Legislative Assembly of Alberta

Title: **Tuesday, December 4, 1990 8:00 p.m.**

Date: 90/12/04

[Mr. Speaker in the Chair]

MR. SPEAKER: Pray be seated.

CLERK: Under Orders of the Day, Government Bills and Orders for Second Reading, Bill 38, hon. Mr. Johnston. [some applause]

MR. SPEAKER: Hon. minister and others in the back rows, would you hold it for a minute? Thank you. I hate to interrupt your applause, hon. minister. Applause never happens for a Speaker. [applause]

May we revert to the Introduction of Special Guests, please?

HON. MEMBERS: Agreed.

MR. SPEAKER: Thank you. The hon. Member for Edmonton-Belmont.

head: **Introduction of Special Guests**

MR. SIGURDSON: Thank you, Mr. Speaker. On behalf of my colleague the Member for Edmonton-Centre, I'd like to introduce two people that are seated in your gallery, sir. They are Steve and Cathy Olsen. The members of the Legislature may worry about being viewed tonight by two people who will be sitting up there watching us, but we should relax. They're not here to look at how we work; they're probably here to look at how their daughter Teresa Olsen works. She's one of our pages. I'd ask that they rise and receive the traditional welcome of the Assembly.

MR. SPEAKER: Edmonton-Whitemud.

MR. WICKMAN: Thank you, Mr. Speaker. I'd like to introduce to you and through you to my colleagues in the House 32 members of the 177th Ermineskin Cubs. That's a group of Cubs in the glorious riding of Edmonton-Whitemud. They're accompanied this evening by six Cub leaders: Arthur Sabo, Dave Brennan, Alan Topolnitsky, Darrell Wenger, Ken Buchkowski, Gordon Wormsbecker, and one adult, Lorne Thompson. As they stand in the public gallery, would you please join me and give them the warm welcome of this House.

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

Bill 38
Loan and Trust Corporations Act

MR. SPEAKER: Hon. Provincial Treasurer, thank you for the delay.

MR. JOHNSTON: I'm very pleased, Mr. Speaker, to move second reading of Bill 38, the Loan and Trust Corporations Act.

Mr. Speaker, this Bill is a companion to the Credit Union Act. The reason this is quite a significant part of the policy of this government is that we promised some three to three and a half years ago that we would completely reform the legislation and regulations out of which financial institutions are controlled and regulated in this province and, along with other provinces and jurisdictions, we'd try to make our legislation as contemporary as any in Canada.

An undertaking and a process of that order is not an easy task. It requires a great deal of time and requires an awful lot of patience on behalf of the members of caucus who generally have to face the sometimes unending task of listening to very subtle descriptions of why this legislation is important and different and why, in fact, it has to be changed. As well, there are a lot of people behind the legislation who make it work, who have devoted a lot of time to ensuring that this piece of legislation is, as I have indicated, as contemporary as any in Canada.

Of course, with us is Stan Bebenik, who has been chiefly responsible for the legislative drafting and writing and the internal workings of this legislation. Bob Ascah, who is not here – and I'll refer to him in a minute – was also a policy adviser with respect to this piece of legislation together with those people in Legislative Counsel who draft and prepare legislation with the finite attention and detail that makes a piece of legislation work.

So here we are again now, Mr. Speaker, bringing forward and moving second reading of Bill 38. As I've indicated, we've already passed the credit union legislation. A complete rewrite of that legislation was warranted and necessary after some SO years, and now this piece of legislation is proceeding. I don't have to recount the travail, the difficulties which this province and this government have faced over the past few years, going back to about 1985-86, I suppose, when we first had the difficulties with the banks before it. Then we had the difficulties in the credit union system, and of course we had the ongoing difficulty with the Principal Group, among others. Those many other institutions required a lot of time, a lot of attention, and we felt that we learned, as a matter of fact, from that process some of the corrections and adjustments which are necessary to ensure that regulatory control was in place and that the depositor, or the consumer of the goods in this case, had the protection that he should have to ensure that his asset, his money, is protected.

Part of the ongoing process that I want to refer to right now deals with what the provinces did themselves, and as I have said in this House before, that is the process of harmonization. Harmonization applies to a lot of policies and legislation, but in this case harmonization applies to trust company legislation, that generic term. The four western provinces in particular recognize the need to establish harmonization among the provinces on principles at least. We have worked fairly rigourously and sincerely to achieve a provincial harmonization, starting, I think, with the two provinces of Alberta and British Columbia, moving to the western four provinces, building a foundation there, and then going on to the balance of Canadian provinces to sign a harmonization agreement which afforded a statement of principles which reflect on all pieces of legislation affecting trust companies. That process is just about finished.

As a matter of fact, that's why I mentioned Mr. Ascah. He is now in Moncton, at this very moment completing the final work on behalf of the provinces to draw together a very fundamental statement of harmonization principles, and those principles will be agreed to by the provinces and then will be the framework, or policy statements, reflected in the legislation of the respective provinces.

Of course, the process of Bill 38 has also been in tune with the harmonization that I've referred to. That is to say, we have asked our other provinces across Canada to look at this legislation, to review it in the context of the harmonization initiative,

and to consider whether or not it would fit with the harmonization principles. Since this Bill was introduced in the spring and was allowed to stand over the summer and now is being brought forward, we will have some amendments to this legislation, which have been circulated by the way, which will deal with the so-called harmonization attempts that other provinces have recommended to us. Those I hope will receive the consent of this Legislative Assembly and become part of the Act itself, Bill 38.

At the same time, I should note that on the harmonization question we have now seen the federal government's position. Mr. Loiselle, the Minister of State for Finance and the Treasury Board chairman, has introduced his own federal legislation. That federal legislation as well is quite similar to our own Act, and I should say that the federal government responded to the pressure, if not the suggestions and recommendations, from the provinces on two key areas. You will recall that the federal government in their own legislation packages, the working papers or green and white papers that they released, talked before about the need for financial commercial links. We in the provinces urged the elimination of financial commercial links, arguing that you should get as much capital together as possible and if you can operate a trust company from another commercial base, you should be allowed to do that because that's what it's all about, mustering capital for the province to put back into the system to provide that adequate supply.

The second point, of course, dealt with the granting of noncore fiduciary responsibilities or powers to the banks and insurers. In the case of the elimination of commercial links, Mr. Loiselle has agreed with the provinces. In his Bill C-83 he has eliminated the financial commercial links and in the case of the noncore fiduciary powers has not granted those to banks and insurance companies.

So on those two cases of policy consideration the federal government has in fact responded to what the provinces argued and recommended. Of course, we had a chance just recently to thank him for his consideration.

But it is here that we want to be clear that this piece of legislation will regulate provincial trust companies, loan companies. You may have seen over the summer some comments from some large trust companies suggesting that if the federal government didn't get its act together, in fact those large trust companies would register as provincial corporations. Because they were folding a home there, they're finding policies that were suitable to them to expand and do their business, and they were more satisfied with the regulatory process at the provincial level than they were at the federal level. So you can see that our movement, our initiative, our coming together as provinces has in fact encouraged the federal government to change its legislation to get on with doing what it's supposed to do, and we're very pleased with the fact that our own principles are probably as good as any in terms of what the federal government is doing.

Since I mentioned the federal government, I have also mentioned the meeting with Mr. Loiselle, and it's important that I note that because he is one gentlemen who I think is very conscious of the jurisdictional questions. By the way, I first met him when he was the agent general for Quebec in London, as a matter of fact. He was the gentlemen who, along with some of our own people, was taking on Mr. Trudeau at the time with respect to the constitutional change in 1980-81. He and Alberta worked very closely at that point, so we have known each other for some time. He has agreed also to participate in the harmonization question with the provinces. That is to say, the federal government wants to harmonize their legislation with our position, and once we have our own agreement together, and I think it's essentially together now, we will ask the federal government to join in and be part of the harmonization. Already it looks to me that the two pieces of legislation, the principles the provinces have established and the federal government's position, are extremely close.

8:10

Similarly on information sharing. I think I reported to this House before that the provinces have gotten together along the same lines of harmonization to ensure that information exchange takes place on the regulatory side so that a company which operates or is registered in another province – the provinces will agree to share the information once they do their inspections or audits, or if any signal takes place which may cause them concern, then of course that information is automatically shared by contract, by agreement with the other provinces in which that company may operate. The federal government has agreed also to join in on that information sharing, and that will allow us to share information with federally chartered loan and trust companies and to ensure that the consumer is again protected, because governments as the regulators will be able to determine and to watch and carefully guard against any problems which may occur such as overextension in one area of assets, deposit runs, or lack of adequate capital. Those sorts of things, which I'll refer to in a minute, will be the reason that you'd have this information-sharing agreement.

So let me say that this piece of legislation, as I have indicated, is very contemporary in its context, has been examined by other provinces, is agreeable to them in terms of the principles, and in fact is very close to the federal government's position on harmonization, and as I've indicated, the federal government will be part of the harmonization process here in the province of Alberta.

Needless to say, Mr. Speaker, as well over the summer user groups have reviewed this legislation, including various trust companies, the Institute of Chartered Accountants and other accounting groups, legal groups who are interested in trust companies, and even the Canadian Bankers' Association has had a submission on this piece of legislation.

Bill 38 looks like it's a fairly big Bill. It is, because there's quite an extensive rewrite. This Bill was last revised in 1967. The Loan and Trust Corporations Act was introduced on June 15, 1990, and we've, as I've indicated, had this period, this process whereby we've had the full examination and review of this piece of legislation. Currently there are about five trust companies registered under provincial jurisdiction, and they total about $4.5 billion to $5 billion of assets. I won't go on to mention the problems we had previously, but those are the ongoing current companies that are incorporated in Alberta at the present time.

This legislation brings together not just trust company legislation but also loan company legislation. Bill 38 will allow for the incorporation of loan corporations and will require registration of extraprovincial loan corporations for the first time. So if you want to do business in this province, you've got to register, and we will have an opportunity to review the financial disclosures, unlike the last Trust Companies Act. Loan corporations will be allowed to engage in deposit-taking – that is to say, take deposits from various Albertans in this case – and investments, but they will not be permitted to be involved in the core trust company business such as fiduciary responsibilities, executor, administrator, or trustee, et cetera. These loan

corporations are very large corporations, in fact, generally under the ownership of a large chartered bank and do generally mortgage corporation business. Whether or not they will continue in that form remains to be seen, because it could be that they would be incorporated under the new changes to the federal Bank Act, which could change the way in which they operate. But for the time being at least we will, as I've indicated, regulate and control by registration federally chartered or other provincially chartered loan corporations.

One of the problems with these corporations, as you saw in the case of some of the failures, was that there was not enough capital in these companies. For a trust company to succeed, to buffer it against losses, to buffer it against income losses in particular, a trust company must have capital adequacy, and we're going to ensure that the tests are there to ensure the capital is in fact in place. So it's become more rigourous, it's going to be a requirement that the capital be put in place by the owners of the company and by others, and those tests will be written into the legislation. The minimum capital for a loan corporation will be $3 million and for a trust corporation, $5 million. Previous capital requirements allowed a trust company to incorporate with merely $2 million. We will step that up considerably.

I might make a footnote here to say that we have a special class of trust companies which used to be called "special purpose trust companies," and Bill 38 will change that. If it does not take deposits, as these special purpose corporations are now intended, they will also have a lower capital requirement. But because they're not taking deposits, they'll have a small change in the capital structure.

You may recall as well that many of the trust companies that were previously incorporated in this province were done by special Acts of this Legislature. We think we can facilitate that, make it a little easier to incorporate a trust company in terms of process. So what Bill 38 will do is to provide that a special order by the Lieutenant Governor in Council can be given to incorporate a company, and then the minister responsible, in this case the Treasurer, will provide letters patent which will deal with the framework of that entity. Of course, should there be changes to the structure of the company by amendments to the constitution of the company, then those can be changed quite simply by changing the letters patent as opposed to going back and amending the Act in this Legislature in the cumbersome way it is now being done. That again is an update and is an amendment to the way in which the incorporation takes place. It simplifies it and places the emphasis again that the incorporation of a trust is a privilege and not a right and still requires the Lieutenant Governor in Council fundamentally to approve the incorporation.

Corporate powers are important. We find that the current trend in loan and trust companies, trust companies in particular, is to provide greater flexibility in the corporate powers and investment activity, and Bill 38 does grant that. Corporations will be permitted to acquire downstream equity positions in other types of financial institutions such as security dealers, insurance companies, and ancillary companies such as data processing or management information system companies – those kinds of companies – and they will do it via the investment side. Corporations will also have expanded commercial and consumer lending powers under this legislation to make them more contemporary in terms of competition with the other people providing financial services in the market right now. Of course, we will always have prudential controls on portfolio. By that I mean we'll control the way in which the makeup of the assets of the trust company are controlled so that not too large a percentage of the total assets may be invested in any one of these particular forms of investment, whether it's real estate, mortgages, commercial loans, or other forms of investment.

These investment roles and capital adequacy roles have been the subject of extensive review here in Alberta and across Canada. We think this Bill probably does shape up as well as any Bill in terms of its contemporary nature, liberalizes the investment but ensures that the capital adequacy is maintained, and ensures that the protection is to the consumer at all times through the portfolio of asset management approach or the so-called in some cases risk evaluation of the assets.

Ownership of trust companies. You know that this has always been a question of concern to many regulators. I referred already to the federal government's position in that they were not going to allow commercially linked entities, and as well they have a little different view with respect to the foreign ownership of these corporations. In our case nonresident ownership rules limiting individual foreign ownership to 10 percent and aggregate foreign ownership to 25 percent will be removed. That means that ownership changes will require regulatory approval of acquisitions of 10 percent or greater with reference to stipulated conditions such as financial resources, the business records of the shareholders, the nature of the business, et cetera. So we're going to liberalize on that side. We're going to ease up in terms of the foreign ownership, and of course we'll control that by doing an overview of the entity and the players in the field associated with the company once the company applies for its official registration or its incorporation. That, we think, will support and ensure that a larger pool of capital is available here in the province of Alberta, and that really is what we're intending to do: to ensure that capital does come in, make it at home, and allow much more capital to be put into play in terms of new investment for small businesses, for mortgages, et cetera.

You'll recall that we have talked extensively here, and I think the Code inquiry focused to a considerable extent, on the so-called self-dealing rules. Those are transactions between the owners of the company, the directors of the company, the senior management of the company, which may prejudice the depositors to their own advantage. In this legislation a general ban on transactions with defined restricted parties – significant shareholders, directors, or officers, for example – is set out. Exceptions to the prohibition will be stipulated in the Bill in a very broad way. For example, such things as mortgage loans to officers and normal business transactions must be done at fair market value. So we're trying to put in place at least a control but providing for some opportunity for normal transactions to take place.

8:20

Procedures for directors' disclosure and the review of significant non arm's length transactions will be required. As I say, if you're dealing as a director with the company, that must be disclosed or prohibited in either case depending on the size of it. The Trust Companies Act prohibited certain transactions but was not comprehensive in stating a general ban and requiring a board of directors' approval, nor did it provide the fair market value test and the limits on the size of the transaction. So we think that in this case we have learned from the process, sometimes the pain, of what we've been through in the province of Alberta, but we think that this piece of legislation will be as contemporary as any in terms of controlling the so-called self-dealing process. We don't think that depositors want to know that their money is being put into play by the owners or the

directors or managers. We want to ensure that it's either prohibited, disclosed, or the board of directors have to be involved in the controlling of it.

In terms of corporate governance – that is to say, how do you set up a company, how does the board of directors operate, and how do the managers control it? – corporations will be required to set up the audit and conduct review committees to strengthen internal control on these non arm's length transactions that I talked about. Corporations will be required to have at least one-third outside, unaffiliated directors, so, you can't have a company simply controlled by the family or by one person as in the case of some of the companies here in Alberta. It will have one-third outside and unaffiliated directors. Of course, it will go on to say what the directors' responsibility will be, and the makeup of the audit and conduct review committees that are referred to will be specified. There will be some changes from the Bill with respect to the management committee, but I'll talk about those in a minute with respect to the amendments.

With respect to disclosure, you recall that one of the problems we had with the Principal Group was that the people who invested in the company did not have an opportunity to get adequate or timely disclosure of the information which would allow them to evaluate or judge the risk of their deposit. This legislation will require and provide that all depositors will have access to audited financial statements of provincial and extraprovincial corporations upon their written request. So it turns responsibility over to the company to make that information available upon request. We think that's a major step in terms of providing information to the investor, in this case the depositor.

In terms of regulatory powers, Mr. Speaker, this Act will allow regulatory intervention at earlier stages. That means that we'll be able, through ministerial authority, for example, to order companies to correct unsound business practices, order divestiture of subsidiaries, and provide information upon demand. Again, that was one of the weaknesses in the current legislation. This will stiffen; this will tighten; this will provide requirements to file, to list, or to sell assets for that matter should they be outside of the portfolio or should the asset have some detrimental impact on the overall operation of that entity. In addition, the corporation can enter into a voluntary compliance program where the terms and conditions are placed on a company's operations at the request of the company. That's a so-called self work out. For example, under some of the calculations in terms of the capital adequacy test, the company may find itself short. Under this rule it can put forward a business program, regiment and discipline itself to work out the problem, and that would provide the so-called voluntary compliance, which would be agreed to by the regulators of course.

The final thing, Mr. Speaker, is again to ensure that some of the problems with respect to contract legislation are not allowed again, that deposit taking as a business except for regulated financial institutions will be prohibited. That means you have to be incorporated under this piece of legislation to be able to take deposits. We think that is in itself an important step towards controlling the kinds of activities, the kinds of entities that are involved in deposit-taking responsibilities. That was, again, the problem of FIC/AIC.

Mr. Speaker, that's the general framework. Obviously, through the questions in committee and perhaps even in listening to some of the comments in second reading, I'll be allowed to deal in more detail with some of the sections of the legislation. I might say, though, that I wanted to ensure that all members understood that through the process Bill 38 has gone through, there are some amendments to the legislation. I should point out that those have been circulated by the Clerk. I appreciate Mr. Clegg's assisting us in getting those ready. These are essentially technical changes. I would not put them on the substantive change side. There are a couple which probably deal with the way in which investments take place, those sorts of things, but they're not really substantive. As I've indicated earlier in my comments, they arise from discussion with a variety of groups, including other provinces.

As well, I have provided what I call the key, Mr. Speaker. I don't know if that's acceptable, but I think if I were trying to make my way through this piece of legislation, a key would help. The key has also been tabled. It connects the current Bill 38 to the amendments so that the sections can be reconciled readily.

I can say that what we have done fundamentally is to change the investment makeup. Downstream equity corporations have been expanded to allow a smaller investment in downstream companies. As opposed to 50 percent we've reduced it to, say, something like 10 or 15 percent, which allows smaller trust companies to have a more diversified investment portfolio in these other kinds of activities, whether it's management, investment dealers, or other kinds of entities. A smaller group of companies can get together and not have to have 50 percent of the company or control, as is in Bill 38 now. A smaller percentage is allowed. Again, this comes from harmonization discussions with other provinces and I think will allow smaller companies a greater diversity, a greater base. All the time, of course, this is controlled by the portfolio question; that is, the portfolio makeup. That will be the final test as to whether or not investments in these kinds of activities is permitted.

We also in Bill 38 indicated that at the time of incorporation of the company you had to have a minimum capital requirement. In discussions with technical people in particular, we found that the Act may be a little unclear as to what was meant. What we did mean was that you must have a minimum capital requirement at all times. So one of the amendments here *is* to ensure that under the capital adequacy section you must maintain the minimum capital at all times, including provincially incorporated companies or extraprovincial corporations. That simply again confirms the necessity of protection to the depositor, and those minimum capital amounts will be in place.

Finally, in terms of big steps, or at least changes, I mentioned already that we had in Bill 38 something called the special purpose trust corporation. Bill 38 set out a regulation-making power for these kinds of non-deposit-taking corporations. We call them something special: a special purpose trust company. We're now rolling them into the general trust company, and when you incorporate the company, we will set out that it cannot take deposits but can do everything else that a normal trust company can do including estate management, trustee work, other sorts of fiduciary activities. It does have a smaller capital requirement: $2 million, as I've indicated.

We've put those in place in the hope that if members have any problem, they may talk to me. I'll be glad to give them some explanations aside from the debate here in the Legislature.

Let me turn finally to the other part of the structure, and that other part, Mr. Speaker, is the regulations. The regulations in this case will be quite extensive and comprehensive. Much of the details which the Act refers to allow for regulations to be passed. These regulations will probably be circulated in the near term. They are in very fundamental draft stage now. Essentially they deal with those kinds of things you might expect. The capital base calculation is quite important: what assets you include; what liabilities must be deducted; what about valuations

of real estate portfolio, et cetera; how do those show up in the capital base calculation – that's always quite a technical approach that must in its detail be provided for in the regulations – the definition of deposits; the definition of eligible financial institutions; the definition of those people who are non arm's length or arm's length; who are restricted parties in terms of transactions. It also is very descriptive as to the accounting information and accounting returns and disclosure which are required. Of course, this has been reviewed and will be reviewed even more by the various accounting groups across the province.

It goes on to talk about the investments, defining the kinds of investments that are appropriate. As I've indicated, the portfolio of the entity will be regulated so that only a certain portion of the assets can be invested in certain kinds of investments. If you say that or do that in the general framework as it is in the legislation, then of course you must provide for more precise if not more definite detail under the regulations, and that is done here, particularly in terms of commercial loans, which are new, and other kinds of business activities.

8:30

It goes on to talk about the penalty section. As you can expect, questions of interest, investment lending levels, investment limits, the duties of the Auditor as will be spelled be out in this legislation, and so on and so forth: the kinds of things you can expect to find in this kind of legislation. Well, those regulations will be brought forward over the next few weeks, and we expect we'll have them in place probably in the next couple of months. It's still a long process, but the first step, of course, is to get the legislation in place and to have the framework in place and agreed to so that we can go on with the regulations.

Well, Mr. Speaker, I think I'm almost out of time here, if I check the clock. I will simply say that in terms of legislation this piece of legislation probably is as contemporary as any. It has been through a fairly rigourous and tough process to ensure that with the amendments it has a very contemporary base and approach and that it is in fact designed to deal with the variety of problems we've seen in this province: CCB, Northland, credit unions, et cetera. In fact, we think it is contemporary, and it derives from the recommendations and problems we saw surrounding that.

Finally, Mr. Speaker, as I said, this is almost a trilogy, the third part of the process. Credit union legislation, my colleague the Minister of Consumer and Corporate Affairs and his legislation, and now this trust company legislation really do a total revamp of the way in which the financial services sector operates in this province. That was our commitment when the Principal Group failed. We outlined that as one of the steps that we'd undertake. We did that.

We've been as contemporary as any, and we're now here today seeking support of the Legislative Assembly for second reading of this Bill, which I move, Mr. Speaker.

Thank you again.

MR. SPEAKER: The Member for Calgary-Mountain View.

MR. HAWKESWORTH: Thank you, Mr. Speaker, and thanks to the Provincial Treasurer for taking some time to walk us through this legislation. Noting the extent of the amendments, perhaps some of the amendments will be addressing the comments I'd like to make in my remarks tonight, but I haven't had the chance to read those at the same time as I was trying to listen to the Provincial Treasurer. So perhaps he's addressed some of my concerns, and I would welcome his comments if he's able to make them later tonight, if we're able to get to closing the debate.

The conventional wisdom, Mr. Speaker, for most of the last 50 or 60 years has held that there ought to be a separation between what have traditionally been called the four pillars of the financial sector, whether that be banks, trust companies, insurance companies, and the fourth one being investment houses and securities dealers. But in recent years, particularly with the lead from the Americans, those separations have withered away, and in fact the federal legislation basically removes many of the separations. There were some changes taking place a couple of years ago, but the federal legislation that's been introduced into the federal House this fall essentially removes many of those traditional separations in legislation and in regulation.

It all stems from the view that I guess was made popular by President Reagan in the United States, that we ought to be getting rid of regulation and, whether that applied to airlines or to the financial sector, that we should look more to self-regulation and a laissez-faire type of marketplace to ensure that the public interest is protected. Well, in Canada we're usually about 10 years behind the United States, and in both those instances that's quite the case. We follow along too early to learn from the mistakes, to avoid repeating them, and what we end up often doing in this country is following and mimicking the Americans, not learning from their mistakes and doing it better.

The open skies policy that the federal government just announced is one example. Canadian Airlines and Air Canada are watching American Airlines go down the tube, and a day or two ago Continental was the latest one. So Air Canada and Canadian airlines are starting to get cold feet, and they're not sure about the wisdom of just abandoning that kind of regulation. The same, Mr. Speaker, goes for federal financial legislation. In the United States that was ostensibly intended to reduce regulation, but since 1982 when many of those changes were made, we've witnessed the widespread collapse of the savings and loan industry. It's projected that the American taxpayers are going to have to come up with $500 billion in order to fix the problems that those created.

So here we are in Canada following along the Americans, and by the same token, key actors in this country are beginning to ask themselves whether blindly following the American example is the way to go. I noticed that earlier in November the chairman of Sun Life Assurance Company was quoted as being worried that the efforts by the federal and Quebec governments – and I think one could substitute Quebec for all the provincial governments – to globalize the financial services sector could weaken Canada's financial sector. The chairman, Mr. McNeil, was quoted as saying, The problem with a very liberal regulatory regime is that it is an invitation to get yourself into trouble."

I notice even more recently the Canadian Bankers' Association, in fact in the presentation they were to have made today to the Finance Committee in the House of Commons, are very concerned about giving trust companies the powers that would make them banks in all but name and not forcing the trust companies to be widely held like banks. Their concern is that it may lead to the same kind of self-dealing abuses that precipitated the U.S. savings and loan crisis. "Abusive self-dealing by controlling owners has been identified as one of the primary causes" of the S and L crisis, the brief says, adding that after 1982 they were "allowed to be closely held, opening the door for fraud." The general point is that wide ownership enhances stability.

So there are some significant alarm bells going off about the particular direction that financial deregulation is going, and it has not yet been proven to me that this move is the right one given that the regulatory framework that we've had in this country for decades has served this country and its financial institutions well. We do have strong financial institutions and banks that operate around the world. It seems to me that there has to be a persuasive argument before making major changes such as this. I've not heard that the federal changes and the changes being proposed in Bill 38 are necessarily in the best interests of Canadians or Albertans, and it remains to be seen whether this move is a prudent one.

Now, as the Provincial Treasurer pointed out, there's considerable overlap between federal and provincial jurisdictions. The federal government has exclusive jurisdiction over banks; provinces alone regulate securities. The trust companies, being a matter of property and civil rights, are regulated by the provinces, and mortgage, loan, and insurance companies are regulated by both. As the Provincial Treasurer has indicated, this legislation incorporates both loan and trust corporations.

The provincial government in Quebec was one that initially took the initiative, I guess is the way to put it, by tabling legislation, I think, close to a year ago, indicating that they intended to go it alone. As the Provincial Treasurer pointed out, if one province is out of sync with the rest or is out of sync with the federal government or vice versa, in this kind of regulatory environment in this country it's a simple matter for companies to reincorporate either provincially or federally. Therefore, there's a pressing need for all the provinces and the federal government to work together to ensure that there's some compatibility between legislation. But my concern is this, Mr. Speaker: what is going to prevent the governments from harmonizing to the lowest common denominator? That is, if Quebec has very loose regulations in the area of restricted party transactions and in the area of cross-ownership or in any of a number of key areas, an Ontario regulated corporation or even one in Alberta might simply decide it would be easier to operate in the Quebec environment or vice versa.

8:40

[Mr. Deputy Speaker in the Chair]

In looking at all of these pieces of legislation that are being adopted by Legislatures across the country and the ones that are going through the federal House, how are we to ensure that the solutions adopted for each issue don't end up being the ones that include the least regulation, the loosest language, and the biggest loopholes? For example, I understand that the federal legislation dealing with trust companies is to include a provision restricting ownership by any one entity to no more than 65 percent of the voting shares. I don't see a similar provision in Bill 38. Even if it were more restrictive than the federal legislation, it may be that as a result of this harmonization we'll end up with whatever is the least difficult or puts the least obstacles in the way of trust corporations, which in the end may not be what's in the best interests of the depositors and the taxpayers.

In looking specifically at the provisions or the general direction that Bill 38 seems to be putting forward, I think there were some good intentions included in this legislation, and there are certainly some good provisions included in it. But what I found quite disturbing, I guess might be the correct word, is that there's such a high degree of ministerial involvement in determining individual cases or dealing with specific provisions or allowing the minister to make exemptions or to alter the rules if he decides without indicating on what basis he would decide. There are no objective criteria in many cases included in the legislation to go along with the powers given over to the minister, which means to me, Mr. Speaker, that the application of this legislation is not all certain. There'll be a considerable amount of business decision-making done by the minister himself. There are a lot of exceptions to the rules that are laid down, both within the legislation and through orders in council, ministerial discretion, and the regulations which we don't see in front of us.

There are lots of examples that one could go to. I know that the Provincial Treasurer used his example in his opening comments regarding the letters patent process for incorporation whereby the Lieutenant Governor in Council will make that decision without requiring incorporation through this Legislature. But it leaves it up to the minister and the Lieutenant Governor in Council to decide whether the proposed management is fit as to character and competence. There's just no way of determining what the grounds are for the minister or the Lieutenant Governor in Council reaching a decision about what is fit as to character and competence.

There's another provision, another example, that I would cite for you as well, Mr. Speaker. I noticed, for example, there are provisions in the Act where a minister has a right to get information or require information from a provincial corporation. There's a whole section that deals with the minister consenting to the transfer or issues of shares and classes of voting shares, both good provisions in and of themselves, but then we come to the following section: The Minister may by order exempt any provincial corporation or other person" from those two sections. So while having the sections in place is good – it's important; it's one of the safeguards, one of the rules the minister was talking about – the very next section allows the minister to exempt the application of that without giving any indication what grounds might be reasonable for the minister to provide that exemption.

Again, another provision has to do with restricted parties. This comes back to my first comment about what has traditionally been a good regulatory environment for the financial sector in this country by separating the ownership of trust companies from insurance companies, from banks, and so on to ensure that there wasn't cross-dealing and perhaps a conflict of interest between subsidiaries and their owner or mother corporations. So there was a restriction traditionally to ensure that the public interest was protected. Now we've heard much being said about sort of replicating that to some extent in the new legislation, and I see some important provisions regarding restricted parties within this legislation.

But then we come to a particular section – and again, Mr. Speaker, I don't refer to a specific provision, which might be more appropriate at committee reading. I point to it simply as an example of the point that I'm trying to make. That a corporation may "enter into a transaction with a restricted party that involves minor or general expenditures by the corporation." Now I know that there's a need for some provision that you don't have to go through an Act of this Legislature for somebody to buy an eraser from a subsidiary company or something very minor like that, but by putting in the words "general expenditures" I can see a great big loophole in the whole restriction on restricted parties. So on the surface of it the provision is good, but when you look beyond the provision to some of the specific wording, you find potentials for all kinds

of abuse or possible loopholes being provided for people to get around the restriction or the rule.

And some of these issues are being left to the regulations so that even though we review the legislation, we can't be entirely sure how it's going to be applied I take, for example, section 170 of the Act regarding financial institutions, and again it's:

> A provincial corporation or a subsidiary . . . may . . .
>
> (a) make a loan to a restricted party . . . if the loan is at fair market rate, is fully secured by securities that meet prescribed qualifications, and is for prescribed purposes.

Well, a prescription comes from the regulations, and there could be a very significant policy area there that the legislation is simply hiving off to the regulations. We don't really know what's intended; in fact, the very provision could be bypassed depending on how the regulations are written.

8:50

The minister in his opening comments made reference to the capital requirements of these corporations. Yet also section 170 has to do with guaranteeing "the obligations of a restricted party that is a financial institution" entering into transactions. But this section contains no solvency or liquidity test. If one were to go to section 42 of the Business Corporations Act, as an example, you find a whole solvency and liquidity test in that particular piece of legislation. This one, Mr. Speaker, doesn't have one. So we're in a situation where we have two standards under two separate pieces of legislation. It would seem appropriate to me that this piece of legislation we're dealing with ought to have those solvency or liquidity limits, but it doesn't have that. In order to safeguard the public it would seem to me important to have such a provision. It's in one piece of legislation but not in here.

Again, on the same page I come back to the same example. The minister has authority to suspend or ignore safeguards and restrictions. Section 172 is another example of how a minister may give "prior consent" for a corporation to enter into some of these transactions with restricted parties "that would otherwise be prohibited" under the Act. But it gives no requirements for some kind of objective criteria on which the minister can make that determination. We've had enough examples in this province in recent years where ministers have apparently turned a blind eye to certain practices going on in certain financial corporations, which ended up to the detriment of depositors and taxpayers, and in this legislation I would have thought there would have been some lessons learned from that experience, that leaving these matters up to a minister's discretion is not the way to go. A minister could be capricious or could be easygoing or could be any of a number of things: be part of some old-boys network and on the basis of that might make exemptions to particular requirements.

So it seems to me that this legislation ought to include much better restrictions than this, much better safeguards, and in fact they may have. As I said in my opening comments, I haven't had the opportunity to review the amendments that the minister has brought in, and I accept that some of these suggestions may already have been dealt with.

Limitation on shareholdings: again, it turns over to the regulations certain aspects of it. In particular, Mr. Speaker, what concerns me is that – again this has to do with section 207, limitation on shareholding – there's a blanket clause near the end of one of the subsections that says the regulations could prescribe "a body corporate" that would be an exemption to everything else that's contained in that particular clause regarding what are limits on shareholdings. So the regulations open up for all practical purposes, open it up so much that there are no restrictions whatsoever.

Just carrying right along, I'm also intrigued by other sections about special criteria, special approval for the amalgamation of corporations that are not provincial corporations with a provincial corporation to become, for the purposes of this Act, a provincial corporation. There are again no criteria provided in this section by which the minister is to give that kind of approval Does the minister go back and use the same section in regard to letters patent for a company just getting started? Even in that one, early in the Act there are not sufficient objective criteria, but at least there are more in that section than we find in 215. So on the surface of it, you know, it's fine for the minister to have to give these approvals, but when you look beyond the surface, some questions begin to emerge as to whether there'll be any kind of objective criteria for the minister to make those decisions.

I'm also intrigued, Mr. Speaker, by looking further into the legislation at indemnity agreements. I didn't realize that the Alberta taxpayer was going to become basically a deposit insurer or guarantor, getting into that business. For example, I don't know whether this is the Don Cormie clause of this legislation or not, but an agreement between the Alberta government and other provinces can be made to indemnify the governments of other provinces for losses that occur "by reason of its obligation to make payment in respect of any deposits or investment money insured by that government." This seems to me to be a means by which the Alberta government is indemnifying other governments, and I don't know that Alberta wants to get into the business of insuring deposits.

I'd be interested to know whether all other provincial governments in this country are putting equivalent indemnity agreements in their legislation to protect Albertans who might put their deposits in a company that's incorporated in, say, Ontario, British Columbia, or Quebec. That would be a revelation to me. This is something that I think is a brand new area and one that I don't understand the reasons for other than that in Alberta we've had a very bad experience in the past in terms of FIC and AIC, both companies regulated under the Investment Contracts Act of this province, which ended up costing persons in other provinces a considerable amount of money when those companies went broke. So maybe the lesson that's been learned is that as part of the price of harmonization, the other provinces are requiring Alberta to incorporate this kind of provision in any of its legislation because they don't want to have to go through the bad experience that they did in the past because of Alberta letting people down by not properly regulating and looking after the public interest on investments contracts legislation. So I'd be interested to know whether we're unique in this particular section or whether we're following along with the other provinces.

9:00

Then, Mr. Speaker, just one that I'm still in a state of shock over, because I don't understand how this Legislature can put a provision in its legislation that says, "No prosecution in respect of an offence against this Act may be commenced without the consent of the Minister." Now, I thought that the prosecutions and the criminal justice system in this province was to be separated from the political arm of this province to ensure that prosecutions were free from political interference. That's what I thought was the policy of this government. But I see in section 309 that this minister takes unto himself a veto power over the ability of any prosecutor in this province to proceed with a

prosecution under this legislation: no prosecutions. And perhaps even by that it could include private prosecution, could proceed without the consent of this minister. I think that provision by and of itself is enough for this Legislature to send this Bill back to the drawing board.

With all due respect, perhaps the minister has removed section 309 with the amendments he's tabled tonight. I'm not aware of that if he has, and if he has, I congratulate him for doing that. But in my brief review of the amendments that were tabled tonight, I couldn't see that 309 has been removed. I think it's shameful for this government to include a provision like this, Mr. Speaker, especially given our experience in this province in recent years from Dial Mortgage to FIC and AIC.

MR. DEPUTY SPEAKER: The hon. Member for Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Speaker. I, too, would like to get in and make a few comments on behalf of my hon. colleague from Calgary-Buffalo regarding Bill 38. This particular Bill, as has been mentioned by the Treasurer, is probably one of the heftier ones we've seen in this House: 201 pages long. It has some good initiatives.

The harmonization of legislation across the province: I think we have seen that problem with respect to FIC and AIC in the past, and this agreement of understanding that has been achieved by the provincial finance ministers as well as the federal Finance minister I think could lead to a streamlining of the entire process and hopefully – hopefully – eliminate some of the concerns we've had in the past. The Bill does show significant improvements. The Member for Calgary-Mountain View has pointed out some errors and some concerns that he has. There are a few that we have as well. Generally speaking, though, it is a significant improvement over what we've had in the past.

Some of the concerns in here deal with where we need to go or where the industry will have to go in the future once, presumably, Bill 38 is passed and proclaimed into law. Many of the trust companies that we have around the province right now are going to have to be modernized in terms of their procedures, and that of course could result in some costs to the consumers. So, Mr. Speaker, that is a bit of a concern we have: that the implementation of many of the regulations, procedures, and so forth that are proposed in here ultimately may have a cost to the consumer.

Some of the concerns that we do have, Mr. Speaker, with respect to Bill 38. A trust company from outside Alberta is not really going to be fully regulated by Alberta if it's based in another province; the other province will have the bulk of the regulation. If it is based here in the province, of course, then the full scope of regulations as proposed that are going to come out of here will be implemented on this particular trust company, but there are some concerns regarding those that are based outside the province. Fortunately, as has been mentioned, there is a move across the country. Ontario, Quebec, and British Columbia have already passed similar legislation; other Legislatures are working on it, either in the draft stage or somewhere, in fact, like New Brunswick: waiting for Royal Assent. So there are some moves afoot.

We support the concept of diversification of interests that the Treasurer spoke of, Mr. Speaker. I think it eliminates some of the concerns we have seen in the past, wherein trust companies perhaps throw all of their, as it were, eggs in one basket. Of course, if that basket then proves to run into problems, as we saw in the province of Alberta here, unfortunately, in the early part of the '80s, when we saw mortgages suddenly being written down – although the real asset is still there, the book value of that asset of course depreciates substantially. So causing and requiring companies to have a diversity of interests, Mr. Speaker, could act as a good safeguard.

The Bill does have a number of different sections in it, and I would like to make some reference to those particular sections, starting with part 2, just a very short section, probably one of the shorter ones within the Bill, Mr. Speaker. It refers to "special purpose trust corporations." I must admit that I'm a little concerned in there, because again, as the Member for Calgary-Mountain View has referred to, there are a number of places where the minister has considerable leeway with respect to exemptions. Part 2 says that certain special purpose trust corporations can be created, can be established in the province under this Bill, but under that mandate, if they are in fact created, they will be exempt from the rest of the regulations. So in fact special purpose trust corporations would, for the most part, not be under the auspices of Bill 38. I have a bit of a concern about that. The Treasurer did not deal with that in his opening comments, and I had hoped he would address that a little bit, because I am, I must confess, a little puzzled as to what the intent of that section is meant to provide.

Part 4, Registration, the next section to which I wish to refer, does require that loan and trust companies are in fact registered. In fact, extraprovincial corporations applying for registration must name an agent or someone who is resident within the province of Alberta. Further, the minister in charge, the Provincial Treasurer, before allowing those companies to be created, can ensure that the capital base that is there is in fact created. But again, Mr. Speaker, part 4 allows for the minister to have considerable leeway, considerable latitude, and if in fact the minister feels that perhaps a particular company may not have the capital base requirements, then an exemption can be made and it can be put into a special category. Again, I did not hear the minister addressing his comments to that concern: how that process would occur. If a company fails under category (A), how is the decision made then to put it into a different category? How does the minister provide for appropriate allocation and appropriate certification so that those corporations that are created do in fact have that capital base and do in fact have the securities to provide comfort for those persons investing in that corporation?

Part 6 has a section dealing with allowing the provincial loan and trust corporations greater financing alternatives. One of the big problems, of course, in creating a new corporation, whatever that corporation may be, is simply coming up with sufficient capital in order to achieve that end. Part 6 talks about the creation of capital-raising mechanisms. It talks not only of simply issuing common shares but other classes of shares including things like certificates, warrants, and rights to acquire shares.

Sections 56 to 65 talk about the dividends being payable in either cash or in stock, provided that they don't create concerns regarding the solvency of the corporation. One of the concerns we have seen in the past that has happened, of course, Mr. Speaker, is that the directors of the corporation take for themselves a substantial dividend and that then creates difficulty on the part of the corporation because there simply isn't enough capital left in the corporation. I understand the intent is to address that concern, and I'm hopeful that it does in fact do that job.

There is a provision in here with respect to the ownership, and again this is a bit of a concern. Ten percent of a corporation is sort of the maximum that someone can own, but again there's an allowance for exemptions to be made on behalf of the minister. The comment has been made before, and I support that comment and concern, that it seems that there is a substantial amount of leeway given to the minister here. I think what we perhaps need to do is not so much require leeway or latitude on behalf of the minister but in fact make sure that the directors of a corporation are responsible for reporting and relaying information to the minister. But simply allowing the minister to have the considerable exemption discretion he will have under this proposed Bill is a bit of a concern. Again, a small purchase of shares from one small investor to another small investor is not a concern, but substantial transfer of ownership from one person to another is under the discretion of the minister and, as I've said before, that is a bit of a concern we do have.

9:10

Section 7 talks about the directors and the officers. Mr. Speaker, I think there are some good steps that are being proposed in here with respect to direction being provided in that regard. It says that the directors simply will be required to have an increasingly important role in corporate governance, that they in fact will play a direct role. My interpretation of that intent, as I understand it, is that directors will no longer simply be honorary positions but in fact will be active positions, and persons that are involved in the directorship of a corporation will have to have hands on. It won't be the "Gee, this is what I was told so I've got to accept it" kind of directorship, but in fact they'll have to be competent, qualified, and knowledgeable individuals. I think that's certainly an improvement in the legislation. Section 7 talks about the directors. The directors will be required to have a sort of rninimum standard of performance as well.

[Mr. Speaker in the Chair]

There is a section in there, section 130, that talks about disclosure of interest. Mr. Speaker, disclosure of interest has been a topic of concern in the Legislature of late and, of course, is dealt with in this particular Bill as well. But I think it's worth taking a moment to discuss the concept of disclosure of interest not only from the standpoint of this particular Bill but in terms of where this Legislature should be making consideration for perhaps other pieces of legislation that could and should be introduced in the Legislature. It talks about the requirement for directors and officers and other restricted parties to disclose a material interest they may have in the transaction with a provincial loan or trust corporation, and therefore after disclosing that interest, whatever that may be, the directors who are *in* a conflict of interest must declare that interest, state clearly what it is, and then not participate in any discussion or the vote. I think that is a very important concept of business. I think it's very appropriate that that concept should be introduced in this particular piece of legislation, and I hope the spirit behind that section finds its way into other pieces of legislation that hopefully will soon be tabled in this Legislature.

Moving on to part 10, it talks about restricted party transactions. The intent behind this section is to prevent large blocks of a corporation being owned by too few individuals. I think the Provincial Treasurer in his opening comments said that at least one-third of the corporation will have to be owned by outside interests. I think that is an appropriate safeguard to prevent blocks being owned and controlled by too small a group of individuals. But gee whiz, you go down there a little way and you see provisions generally prohibit transactions with restricted parties, but again there's a little section tacked on to the end. I believe it's section 164 that talks about certain exemptions and exceptions that can occur. Again, Mr. Speaker, just the same concern I've mentioned before: whenever you have exemptions and exceptions, you open the door to potential concerns and problems.

I think it's important, though, that there is a section in here with which I certainly do agree. In part 10 I believe it's section 163 that says – and again this is related to topics that have occurred in the Legislature lately – that no person or restricted party can deal with a corporation and get preferential terms that are better than granted in the normal course of business. In a business like this dealing with many millions of dollars, there is certainly the potential for abuse and misuse, and by ensuring that all persons who deal with a corporation get exactly the same deal as John Q. Public who walks in off the street I think puts everyone on a level playing field and certainly should be applauded as a forward-thinking step.

Insider trading, of course, is a concern and is addressed particularly in part 8, I believe it is, Mr. Speaker. It talks about the concern that no director or restricted party of the corporation should enter into a transaction on the basis of confidential information he has received. I think this is in line with what has happened with respect to the Securities Commission and securities trading in this province and certainly should be applied to this particular piece of legislation as well.

I want to just conclude my comments going back to . . . I guess we all have a particular focus when it comes to a piece of legislation, and I would like to briefly refer to section 78. It talks about the minister being able to request and in fact require information on whatever matter he so desires to be provided to him. Mr. Speaker, I think that's probably appropriate, that a minister who is in charge of the control and regulation of financial corporations like loan and trust companies should in fact be able to get that information. I just wish that that intent and that notion were extended to the opposition parties as well, wherein information could be and would be provided when requested on a reasonable basis, as we have on many repeated occasions. So while I agree that it's clearly in the best interest to have information available, I certainly hope the Provincial Treasurer recognizes that it is not only the Provincial Treasurer who has need for open access to information when in fact there are other persons as well who will have that same requirement.

Mr. Speaker, I look forward to further discussion when we get to Committee of the Whole.

MR. SPEAKER: Thank you.
The Member for Red Deer-North.

MR. DAY: Thank you, Mr. Speaker. It's been an interesting evening so far, and I appreciate listening to the elements of the Loan and Trust Corporations Act. I think it shows very clearly the responsiveness of this government to the issues of the day. It's truly contemporary legislation. I think we're going to see a renaissance of interest in this whole area, and it's not surprising coming from a renaissance man such as our own Provincial Treasurer. [interjections] I was about to actually compliment the opposition and say – and I'll continue to say what I was going to say regardless of their interruptions – that there have been some interesting remarks brought forward by the opposition, which I think bear some looking at. There's also, as the

Treasurer has indicated, a number of amendments that bear looking at.

Certainly I would like some time. I know the Treasurer would probably like some time to assess some of the remarks from across the floor. For this evening anyway, I would beg leave to adjourn debate on this Act.

[Motion carried]

Bill 57
Electoral Boundaries Commission Act

[Adjourned debate December 3: Mr. Tannas]

MR. TANNAS: Thank you, Mr. Speaker. In summing up my comments on Bill 57, I must say I'm delighted to support the Bill. I think it calls for us to stand up for our ideals. The issue of one man, one vote is one of those ideals; equal representation is a second ideal; equal access to representatives is a third; and historic practice, that I alluded to earlier, is a fourth ideal. I would suggest that we have a fifth ideal, and that is truly a Canadian tradition, an envelope of compromise where we combine all those ideals in equity and balance, and that's what I think has occurred here. Some speakers have referred to the fact that there might be something like 3 to 1, three rural votes equaling one. If my arithmetic is correct and we show that there would be 36 seats given to the two cities, Calgary and Edmonton, that represents 4337 percent in digits of the total number of MIA representatives, and the other 49 percent of the population will be represented by 56.63 digits of the MLAs. That's hardly a ratio of 3 to 1. It does come out as a ratio, if you will, of 4337 to 5.663, and you can play around that forever.

9:20

I think there are some relevant considerations to be taken into account, and those are the ones outlined clearly in this Bill that deal with sparsity and density of population; common community interests and community organizations, including those of Indian reserves and Metis settlements; a number of municipalities and other local authorities; geographical features, including existing road systems; and the desirability of understandable and clear boundaries. This Bill does take into account all those ideals that I outlined and wraps them in an envelope of compromise. Therefore, Mr. Speaker, I support this Bill.

MR. SPEAKER: Thank you.

The Member for Edmonton-Whitemud.

MR. WICKMAN: Thank you, Mr. Speaker. I want to say first of all that I recognize the process the committee was faced with was an extremely difficult one. We have a situation we have to recognize, that there are geographical differences, there are problems at the present time. When we talk in terms of the disparity between the various constituencies, we see the constituency I represent, Edmonton-Whitemud. We compare that with some of the smaller constituencies and see that I represent four times the number of people. So of course the mandate, the objective is to try and make that representation fair and fairer than it has been in the past. At the same time, we have to recognize as we're doing that that those that are in the rural areas do face geographical differences, geographical inconveniences, geographical barriers that those of us that represent urban ridings don't. I can sympathize with those rural members that have to travel hundreds and hundreds of miles to visit all parts of their constituencies, whereas those of us in areas like Edmonton-Whitemud can go from one end of Edmonton-Whitemud to the other end within 15 or 20 minutes' driving time. So that is a very, very valid concern. Now, it's a question of trying to find that proper balance, trying to come up with the formula that recognizes the geographical differences, that recognizes there has to be a fairer representation than we do have under the existing system, and also recognizes what's happened in the court decision in British Columbia and what we have seen has happened with redistribution in other provinces like Saskatchewan.

First of all, I want to comment on some of the remarks made by the Member for Calgary-Foothills when she made reference earlier, a couple of days back, about flip-flopping and changes from her point of view in what she anticipated the representative from our caucus was going to support. We operate under what I believe is a very unique, very democratic system where there are eight of us, and our representative on that committee or our representative on any committee reports to caucus and caucus certainly feeds in as well. So it's not just a question of one person's opinion; it's a question of eight members discussing these things very thoroughly. Now, other caucuses may operate differently. The Conservative caucus may very well operate on the basis that one member or a small number of members has the right to speak out on the final form on behalf of their colleagues, but we do operate a little more democratically within our caucus. So I want it on the record that we stand behind the position that has been taken by our representative on that committee.

The area of difficulty I have primarily is the variance level, where we have a small number that can vary up to 50 percent. That's one concern. More so than that is the method that's been used to attempt to achieve rural representation in terms of numbers and, at the same time, try and meet a variance of 25 percent. There, of course, is where we come to the situation where the terminology is becoming quite familiar: we're going to see a fingering process into the city of Edmonton, where we're going to have a combination of urban and rural ridings. We're going to have possibly a portion of the county of Leduc intruding within Edmonton-Whitemud, and you're going to see that constituency consist of a number of the electorate that live within Edmonton-Whitemud and, of course, a number that would live in the county of Leduc. That type of mix from my point of view is unacceptable, and that type of representation is not good representation. I don't think it is going to achieve what has to be achieved when we talk in terms of redistribution. I would hope when amendments are brought forward by our caucus that they are considered and are given approval so we can see a much fairer system than what is proposed under the Act we're presently dealing with.

There's a concern as well with the population figures that have been dealt with in the past. Our representative on the committee has made a point of expressing the dissatisfaction we have within our caucus on that particular point.

Mr. Speaker, I'm going to conclude on the basis that I would hope as we go into committee stage, as we consider the amendments that will come forward, those amendments will be debated, those amendments will be considered, those amendments will be approved, and those amendments will result in a piece of legislation that is much fairer, that represents Albertans the way they were meant to be represented and gives them the type of elected representation they deserve and not what's being proposed in the Act as it has appeared in front of us.

On that note I'll conclude and thank you.

MR. SPEAKER: Thank you.

Edmonton-Belmont. I'm sorry, Edmonton-Beverly. I'll get part of the alphabet right.

MR. EWASIUK: Thank you, Mr. Speaker. I had a little difficulty this evening. I want to also make a few comments relative to Bill 57, the Electoral Boundaries Commission Act. I have listened to the arguments put forward by all members of the House. I think all the arguments are sincere presentations reflecting the thoughts they have and no doubt to some degree in most cases the thoughts of their constituents. However, I must admit that I have some difficulty in understanding why the discussions on this Bill seem to be revolving around the issues of rural Alberta versus urban Alberta and so on. I don't think that really has anything to do with this particular Bill. I think the issue here before us is the matter of representation based on some semblance of equal representation, some semblance of representation by population. I do not believe the Bill does that. This Bill is not even an attempt to develop any form of equal representation. If all of us in this Legislature believe in democracy, and I believe we do, I surely don't think this Bill meets that requirement. In the democratic process I think fairness is probably the most relevant thing; particularly in vote redistribution that would be most significant.

9:30

There was a little humour yesterday when the Member for Drumheller rose and was critical of the mayors of our two largest urban centres. When he was talking about the mayor of Calgary, he said:

> Well, Mr. Speaker, I would say the only ones really opposed to this legislation that I've heard of are the mayor and some of his uninformed aldermanic colleagues.

Then he went on to say, speaking relative to the mayor of Edmonton, that Jan Reimer does not "have a clue . . . when she talks about representation of Albertans in this Legislature." Well, I think those are pretty harsh words to be spoken when you're talking about mayors of two of our largest cities, who probably administer a very large corporation, in fact. I might mention to the House and to the member from Lethbridge that both those cities and other urban centres have recognized for some time now that there is a need for some equal representation, and what they have done in those centres is they have established ward systems that intend to, and in fact do to a large degree, offer equal representation to the citizens of those two municipalities, so that each quadrant of that city is represented on city council. I think that's the least we can expect to happen in this Legislature, that we have equal representation throughout the province from all parts of the province.

Now, there's no doubt, as I certainly agree and sympathize with our counterparts that have to service rural Alberta, that geographically they have large constituencies which no doubt present difficulties for them to service. But I might state at this time, Mr. Speaker, that the constituency of Edmonton-Beverly is not necessarily a small one either. It's compounded by the fact that I have some 40,000 people who reside in that constituency, and about 28,000 of those are in fact voters. So in that respect the service that is required to present to those people is also extremely time-consuming and requires a fair amount of devotion and servicing that I think all the MLAs do provide. Now, my constituency also has an urban component, it has an industrial component, and it has a rural component as well. I suspect that in all likelihood I spend a great deal of my time commuting between the various parts of the constituency, certainly not as much as a rural member would do, but I don't underestimate the kind of time that I have to spend to service this large constituency with some 40,000 people.

But that's not really the problem, Mr. Speaker. As I say, and as other members have said, I think all of us are dedicated to the work that we are elected to do, and we do our job. So the problem of servicing is not really the issue. The problem is the disproportionate value of the vote that my constituents have relative to an electorate in a numerically smaller constituency. I think that's really the issue, and it's been mentioned earlier that some people's vote is 3 to 1 in terms of value relative to those in my constituency. I think that's really where the unfairness and the undemocratic process take place.

Now, I would think, as the Member for Vegreville yesterday mentioned, recognizing the difficulty that the members in rural Alberta would have to service a larger constituency, that some resources should be made available to them to be able to do that. Certainly, someone said, just giving them more gas is not the answer, and I agree. Certainly gas is not the main issue, but I think what needs to be done – and I think we're caught in some kind of a treadmill where we do the same thing day in and day out. I think the MLAs are going to have to take more initiative, be more imaginative in the ways they service their constituencies in rural Alberta. In that manner I think we'll be able to meet the kinds of requirements they're talking about. Simply having a phone number and an office in your home is not an answer to servicing your constituents.

Therefore, Mr. Speaker, I would think the bottom line in this debate and on this Bill is that there must be a vote, that each vote in the province has equal strength whether it be in rural Alberta or in urban Alberta. It's on that principle and on that lack of fairness that I rise to speak in opposition to this Bill.

MR. SPEAKER: The Member for Calgary-Bow.

MRS. B. LAING: Thank you, Mr. Speaker. Bill 57 does address equality of access to government for all Albertans. Each constituent has the ability, through modern communication techniques and through transportation systems today, to have access to their MLA in a reasonable amount of time. However, should the electoral divisions become much larger, this would no longer be true. The proposed Bill allows the constituency divisions to be of a manageable size, but creating larger areas for fewer MLAs, as has been suggested by some members of this Assembly, would lead to a breakdown of communication between the constituent and his or her government. With larger areas to serve with fewer MLAs, the system would totally break down. An MLA's tour of his or her constituency might take one or two days now but in the future could take a week. An increase in the constituency size will not afford equality of access to government for all Albertans, which should be the intent.

The impartiality and fairness of the commission is an important element. Bill 57 assures this impartiality by suggesting that the chairman be a judge and that the rest of the members be nonelected persons. The Chief Electoral Officer as a member brings expertise and a nonpartisan view to the proceedings. But some members of this Assembly don't agree with this principle of impartiality. They accuse the committee of gerrymandering. Is the choice of a respected judicial person, a member of the justice system, gerrymandering? Isn't our justice system based on fairness and impartial decision-making? Surely asking a member of the justice system to be a member of this body will lead to fairness and justice for all Albertans. It may be necessary for the commission's final report to be reviewed by the

courts. Unfortunately, due to the posturing of some members of the House, the stamp of approval from a court may be necessary. It might be a required part now of the proceeding.

Premature cries of "wolf and the leaking of some parts of this confidential report have led to much confusion among the public as to what's actually in the report and what is not. It would have been so much fairer to the public if members had waited until the report was tabled so that all the facts could be known. Scare tactics used to win a few political points are not only unfair to Albertans but not acceptable.

The commission will determine the boundary lines for the new constituencies, taking into consideration the unique characteristics of each constituency. Calgary-Bow was a rural/urban constituency for several elections in the past. In fact, today, as the city limits creep out into the municipality surrounding it, it is again regaining some of its rural roots. Calgary-Bow is a diverse mix of people and issues, but adding a new dimension would not add a big problem for either the constituents or the MLA. The creation of a multimunicipality electoral division would not be a serious problem.

Bill 57 recommends using the total population instead of the enumerated voters. Mr. Speaker, this proposal makes a lot of sense. Groups of Albertans who traditionally do not wish to be on the voters list nonetheless are constituents. They still phone the MLA's office for assistance, and I'm sure every MLA in this Assembly responds. We don't ask them if they were on the voters list or ask who did they last vote for or did they vote. Do only voters deserve the services? It would be morally wrong to deny access to citizens of Alberta on a technicality.

9:40

In the last federal election there was some confusion over the enumeration process, and I saw how upset and confused people were when they found out they weren't on the list, that they didn't have the magic card to vote, and that they had been disfranchised. Mr. Speaker, Albertans take the right to vote very seriously. By not including all Albertans in the count, we're not only disenfranchising them in some way – I am pleased to see that Bill 57 recognizes the importance of counting people in and the unfairness of counting people out.

As a Calgarian I am very pleased by the concern some of the members of this House have shown for the protection of the Calgary constituents. Mr. Speaker, we will have 19 MLAs in this Assembly with the passing of Bill 57. That's almost one-fourth of the elected members of this Legislature. I would suggest that one-fourth of this Assembly makes a very significant voting block. I'm sure that we Calgary MLAs can represent and protect the interests of Calgary most adequately.

Mr. Speaker, the majority of Albertans believe in the triple E Senate to provide representation for the west in the Parliament of Canada. Triple E is the regional representation which is also a part of our British parliamentary history. We know that the large population blocks of Ontario and Quebec have caused hardships for Alberta in the past. The national energy program is one example. If we agree with triple E, then we must agree with adequate representation for Albertans who live in sparsely settled areas. Large blocks of population can and do vote out governments; they don't need protection. However, Albertans who live in remote areas, indeed today's pioneers, need to be part of the process. They need to be represented on a regional basis to ensure their equality with other Albertans.

Bill 57 is based on 39 public hearings. The input of Albertans is in this Bill. Public hearings allowed Albertans to be heard, and the findings from these hearings are included in the Bill. Mr. Speaker, Albertans have spoken on changes to electoral boundaries. Their voice is here in Bill 57. The Assembly should be listening.

Thank you.

MR. SPEAKER: Edmonton-Belmont.

MR. SIGURDSON: Thank you, Mr. Speaker. I want to speak briefly on behalf of my colleagues in the New Democrat caucus and try and perhaps straighten out, before we get into committee stage, some of the positions that have been taken over the course of debate. May I start with the position that was taken by my colleague on the committee, my colleague from Calgary-North West, who went on about the makeup of the commission and how he had some degree of problem with the makeup of the commission. Quite frankly, I had a problem with the makeup of the commission too. I put forward a recommendation, sir, during the committee work, and the committee, after a good deal of debate, decided that it would go for something else. That's fine. That happens when you get into debate, the give and take, the thrust and jab. You find that you don't always get what you want.

Now, I was quite frankly shocked, Mr. Speaker, when after a few days had passed, after that debate had gone by, the Member for Calgary-North West came back into the committee and said, "Oh, I've got yet another proposal that's different from the original proposal that I had brought forward to the committee." It was amazing, because it wasn't different than one of the proposals that was already on the table of the committee. It was my proposal, sir. Now, can you imagine my shock when another committee member comes in and says, "Well, this is now my proposal." I thought it was a good proposal; I still do. I still believe that the Chief Justice of the Court of Queen's Bench or his designate ought to be the Chair of the commission, but the fact is that it's not there. Then when the Member for Edmonton-Whitemud comes forward and says, "Well, we in the Liberal caucus have this sense of democracy that's not perhaps innate or included in the Conservative caucus or included in the New Democrat caucus," I tell you, Mr. Speaker, that's just nonsense. What it was is that there was a better idea, and true to the Liberal form they decided to borrow it, borrow it without permission, borrow it without giving due credit to the author. They just borrowed it. You know, one of the joys about sitting on the fence for as long as they do is that they get comfortable. But you know, Mr. Speaker, I'm coming along and I'm kicking the fence and I'm making it wobble a bit, and they might be upset, but too bad. There's a proctologist at the University hospital that can remove those splinters.

You know, Mr. Speaker, there's a couple of other areas that I want to correct as well. Throughout the entire debate I've heard colleagues opposite say we are talking about equal representation: one person, one vote. Well, that's a concept that my colleague from Highwood says he supports, and I'm glad. I'm glad. In all of this we were talking to a degree – some people kept on trying to say that the opposition was trying to adopt the American formula, that they were talking about absolute equality. At no time – at no time – did any member of the New Democrat opposition talk about absolute equality. Nobody ever said that we should go down the communities of Edmonton and divide in the middle of the community or at a certain floor of apartment buildings, as has been the case in the American system. Nobody's talking about dividing existing communities in rural parts of our province, dividing up Cardston because half of Cardston may fit better into Pincher Creek-

Crowsnest and the other half may fit better into Taber-Warner. Nobody's talked about absolute equality. What we've been talking about, quite frankly, is relative equality, and contained inside the concept of relative equality is the variance, the variance that Justice McLachlin in her British Columbia decision found to be acceptable. That's what we have been talking about, and that's what we've been promoting, and that's what we will continue to promote as we move into committee.

Mr. Speaker, who do we represent? I've now heard on quite frankly I don't know how many hundreds of occasions on the road from those people that made representations to the committee, and indeed in the Legislature from members opposite, that we have X number of school boards, X number of hospital boards, the library boards. Well, who do they represent? They represent people. We share constituents. Levels of government happen to share constituents. We do that always, and as I said when we were on the road and I'll say it in the Assembly, there are occasions when I truly wish – when I truly wish – that there was an intervening board between my constituents and me.

You know, when I worked as an executive assistant for a rural member of the Legislature and there were problems that were brought in, they were usually problems that had been vetted through the representative at the municipal level or at the library board or at the hospital board, because the people in the community knew, indeed, who the district agrologist was, and they could take their problem to that person and say, "Can you sort out my problem?" And if that individual, whether they were hired or elected, couldn't sort out the problem, then they went to their member of the Legislature. Perhaps what we've got right now in the cities – where you've got limited access to media outlets because you've not got the weekly paper that prints the MLA reports; you've got a daily paper that will take paid advertising and write nasty editorials if you do something wrong – is that the people in the large urban centres know the name of a politician. It doesn't necessarily matter that they take a problem to that elected individual that's outside of their jurisdiction. They may take a matter that's of a municipal nature to a provincial politician or of a federal nature to a municipal politician because they recognize a particular name. They're not sure which level of government they deal with, so they go to the name they recognize most. In the cities to some degree maybe we should be glad it's often the MLA. They don't go necessarily to their Member of Parliament or their alderman first.

9:50

When we were on the road, I was impressed when we were in Hanna. The Member for Chinook came into the meeting, and – I don't know – the largest turnout of any committee hearing that we'd had in the province I believe was in Hanna. The Member for Chinook stood up and she said: "You know, I can name every single member in this room. I can tell you who they are and what they do and where they live." You know, Mr. Speaker, that's something that I quite frankly happen to envy. I haven't got that ability in my constituency. I have a constituency that's incredibly transient. I have difficulty keeping tabs on who changes in community league membership, let alone trying to recognize who's living in the house half a dozen doors down the way, because that's the nature of the constituency. That's the nature of the two different constituencies. So there are some advantages indeed, I suppose, in living in an urban constituency and representing those urban constituencies, but there are also some advantages in living in rural areas where you know who your neighbours are and the neighbours know who you are.

Another thing I heard throughout the course of debate here was that in some urban constituencies you could walk across your constituency in 15 to 20 minutes.

AN HON. MEMBER: If you're a fast walker.

MR. SIGURDSON: If you're a fast walker, thank you very much.

But, you know, the problem with that concept is that if all the member of the Legislature is doing is walking across the constituency, they're a tourist; they're not a member. They're not looking around at the problems that are on either side. They're not using their peripheral vision. They might be using focused tunnel vision to get across the constituency in 15 minutes, but they wouldn't be looking at the problems that they're there to look at and bring back to this place. If you walk across your constituency in 15 minutes or drive across your constituency in two and a half hours, you're not doing your job. Your job is to listen to your constituents, and that takes more than 15 minutes of walking and it takes more than two and a half hours of driving, because our job is to get out to hear our constituents, to have their input, to have their representations, and to bring them back to this Assembly.

Mr. Speaker, I guess that's why I have some concerns about what I believe to be some relative inequality that I see. What I've been talking about is relative equality. What I'm talking about now is relative inequality that I believe will be built in with this Act. If we start to designate that certain geographical areas will have certain numbers of constituencies, we've built in a bias. We've built in a bias before we even get started, and I have a problem with that. I believe, quite frankly, that what we should have done was told the commission: "Go out and create 83 constituencies. Find them where you will, but don't disrupt communities; don't divide the communities; don't split them off and put them into certain areas. Follow the trading patterns. Follow the economic patterns that are there. Be aware of the historical significance that's involved, and be aware of geographical features that cause natural dividing lines. Do that, bringing the vote as close to the average as possible. If there's a variance of up to minus 25 percent or plus 25 percent, justify it." That's what you justify. What I believe we have done, quite frankly, is that we've told the commission to go out and find X number of constituencies here: 17 in Edmonton, 19 in Calgary, and a number spread throughout the rest of the province. That's where I believe we've built in a bias that's unfair to all Albertans, not just urban Albertans and not just rural Albertans. I think we have built in a system of inequality. It's that inequality that we must be most concerned about.

Mr. Speaker, as we move through committee, we'll have a number of amendments. We tabled them last evening. I look forward to that debate. I look forward to that debate from all members of the Assembly, and I certainly look forward to the good work that we'll have yet to do and the challenging times that are ahead.

Thanks very much.

HON. MEMBERS: Question.

MR. SPEAKER: There's a call for the question. All those in favour of second reading of Bill 57, Electoral Boundaries Commission Act, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: The motion carries.

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

[Eight minutes having elapsed, the Assembly divided]

For the motion:

Ady	Gesell	Musgrove
Black	Gogo	Nelson
Bogle	Johnston	Paszkowski
Bradley	Jonson	Severtson
Calahasen	Kowalski	Shrake
Cardinal	Laing, B.	Sparrow
Cherry	Lund	Speaker, R.
Clegg	McCoy	Tannas
Day	Mirosh	Weiss
Drobot	Moore	Zarusky
Evans		

Against the motion:

Barrett	Gibeault	Wickman
Bruseker	Hawkesworth	Woloshyn
Ewasiuk	Sigurdson	

Totals: Ayes – 31 Noes – 8

[Motion carried; Bill 57 read a second time]

MR. GOGO: Mr. Speaker, it would be the intent of the government tomorrow, Wednesday, to call Committee of the Whole on Bill 52, the Natural Resources Conservation Board Act.

[At 10:06 p.m. the Assembly adjourned to Wednesday at 2:30 p.m.]