bill 5 read a third time]

Bill 6
Alberta Health Care Insurance
Amendment Act, 1990

MR. ADY: Mr. Speaker, I beg leave to move third reading of Bill 6, the Alberta Health Care Insurance Amendment Act, 1990.

MR. SPEAKER: Thank you. Call for the question?

HON. MEMBERS: Question.

[Motion carried; Bill 6 read a third time]

Bill 7
Change of Name Amendment Act, 1990

MRS. B. LAING: Mr. Speaker, I move third reading of Bill 7, the Change of Name Amendment Act, 1990.

Thank you.

AN HON. MEMBER: Question.

MR. SPEAKER: Call for the question.

[Motion carried; Bill 7 read a third time]

Bill 8
Individual's Rights Protection
Amendment Act, 1990

MR. SPEAKER: Deputy Government House Leader.

MR. STEWART: Mr. Speaker, on behalf of the hon. Minister of Labour, I would move third reading of Bill 8, Individual's Rights Protection Amendment Act, 1990.

MS M. LAING: Mr. Speaker, we have long awaited this Bill and welcome the amendments in regard to the change of the word "sex" to "gender" and the inclusion of mental disabilities as a protected category. We also welcome the extension of protection against discrimination on the basis of marital status, although this does not go far enough inasmuch as it only is involved in areas of employment and does not provide protection from discrimination in the areas of service. The primary example of that, of course, is our Widows' Pension Act, which embodies discrimination on the basis of marital status inasmuch as the person has to have been married and have their spouse die in order to be eligible for this pension.

I would express regret at the failure to extend protection against discrimination on the basis of sexual orientation. The minister has missed an opportunity to make this Act truly reflective of the needs of Albertans. Instead of a forward looking Bill, we have a Bill that has been limited by stereotypes and prejudices. Sexual orientation has nothing to do with the kind of employee or tenant one is, yet 10 percent of Albertans are subject to discrimination in both these areas, employment and services. Indeed, the prejudices and stereotypes and discrimination may continue to go unchecked in the wake of this Bill. Inclusion of sexual orientation would mean not only that

individuals be afforded protection but the Human Rights Commission would then be empowered to do education to eradicate the very ignorance, mythology, stereotypes, and prejudices that have surrounded sexual orientation and that have limited this Bill. The law itself would have provided a statement of tolerance and understanding and thus would in and of itself say clearly that discrimination based on falsehood, ignorance, and prejudice is not acceptable in Alberta in the 1990s. We also regret the failure to include other categories, including source and level of income, family status, and criminal conviction for which a pardon has been granted. We also believe this Act needs to be amended to make provision for class actions. So although we welcome the limited step forward that this Bill gives us in the area of human rights protection, we deeply regret the fact that it has not been extended in a manner truly in keeping with the changes in society in increasing understanding.

MR. SPEAKER: Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Speaker. I would simply affirm once again the strong support of our caucus for this legislation, which is long overdue after a number of false starts. At the same time, we are also particularly concerned with respect to the omission of protection against discrimination in respect of sexual orientation. The protection is distinctly required in this area as well, and we are of the view that all Albertans are entitled to fair treatment with respect to jobs, employment, and services.

MR. SPEAKER: Thank you.

HON. MEMBERS: Question.

MR. SPEAKER: There's a call for the question. Any concluding remarks?

[Motion carried; Bill 8 read a third time]

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

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

[Adjourned debate April 9: Mr. McInnis]

MR. McINNIS: Mr. Speaker, when we left the debate on Bill 15 on April 9, I was making the point that Bill 15 taken collectively represents at very best an inadequate response to the problems faced in the workers' compensation system in this year of our Lord 1990. There were several points, I think, that underscore that conclusion, one of which that the pensions have been allowed to decline relative to the cost of living over a long period of time. Certainly going back to 1986, we find the cost of living over that period has increased some 18 percent, whereas the pensions have increased by a grand total of 10 percent. We find continuing delays, bureaucratic delays, bureaucratic procedures. We're faced with injured workers when they attempt to access the benefits which are available through the Workers' Compensation Board. We find that when employees are injured and go on the compensation system, they lose their benefits package and there's nothing in the compensation system that compensates them for the benefits that are lost due

to employment. I'm sure every member in this Assembly will appreciate that your benefits package is as important a part of your compensation as the cash wage you take home. You know, the pension benefit, the benefits package, and the cash compensation together make up the compensation package, and the Workers' Compensation Board at the present time has not addressed the problem of benefits which are missing from the package available through workers' compensation.

We discussed briefly the concern about lack of representation on the Workers' Compensation Board on the part of the trade union movement, workers in this province, and injured workers in particular. There isn't that kind of direct representation that I think would help to ameliorate and resolve some of the difficulties that are faced. Unfortunately, what we find in Bill 15 is nothing along those lines whatsoever. We discussed the fact that workers' compensation is not a social welfare benefit program; it isn't today and never has been. Workers' compensation is an historic social contract, I believe was the term used by my colleague representing Edmonton-Mill Woods. It's perhaps as good a term as any. So why is it, we wonder, that Bill 15 contains a provision that gives the cabinet the authority to limit the amount of earnings on which a worker might be eligible for compensation, leaving aside the point that their benefits package and pension benefits are not covered by workers' compensation?

Now, we have a situation in Bill 15 where the government will limit the total amount of the wage portion, or the cash compensation portion, which is insurable under the scheme, thus reinforcing the government view that this is something they in government are giving to employees who, unfortunately, may be injured on the job. It's not that kind of arrangement at all. It's intended to be an insurance scheme for which employees have given up their right to sue the employer. In return, they are to have call on the employer's collective insurance fund, the Workers' Compensation Board funds. But unfortunately this legislation puts a politically controlled limitation on the amount of the cash wage which can be insured.

There is the problem of what's called presumptive recognition. There are some occupational stresses and strains for which there is recognized jurisprudence. There is a recognized link between certain medical problems and certain occupations – they're in a schedule published by the Workers' Compensation Board – and if you're fortunate enough to fit within the pigeonhole Workers' Compensation has set up for you, then you may be able to qualify relatively easily. But the catch is that so many of the debilitating medical conditions, illnesses, deteriorating conditions involving joints and soft tissue in the body have to do with the stresses and strains of employment. Not everyone is fortunate enough to work in a situation where their body is relatively free from these kinds of stresses. I think of the construction trades in particular, where there's an awful lot of pounding and stress and strain that goes on. Over a 30- or 35-year period, these things take their toll. I think medical science is now coming to the point where they're attempting to isolate the environmental causes of a lot of medical conditions and diseases, and many of them I daresay initiate from employment-related causes. But with the doctrine of presumptive recognition, you have to fit within the preauthorized categories in order to be deemed eligible for workers' compensation. Again, this problem is not dealt with in Bill 15, which makes it at the very best an inadequate response to the problems with us today.

Finally, I'd like to mention the problem that Workers' Compensation has a habit of averaging employees' earnings over a period of time, generally a year. So if you have a situation -

again using the example of the construction trades – where the nature of the work is that when the job is done you're laid off and you have to try to find another construction project to become involved in, you can have periods of time, Mr. Speaker, when the employee is not able to find paid employment, and during those periods of time they have to rely on unemployment insurance, personal savings or, if it comes right down to it, social assistance. In that situation, a worker goes back to work; in the beginning stages of employment on a worksite, that's when he or she is most likely to be injured, because they're the least familiar with the operational requirements of the job or they've had less time for training, less time to become thoroughly familiar with the safety protocol and the particular needs of that job. What often happens: construction workers are injured early in their employment; when Workers' Compensation averages their earnings over the year, they don't include unemployment insurance, they don't include any social benefits. So the income that's compensated for may be only two weeks employment out of the year. That causes the compensations available to be unreasonably low and certainly inadequate to live on.

So because of all these situations that cry out for attention and because Bill 15, representing the government's response to problems of Workers' Compensation, is nowhere near the mark, I would like to move that the motion to approve second reading be amended by deleting all the words after "that" and substituting the following:

Bill 15, Workers' Compensation Amendment Act, 1990, be not now read a second time, but that it be read a second time this day six months hence.

I have copies here for all the hon. members.

MR. SPEAKER: Before the Chair recognizes Edmonton-Mill Woods, the Chair would like to point out that a similar situation arose last year with respect to a six-month hoist. The Chair draws to the attention of all members of the House that the Chair will indeed allow full-ranging discussion with respect to this particular amendment, but at the end of that particular discussion the Chair will then make a decision as to what will transpire as to the disposition of second reading. So the House has indeed been made fully aware of what lies ahead.

Edmonton-Mill Woods.

MR. GIBEAULT: Mr. Speaker, I want to speak tonight in support of my colleague the Member for Edmonton-Jasper Place in this hoist motion for Bill 15.

MR. SPEAKER: The amendment is being distributed.

MR. GIBEAULT: I want to outline a few of my reasons for that, Mr. Speaker. This bill before us, Bill 15, will affect a great number of Albertans. In fact there are some 50,000 workers in this province every year who are injured badly enough to file a claim for workers' compensation. I don't believe the minister – and I'd like him to clarify this for us if he would – sent a copy of Bill 15 to those 50,000 injured workers this year. Why didn't he? This is a Bill that is going to affect those people. It's going to affect all the people currently receiving benefits from Workers' Compensation and receiving pensions from Workers' Compensation. Surely to goodness, Mr. Speaker, any government that claims to be sympathetic to the plight of injured workers and any minister who likes to call himself a friend of injured workers would give an opportunity for workers in this province and those who in fact have been injured after accidents

to have some input into the revisions of Bill 15, the Workers' Compensation Amendment Act, to make sure it does in fact meet the needs of injured workers.

Now, we went through the process of the Millard report, and there were some recommendations there that were worthwhile. Yet, Mr. Speaker, some of the provisions of Bill 15 are very disconcerting, and I cannot believe these provisions represent the input of workers and injured workers across the province. Just as an example, I'd like the minister to tell us, if he can, which injured workers' organization or which organization of workers caused him to put in section 5; that is, a limit on \$40,000, for example, on compensation "unless it is approved by the Lieutenant Governor in Council." That is the most ludicrous provision I've ever seen. There's enough bureaucracy and hassle for injured workers to deal with in getting their benefits and pensions and so on now. They have to deal with adjudicators and, if they're not happy with that, with a claims services review committee, and then the Appeals Commission is another possibility, all of which can take months and in some cases years. Yet here's a provision that is saying that compensation in excess of \$40,000 will not be allowed unless it's "prescribed by order of the board." How much bureaucracy is that going to take? How much time and delay is that going to take for the claim of an injured worker, who may have happened to be a trained technical person, a professional perhaps, earning a reasonable salary, somebody who may have put in some overtime in the last year, earning over \$40,000, and he or she has to go through this extended bureaucracy to the board and then even that doesn't have any effect unless it's approved by the Lieutenant Governor in Council? Now, what kind of nonsense is that?

I want the minister to tell us tonight: who told him to put that section in the Bill? Of all the injured workers I have spoken to, all the labour councils, the people in the Federation of Labour, none have asked for this kind of provision. Mr. Speaker, I think a six-month hoist is the kind of thing that would allow for very rational, very serious consideration of a Bill that is going to affect, as I said, perhaps more people in this province than a whole lot of other legislation put before this House. Fifty thousand people are going to have injuries next year if last year's record is anything to go by. Having spoken to those citizens who have had experience with workers' compensation, that is not the kind of provision they would have in it.

If the minister would have had public hearings on this, that would have indicated good faith, that the minister really does want to have a Workers' Compensation Act and system that meets the needs of injured workers. I think to kind of ram this Bill through without public hearings, knowing the Workers' Compensation Act probably will not come before the Legislature again for who knows how many years, would be an injustice. It would be another insult on top of many of the injuries injured workers have already suffered.

The question of the maximum limit of compensation is one that I don't believe. I have yet to hear anybody make that kind of representation, and I'd like to know where the minister got that one from. Certainly not from the injured workers I have spoken to, and I have spoken to many of them.

What about the provision on page 3, section 7, about cost-of-living adjustments, Mr. Speaker? Now, this is another provision that I think is very important to many of the people who were getting disability pensions from compensation. I have received many letters from people who would love to have made a presentation at a public hearing, if there was one – and which we could have if this hoist amendment is accepted by the

members of the Assembly. I can tell you that there would be many injured workers who would want to change that proposed section 7, which says the board may – I underline "may" – make adjustments with the cost of living. But it doesn't say that they shall make cost-of-living adjustments. And why not, Mr. Speaker? Why do we not want injured workers to have their compensation and pensions protected? I mean, some of those pensions are pretty miserly. I heard of one individual just a few weeks ago who said he's receiving \$5.11 a month. Surely the minister is not suggesting that we cannot protect the purchasing power of those injured workers. To not do so is an injustice that we should have no part of.

Surely if we had that six months to consider properly the kind of legislation of which we could be proud, that would be another thing that would be tightened up very substantially. Not only would it be "shall make adjustments"; a provision regarding cost-of-living increases would have definite time lines for putting in cost of living. It would say each and every year there'd be a full cost-of-living adjustment – not half the cost of living, as the minister did just a few weeks ago, but the full cost of living. We're not going to make increases that are 10 percent when the cost of living is 18 percent. I gave the minister . . . Just a couple of weeks ago he said, "If you say it's 18 percent since the last cost-of-living increase, show me the numbers," and I did. I'm still waiting for him to show me the numbers that justify half of that. Hopefully they'll be forthcoming at some point in time.

MR. FOX: Don't count on it.

MR. GIBEAULT: My hon. colleague from Vegreville says, "Don't count on it." Well, I certainly won't bet the House, let me tell you that.

Mr. Speaker, if we had this Bill put back six months – and we're going to be having a fall session, the government tells us – we could have an opportunity to have a Bill we could all really be proud of. A Bill we could be proud of would not have something as wishy-washy as section 7. It would have something that's tight, something definite, something injured workers can count on and go to the bank on, that they know the purchasing power of those pensions will be protected.

It certainly wouldn't have subsections (2) and (3) in it, let me tell you, Mr. Speaker. In subsection (2)

An order referred to in subsection (1) does not have any effect unless it is approved by the Lieutenant Governor in Council.

If we pass this, what we're going to end up with – the board may say, "Well, this year we're going to give a 2 percent cost-of-living increase," and the board has got to take this to the cabinet to be approved. Then even if it is approved by the cabinet, "It may not be used," according to subsection (3), "to increase a pension above the maximum pension payable under section 51." So . . .

MRS. OSTERMAN: Point of order, Mr. Speaker. If we look at *Beauchesne*, section 659, we'll see that second reading is to debate a Bill in principle. I would hope the hon. members have had enough experience now to take note of that and not deal with sections.

MR. SPEAKER: With due respect, hon. Member for Three Hills, we're on this six-month hoist. The Chair had stood up to advise the House that under the terms of a six-month hoist we would allow the broadest possible discussion of the Bill with respect to this whole issue, and this is a matter which goes back

to an issue that was before the House procedurally last year. So in terms of a six-month hoist amendment, there's considerable latitude able to be given in terms of this particular amendment. Then when we get back to the next section, we'll go on from there.

Thank you.

MR. GIBEAULT: Thank you, Mr. Speaker. Yes, indeed, we're talking about the six-month hoist. As I was saying, there are many reasons why we want to have that. We want to have the kind of legislation in this province all of us can be proud of, and workers will know that should they suffer the unfortunate occurrence of being injured, maimed or, goodness forbid, even killed on the job, there will be legislation in place which will provide for a full compensation of their earning potential. That is simply not happening now, and it will not happen if we pass Bill 15 as it is before us.

What else is deficient in this Bill? Well, there are many things, many things that would come to light if we delayed this by six months and had proper, full, and extensive public hearings around the province to make sure that everyone who has an interest in workers' compensation has a chance to be heard. Another thing I don't see in Bill 15, which should be in there, is an adjustment to section 51, which currently provides for compensation to be restricted to 90 percent of net earnings. So right off the bat injured workers are penalized for 10 percent of their earning potential. Instead of trying to provide some compensation for the shock and trauma, the psychological distress that people suffer when they have a significant injury at work, we are penalizing them right off the bat for being injured. Mr. Speaker, from the point of view of injured workers, that is simply unfair. I'd like to try and find out why the minister might not want to have the full public hearings, as they've had in other provinces, and try to get at some of these deficiencies. Why should an injured worker not be entitled to compensation for 100 percent of the earnings he had at the time of the accident? Why should we be penalizing him 10 percent? There's no reason for that. And we want to remember that the idea of workers' compensation, one of the main points of it, was that it protects employers from legal actions from their employees for accidents they incur on the jobsite. There is, we will remember, no restriction on employers' legal liability. It's not 90 percent of their accident liability. They're protected 100 percent, and surely the same rule ought to apply to injured workers.

Now, another provision that is not in Bill 15 – and I challenge the minister to stand before us tonight and tell us where he is getting his advice from on these amendments, because it doesn't seem to be from any of the injured workers I have met, and I know he's met with many of them. There's no provision in here, for example, to correct a major deficiency in terms of not covering the major benefits of injured workers: pensions, health, and dental coverage. So in addition to the 10 percent of their net earnings that is covered by Bill 51 as it is now, there's a 10 percent penalty when you get injured, which somehow says to an injured worker that they're at least 10 percent at fault. I don't know if that's what the minister and his legislation here are trying to tell workers regardless, but there's a 10 percent penalty there. Then on top of that we don't have any protection for the major benefits that are a very important part of a worker's total compensation package. So you have a situation where workers are injured, their dental benefits stop, and they incur dental work. They have to pay the entire amount of it themselves, and that can be extremely costly, Mr. Speaker. I know if the minister

took our advice here and supported this six-month hoist and had full public hearings, he would hear from many constituents around the province. I'm sure some in Whitecourt and I know many in Mill Woods would be able to tell him many of the problems this kind of legislation has put upon them: the fact that they have been denied the kinds of benefits that were part of their package when they were working and were able to be part of the productive work force. Why should we be penalizing people just because they have that misfortune to be injured on the job? It could happen to any of us, Mr. Speaker. We're only fortunate that it hasn't happened to many of us yet.

What about the question of the composition of the board itself? Now, I don't see any changes to that in Bill 15. We know by our experience that this minister and his government don't seem to be too interested in having representatives from the labour bodies of this province on the board. They make recommendations to be on the board and they're ignored.

Injured workers' organizations. There's one in almost every community in the city because there are so many injured workers that are having difficulties with compensation. Have any of those organizations had a representative appointed to the board? No, sir. Why is it? Then the minister wonders why he has so many problems with injured workers. They have no one on the board who speaks on their behalf; workers' organizations are ignored. So if the minister is really serious about working in co-operation with the work force of this province, with workers and injured workers, then surely the composition of the board has got to reflect that. I would be willing to bet, Mr. Speaker, that if we had this six-month hoist and had proper public hearings, he certainly would hear from organized labour and injured workers' organizations that they would want to see in a revision to the Bill provisions to make sure their representatives are on the board. That certainly does not happen now, and that contributes to many of the problems plaguing the minister and the compensation board at this time.

The same thing, of course, would have to apply to the Appeals Commission, Mr. Speaker. If workers are going to have confidence in the Appeals Commission, they've got to know that there are people on the commission that appreciate the workers' point of view, and I would suggest to you that that doesn't exist now. It's certainly not provided for in the Act or in Bill 15, the amendment.

Mr. Speaker, there's no provision in here to have much greater responsibility on employers to take back workers after injuries. If there was that kind of provision in here, you can be sure employers would take much more seriously the whole question of health and safety in the workplace. Many of them simply are not doing an adequate job now, because once an injury takes place on the worksite the injured worker is taken care of, such as it is, by Workers' Compensation and the employer just gets someone else to keep on toiling away. I would suggest it's much too easy for employers to get off that way. There's very little incentive for employers to ensure that their workplaces are safe and ensure that injuries are reduced to an absolute minimum. There should be a greater onus of responsibility on the employer to take back workers, to retrain them, to reintegrate them. That would also, of course, be much more positive from the workers' point of view in the sense that workers have established at their worksites relations with their employers in their trade, their profession, and so on, and their recovery would be that much quicker when they have that existing support network at hand to assist in the recovery. None of that is in this Bill, Mr. Speaker.

So I'm encouraging the minister to tell us what kind of input he's had on Bill 15. I just don't know where that input has come from, because it's not reflecting the discussions that I know many injured workers have brought to his attention – they certainly brought them to mine – and that they would like to see in a Bill, a Bill we could be proud of. So I encourage the minister and the members of the Assembly to support the amendment of my colleague the Member for Edmonton-Jasper Place to postpone this to our consideration in the fall session and in the meantime have the government and the minister sponsor public hearings around this province so all injured workers, all workers, all employers have full consideration of not only what has been put before us in terms of Bill 15 but the whole compensation Act. We could come back here in the fall, of this year, Mr. Speaker, with a Bill which would serve as a model for all Canadians – workers, injured workers, employers alike – and be characterized by fairness and justice for all.

MR. SPEAKER: Speaking to the amendment, Member for Pincher Creek-Crowsnest.

MR. BRADLEY: Mr. Speaker, I wish to speak against the proposed amendment before us for a number of reasons. It appears to me that the Official Opposition, although it says it has concerns about injured workers in this province and persons on pension, is arguing against three very important principles in this Bill, and we are discussing principles in the discussion before us tonight in second reading. By proposing a six-month hoist, I take it that they are against some very key principles in the Bill. One allows for an increase in the aggregate gross annual earnings to \$40,000 by an order of the board and a method of implementing that. That is a principle which is contained in this Bill which I think is supported by workers: that there is a mechanism for increasing the gross annual earnings to \$40,000 a year, a principle which I support and am surprised that in the arguments before us tonight the members opposite don't agree to.

A second principle in this Bill is an increase the amount of the permanent total disability from \$675 a month to \$900 a month. Certainly that is a principle which increases the pensions to existing injured workers in this province. That's a very important principle, and it sees an increase in that. By hoisting this Bill, we'd be denying individuals that benefit, which could take place immediately upon the passage of this legislation, or if they have arguments about the amount that's involved in here, certainly it's open to them at Committee of the Whole to propose amendments.

A third principle in this Bill is with regards to the cost of living adjustment. Again there's the principle or mechanism proposed in this Bill which would allow for a cost of living adjustment. The members opposite argue against the principle of this cost of living adjustment, which is provided for in this Bill.

The other thing about a six-month hoist, Mr. Speaker, is that in parliamentary terms traditionally a six-month hoist effectively kills a Bill. A Bill which has a six-month hoist usually does not come back to a session of a Parliament or a Legislature. So the mechanism they're using here would, in my judgment, effectively kill the Bill. I also add to that in argument that a fall session could take place in September, the House could be out by the end of October, and a six-month hoist doesn't allow this legislation to be debated again until after November 1 of this year.

So the six-month hoist effectively kills the Bill and, Mr. Speaker, denies those benefits which are needed by injured workers and persons currently on pensions in the province of Alberta. I ask all hon. members not to support this six-month hoist.

MR. CHUMIR: The mover of the amendment has made some good points, Mr. Speaker, and we in the Liberal caucus share some of the concerns and we have other problems. However, overall we find that there are more good aspects to this piece of legislation than there are bad. We feel that there are some amendments that can and should be made when we go into committee on this matter, but the Alberta Liberal caucus intends to support it at second reading, move amendments during committee, and then we'll reserve what we do on third reading depending on the result in the amendments.

MR. SPEAKER: The Member for Vegreville.

MR. FOX: Thank you, Mr. Speaker. The third party in the Legislature has now been heard, and injured workers across the province can be assured that there is at least one party in the Alberta Legislature that will stick up for them and speak for their needs.

I'm surprised that the Minister of Occupational Health and Safety has to rely on the Member for Pincher Creek-Crowsnest to speak for him. I would have thought that, you know, he'd want to get up and defend the principles of his Bill if he's aware of what they are and would like to refute some of the arguments, if he could, made by the Member for Edmonton-Mill Woods. I see the minister trying to portray himself as every injured worker's friend, as someone who's thoroughly in charge of his department, but I don't see any evidence of it, Mr. Speaker. The Member for Edmonton-Mill Woods stood up and issued a number of challenges to the minister, asking him to get up and substantiate some of the things in this Bill, tell members of the Assembly and by implication the people of Alberta why he's making certain provisions in the Bill, why certain things are in there, but I don't see him jumping to his feet to do that, and I'm quite frankly disappointed.

MR. STEWART: Move to second reading and you'll see.

MR. FOX: We might not get to second reading, hon. Deputy Government House Leader. The hoist amendment might pass. You shouldn't prejudge what may or may not happen in this House. That's hypothetical.

The specious arguments used by the Member for Pincher Creek-Crowsnest . . . [interjections]

MR. SPEAKER: Order please. Order.

MR. FOX: . . . to express his opposition to the hoist amendment cannot go unchallenged. He was saying that because this Bill does make provision for increasing some of the legislated payments and some of the legislated limits for workers who are injured and workers who suffer permanent partial disabilities, because it makes some changes, we'd better pass it right away without giving any thought to whether or not the changes being made are appropriate, whether or not the changes that are being made are changes that workers in Alberta want. I think that's a very foolish and unfortunate argument. In fact, what the Member for Edmonton-Mill Woods is saying is that it's perhaps

not the wisest thing to put things like compensation levels and minimum dollar levels in legislation because that means they can't be increased again until the government of the day decides that they ought to open the Bill and take a second look at it. Our experience is . . .

MR. CHUMIR: Let Members' Services deal with it.

MR. FOX: Yeah, at Members' Services it would get dealt with in a hurry.

The Legislature is supposed to pass laws that are going to endure and be fair and provide justice and help Albertans move forward, and I don't think this Bill does that, Mr. Speaker. You know, what we're suggesting is that the minister take advantage of the opportunity. He's tabled a Bill. It's been done before: government ministers table Bills, give the public a chance to react, seek input – well, some ministers over there want input from Albertans anyway – have public hearings, let injured workers and the people who advocate on behalf of injured workers and the people who work for injured workers be heard. Let them be heard, because it may be that even the minister could be convinced that there are some ways this Bill could be improved, some things that could be done to the Bill that would make it more fair for the people it purports to be helping.

It was done with the School Act. You might remember that the School Act was introduced, it was allowed to stand and retain its place on the Order Paper, it was subject to wide-ranging debate, and even some of the government backbenchers read the Bill and persuaded the minister of the day to make some changes. It came back to this Assembly, and it was quite a different piece of legislation. Albertans were involved in developing the changes, and they felt more ownership of those clauses, I guess. They felt more involved and understood the process, understood the Act.

So we're just suggesting that this Bill be not read a second time now but be read six months hence. We're offering the minister this positive opportunity to take his ideas and go out there and see if anybody other than Conservative backbenchers likes them, giving him a chance to see if the injured workers in Alberta like it. You know, this is an area that needs to be dealt with, Member for Pincher Creek-Crowsnest, and if this hoist amendment of ours passes and this Bill is not read a second time but is read six months hence, that doesn't preclude the minister or the Member for Pincher Creek-Crowsnest from bringing in another Bill that would seek to do some useful things for injured workers. We're only a couple of months into a spring session. I assume that we're going to be here for two or three more months debating all of the important pieces of legislation that this government in absentia is likely to bring forward.

The member was concerned about not being able to deal with this in a fall session, Mr. Speaker, because fall sessions are usually called in September. Well, my experience is that under the leadership of Premier Getty, fall sessions are never called. We didn't have one in '85, if you remember, while there was a leadership convention. We didn't have one in '86 because it was duck hunting season.

MR. BRADLEY: You're supporting my argument.

MR. FOX: Huh? [interjections]

MR. BRADLEY: You're supporting my argument.

MR. SPEAKER: Order please. Hon. Member for Vegreville, take your place. Thank you.

Hon. members on government benches, this is not a discourse and dialogue across the Chamber. The Member for Vegreville should be well apprised of that himself, should be speaking through the Chair, and will henceforth continue to do that and please ignore the catcalls.

In the meantime, let us get back to the amendment which is before the House. It's not a discussion of a fall sitting.

MR. FOX: Well, I just think the merits of this hoist amendment are clear, Mr. Speaker. It gives the minister and the government an opportunity to salvage their reputation among the injured workers in Alberta and among the working women and men of this province rather than barging ahead with legislation that is deficient, legislation that is not well thought out, legislation that does not address the needs of injured workers in this province. It gives them a chance, a positive opportunity, provided by the Member for Edmonton-Mill Woods, to go out and seek input from Albertans and come back in a fall session if one is to be held. Well, that would be enough justification to hold a fall session: to do something useful for injured workers in the province. Perhaps at the same time we could raise the minimum wage in the province of Alberta and really do some useful things. I know that's a radical suggestion for members of the Liberal Party.

So I think there are lots of reasons for supporting this hoist amendment. It gives the minister an opportunity to save himself, and I hope that his colleagues will support him. I'm hoping that maybe he will stand up and have something to say on his own behalf rather than relying on his backbenchers to speak for him.

MR. SPEAKER: Inappropriate.

The Member for Edmonton-Belmont.

MR. SIGURDSON: Thank you, Mr. Speaker. It wasn't all that long ago that we had the minister's estimates before the Committee of Supply, and I recall that there was distributed a little cartoon caricature that had the caption: safety – you thought it was your business; well, it's everybody's business. In previous sessions of this Assembly when we've had budgets before us, we've had ministers of Occupational Health and Safety put out fridge magnets that talked about working together. Now, we have a Bill that's going to affect how thousands of Albertans deal with the Workers' Compensation Board, and what have we got? We seem to have tossed aside all of the old slogans that say working together, because the government's going to go ahead and work alone on this matter. We don't want to have any input from Albertans who work or who have been injured on the jobsite, because, my God, they might have something important to say, something very important to talk about to a commission or a committee that might travel about the province to hear submissions from workers who have been injured on the jobsite.

There are a number of important issues that are at stake. My colleague from Edmonton-Mill Woods talked about many of them. He spoke of the lack of representation on the board from labour groups in our province. I know that the minister is going to stand up and probably say, "Oh, well, there's representation there; there are people from labour." Indeed, they may have a labour background, but you know, Mr. Speaker, the truth of the matter is that those names that have been submitted by labour organizations to the minister have been totally ignored. Their

names aren't listed anywhere on the corporate letterhead that goes out to tell injured workers that they've got an aggravation of a pre-existing condition. Names of labour representatives are nowhere to be found.

Mr. Speaker, I would suggest that if we had a six-month hoist, that if there were an opportunity for members of this Assembly to serve on a commission or a committee that would be appointed to go out and take in submissions, we would find many complaints from Albertans who have had to deal with the Workers' Compensation Board. Now, I can remember when the minister made the last series of appointments. There were a number of people from labour groups that were quite concerned about the lack of response they had from this minister and the department with respect to those nominees they had made. I would hazard a guess that if there were an opportunity for those people to come forward in a public way, I know full well that there would be many representations made to that committee, making the very points that we are trying to make tonight.

Mr. Speaker, there are some important amendments, as the Member for Pincher Creek-Crowsnest pointed out. Indeed, the Liberal caucus say: well, on balance, the good outweighs the bad. Well, that's from their perspective. It certainly isn't from mine, and it's not from members of my caucus. I've had a number of constituents of mine come into my constituency office, and they talk about the lack of dignity they suffer after having dealt with the Workers' Compensation Board, ranging from income levels that have fallen to conditions that they suffer at home and in their communities.

Now, I know that the Member for Pincher Creek-Crowsnest talked about how wonderful it will be to have a \$40,000 income if you're an injured worker and how we ought to get on with the Bill for that reason, perhaps that reason alone. Mr. Speaker, I've got a number of constituents who quite frankly with a good year, lots of employment out in the construction field with a fair amount of overtime, will make well over that \$40,000 level. In fact, in a very good year they'll make double that, but if they're injured we are going to set the limit at \$40,000 unless, and there is that caveat, government or the board recommends otherwise.

Well, it's just not good enough. When we take on obligations, whether they're mortgages or car payments, we do that with respect to our income levels, and if you're injured and your income is cut in half or by a third or even by a quarter, you can very well suffer that loss of income by having to surrender title, to give up your car, because you can't afford to make those payments. So my friend from Pincher Creek-Crowsnest should be aware of that. That provision isn't sufficient. That amendment isn't good enough to carry this piece of legislation through this Assembly tonight.

You know, I've had constituents that have come into my office and complain about their lack of income now. Not only do they have a lack of income in real dollars, but they have a lack of ability to carry on some of the projects that they would have done prior to their injury. I know of one individual that has visited my office many times. He's been injured and has been on a pension now for probably well over the decade. Prior to his injury he made a decent income as a packing plant worker. He was able to repair his car and do the necessary projects around his home, but he's no longer able to fix the tiles on the roof or on the floor because that involves bending and a strain that his back just won't allow him to tolerate. He's no longer able to do any repairs on his automobile because that, too, involves bending, and that pain is too great to bear.

Now, Mr. Speaker, his income level has gone down. His income level is less than what it was when he was injured. Ten years have passed and inflation has gobbled up an awful lot of that money, but his need in 1990 is greater than what his need for money was in 1980, because now he has to hire the mechanic to fix his car, he's got to hire the roofer to repair his roof, and he's got to hire a general journeyman or a jack-of-all-trades to do some of the work around his home that he would have done at one time.

MR. BRUSEKER: Not a union man?

MR. SIGURDSON: Well, let me tell you . . . No, we won't get into that, Frank.

MR. SPEAKER: Through the Chair, please.

MR. SIGURDSON: Thank you, Mr. Speaker. Thank you for that reminder. I do appreciate it.

Mr. Speaker, this Bill just has too many areas that don't look after the need of injured Albertans, and that's the problem. That's why we need a period of time to look at the possibility of having those public hearings, of going about the province and making sure that Albertans have the opportunity to have their concerns heard. That's why it's important that we pass this amendment tonight, and I would hope that all members of the Assembly would support it.

MR. SPEAKER: Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Speaker. Very briefly I want to speak against the amendment proposed by the Member for Edmonton-Jasper Place. Previous speakers have talked very strongly in support of injured workers, and I think that all members of the Legislature on all sides of the House have had problems dealing with those people who have had the unfortunate circumstance that they've been injured on the job and cannot support themselves in the fashion they were able to prior to being injured. The reason I speak out against this particular amendment, however, is that if we hoist this Bill and don't read it for six months, the effect would be to deny those workers for six months the increase they've been fighting so hard to get. In fact, it would cost them, a total of \$1,020 out of each and every single worker's pocket if it only goes for six months. If the hoist turns out to be longer than six months, the dollars out of the worker's pocket would be even larger.

I speak against this motion because we should not be taking dollars out of the workers' pockets; we should be putting it into their pockets. We should get this Bill passed as quickly as possible, as imperfect as it may be, and we will be proposing some other amendments. Delaying it for six months by hoisting it does not serve the needs of the injured worker, so I speak against this amendment.

MS M. LAING: Mr. Speaker, I rise to speak in support of this hoist. Certainly the majority of our cases in our constituency offices are from injured workers. They are desperate and angry and hostile, and often one worries that they are at the brink of suicide at the kind of treatment they get at the hands of the WCB. In this important Bill we need to hear from the workers. We need time to take that. Certainly I think it's a mistake to rush through the legislation, because once the legislation is in place, it's very hard to bring that back to change it. Six months

is not very long when we consider how long the legislation then will be in place. We know how slowly things go around here when it comes to improving legislation, so let's do it right and not have to deal with something imperfect which will be around for far too long. I would urge support for the hoist.

MR. SPEAKER: Stony Plain.

MR. WOLOSHYN: Mr. Speaker, thank you. I have to speak in favour of the hoist for Bill 15, but there are a couple of points that I would like to bring to the attention of the House. The Member for Pincher Creek-Crowsnest alluded to the fact that workers would be deprived if for some reason this Bill were delayed for six months *in* order to be improved. In addition, the Member for Calgary-North West seems to think that if the Bill is delayed somewhat, again with the idea of improving it, something terrible would happen.

I would suggest to the Member for Pincher Creek-Crowsnest that the increases as currently outlined in the Bill have two major faults with them: number one, they haven't kept up with even the rate of inflation, and secondly, they're fixed again until this Bill comes up once more.

AN HON. MEMBER: No, they're not.

MR. WOLOSHYN: If they're not, then we'll look at that down the way.

To the Member for Calgary-North West, who seems to be posturing to the effect that this Bill is so essential in its tarnished form, I would suggest that there's something called retroactivity. So the workers, with a little bit of a wait, might get a much better package and hopefully a better settlement.

Thank you, Mr. Speaker.

MR. SPEAKER: Edmonton-Kingsway.

MR. McEACHERN: Mr. Speaker, the minister is . . .

MR. TRYNCHY: Go ahead.

MR. SPEAKER: The Chair has recognized Edmonton-Kingsway, and it's the Chair who determines who's up, not the member. Thank you.

MR. McEACHERN: Thank you. Mr. Speaker, I just couldn't help wondering why the minister wouldn't get up and on the record a little sooner. In any case, I do have some comments I wish to make.

First, I'd like to point out to the Member for Calgary-North West that the loss of dollars the workers may suffer won't be the first time that workers have suffered the loss of dollars due to having difficulty with the WCB. Yes, one certainly would not want to deprive them of what benefit they might get from this Bill as it is, but the retroactivity point was already made by my colleague from Stony Plain.

I might also add that a lot of workers, and particularly desperate workers, when they get pushed far enough, as many of the workers have been in dealing with the WCB, are often prepared to dig their heels in and say, "Well, we will forgo that to get something better in the long run." Workers do that every time they go on strike or threaten to go on strike. Going on strike is not a way for a worker to make more money, at least not initially or not at the time. He may get it down the road,

but he will pay for it at the time and suffer a certain amount of hardship. Workers, when they know their long-term best interests are being hurt by the employer, are prepared to do that quite often, as we know. In fact, there would have been no progress for workers in this society if they weren't prepared to do that. So I don't have much doubt that a lot of the workers that we've talked to in my office anyway about the WCB would rather see a good Bill than a half-baked one, as this one is.

Mr. Speaker, I rise of course to support the hoist and believe that the minister could improve this Bill considerably if he would take it out to the workers and debate it more thoroughly and fix up some of the parts, some of which have already been mentioned by my colleagues. One of the areas that I wanted to mention in a general sort of way is the shameful way in which this government has allowed the injuries to continue in the oil patch and in fact have even contributed to it by having programs that have specific lengths of time. There are several instances where programs were coming to an end, incentives for drilling in the oil patch, where rigs were thrown into the fray at the last minute to grab the government dollars to support the drilling, and the consequence to workers' lives was considerably tragic.

I forget the exact numbers, but I think the number was nine workers killed in December in 1988. In the beginning of '88 there was also another period when a number of workers were killed in a very short period of time because the equipment was not ready and the industry wasn't operating in a long-term, stable sort of way. It was being jacked around by government programs, so it was hit and miss and start up quickly to get in on some incentives when the benefits of drilling were not clear to the industry, except for the government programs which they had to grab before the deadlines ran out. So this government has a lot to be accountable for in terms of safety of workers in this province.

Another instance I can think of is workers in the pulp mill at Hinton and the chlorine gassing of some of those workers, and of course we can think of Medicine Hat and the battery incident, which has had quite a lot of play in this Assembly. So this minister and this government have not protected the workers the way they should have through the years.

One of the first things we discovered when we got elected in 1986 was the number of workers that had got totally frustrated with the WCB, and as soon as some opposition members were elected on a larger scale than previously, they came rushing to us to ask for help with cases. Some of them had been going on for 12 years. I mean, it's just incredible the years and years of stalling and putting off and the misuse and abuse of workers and their rights to a decent standard of living and to compensation for injuries on the job in this province.

There are a couple of specific issues in the Bill itself, but my colleagues have mentioned them, about the cost of living allowance — I wanted to just mention that again — and the \$40,000 compensation limit. These are unacceptable and should be looked at again. So they're good reasons for hoisting this Bill and looking at it over the summer, talking to injured workers and other workers and to employers, and working out a better Bill.

Now, there are two particular issues that don't seem to be in the Bill that should be there, and this is another reason for hoisting it. There's been no talk yet of what's called the benefit of doubt principle. Right in the Workers' Compensation Act there is a provision that says that the worker should be given the benefit of the doubt. In fact, I'll read some of the wording of

the particular point. This is in the Workers' Compensation Act, 1981, as amended, section 12. The policy states:

The Alberta Board, consistent with all Workers' Compensation jurisdictions in Canada, holds to the established principle of "Benefit of Doubt".

And it goes on to say in the interpretation section, number one:

The Board interprets the principle to mean it is not necessary to cite proof beyond any reasonable doubt in support of a claim for compensation.

In other words, Mr. Speaker, this is not like a court case, where somebody's guilt has to be proven beyond a reasonable doubt. In this case, if there is a reasonable doubt, the board is to err on the side of compensating the victim of the injury. I'm reading again from this interpretation.

Adjudication should be determined on the balance of probabilities based on all the facts and if doubt exists on any issue because the evidence for or against is relatively equal, the issue shall be resolved in favour of the worker.

Now, Mr. Speaker, we've seen case after case in my office where the person is treated like they are just trying to rip somebody off and are treated as if they are not worthy of being heard or listened to carefully. They are stalled. They are sent away, to come back again months later. Some of these cases have dragged on for years and years, as I said, and I do not believe that the board, very often anyway, has used this benefit of the doubt principle the way it was intended. As far as I can see, the board works it almost the other way around: unless the workers can prove their case, they don't get compensated. We've had a number of cases before the board that illustrate that.

It seems to me that the unstated role of the Workers' Compensation Board is to reduce the amount of payouts to workers whenever possible. I don't believe that their stated purpose is to help injured workers. What the WCB idea does is take away the right of the workers to sue the employer when they are injured on the job due to unsafe conditions, and the saw-off to that was supposed to be that the workers would be able to get fair compensation from the WCB. Yet it would seem that in the last few years particularly, where this government has gone on to rather a lot of measures of austerity, at least as far as workers are concerned, that in fact the principle has become one of: cut your losses, give them as little as possible, and get rid of them as quickly and easily as possible.

For example, there's a long-running case that my constituency manager has been working on in which the applicant was turned down at the claims services review level, the appeal committee level, and he's now undergoing a medical documentary review by a panel of medical advisers. Now, if the panel fails to find in favour of the worker, we, of course, will appeal to the final stage, the Appeals Commission. The WCB contends that the worker's present medical condition is not influenced by the earlier compensable accident, but we have a prominent orthopedic surgeon who has stated in writing that it's not unreasonable to consider that his previous injury, at least in part, is the cause of the worker's persistent problems and that it would be extremely difficult to rule out the initial compensable back injury as being the root cause of all of the trouble. The WCB is clearly not applying the principle of doubt in this case. If they were, they would have agreed already that he should be compensated. Of course, one doesn't use the names of the individuals, but one could if the minister wished to know them on a private basis.

So, Mr. Speaker, I don't believe that the board uses the principle of doubt the way it was meant to be and the way it's laid out in the legislation.

There's another area that also bothers me, and I remember that the idea to mention this arose from the fact that the very first case that we had in our office was a young man who was extremely capable and had been fighting with the WCB for some time and was getting very, very frustrated. We helped him with an appeal as he was trying to get the board to pay for his retraining, and this is an area that the board seems to be really tight on. Now, if you look at it in the general sort of sense, the WCB clients that we get in our offices that are having difficulty very often are older people that have not got a lot of education; in fact, some of them are even illiterate. So, of course, they are in a really tight bind if they are injured in such a way that they can't go back to work in the construction industry or some other heavy industry that they have come out of. So if the WCB is going to help them, then they have to set up some rules by which they decide who's eligible for help and who isn't. I would just read into the record a few of the main points of how the thing is supposed to work in terms of academic training.

The Board may sponsor a worker to a full time Academic Program provided:

(a) the program is essential to the worker's rehabilitation.

That is, if it looks like his injury will not heal in such a way that he could go back to the former type of work he was doing. That certainly fit in the case of the young man I was mentioning.

(b) there is reasonable probability that post-training earnings will be comparable to the worker's earnings at the time of accident.

I'd just to point out in this area, Mr. Speaker, that that's a rather strange provision in some ways, because I could think of somebody taking training – for instance, somebody who was not able to go on doing physically heavy work – to become, say, a social worker. Well, social workers aren't highly paid and, in many cases, would not make as much perhaps as somebody who had been working on a really good construction job where they got a fair amount of overtime and that sort of thing. So I think that the government needs to take a look at the minimum wage in this province and the kinds of wages they pay their own workers and see to it that that would not be a stumbling block. It would be rather strange if somebody wanted to take some training, upgrade their skills, get a higher education, and found themselves going back to work and making less than they were making when they were an unskilled worker working at some heavy industry, and the board could use the provision that the job he wanted to train for didn't pay enough as an excuse for not retraining him, which is rather an incredible way to look at that.

Point (c) in this list of requirements:

the worker is capable of successfully completing and benefiting from the Academic Program.

It might be interesting to note, Mr. Speaker, that at the recent WCB dinner, which I did not go to but my constituency manager did, she heard a comment by a WCB official saying that as to training and upgrading of the client's skills, sometimes they're quite aware of the fact that some particular worker just isn't going to be able to make it and this program just isn't really going to benefit him, but if he squawks loud enough and hard enough, they will maybe give it to him anyway just so he can fail and they can sort of prove to him, "Well, see, you didn't make it." Now, if that's the backup attitude that these people have to giving people further academic training, then it's no wonder that the program has given new retraining to so few people.

When I mentioned that, Mr. Speaker, a rather interesting thing occurred. I mentioned earlier that when we first got elected, we got a whole backlog of cases, some of them 10 or 12 years old, some of them not quite so old. We started pressing on the Workers' Compensation Board – I mean "we" collectively as New Democrat MLAs, and many of us here in Edmonton – so many cases so fast that the government felt obliged to set up a government liaison person. Now, my constituency manager called and asked Doug Clough just how many people have been given academic training in the last year, and he wouldn't give the number. He felt that it might be a political thing. Gee, I mean, somebody might use that politically to say, "Well, there's only 20 of them or there's only 150 or 1,000," or whatever the number is. We have no real idea, except that we know it isn't very many because it's darn hard to get. So perhaps the minister, being a political person, would be prepared to give us that number tonight and give us some idea of how many people apply for academic training or how many people are assessed as being capable of handling academic training and then get it or don't get it. It would be interesting to know, Mr. Speaker.

Now, this young fellow I mentioned earlier as a specific case was such an obvious example of somebody that should be given further academic training that when we fought the case at the last appeal level – and I remember this one quite well, because it was one of the first cases and I went to it myself, along with my constituency manager – we won hands down. But why did it have to go all the way to the final appeal? I mean, it was so obvious right from the first that this young person was academically capable. He had a back injury and would not be able to go back to heavy work yet knew that he could upgrade his skills and go on to other things, and in fact has done so very successfully, I might add. He got two years of training and did a good job and is now out working rather successfully, I'm glad to say.

One of the things I mentioned at the start of this little dissertation was that a lot of these people have very little academic training and some of them, in fact, are illiterate. I can't help wondering. While it is important that the person be able to benefit from the training, it would seem to me very hard to argue that somebody who is illiterate couldn't benefit from some literacy classes. I wonder why the WCB and this government in this United Nations International Literacy Year couldn't institute some kind of a program specifically helping those older people, labourers who are illiterate, to become literate. Why is it they just sort of dismiss them as being not worth upgrading their academic abilities? The difference between somebody who can't read and write in this society and somebody who can in terms of empowering them to take care of themselves in the society is just incredible. I know this is not, you know, an educational institution as such, but I think it's fairly clear that if the WCB has some obligation to compensate these labourers for injuries they've received on the job, then one of the things they should be prepared to do is help them in retraining, even if that retraining is at the most basic and fundamental level. So I would like to see the minister consider that.

Mr. Speaker, that pretty well rounds out the comments I wanted to make at this stage, but I would just like to reiterate the general point, then, that this Bill could be improved considerably. A six-month hoist would give the minister and the workers and the employers and the opposition and all the people of Alberta a chance for further input to improve this Bill, and I personally think that's mandatory if this Bill is to meet the needs of workers as we go into the 1990s.

MR. SPEAKER: Minister.

MR. TRYNCHY: Thank you, Mr. Speaker. I'll go through these as I have received them and answer as many questions as I possibly can.

The question raised by the Member for Edmonton-Kingsway suggested that the benefit of the doubt is in question. Mr. Speaker, I've talked to a number of workers, and I've made this commitment: if a wrong has been committed, that wrong will be corrected. The benefit of the doubt always goes to the injured, and that's a policy of the board. That is the policy of the board. I've talked, I guess, in the last 12 months now to over 1,500 workers personally, by telephone, and by letter, and every injured worker I've talked to wants something done now. They've asked for an increase in pension. I've outlined to them what I was doing, and I never got one person who said they didn't support it. They don't want a delay. They want the pensions and the benefits raised now.

So the Member for Stony Plain suggests – and he supports a delay – let's deny those workers their benefits. I say to all the members that spoke in favour of the amendment – and I want to encourage everybody to defeat the amendment – why don't they use the next six months to put proposals together and get them to the board. The board's been in place now just five months. They want to hear from you. Put their suggestions together, give them to the board with a copy to myself. I think if they did that, it would be useful. You've got to remember, Mr. Speaker, that the Millard report was received just over a year ago. A number of things in the Millard report are being implemented now, a lot of good suggestions, and a number of them are before the board for review and implementation. Now, surely the members would want to see that Millard report implemented, and if there are some deficiencies thereafter, let's look at them. So let them use the next six months in respect to improving what's there now.

The Member for Edmonton-Avonmore says that she had a number of concerns. Well, I just looked through my files. I've kept a letter of every one of the concerns raised by the opposition members, and there isn't one letter on file in my office in respect to a concern brought forward from that member. I've given all the members . . . [interjections]

MR. SPEAKER: Order please.

MR. TRYNCHY: I've given the members a sheet they could use to provide their constituents with that form and bring it back to me. Yet concerns raised, but not one request to my office.

The Member for Edmonton-Belmont suggested that injured workers' pensions are going down. Well, certainly they are; that's why we're raising the pensions. [interjections]

MR. SPEAKER: Order please. Order.

MR. SIGURDSON: Well, if you're going to do it, do it right.

MR. SPEAKER: Order please.

MR. TRYNCHY: The Member for Edmonton-Belmont said that the income of the injured worker is going down. If he'll check *Hansard*, I wrote it exactly as he said it. And he's right, but we want to increase that injury payment to the injured. They suggest more hearings again. Surely they could look at the

Millard report. If they don't have a copy of it, phone my office, and I'll make sure they have it.

All injured workers in this province have access to my office, Mr. Speaker, and as I've said, I've met with many of them. There isn't one worker that I know of in Alberta that's asked for a meeting with myself that hasn't been taken care of as of this morning. If there are more injured workers there that want to see me, I welcome them. They've all told me: do something now, and we can adjust as we go along.

I must confess that I'm disturbed that those members have so little faith in the board that's just been appointed totally, five months ago, and are working towards a resolution. I just can't understand that.

MR. McINNIS: It's the incompetent minister we have no faith in.

MR. SPEAKER: Order please.

MR. TRYNCHY: Mr. Speaker, I support the stand of the Liberal members because I think they've got their thinking on straight tonight.

The Member for Vegreville went on at great length, disappointed that I didn't speak. I wanted him to put his thoughts forward, and of course there were no thoughts there. In respect to delay: more delays, more delays. Now, if Mr. Member for Vegreville would be so kind as to put in writing – I've got one concern from his constituency, and we've responded – what he thinks should be done if he's got so many concerns. He mentioned something about . . .

MR. McINNIS: Why don't you listen sometimes?

MR. SPEAKER: Order please.

MR. McINNIS: If you can't listen, read *Hansard*.

MR. SPEAKER: Order, Edmonton-Jasper Place. You had your opportunity in the debate.

MR. TRYNCHY: Mr. Speaker, I listened carefully to all of them, never said a word.

MR. McINNIS: Why do you keep saying there's no input?

MR. SPEAKER: Order please. Edmonton-Jasper Place, that's the second time of warning. The third time we'll call for some other action to take place. [interjection] No. Hon. members, we're dealing with second . . . [interjections] Vegreville, you've got some comment?

MR. FOX: Mr. Speaker, this is debate . . .

MR. SPEAKER: No, this is not.

MR. FOX: . . . back and forth.

MR. SPEAKER: Hon. member, that will take place in terms of Committee of the Whole if you wish. The Chair has sat here, as have all hon. members tonight, and we've listened to a considerable number of members dealing with regard to this Bill. The minister is dealing with replies to notes that the minister made. Now, kindly wait till the member has finished. If other

members have not been recognized in the debate with respect to the amendment, that will take place. But at this particular stage of the Assembly, this is much more formal than other parts, and the Chair will continue to admonish members.

Mr. Minister, please conclude.

MR. TRYNCHY: Mr. Speaker, if they're going to be so touchy, maybe I should just not answer. I've listened to them and not raised a word. Surely they can listen to the response I have.

The Member for Edmonton-Belmont said that this Bill will affect thousands of workers, and he's right on. It will. That's why we're doing it. The Millard report spoke on a number of these issues, and as I've said before, it's being implemented. He said he has a number of concerns in his constituency, yet in checking my files, he's never raised one concern in my office - not one concern to my office. I'd appreciate that, so I can help him.

He has no faith in the board. I wonder why he'd say that. Does he know the members of the board? The members of the board are three from labour, three from industry, three from the public sector. They were appointed in total on November 29 and are working towards bringing in better policy, better regulations, better pensions for the workers of Alberta.

The Member for Edmonton-Mill Woods again wants to deny the benefits to the workers. He wants to know why there's a \$40,000 limit. Well, Mr. Speaker, there's very, very few compensation recipients at that level. A \$40,000 limit is the fourth highest in Canada, and only surpassed by very few dollars by other provinces. So that's not a problem in my view, and of course they have the opportunity to provide that input to the board and the board can recommend to the Lieutenant Governor in Council to have that raised. Mr. Speaker, that can only be changed now through legislation, so we have to wait for a session before it can be changed. Under the new system, by amendments to the Bill that can be changed by the will of the board at their recommendation through order in council.

He wants to delay the minimum of the \$900 pension, and he talks about the cost of living allowance. Mr. Speaker, I wonder if the page would be so kind as to take this to the Member for Edmonton-Mill Woods, because the 18 percent he talks about is definitely not correct, and he can read that.

He talks about: why only a \$5 a month pension? Well, Mr. Speaker, there are some pensions that are partial. You only receive \$5 a month, but the person is working. You might receive \$10 a month, but the person is working. It's not a total disability pension. So when you receive a small pension of \$5 or \$10 or whatever the figure might be, that's a partial disability pension. So it's there, and it'll continue to be there. This Act won't change that.

He wants public hearings, and again I say to all members, we've had tremendous support for the Millard report. They traveled across the province, heard all the concerns of all the workers, and now have made their decisions. He wants the board changed. Well, that's fine. Who would he change on the board? Which labour people would he remove? He talks about we don't have an injured person on the board. Well, we do, Mr. Speaker. We have a person that's been injured and represented the injured workers on the board of directors of the Workers' Compensation Board. He suggests that the Appeals Commission should be changed. Now, I wonder who he'd replace there, when there's four from labour, four from the employers, and four from the public: an impartial board, independent, that responds to the injured. As I've said before, it's a policy of the

board that if a wrong has been committed, doubt is in the favour of the worker.

He wants to penalize the employer. Well, they all do, but penalty is done through the assessment procedure. The more accidents we have, the more payments out in workers' compensation: the assessment rate goes up. So employers are penalized dramatically, because they pay the whole shot.

I would suggest, Mr. Speaker, that they make their views known in the next six months to the board and make the copies available to myself. It's the first time we've had the opportunity to respond and make suggestions to a board. There's never been a board before that operates in this fashion, and if there's a need to adjust, if there's a need to make recommendations, if there's a need to improve the system, I'm sure the board will do it.

So, Mr. Speaker, I urge all members to defeat the amendment.

HON. MEMBERS: Question.

MR. SPEAKER: The hon. Member for Edmonton-Jasper Place has put forward the following amendment to Bill 15. By deleting all the words after "That" and substituting the following:

Bill 15, Workers' Compensation Amendment Act, 1990, be not now read a second time, but that it be read a second time this day six months hence.

Those in favour of the amendment, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

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

[Eight minutes having elapsed, the House divided]

MR. SPEAKER: Order please. The matter before the House is this: the hon. Member for Edmonton-Jasper Place has moved an amendment to Bill 15:

By deleting all the words after "That" and substituting the following:

Bill 15, Workers' Compensation Act, 1990, be not now read a second time, but that it be read a second time this day six months hence.

Those members in favour of the amendment, please rise.

For the motion:

Fox	McEachern	Sigurdson
Gibeault	McInnis	Woloshyn
Laing, M.	Roberts	

Against the motion:

Adair	Gagnon	Paszkowski
Ady	Gesell	Rostad
Black	Hyland	Schumacher
Bradley	Johnston	Severtson
Bruseker	Jonson	Shrake
Calahasen	Kowalski	Speaker, R.
Cardinal	Laing, B.	Stewart
Chumir	Lund	Tannas
Clegg	Mitchell	Taylor
Drobot	Moore	Thurber

Elliott	Nelson	Trynchy
Evans	Oldring	West
Fischer	Osterman	Zarusky
Fjordbotten		
Totals:	Ayes — 8	Noes — 40

[Motion on amendment lost]

MR. SPEAKER: Following a similar situation which arose August 17, 1989, with regard to a six months' hoist, earlier this evening the Chair made comment with regard to the discussion which followed upon the introduction of that amendment which was just defeated. Since that amendment has been defeated, the Chair directs that this House now conform to the parliamentary practice at Westminster, as found in *Erskine May*, 21st edition, published in 1989, page 475. Since the question has been defeated, the main question is now put forthwith with respect to second reading of Bill 15.

[Motion carried; Bill 15 read a second time]

Bill 16 Real Estate Agents' Licensing Amendment Act, 1990

MR. NELSON: Mr. Speaker, I wish to move second reading of Bill 16, the Real Estate Agents' Licensing Amendment Act, 1990.

The objective of Consumer and Corporate Affairs is to create a balance in the marketplace between buyers and sellers, and one of the best ways of achieving this is to ensure that the real estate agents, property managers, and salespersons who represent or act for buyers, sellers, and owners of real estate are well qualified and have clear standards of practice to guide them. The purpose of this Bill is to do that and make the real estate profession more responsible on a day-to-day basis.

Mr. Speaker, the proposed changes will provide financial resources for the industry to develop new and improved courses of study for practitioners, removing the financial burden from the general public. The creation of a real estate foundation will also benefit consumers, because moneys will be available for the production and distribution of new pamphlets, films, and other materials to inform and educate them about the buying, selling, owning, or managing of real estate.

Another way in which this Bill will make the industry more responsible is through the provision of errors and omissions insurance for all participants. Consumers who obtain the services of realtors claiming to be professionals should not have to bear the cost of mistakes made by them. Many responsible practitioners already carry such coverage provided by private insurers. However, others find such coverage too costly or unobtainable, and still others are irresponsible and believe in the principle of "Buyer beware." Mandatory errors and omissions coverage provided through an industry-administered plan will benefit consumers by providing compensation for mistakes and affordable coverage to all members of the industry.

Mr. Speaker, we are also introducing new licensing requirements for real estate agents, branch offices, and requiring each branch office to be managed by a person qualified to be an agent. Moreover, such managers will be deemed to be equally responsible with the agent for insuring compliance with the standards set out in the Act by all persons under their supervision.

The proper role of the government is to protect the public by providing broad supervision. The proposed changes extend the regulatory scheme introduced some years ago making agents, the employers of real estate salesmen, responsible for the day-to-day supervision of industry members in their employ. This ensures that the Department of Consumer and Corporate Affairs and the superintendent of real estate have the time and resources to supervise the marketplace, and the cost to the public is kept to a minimum.

[Mr. Deputy Speaker in the Chair]

Mr. Speaker, the additional standards being introduced respecting the handling of client moneys will ensure that there are clear instructions as to how agents and their representatives are to deal with those funds. Until now we have assumed that property owners retaining someone to act for them would ensure that their interests were adequately protected. However, as we have learned in recent years, there may be misrepresentation, and consumers may not receive what they think they are contracting for. Large firms with national operations will often refuse to negotiate their standard contracts. In the case of property management agents especially, this may mean trust moneys are not deposited in Alberta, and as has happened with some financial institutions, moneys held outside of Alberta may be endangered and not subject to scrutiny by the superintendent. The proposed additional standards will ensure that all trust moneys are deposited in Alberta and consumers cannot waive their rights, knowingly or unknowingly.

Mr. Speaker, the last and perhaps most important point I wish to make on second reading concerns the cost and effectiveness of administering and enforcing this statute. Persons who contravene the Act may be prosecuted, or the superintendent may suspend or cancel an agent's licence if that agent or a salesperson employed by the agency contravenes the Act or acts contrary to the public interest. It is costly to investigate and discipline persons and not always effective under existing provisions. Also, it may be unfair and extremely damaging to suspend or cancel the licence of an agent, causing innocent employees to suffer along with those persons who are unethical or irresponsible. The new disciplinary powers provided in this Bill will hopefully allow the superintendent to deal much faster with members of the industry who are responsible for contravention and unethical conduct.

Mr. Speaker, I believe these major proposals, together with the housekeeping and minor improvements in this Bill, will make the real estate marketplace more equitable for the public.

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

MR. MITCHELL: Thank you, Mr. Speaker. I rise to express some concern with this Bill. My concern relates to the funding of the foundation. It seems to me that the foundation can be construed — it certainly could become a body which does little more than produce propaganda on behalf of the real estate industry and real estate agents. That is to say that it could operate in a very self-interested way. There's nothing necessarily wrong with that. The real estate industry has a right to promote itself, and certainly this foundation embraces that right. Where I have a concern is the manner in which the foundation can be funded. The foundation will receive funds through interest which is in amounts too small to be attributed to clients, and it

will also receive funds from trust accounts held for clients who, after two years, haven't collected them. It seems to me that that is found money. There is at least one other place in our institutional structure in this province where money from trust accounts is collected by the Law Foundation, but it seems to me that that group operates differently than this real estate group would operate. Therefore, there can be, I understand, as much as a million dollars a year of little more than found money. My feeling is that that money should come to government, come to some source of social good. If this group wants to structure a foundation, they have every right to do it. I believe they should simply pay for it themselves.

One other concern that I have is the provision that if the client shows up years later, having not shown up within the two-year period, the foundation is, by this Act, obligated to pay the client the money that was in their trust account before the foundation scooped it out for their own use. That raises two questions. One, what about the interest that would have accrued over the intervening years? Is that required to be paid back to the client? Two, what if the foundation simply doesn't have that money? What contingency or reserve have they set aside or will they be required to set aside to pay that money should clients appear after some period of time?

It's for those reasons that I have some considerable reservation about this Bill, although I and my caucus are willing to accept that it does accomplish some other things which do redeem it to some extent.

MR. DEPUTY SPEAKER: The hon. Member for Calgary-Buffalo.

MR. CHUMIR: Thank you. As my colleague the Member for Edmonton-Meadowlark stated, our caucus, the Liberal caucus, is going to support this legislation. I did want to make several points, however, with respect to the basics of the Bill.

First off, the establishment of a foundation I believe is a good idea. It's a good idea to use the interest which is accruing from the deposited funds. It's very similar in concept to the Law Foundation, which has been a very successful entity. The concern that I have is to ensure that the moneys, which are in fact a windfall to the industry and in a sense are the property of clients, are in fact used for the broader public benefit. In that regard I would note that the membership of this foundation is extremely important in ensuring that appropriate use is made of the funds. The members are to be appointed by regulation, and I would like to hear from the sponsor of this Bill what the intention of the government is with respect to membership. I think it would have been far preferable to define that membership in legislation. However, I would like to hear some assurances that we're going to have broad membership from the public in general and not simply members from the one industry which is concerned or, indeed, even a preponderance of members from the industry that is concerned here.

The second area that I would comment on is discipline. There is a portion of the legislation which makes the process of disciplining those in the real estate industry, salesmen, more flexible in nature. I think that's to be applauded, but I would like to take this opportunity to repeat comments I have made in earlier contexts with respect to other legislation about the need for protection of sales personnel with respect to discipline. We have to remember that the position of these individuals represents their livelihood, and as I noted at length in commenting on

the Licensing of Trades and Businesses Amendment Act and the Insurance Amendment Act, it is, I believe, very important that we make a provision for the right of individuals to be heard before they are subjected to either a refusal or a cancellation of their licence. That is a right which is accorded to professions like lawyers and doctors and accountants and dentists, and it should not be denied to other occupations in the community that are equally deserving and equally reliant on their jobs for livelihood.

[Mr. Speaker in the Chair]

Now, I would note that when I commented on the earlier pieces of legislation during this sitting, the Member for Calgary-Glenmore, who's responsible for occupations, stated to me that she would review this issue, which I have raised with the minister of consumer affairs with a view to establishing a standard format and process in order to provide for a process which balances the need to protect the public, which is behind these disciplinary proceedings, with the need to be very careful when one affects the livelihood of individuals in these occupations and professions. With that assurance I'm prepared to support this legislation, as our caucus supported the previous two pieces of legislation in this House which had reflected that same concern.

MR. SPEAKER: Thank you.

The Member for Edmonton-Mill Woods.

MR. GIBEAULT: Thank you, Mr. Speaker. A couple of comments about Bill 16. In terms of the real estate foundation, an interesting body and of merit I'm sure, I wonder if we might not know from the sponsor of the Bill what the regulations will prescribe for the disposal of any surplus money of the foundation in the event of its being wound up so that it doesn't just get stuck somewhere in limbo.

Just a couple of other questions I would like to put to the Member for Calgary-McCall, the sponsor of Bill 16 here. I was looking through it, and in light of recent experience with a real estate agent who *is* also an elected official, a member of this Assembly, I wonder if the sponsor of the Bill here could tell us if I just missed it or if it's not here and perhaps it might be a provision that would enhance the Bill; that is, a provision where, given the potential for conflicts between elected officials and real estate agents – if it wouldn't be a much clearer provision of the Bill here to have a clause that would temporarily suspend, if you like, or put aside the authority of a real estate agent when such an agent becomes an elected official, to ensure that there *is* no public perception of conflicts of interest, which can be so troublesome, as we've seen in recent time.

Another thing I'd like to ask the sponsor of the Bill, if he might help us here. In terms of provisions for professional conduct of real estate agents that is so important in maintaining public trust here, I wonder if he might tell us – I couldn't seem to find specific reference here. For example, if a real estate agent sells a property for a dollar, which is much less than its real value, is that something that would be considered unprofessional conduct of a real estate agent? Could he also tell us if it would be considered unprofessional conduct which might result in the suspension or termination of an agent's licence if an agent is on the record as having said a property is sold and then publicly tells another on another occasion that there had been no offers on the property? In other words, if an agent misleads

the public, would that be substantial cause for an agent to lose their licence?

Thank you.

MR. SPEAKER: Hon. member, with due respect, I trust this is not a thinly disguised attempt to deal with another issue that's been before this Assembly. Surely to goodness, will we need to look at every single occupation in this province?

The Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. I just wanted to make a few comments. Generally speaking, the Bill seems to be okay, but just a few questions and comments. In setting up the Alberta real estate foundation, the Member for Calgary-McCall, who sponsored the Bill, mentioned that this foundation would be able to put out information to help all the people of Alberta and help consumers become better informed. I suppose he also recognizes that at the same time they might be quite capable of putting out propaganda of the kind put out by the Canadian pulp and paper industry, bragging about how concerned they are about the environment, to help them sell pulp mills all over the country. [interjection] Well, it can be of the same order.

MR. SPEAKER: Hardly, hon. member.

MR. McEACHERN: Something else that I was interested to hear the member say: that setting up this foundation would cut administrative costs to the government and still protect consumers. I've got to say that given this government's record of protecting consumers in situations like the Principal affair, for example, or some of the other financial institutions that have gone bankrupt in this province, it's about time they got around to trying to protect consumers, and I hope they're really serious. He went on to talk about some of the new disciplinary powers, and I'll not go into details on them, but I hope the government has the intestinal fortitude to use those powers and see to it that in fact consumers are protected.

I wanted to mention a couple of other problems. It's been a practice of many real estate companies to direct their customers to specific mortgage companies in the past, and this Bill does nothing to really change that except that they're supposed to disclose beforehand to the customer what their intentions are in that regard, before they get into the deal. That's not really much help. It seems to me that issue might be looked at again.

The last point I wanted to raise – I'm not going to really deal with it at this stage but just alert the Assembly that we're concerned about the power of the multiple listing agencies. They seem to have a lot of power in regard to the licensing of real estate agents, and they can, in fact, see to it that a real estate agent does not get his licence reinstated if he is fired by some firm that he works with. So I'll leave that issue for more details on it to Committee of the Whole, but we certainly want to take a closer look at that problem.

MR. McINNIS: Bill 16 provides the major overhaul of licensing provisions affecting people in the real estate industry. People come to see licensed realtors to take care of their real estate needs. Most people will have contact with a realtor when it comes time to acquire or purchase a principal residence, but I suppose any buying and selling of property would put an Albertan in contact with a member of the real estate industry. I think that when people go to a realtor, they should have some

confidence that the realtor places their interest first and foremost. Engaging the services of a licensed professional realtor is not much different from hiring a lawyer or a doctor or any other professional in that I think members of the public want to be reasonably sure there is one and only one agenda on the plate of the real estate professional with whom they deal.

Now, I do note that the proposed section 35(1) – it's section 28 in the Bill – attempts to curtail the practice of realtors being federated with mortgage companies and the practice of having rebates or commissions or kickbacks or however you want to describe it for customers who are steered in the direction of that particular lending agency. This legislation for the first time puts some structure around that and attempts to make it operate in such a way that it's above board, that everyone knows what's going on, and that no one pays an unfair price on account of a financial arrangement which may exist between a lending institution and a particular member of the real estate profession.

You know, there's an adage that comes from the legal profession and I think has some relevance here. It is said that a lawyer who represents himself or herself in an important proceeding has a fool for a client, and I think that adage perhaps applies to the situation here. In the past, many problems have been caused by realtors who trade on their own accounts, and the other parties with whom they deal are not always aware of the relationship that the realtor has in the transaction. You know, you often see this, Mr. Speaker, in a rising market. If you have a quickly rising real estate market, occasionally realtors have been known to purchase properties which are listed through them, and that does create a problem in that there's an appearance that a realtor may have access to information that others don't prior to making a deal like that, that the property, which is subject to listing, may not have achieved the exposure that it needs. I think that particular practice merits the attention of the Assembly, and this would be the legislation under which it is done.

The same is true of a developer who is also a realtor. If you have a developer who is attempting to sell properties in which he or she has an apparent financial interest, that puts the client at a disadvantage, perhaps, not being aware that the developer is also a realtor. This is a case where the roles are not completely clear, where if someone goes to see a realtor, they need to have some assurance that in fact they're getting exposure to a full range of opportunities in the marketplace and are not unduly restricted by the fact that the realtor may have a financial interest in the development. I think it's a mistake for developers to carry on business in that way, as licensed realtors selling their own properties, because who knows in which hat, in which capacity, representations are being made to a potential client? Are they being made, you know, in the hat of the real estate agent or in the hat of the property development or perhaps some other hat that the individual may have in relation to the proceeding that's there? I find in this legislation that that area of development and the practice of real estate, the element of trading on one's own account as a realtor, are not very strongly dealt with. [interjection] The Mabbott situation all over again, déjà vu all over again.

The other point, which has been touched on briefly by two of my colleagues, is the relationship that the real estate industry has to the multiple listing agency or what is referred to as a real estate co-operative listing bureau. Everyone knows the function that the multiple listing service plays in relation to the real estate industry. It's an important and, one might say, beneficial aspect of the industry. But there's an element here that you can be

removed from the real estate industry by virtue of not having achieved or maintained membership in the listing co-operative, the multiple listing service in reality. That can be a problem. It's also a problem for people in the industry who operate outside of MLS, because MLS listings are by their nature quite expensive to the parties involved. The commission structure operates at the 7 percent level on an MLS type of listing, and there is a possibility, I think, that those who run afoul of that system for one reason or another – because they choose to do business in a different way – may find themselves potentially out of their profession by virtue of the fact that they no longer are associated with the real estate co-operative, or the multiple listing service.

So these are important concerns that the members on this side have in this debate, and we would certainly like them addressed prior to the conclusion of second reading debate.

MR. SPEAKER: Calgary-McCall, summation, second reading.

MR. NELSON: Thank you, Mr. Speaker. I'll try to respond as best I can to the concerns that have been raised, and for those that I do not, I will see to the members getting the appropriate answer.

Mr. Speaker, Edmonton-Meadowlark discussed the foundation with regards to how it would be funded and self-interest and so on and so forth. The foundation is to be created through the industry and certainly will be created by utilizing the moneys gained from interest on those deposits that will be left with companies in trust. The accumulated interest will create this foundation from those who desire not to use those moneys in an account that will bear the consumer the interest. It will be up to the real estate agent or the salesperson to identify that to the consumer: whether or not they wish to have those interests. Now, there will be occasions, of course, because of costs of doing business in the banks and what have you, that it will not pay them to obtain those interests. However, in any event, the consumer will have an expression as to how they wish to deal with those deposits.

Mr. Speaker, the member also indicated something about the client: if, after he's lost his money, he shows up after two years, whether or not there'll be interest accruing to that client. Yes, there will. It should be noted that the minister will have the authority to direct how up to 50 percent of the annual revenue is to be used. That, because of the intent of the Bill, will ensure that the industry utilizing these funds will do so in the manner for which they are intended, and that is for the benefit of our consumers. A number of other members brought up a similar concern that I should also identify: that regulations certainly will play a part in how these moneys will be directed insofar as the public good is concerned.

The Member for Calgary-Buffalo indicated that he was concerned about the membership of the committee. It is intended that 50 percent of the board of the foundation will be nonindustry members, and some of those would include the superintendent of real estate: lay persons, of course; industry representatives at the same time. I wish to emphasize that at least 50 percent of the members would come from lay people outside the industry.

There was some discussion with regards to conflicts and what have you, Mr. Speaker. I feel there's some innuendo there, and I won't comment on that at this time. I think that, first of all, we do have conflict of interest legislation in place in the Legislature that is well placed.

Again, the Member for Edmonton-Kingsway brought up the situation about propaganda and what have you. I think I've covered that reasonably well. Through regulations, of course, protecting the consumers, disciplinary powers of the board will be such that . . . It is my assessment anyway, and I should mention, Mr. Speaker, that I used to sell real estate a few years ago. I do not have a licence now. But I think the industry is well capable with its maturity, as are many other professions, to ensure that the industry is well looked after and the consumer in particular, and I should add that the consumer is the prime reason for this legislation.

There was some comment made with regards to real estate salesmen dealing with mortgage companies, probably lawyers, and other people, a suggestion that there were kickbacks and what have you. It is the intent, Mr. Speaker, that the agent or the salesperson would again identify any people or any lending institution that was recommended, and if there was a commission or some other form of remuneration for steering that person to that lawyer or mortgage lending company or whatever the case might be, that would be identified to the consumer and, of course, then that would really take care of that concern. The consumer, of course, always has the ability to come back, and under the legislation, of course, there are some assurances that the consumer is well looked after.

I should indicate, Mr. Speaker, that there was a comment made with regards to the MLS, that it's a straight 7 percent. I should indicate that that is illegal. There is a form of negotiation, and all the commissions, whether it's MLS or a private listing, are negotiable. It may happen that real estate people use the same thing, but it still is a matter of negotiations. If any company that is not in the MLS – certainly if they achieve the standards that the real estate board sets for those companies to be part of that listing service, they can achieve that.

Mr. Speaker, I think I've answered most of the items that were directed, but we'll check the Blues, and if there are other questions, we'll try to answer them.

HON. MEMBERS: Question.

[Motion carried; Bill 16 read a second time]

Bill 18 Personal Property Security Amendment Act, 1990

MR. ROSTAD: Mr. Speaker, I move second reading of Bill 18, Personal Property Security Amendment Act, 1990.

I remind the members that in our session of June 1988, Bill 51, the Personal Property Security Act, was passed. We've had time between then and October 1, 1990, when it will be proclaimed, to receive input from businesses, individuals, the joint legislative review committee of the Law Society, and the Canadian Bar Association – a series of amendments which will correct some errors, fine-tune it, and clarify it. Also, one of the amendments will continue the existing assurance fund, which was not in the original Bill, and will just make it a fine and better system.

HON. MEMBERS: Question.

[Motion carried; Bill 18 read a second time]

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

