

Legislative Assembly of Alberta

Title: **Monday, June 17, 1991**

2:30 p.m.

Date: 91/06/17

[Mr. Speaker in the Chair]

head: **Prayers**

MR. SPEAKER: Let us pray.

We, Thine unworthy servants here gathered together in Thy name, do humbly beseech Thee to send down Thy heavenly wisdom from above to direct and guide us in all our considerations.

Amen.

head: **Introduction of Visitors**

MS McCOY: Mr. Speaker, it gives me great pleasure today to have the honour to introduce to you and through you to Members of the Legislative Assembly a former colleague of ours Donald Flemming, who is here with his wife, Esther Flemming. Mr. Flemming represented the constituency of Calgary-West in this Legislative Assembly from 1959 to 1967. He and I have the honour of sharing a colleague, his successor and my predecessor, Peter Lougheed. Mr. Flemming used to sit approximately where the Member for Little Bow now sits, and he was just telling me that it was in 1965 that Mr. Flemming was successful in introducing to this Legislature a policy whereby the government of Alberta supported independent schools. I would ask all members of the Assembly to give Mr. and Mrs. Flemming the traditional warm welcome.

head: **Tabling Returns and Reports**

MR. SPEAKER: The Minister of Culture and Multiculturalism, followed by Calgary-McKnight.

MR. MAIN: Thank you, Mr. Speaker. I have the annual report for the Department of Culture and Multiculturalism, 1989-1990.

MR. SPEAKER: Calgary-McKnight.

MRS. GAGNON: Thank you, Mr. Speaker. I would like to table copies of letters sent to all members of the Liberal caucus. The letter raises the issue of reasonable time lines for groups to respond to proposed amendments, and I am tabling copies with the page. Thank you.

MR. SPEAKER: The Member for Edmonton-Whitemud.

MR. WICKMAN: Thank you, Mr. Speaker. I'm tabling four copies of a letter signed by the Minister of Municipal Affairs and addressed to a Mr. Peter Reese, requesting information from him and suggesting that he's going to take appropriate action.

head: **Introduction of Special Guests**

MR. SPEAKER: Edmonton-Beverly.

MR. EWASIUK: Thank you, Mr. Speaker. It's a pleasure for me this afternoon to introduce to you and to members of the Assembly 50 rambunctious and enjoyable young students from Kirkness elementary school in Edmonton-Beverly. They are joined by their teachers Miss Geldart and Mrs. Johnson and by

parents, Mrs. Loudon, Mrs. Koren, Mrs. Richardson, Mrs. Wells, Mrs. Warren, and Mrs. L'Heureux. They're seated in the public gallery. I'd ask them to rise now and receive the welcome of the Assembly.

MR. CHIVERS: Mr. Speaker, it gives me great pleasure to introduce to you and through you to the members of the Assembly a group of foreign students that are attending the Faculty of Extension at the University of Alberta to study English in order to pursue careers as doctors, lawyers, and scientists. They come from Iran, China, Korea, Japan, Lebanon, Czechoslovakia, and Poland. There are 27 of these students. They are accompanied by instructors Mrs. Natalie McAdam, Ms Joanne Covey, and Mr. Larry Hendrick. I'd ask them to rise and receive the warm welcome of the Assembly.

MR. SPEAKER: One additional item, hon. members. Someone deserves to have a special medal struck for long service. Today marks the 28th anniversary of the Member for Little Bow, who was first elected to the Alberta Legislature in 1963.

head: **Oral Question Period**

MR. SPEAKER: The Leader of the Opposition.

Political Fund-raising

MR. MARTIN: Yes, Mr. Speaker. To the Attorney General. We have seen enough of this secretive and closed government to know that it has very little idea, if any, about what behaviour is ethical and what is not. We have just learned that both the Minister of Education and the Minister of Energy possess two bank accounts to deal with political contributions: one public account for party contributions and one private account for the ministers' own personal use. Now, people could jump to conclusions and think it has to do with leadership, but I wouldn't do that of course. The problem should be obvious, though, because no information is provided about these secret bank accounts. We don't know who is giving these gifts to the ministers, how much they're giving, and what it is being used for. My question to the Attorney General: given that we cannot know who's donating to these secret bank accounts, will the Attorney General agree to investigate this practice to absolutely ensure that there are no special favours being returned by these ministers to their secret donors?

MR. ROSTAD: Mr. Speaker, I'm not aware of the bank accounts the hon. leader is bringing up, but the elections finances disclosure Act covers any financial contribution that an elected member receives as it relates to his party or his election account. If somebody else maintains another bank account for whatever reason, I think that's their business. I have a number of bank accounts, none that relates to politics. If the hon. member would like to provide me with the information that he has, I can see what they relate to.

MR. MARTIN: Well, Mr. Speaker, in fairness to the ministers, they haven't denied it. I saw it on television. I'm sure the minister can see it too.

The point the minister brings out is a valid one. There is an election disclosures Act. It's there for a reason: so we know what's going on and who's donating. This looks very suspiciously like an attempt to get around this disclosure Act. I again want to ask the Attorney General: because these donations are not publicly disclosed or tax receipted, will the Attorney General

explain how we know that this money isn't being used for either party or re-election purposes? Does he think we should just take the ministers' word for it?

MR. ROSTAD: Mr. Speaker, I would expect that you would take the ministers' word for it, because I think they're both, in this instance, honourable people.

The Chief Electoral Officer has a record of money received and money expended as it relates to being elected. Again, I don't know what these bank accounts relate to, but a number of us, including the hon. member, may have a bank account where he may receive money that is in there from other people. I'm not aware of that. If he will give me the details, I'll look into it and let him know.

MR. MARTIN: Mr. Speaker, that's precisely the point. It is documented that there are these accounts for the ministers' use, and there should not be an attempt to get outside the election disclosure Act.

I guess I want to ask the Attorney General more definitively then: will he investigate this practice and see if in fact it is being used in the proper way and make sure that this type of procedure does not happen in the future?

MR. ROSTAD: Mr. Speaker, I will discuss the matter with the two ministers involved, but if a person has a bank account that relates to political activity other than for getting elected, such as a nomination account – I presume that a number of politicians as they're readying themselves for the next election would be gathering money or getting ready for support to run in a particular nomination. I know that some of the members of the Assembly have already conducted nomination meetings and are ready for the next election. Those particular accounts do not come under the electoral finance disclosure Act. I will, in this instance, look into the two accounts and assure the hon. member that everything is aboveboard.

MR. SPEAKER: Second main question, Leader of the Opposition.

2:40 International Travel by Ministers

MR. MARTIN: Thank you, Mr. Speaker. To the Deputy Premier. Last week Albertans witnessed the outrageous and arrogant spectacle of the Premier spending their money to go on an overseas trip but outright refusing to provide them with exact details about this taxpayer-funded junket. We now know that he is going to the horse races and is going to have tea with the Queen. I'm not sure that that's what the taxpayers expect for their tax dollar. More importantly, the Premier refused to provide a detailed itinerary; he refused to provide detailed information. He refused to tell how much his trip will cost and refused to agree to a written report of his trip when he returns. Some of the people he's meeting with the Provincial Treasurer just met with in New York, so we wonder about the purpose. This is not the only example of cabinet ministers jaunting all over the world. The Deputy Premier and his entourage have just come back from a trip to Japan. The Minister of Energy has been on a trip. So I'd like to ask the Deputy Premier this to see if he's a little more open about his taxpayer-funded trip than the Premier was: will the Deputy Premier tell us how much his trip cost the taxpayers of this province?

MR. HORSMAN: I don't have the complete figures yet, but I should tell the hon. Leader of the Opposition and members of the Assembly that I will be happy to supply all members with the

Alberta Days in Tokyo document, which was part of a major trade mission sponsored by the government of Alberta between June 3 and June 14 of this year. Alberta Days in Tokyo, which was attended by myself as Deputy Premier, attracted several thousand people to the exhibits, which were sponsored by nine departments of government. It was held in conjunction with the Alberta offices in Japan and hosted in large part by the agent general for Japan and Korea. I would also point out that included in this is a two-page list of participating Alberta firms and businesses doing business in Japan and Korea as well as the cities of Edmonton and Calgary. I could go on at some length. It is two pages listing all the participants.

The entourage to which the hon. leader refers consisted of myself and one executive assistant. There were, of course, other departmental personnel who were there for the full two-week duration, two additional people from the Department of Federal and Intergovernmental Affairs. This very major effort on the part of the government to promote Alberta in this extremely important market of Japan will be of great interest, I'm sure, to all members of the Assembly and to all Albertans.

I should also indicate that prior to the trip I invited the major news agencies in Alberta to accompany me on the trip, but none of them were able to do so.

MR. MARTIN: Thank you. Mr. Speaker, the Deputy Premier is certainly much more forthcoming than the Premier was.

I want to raise the question about policy here, Mr. Speaker, because nobody suggests that there isn't a need for the Deputy Premier or other people, the Minister of Energy, to travel to promote Alberta from time to time. The problem is that there are no guidelines. It looks like you get up in the morning and "Gee, I've got to go on a trip," and away they go. So I want to ask the Deputy Premier and House leader this: who and what determines when a cabinet minister travels outside the country? In other words, are there guidelines?

MR. HORSMAN: There are different types of missions, obviously. The one which I have just referred to was a major promotional trip which involved not just the government of Alberta but, as I indicated, major participants from the agricultural sector, energy sector, forestry sector, tourism sector, and I could go on and on. The hon. members will see when they read the long list of participants just how many people were involved in this particular process.

This was a trade mission and a promotional mission which was organized well in advance by the Department of Federal and Intergovernmental Affairs in co-operation with eight other government departments. It is quite a different thing from the mission which is led by the head of the government, in this case the Premier, who has embarked upon an effort to promote Alberta in a different way. It does not include private-sector individuals as part of the trip.

I point out that the previous Premier led a major trade delegation consisting of some 30 or 40 companies, and when he did that, he listed all those companies that participated with him, made the full itinerary available. But on several other occasions on which he went abroad, both to Europe and to the United States, no such itineraries were made available under those circumstances, and that is quite normal.

I do point out that of course the Premier is meeting – and it has been indicated publicly in a news release which was made available to all members of the public in Alberta what he would be doing. I won't read it in here, but obviously he is interested in promoting Alberta's energy, high technology, forestry, tourism,

manufacturing, and agricultural processing industries. In the course of this visit he will be meeting with senior government officials including ministers of the United Kingdom government, representatives of Canadian businesses within the United Kingdom, France, and the United States of America.

Our Department of Federal and Intergovernmental Affairs is largely responsible for co-ordinating the visits of both the Premier and other ministers of the Crown when they go abroad, particularly where there are offices of agents general. Where there are not, those arrangements fall largely to the Canadian embassies, and working in conjunction with the department of the Secretary of State for External Affairs of Canada, those arrangements are made.

In the case of the Premier's current visit, he will be meeting with the International Energy Agency and the OECD in Paris, as well as speaking to the Canadian Chamber of Commerce in Paris. I think those . . .

MR. SPEAKER: Thank you, hon. member. Thank you.
Final.

MR. MARTIN: Mr. Speaker, to the Deputy Premier. All these things should have been laid out in the itinerary ahead of time. That's what we said. There should be guidelines. We should know how much it's costing, and we should know what you hope to accomplish. You can give a bunch of generalities like that, and it means nothing to the taxpayers of Alberta. It doesn't make sense for the Premier, who's the head of the government, to be setting a meeting while the Legislature is on, to spend two weeks. He surely could have scheduled this at a different time, and that's my point.

My question is simply this: will the Deputy Premier press his government to implement and publish guidelines that require disclosure of a detailed travel itinerary, how much the trip will cost, and the production of a written report for every overseas trip so that Albertans can see what they've received for their money?

MR. HORSMAN: Mr. Speaker, all the expenditures which are undertaken on behalf of the government are indeed part of the budgetary process, part of Executive Council and the Department of Federal and Intergovernmental Affairs budgets. I recall, just as an aside, that during the course of the estimates of my department I indicated where I had traveled in my preceding year of activity, and I indicated in a general way an outline as to what my travels would be as Minister of Federal and Intergovernmental Affairs during the course of the ensuing year. Questions could have come to me from members of the opposition on those matters. I'm only too happy to report those costs once they've been finally and absolutely clearly tabulated. I have no problem with that at all.

There is a vast difference between the type of promotion that I just came back from in Japan with other colleagues in the government and the type of thing where the Premier is meeting with the head of state of this country, Her Majesty the Queen, in an audience – and the hon. member should be well aware of that – and with members of the cabinet of the British government and with senior officials with major agencies, as well as people who have an interest in investing in Canada and in trading with Canada. Those are all things that every Premier is undertaking, and when the Premier cannot do it, Deputy Premiers or other ministers do those things.

I know, for example, that the Deputy Premier of Ontario is going to Japan within the next few days, and I'll be interested

to see whether or not an absolutely detailed itinerary of that particular visit, with all the financial institutions named, is made available by the government of Ontario. I don't really expect that would happen. There are in many cases as well many people who are interested in investing in either provinces or territories in Canada who don't want the information to be made public until they've made a determination as to whether or not their investment will in fact take place. So these are all . . .

MR. SPEAKER: Thank you, hon. member. Thank you.
Edmonton-Glengarry.

2:50 Premier's Trade Mission

MR. DECORE: My questions are to the hon. Deputy Premier as well. Mr. Speaker, I think it's safe to say that the trip now being taken by the Premier of Alberta has become a nightmare for the Premier and a great embarrassment for the people of Alberta. As the Leader of the Opposition has I think quite correctly noted, this is all because no clear policy exists. Who goes? How do they go? How do they travel? What's the purpose of the travel? All of these things are too fuzzy and need to be tied down. My first question to the Deputy Premier is this. It is my understanding, Mr. Deputy Premier, that the custom is for ministers to travel business class on airlines. Would the Deputy Premier agree to table with this Assembly the detailed itinerary of the Premier's travel in Europe and from Europe to the United States that will show the exceptional circumstances, if they exist, as to why the Premier would have to use Concorde jet travel at a cost of many thousands of dollars more per person than this business travel?

MR. HORSMAN: The hon. leader of the Liberal Party knows, because he undertook missions abroad on behalf of the people of Edmonton when he was mayor of Edmonton, what travel arrangements are. He also knows the fact that if Edmonton is seeking out investment in foreign countries, they don't necessarily publish the names of all the people to whom he spoke on behalf of the people of Edmonton, nor I expect did Ald. Paull, who accompanied us on this particular visit on behalf of Edmonton, or the chairman of the Edmonton Economic Development Authority necessarily start telling everybody they saw during the course of their trips. It happens that there may be competition for that same sort of investment from other cities, and in the case of Alberta there is competition for that investment and trade with other provinces and other countries in the world. Therefore some aspects of the visits must of necessity be kept confidential.

With respect to the issue of travel, it is indeed customary for ministers to travel business class, but in the case of the Premier, the head of the government, it has always been the policy of this government that the first minister should travel first class. That has been quite clear for some time.

With regard to the issue of whether or not the Premier will utilize the Concorde on his return from Paris to New York, I can advise the Assembly that he has two reservations. The one which he expects to take will be a regular flight. The only reason he would use the Concorde reservation would be in the event of some sort of tie-up or delay in his departure from Paris. Otherwise he would no doubt use the normal first class. I repeat that the head of government should be traveling first class. I think Albertans expect that of their Premier.

MR. DECORE: Mr. Speaker, I want to say that I appreciate the Deputy Premier's candour in this. It's refreshing to hear this after a week of debating this very issue.

Mr. Speaker, I think we came close, but I wonder if the Deputy Premier could tie this down a little more in terms of putting a policy into place. Will the Deputy Premier commit to ensuring that all ministers that travel agree to file a disclosure or reporting statement indicating the actual and complete costs of the trip, who it was that they saw, the purposes of those visits, and the benefits that will likely accrue to Albertans? Now, all of us understand that there are some meetings that can't be disclosed because it's not in the public interest when you're in competition, but I think, Mr. Deputy Premier, that you can go a lot further than we've seen the government go to date. Will you agree to that?

MR. HORSMAN: Well, Mr. Speaker, public accounts disclose the expenditures for travel undertaken by ministers. They vary considerably from year to year. In my particular case it is well known certainly to the news media and in my constituency that I have the largest travel expenditure of any minister of the Crown, including the Premier. Of course, that is always reported somehow or other as income to me. The hon. Leader of the Liberal Party would know that when he was traveling on behalf of Edmonton in his capacity as mayor, to call the expenditure on travel "income" is ludicrous.

Nonetheless, that aside, I do point out that we do indicate our foreign travel, and we are only too anxious to report to the Assembly the results of that travel. Of course, there are times in the course of that travel when we do not get the results we are hoping for in terms of attracting investment to Alberta or increasing trade or increasing tourism or increasing the awareness even of Alberta in this very fierce and competitive world in which we live. I can certainly indicate to the members of the Assembly that it is the intention of this government, the Department of Federal and Intergovernmental Affairs and the other departments which have an interest in promoting Alberta and Albertan's products and services abroad, to advise the Assembly and all Albertans of the successful results of those missions.

MR. DECORE: We didn't get the answer that I hoped for. I think it should be noted for the record, Mr. Deputy Premier, that my information is that the Concorde leaves France at 11 o'clock and the scheduled airline trip that the Premier has booked in lieu thereof leaves at 1 o'clock, so it's an interesting discrepancy for the Deputy Premier to consider.

Mr. Speaker, I don't understand why it's so difficult to have a statement of the expenses tabled with this House. The Deputy Premier knows that it takes a year or a year and a half before this process goes through public accounts. Will the Deputy Premier agree and commit to table a report which includes a disclosure of the costs for ministerial travel as soon after that trip as is possible so that we know that we're getting taxpayer value for money?

MR. HORSMAN: Well, there are accounting procedures which have to be followed, and they are outlined in the Financial Administration Act. My colleague the Provincial Treasurer and his department are diligent in pursuing strict accounting by ministers for their expenditures, and those are always made available. I don't have any trouble at all indicating the cost of each of the missions which I have undertaken, and I think that would be the case in respect to any of my colleagues. It is, after all, public expenditure, and we are accountable to the people of Alberta through our budgets and through the budgetary procedures.

We have procedures which must be followed and which must be verified by the Auditor General as being correct and as being proper. When that has been done, those figures and facts are made available to this Assembly and to the people of Alberta. There's no effort being made to keep it a big secret. Everybody knows, as I indicated, what my travel expenditures are each year, and I suffer the consequences of people telling me that I'm going on holidays at public expense. That of course is ludicrous. One works very hard, and if one takes a look at the agenda which I am giving to the hon. member that I just undertook and when the Premier returns and one sees the very extensive meetings and activities which he undertook on behalf of Albertans, nobody should have any concern whatsoever that what was undertaken was at all outside in any way the best interests of the people of Alberta, its farmers, its forestry people, its people in all aspects of this province to make sure that Alberta continues to be a prosperous place. It's because of the leadership we have that we are showing that prosperity today. I make no apologies at all for going out and selling Alberta to the rest of the world.

MR. SPEAKER: Grande Prairie.

3:00 International Trade

DR. ELLIOTT: Thank you, Mr. Speaker. I would like to extend the questioning on that important topic of Alberta Days in Japan to the Deputy Premier. I was wondering if he would continue to extend a little more focus on perhaps those most important issues which would have the greatest impact on Alberta, particularly in some of our future endeavours.

MR. HORSMAN: Yes, Mr. Speaker. One of the key issues which I dealt with in terms of my meetings with representatives of the Japanese government, including members of the Diet and people in the diplomatic corps and the chief negotiator for Japan in the current round under the General Agreement on Tariffs and Trade, was Alberta's very grave concern that Japan take a much greater role in ensuring the success of the Uruguay round now under way. All members of this Assembly should be acutely aware that the success of the GATT round now under way for the future of Alberta agricultural interests is critical. The point I pressed home as many times and as often as I could in my speeches and comments to the groups which I had an opportunity of meeting from the business world and from government and, as I said, with the chief negotiator for Japan in the GATT is how important it is that Japan move from a neutral role to one of more activity to see a successful conclusion of that GATT round. That, I believe, is very fundamental to the future of Alberta agriculture in particular.

DR. ELLIOTT: Mr. Speaker, I ask my supplementary question to the minister responsible for Forestry, Lands and Wildlife. Because of the importance that our government has been placing on northern forests and the importance of Japan as one of the major markets for products of our forests, I was wondering if the minister would respond with respect to some of the discussions he had.

MR. FJORBOTTEN: Mr. Speaker, Japan is emerging as one of the major markets in the world today for Alberta lumber products: oriented strand boards and other building materials as well as the pulp and paper aspect. I think the further investment in Alberta by those Japanese firms in papermaking, as one example, is one crucial area. I was happy that the

chairman of the Edmonton Economic Development Authority was able to attend one of those meetings with me with Kanzaki Paper. We can develop further the opportunities for investment here in Alberta in value added and add jobs in this province, with Edmonton being the major beneficiary of that.

As well, I might say that I was privileged to represent the Minister of Tourism at two tourism receptions, helping our Alberta tour operators as well in developing further our dynamic tourism industry.

MR. SPEAKER: Calgary-Forest Lawn.

Elbow Valley Development

MR. PASHAK: Thank you, Mr. Speaker. I'd like to get us back from Japan to Alberta, if I may. The Minister of the Environment has just given the green light to a massive development on an ecologically sensitive floodplain on the Elbow River just west of the city of Calgary. This proposed development includes 750 homes, two golf courses, an equestrian centre, the possibility of a hotel/convention centre. It's been vigorously opposed by local residents. It's been opposed by the city of Calgary and by health authorities who are concerned about impacts on Calgary's drinking water. My question is to the Minister of Municipal Affairs. Since the Minister of the Environment has sold Calgarians down the river, what action does he plan to take to ensure that Calgarians' interests are protected with respect to this development?

MR. R. SPEAKER: Mr. Speaker, this development comes under the category of a recreational area, and that has been dealt with by the Calgary Regional Planning Commission in terms of its development and how it can occur. One of the concerns the city of Calgary has is the impact that development may have on the unicity concept, and I would have to indicate the very, very same concern, because that concept is the development pattern by which the city will expand and meet the needs of the urban centre. We are working with the city as much as we can with regards to this. The planning commission went through a process of dealing with it and setting up guidelines. The other item that we are doing is a major study of the Springbank area to look at the possibility of trying to enhance that area so it can co-exist with the unicity concept of Calgary.

MR. PASHAK: Mr. Speaker, it's a little like locking the barn door after the horse has bolted.

My supplementary is to the minister responsible for fish and wildlife. Given that this Elbow valley development is located in an important area for fish and wildlife and given that there's a general policy to restrict intensive developments in river floodplain areas, why has this minister taken no action to safeguard the wildlife that will be displaced by this Elbow River valley development?

MR. FJORBOTTEN: Mr. Speaker, as always in those developments we have an integrated resource plan. This particular one is in the process, and local development authorities have also participated. I want to assure the House that my department and my biologists are fully aware and fully apprised and have an opportunity for input into any developments there are.

MR. SPEAKER: Calgary-North West.

Political Fund-raising

(continued)

MR. BRUSEKER: Thank you, Mr. Speaker. Reportedly there are two cabinet ministers in Calgary who are independently raising funds through a variety of campaigns. I find it interesting that these campaigns are allegedly to support their \$18,000-a-year after-tax housing allowance. Now, given the Premier's last hurrah junket, it seems more likely that these funds that are being raised are rather for a leadership campaign. My initial question is to the Minister of Family and Social Services. The supports for independence program offers a living allowance for a single employable of \$2,580, and I'm wondering if his department is considering increasing that allowance to the \$18,000 figure that his colleagues find so difficult to live on?

MR. OLDRING: Mr. Speaker, I can only advise the member of the jurisdictions that fall within my department. I can tell the member that we constantly review the supports program that we have in this province, and can tell him that there was just recently a 5 percent increase on our shelter caps.

MR. SPEAKER: Supplementary.

MR. BRUSEKER: Thank you, Mr. Speaker. My supplementary question is to the Attorney General. We currently have before the House the Conflicts of Interest Act, Bill 40. I'm wondering if the private donations that are being made and that are not being income tax receipted might fall in contravention of the \$200 maximum donation as outlined under Bill 40.

MR. ROSTAD: Mr. Speaker, I think the member is anticipating debate on the Bill. I don't see that that has any relevance. If the hon. member is saying that the money are gifts, once this Bill would be passed, it would then definitely come under that. If the hon. members are receiving funds for nominations or whatever political activity other than elections, that's theirs. I've no idea what the allegation on housing is.

MR. SPEAKER: Cardston.

Tourism Centre in Montana

MR. ADY: Thank you, Mr. Speaker. My question is to the Minister of Tourism. In the spring of 1992 the Alberta, Canada, welcome centre in West Glacier, Montana, is expected to open with the purpose of promoting American tourism interests in Alberta. Can the minister outline to the members of this Assembly the types of exhibits and activities that are planned for that centre, and can he give us some specifics on the objectives of the centre?

MR. SPARROW: Mr. Speaker, the main objective of the centre is counseling and information dissemination to possible future U.S. guests. The interpretive portion of it, though, is new and innovative. It covers basically four major topical areas. The southern part of the province is going to be highlighted, zone 1. Major effort will be put into displaying the majestic atmosphere of our mountains: the Trail of the Great Bear, highlights of Banff and Jasper and Lake Louise. One of the other themes will be prairies and badlands, which include the dinosaurs and wildlife exhibits. The Royal Tyrrell Museum will be highlighted. A western theme will be included, with rodeos and stampedes highlighted, and an urban theme, with the urban parks highlighted both in Edmonton and Calgary and including West

Edmonton Mall and items like that. There are some 20-odd exhibits that will be a part of it. We'll be using high technology and video to excite them to come that extra mile and see our beautiful province of Alberta.

3:10

MR. ADY: Thank you. My supplementary is to the Minister of Public Works, Supply and Services. Inasmuch as this centre is being built in the United States, could the minister describe for the House the criteria used in awarding the contract for the construction of this centre?

MR. KOWALSKI: Mr. Speaker, it was awarded via an open public tender, and it was awarded to the low bidder.

MR. SPEAKER: The Member for Edmonton-Strathcona.

Professions Legislation

MR. CHIVERS: Thank you, Mr. Speaker. My question is to the hon. Solicitor General. The minister recently referred Bill 37 to a Health Disciplines Board task force to study the proposed amendments and to consider the implications to the optometry professions. I understand that a report has been prepared, submitted to the minister, and distributed to government MLAs. My question is: given this, when can the rest of the Assembly expect to receive the report?

MR. FOWLER: Mr. Speaker, this is a government Bill. While it has been introduced for first reading, if there's a decision to proceed with it, we will in fact distribute the report.

MR. CHIVERS: Mr. Speaker, it seems to me that the minister's failure to give a clear commitment to immediately file the report in the Assembly leaves the impression that some or all of the proposed amendments can't be justified by the task force's conclusions and recommendations. I'm wondering whether the minister will confirm that when the Premier told representatives of the optometrists at the Conservative fund-raising a few weeks ago that the government would not proceed with Bill 37 he was simply responding to a lobbying campaign and not to the conclusions of the report.

MR. FOWLER: Mr. Speaker, if the opposition continue to take all their information from the printed media, I cannot be responsible for the accuracy or inaccuracy of it. I discussed that very matter with the Premier, and he indicated that it was reported somewhat differently than his recollection of the conversation.

MR. SPEAKER: Edmonton-Whitemud.

Daishowa Pulp Mill

MR. WICKMAN: Thank you, Mr. Speaker. Recently the minister responsible for Municipal Affairs communicated with an improvement district councillor in Deadwood, Alberta. The issue was the behaviour of the individual when it came to a number of activities which went against this government's policies on forestry and such. In his letter he suggests taking appropriate action, which some could deem as being intimidating, as being heavy handed. Is the Minister of Municipal Affairs convinced that the only course of action open to him is to interfere in a situation that could possibly be best resolved at the municipal level?

MR. R. SPEAKER: Mr. Speaker, I appreciate this question being raised at this time because I think it requires clarification. Under the Improvement Districts Act the Minister of Municipal Affairs is the reeve of the improvement district. In other words, the minister does have authority over the council and can be a very active participant in council affairs.

In the specific item that's raised with regard to Mr. Reese, on a number of occasions prior to the time that I directed this letter to Mr. Reese in a private and confidential way – that should be noted: I did not write it as a public letter or a letter to the council; it was private and confidential to Mr. Reese so that he would have my feelings with regards to the circumstances. Prior to the time that the letter was directed, my officials in the department and the council itself raised a number of concerns with regards to conflict of interest, as Mr. Reese is named in a court action against the province concerning the operation of the Daishowa plant in that respective improvement district. What I wanted to do as the reeve or a participant of that council was alert Mr. Reese of the concern with regards to a conflict of interest and that it could continue if he voted on some of the matters or made statements with regards to some of the matters. I raised it in the letter directly to him in terms of a courtesy, saying: these are the concerns that I have; I would appreciate your response. That response, I understand, has arrived, and at this point in time we haven't had a chance to review it and assess it accordingly.

MR. WICKMAN: Mr. Speaker, with all respect to the Minister of Municipal Affairs, let me remind the minister that he stood up in this House very recently when I raised a question of a contribution to the Tory coffers by the county of Strathcona, and he stated that it was not his right to become involved in an issue that could be resolved at the municipal level. Again we have a similar situation but an issue of a different nature. Is the minister prepared to withdraw himself from this matter and allow it to be resolved at the municipal level, where it should be resolved?

MR. R. SPEAKER: Mr. Speaker, we have to understand that when we talk about the circumstances of Strathcona as a municipal district and the improvement district No. 22, we have two different legal circumstances. Under the Municipal Government Act the county or the municipality is an independent entity as such and is guided by that respective legislation. Under the improvement districts legislation, the minister is part of the council and part of the decision-making process. I have made it very clear and the government has made it very clear that we do not want to intervene or interfere with regards to that process, and with the major part of the discussions that go on and the decisions that are made and the advice that's given to myself as minister with regards to signing certain legal documents, I accept the council's opinion and enact that into legislation, either through ministerial order or other respective actions. In circumstances where I feel that as the reeve, part of the council in that sense, I should alert the council or a councillor to some activity which may be a conflict of interest, and should it vary from the norm in terms of councillor activities, then I would give my advice in the most proper and mature way I can. In this instance, Mr. Speaker, I've done just that.

Electric Utility Rates

MR. MUSGROVE: Mr. Speaker, my question is to the Minister of Energy. Bow Valley residents as well as a lot of

other Albertans are very concerned about the recent increases in the cost of electric power, and now both major utility companies have applied to the Public Utilities Board for another increase. I'm asking the minister: is there a way of justifying these tremendous increases?

MR. ORMAN: The Public Utilities Board will be hearing over the course of the year representations made from the major utilities to increase their rates. When they make those applications for increased rates, the board must take into account a number of issues: increased operating costs, rate design, inflation, and in fact the termination of the income tax rebate that was brought in this year. There have been interim rates assigned to both Alberta Power and TransAlta, and they're both in the area of about 7 percent.

In the course of the hearing process, and in direct response to the Member for Bow Valley's question, intervenors may make their case that the rate increases proposed or requested are too high, and if they are successful in convincing the Public Utilities Board of just that, then the rates will be modified to a just and reasonable level. In that there have been interim rates assigned, if those interim rates are higher than the ultimate award by the Public Utilities Board, then those utility companies will have to rebate the difference back to the consumer. I should point out, Mr. Speaker, that it is well within the area of possibility for any intervenor to question the rate design, costs, inflation adjustment figures being used by the utilities, and in fact this is how a reasonable utility rate for customers is arrived at.

3:20

MR. MUSGROVE: Mr. Speaker, farmers in the Bow Valley constituency use a lot of electricity for sprinkler irrigation. They've not only had rate increases, but they have lost the advantage of off-season use and the income tax rebate, which has put a tremendous increase on the cost of their power. As far as the income tax benefit is concerned, is there anything that can be done about that?

MR. ORMAN: Mr. Speaker, the answer to the question comes in two parts. The first answer is that the Public Utilities Board over the last couple of years has been moving more toward a user pay level of assessment for consumers of power. For irrigation farmers, like all other classes of customers, they are moving to try and structure the market so that this in fact does occur: consumers are paying a more appropriate share of their actual costs without a subsidy being in place by other consumers of power.

The second part of the question, Mr. Speaker, deals with the income tax rebate. We as a government terminated our subsidy of the income tax rebate as part of our budget process. At the same time, I wrote a letter to the Hon. Don Mazankowski, Deputy Prime Minister, indicating that there is a discrepancy in the way in which the tax regime operates when it takes into account Crown-owned utilities and investor-owned utilities. In fact, in this country the tax regime is skewed in favour of Crown-owned utilities; that is, they are not taxed at the same rate as investor-owned utilities. That's not fair. The tax regime in this country should not be designed to favour or target two provinces that have investor-owned utilities. So we have made this case and encouraged the federal government to treat all utilities the same whether they're investor owned or owned by the Crown so the ultimate end user – that is, the customer – is not being treated in a different manner.

head: **Orders of the Day**

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

Bill 39

Motor Vehicle Administration Amendment Act, 1991

MR. FOWLER: Mr. Speaker, I'm pleased to introduce for second reading Bill 39, the Motor Vehicle Administration Amendment Act, 1991.

In October of '88 this government launched a crackdown on impaired driving. New consequences for this serious crime were introduced, including some of the toughest driver's licence suspension periods in this country. A first-time impaired driver in Alberta is subject to a mandatory one-year licence suspension. Second- and third-time offenders lose their licences for three and five years respectively.

The Bill being presented for second reading today introduces a program seen necessary as a consequence of the changes introduced in 1988. During the '90-91 fiscal year we recorded over 32,500 suspensions, and this was up 8.7 percent from the previous year. In a snapshot taken on March 31 of this year of the number of persons who have had their driving privileges suspended, 62,300 drivers were counted. Research suggests that a significant portion, up to 65 percent, of these persons illegally operate a motor vehicle at some time during the course of their suspension. If the consequences for impaired driving authorized by the people of Alberta through the Legislature in 1988 are to be effectively enforced, it is our view that we must make the prospect of being caught driving while suspended even more unpleasant for those that in fact flout the prohibition.

The suspended driver vehicle seizure program is being introduced to provide a swift, sure consequence to the people who continue to drive when their licence is suspended. With proclamation of these amendments, peace officers who come upon vehicles being operated by drivers whose licences are suspended will be empowered to have the vehicle immediately seized for 30 days. This consequence will follow whether the suspended driver is the owner of the vehicle or not.

To ensure, Mr. Speaker, that the owners of vehicles which have been seized have recourse for review of this action where the owner was not in fact the driver, the amendments give Alberta's Driver Control Board the authority to return a vehicle upon an owner's application. Owners will have to demonstrate to the Driver Control Board that they had no reasonable means of knowing that the driver's licence was suspended, and that is all that will be necessary for the owner to receive the return of his or her vehicle.

The Alberta vehicle seizure program follows that introduced in our sister province of Manitoba on November 1, 1989. Since its introduction, Manitoba has had over 2,600 vehicles seized. It is important that the members of this Assembly note that the program in Manitoba has also withstood constitutional challenges in the courts in that province.

Another amendment contained in this Bill pertains to vehicle immobilization. Initially introduced, again, in October 1988 changes to the Motor Vehicle Administration Act, vehicle immobilization is used by police officers to render the vehicle being operated by a driver who is suspected of driving impaired inoperable for a 24-hour period. This legislation prevents impaired drivers from returning to their vehicles and driving off while still under the influence. While the immobilization option is actively utilized by police services in some jurisdictions, others have been reluctant to use it due to wording in the legislation

which restricts the application of immobilization to drivers the peace officer thinks will commit another impaired driving offence. With this amendment the Bill widens the latitude of the peace officer, allowing application of 24-hour immobilization to alleged impaired drivers at the officer's discretion. We feel that these changes will facilitate expansion of the province's impaired driving program, which is proving to be a successful deterrent to impaired driving.

Other amendments in this Bill reflect Criminal Code references. The latest changes to sections of the code are used, and outdated and redundant sections of the current Motor Vehicle Administration Act are repealed.

In summary, Mr. Speaker, today we are suggesting to this House that we provide law enforcement in this province with more teeth in dealing with those who operate vehicles while suspended. Drivers who have been suspended for breaking the law, particularly those who have broken laws which seek to protect Albertans from becoming the victims of impaired drivers, must feel the full effect of the sanctions authorized by this House. I am confident that the program, which is a major focus of this Bill, will do just that.

Thank you.

MR. SPEAKER: Edmonton-Strathcona.

MR. CHIVERS: Thank you, Mr. Speaker. I'm sure we all applaud efforts to crack down on impaired driving. However, the central and controversial issue of this Bill appears in the amendments to section 112. The current section permits immobilization or impoundment of a vehicle after a conviction. The effect of this amendment, of course, is to require it automatically merely upon the occurrence of the charge.

[Mr. Deputy Speaker in the Chair]

As I indicated, the current section permits a judge who finds a person guilty of driving while prohibited or while his licence is suspended under the Criminal Code to order the seizure or immobilization of the vehicle involved in the most recent offence on the occurrence of the conviction, but the new section 112 accomplishes the following: it becomes operative when a person is charged with the offence of driving while the licence is suspended. That suspension, of course, does not relate merely to an alcohol-related suspension, because there are collateral amendments to another section of the Motor Vehicle Administration Act. It is now possible for that suspension and the subsequent impoundment to relate to a demerit point suspension, so it's clearly not just aimed at a crackdown on impaired driving, which is something that I'm sure all sides of the House would support.

I do appreciate the hon. Solicitor General's comments with respect to the difficulty in terms of the numbers of persons who are, according to the studies, driving while their licences are suspended. I appreciate that it's necessary to take new initiatives to bring that kind of conduct to an end. I suggest that there are other, less harsh measures, measures that are in accordance with principles of fundamental justice, in order to bring about those sorts of changes in our law.

3:30

I am concerned about the effect of the Bill. I'm concerned about the deletion of the references to the Criminal Code sections which previously limited the operation of the section. This does mean, as I indicated earlier, that at the present time

and the way these amendments are framed, this Bill is framed, it is now possible that a person could have his vehicle impounded on the basis of a demerit-point suspension, something that had nothing whatsoever to do with alcohol and driving. If the evil we're aiming at here is to deal with the problem with respect to alcohol-related conduct, then I am concerned about the overly broad application, the overly broad scope, of the amendments that are proposed.

Mr. Speaker, the power to immobilize or seize a vehicle is exercised under the amendments to section 112 by a peace officer, by a registrar, or by a person authorized by a peace officer or a registrar. There is absolutely no hearing. There is no judicial determination. This is a pretrial punishment which is being imposed. As the minister has indicated, the seizure or the immobilization is for a maximum period of 30 days, and of course it would be the person who is exercising the seizure or the impoundment – that is, the peace officer, the registrar, or the person authorized by the peace officer or the registrar – without a hearing who makes a determination at the outset, on the occurrence of the charge, as to the duration of that suspension or that seizure or impoundment of the motor vehicle.

Now, I've previously asked the Solicitor General to provide copies to me of the proposed regulations so that we would be able to more knowledgeably discuss the implications of the legislation. They are not yet forthcoming. I hope they will be forthcoming while this Bill is under consideration by the Assembly. I think it's important to bear in mind that the process outlined by the Solicitor General with respect to the operation of the power to seize or immobilize a motor vehicle is that it will be done by the peace officer or the registrar or the person authorized by one of those persons. Then it will be subject to a review on the basis of the owner being able to show that they had no reasonable cause to apprehend that the vehicle was going to be driven by a suspended driver. I submit that that is, in the manner that this legislation is presently framed, absolutely essential, but again it reverses the process. There's a presumption of innocence in our law generally, and here we've reversed that presumption; there's a presumption of guilt. The driver who is driving the vehicle is presumed to be guilty when the charge is laid and the vehicle is impounded. If it's not his vehicle, then the owner of that vehicle is also presumed to have knowingly permitted him to drive the vehicle, so there's another presumption of guilt. I submit that those are drastic measures. They are measures that are quite extraordinary.

The hon. Solicitor General has spoken of a situation in Manitoba. Prior to further debate on the Bill, I intend to examine those provisions and the cases that have flowed from them. I would be very interested in any studies to show how effective this sort of a measure is. The reality of what's being proposed here is that the suspension or the seizure or immobilization of the vehicle will take place immediately on the charge. Now, in the ordinary course of events there might be six months – perhaps in unusual cases because of the backlog in traffic court it could even take a year – for trial on a suspended-driving charge to proceed through the courts, but the effect would still be, under the present legislation, that the judge would have the discretion to seize or impound the vehicle.

I would suggest that in view of the damage that this legislation does to the presumption of innocence, it would be better to accept the fact that the period of delay in order for the courts to go through the usual process – that it would be better in terms of balancing competing interests to make it mandatory for the courts to seize or impound the vehicle upon the conviction. That would mean that the period of the seizure or the immobili-

zation, the 30-day period, would then take place perhaps six months later, perhaps a year later, but it would still be the same penalty to the person that's driving while suspended, without the damage to the principle of presumption of innocence. I suspect that that would be as much of a deterrent to driving while suspended if drivers knew that there was going to be on conviction an automatic suspension, an automatic seizure and immobilization of their vehicle. That would operate as just as effective a deterrent as the provisions that are presently proposed in this Bill.

I hasten to point out one certainly unintended and, I expect, unanticipated consequence of the automatic seizure and immobilization in the situation where the police officer encounters somebody who is operating while he's suspended: if that original suspension was not for an alcohol-related offence – for example, it was a demerit-point suspension – I suspect there's going to be a reluctance on the part of the peace officer to have recourse to the laying of a charge when he knows that it's going to have these harsh consequences in situations that are totally and entirely non alcohol related. I think that ironically in this area at least there's a danger that the consequence of the enactment of these provisions might have a quite unanticipated and unintended effect with respect to enforcement of prohibitions against driving while suspended in non alcohol-related situations. I think that that is not a result we would seek to have occur as a result of passing this legislation, and it's probably a self-defeating sort of proposition. So it seems to me that if the object of the legislation is really to crack down on impaired drivers who are subsequently driving while suspended, perhaps we should look at the legislation and make sure that it doesn't have an overbroad reach.

The new section 112 provisions: I know the Solicitor General has mentioned some litigation in Manitoba. I'd be very interested in knowing the names of those cases, and perhaps he would be able to provide me with that information or have his officials in his department provide me with that information so that I could examine those cases. However, I do expect that the legislation will likewise be challenged here on the basis of section 11(d) of the legislation, which is the guarantee of the right of a person charged with an offence "to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal." Of course, I expect that the way the Bill is presently formulated, it would be argued that these provisions do offend section 11(d) of the Charter. Perhaps this is not the case in Manitoba, but certainly in Alberta there's the possibility that an argument will be mounted that the provisions of the new section 112 will offend section 1(a) of the Alberta Bill of Rights, the right to "enjoyment of property, and the right not to be deprived thereof except by due process of law." I wonder if those provisions were also considered by the members of the department that were responsible for the drafting of the legislation.

3:40

In any event, the new section 112 will make it an offence simply to be charged with operating a motor vehicle while the operator's licence is suspended, as I said, whether or not it's an alcohol-related suspension in the first place. The punishment does permit some latitude in terms of: once the period of suspension is determined by the peace officer or the person designated by the peace officer or the registrar or the person designated by the registrar, then there will be some flexibility on review, the terms of which we're not certain of until such time as we've had an opportunity to examine the regulations.

The difficulty there again is that this is going to be a mandatory impoundment or seizure of the motor vehicle, and then it's going to be necessary to in all circumstances implement the review process for someone who feels that either the period – I'm not sure that there will be an appeal against the period allowed or only whether it will relate to an appeal by an owner who is not the driver of the impounded vehicle. I expect that there is going to be some flexibility against the harshness of these measures provided in the regulations, and I look forward to seeing the regulations.

There is, of course, as I noted previously, the danger of innocent third parties being victimized at least for some period of time until such time as they're able to invoke whatever remedies are available to them under the regulations that we do not yet have nor have we seen. But there is the difficulty that the innocent third party is going to have to initiate some sort of a process with the driver review board in order to obtain the return of the vehicle if it's warranted under the terms of the regulations. I'm concerned about that harshness. It seems to me that there may be other areas that we could deal with in the legislation which would bring more severe penalties, more harsh penalties, to bear on persons who knowingly and willingly permit a suspended driver to operate his motor vehicle. It is already an offence under the legislation to knowingly and willingly permit a person to drive or operate your motor vehicle while the other person is suspended, and I think that perhaps a better formula could have been found to balance the interests in this area and to tighten up the harshness of the penalties that are available under that section to ensure that there will be a deterrent against persons knowingly and willingly permitting a suspended driver to operate the other person's motor vehicle.

There's no doubt that driving while suspended or disqualified is indeed a serious problem, and there's no doubt that there are important public interests which have to be considered and balanced in order to properly deal with the problem. I'm not convinced at this point. I hope that perhaps during the debate the Solicitor General will be able to provide to the Assembly more information. I'm not convinced that this Bill has at this point struck the proper balance and is dealing with the problem in the least offensive way in terms of preserving the rights of people and at the same time protecting the interests of the public, particularly with relation to the impaired driving problem, in seeing that persons whose licences have been suspended as a result of impaired driving are not flaunting the law and continuing to drive regardless of the suspension. I certainly agree that there have to be some tough measures adopted in order to crack down on persons who are driving in those circumstances.

However, I am concerned at the overly broad sweep of the legislation. In that context I ask the Assembly to bear in mind that section 19 of the current Act provides that a notice of suspension or disqualification from driving is deemed to have been given if the notice is sent by registered mail or certified mail to the last address recorded with the registrar. Indeed, there have been cases that have gone to the higher courts on this very point. It's not uncommon that people are charged with driving while suspended or disqualified from driving, particularly if it's a Motor Vehicle Administration Act suspension on the basis of demerit points, before they even know that the suspension or disqualification has taken effect as a result of the deeming provisions, the notice provisions of the statute. These new provisions will mean that once you're charged with the offence, even if you didn't know that you were committing it because you haven't yet received the notice from the registrar because the address was wrong or there was a glitch in the

computer or some mistake by a clerk – notwithstanding that, you would still be punished by seizure or immobilization of the vehicle.

I'm wondering if there isn't some less harsh way of dealing with those situations and finding a way to balance those interests. In my view there is indeed an important principle at stake here. It's a principle that I'm sure we all take very seriously: the presumption of innocence. I'm sure that the legislation has not been introduced by the Solicitor General lightly, and I'm sure he's given some considerable attention to that presumption. However, I am concerned as to whether the law that is proposed in the Bill has struck a proper balance between the interests that need to be balanced here: the interests of the judicial system, the interests of the accused persons, and the interests of the public.

I am concerned that if we do yield the principle of presumption of innocence on this occasion, the same sorts of arguments in favour of yielding that principle in this instance can also be mounted on a host of other occasions. I wonder, if we start yielding that principle on this occasion, if it is not likely to cause a precedent which will come back to haunt us on future occasions, where there are calls for harsh preconviction penalties in other areas which could be just as well justified. There are a host, particularly in provincial legislation, of what are known as absolute liability offences. Presumably that is part of the rationale of the suspended-driving provisions here, that it is almost an automatic liability situation. Indeed, it's very difficult to defend, to mount an effective defence unless there's an error in terms of the identity of the individual or unless there's been some sort of a computer glitch, as I described before. Nonetheless, if you apply that principle, if we depart from the principle of the right to be presumed innocent on this occasion, that same argument could be made in respect of a host of other legislation involving absolute liability offences.

I've searched in reviewing this Bill for some sort of a compromise. One compromise might be an amendment so that the reach of section 112 is less extensive, an amendment so that it might only extend to alcohol-related suspended or disqualified driving situations. There is, of course, a certain attractiveness about that from the point of view of the need to protect the public, but it still ultimately comes down to a question of whether one chooses to yield the presumption of innocence principle. It is a difficult area to deal with. It might be possible to develop some amendments to the sections so that there would be two conditions precedent to a seizure or immobilization.

Those conditions precedent could be, first, that there would be the suspension and that it be an alcohol-related driving offence suspension so that the sweep of the legislation would not be so overly broad, and secondly, that the circumstances of the suspended-driving charge which yield to the seizure and impoundment of the vehicle would relate to another situation of an alcohol-related driving charge so that when the person is stopped and charged with suspended driving, he is also committing at the time that he is charged with suspended driving another alcohol-related offence. I certainly would feel in circumstances such as that, it would clearly be an alcohol-related situation. The first suspension would have been alcohol related; driving while suspended would also have involved the use of alcohol. I think a much stronger argument could be made for this type of a formula in terms of a preconviction type of penalty being imposed. Nonetheless, even that sort of an amendment would require us to yield the principle of presumption of innocence.

3:50

An amendment might also be made under section 5.1(2), and I would urge the Solicitor General to consider this. This is the section which currently makes it an offence for a "person who has a motor vehicle in his possession or under his care or control" to "knowingly or willingly permit a suspended person to operate that motor vehicle." The rationale, of course, is that it is intended to deter people who have motor vehicles in their possession from allowing other persons who have suspensions from taking care and control and operating those motor vehicles. At the present time only the general penalties apply to this section, and although I haven't had the time to look at the data, I suspect that few charges are laid under this section.

I think there is a substantial ability here for this section to be beefed up. I think we could beef it up in a number of ways, most importantly by empowering a judge who convicts a person of knowingly or willingly permitting a suspended person to operate a motor vehicle, perhaps not permitting the judge but requiring the judge to impose one or both of the orders found in section 112 for seizure and impoundment of the motor vehicle for a period of time, and let's make it a harsh period of time. Perhaps 30 days isn't long enough. I have no difficulty with punishing people who have been found to have committed an offence in those circumstances, and I would urge that the hon. Solicitor General consider perhaps some amendments in that area to beef up that section of the legislation. Such an amendment would mean that that section would then become a real deterrent to persons who knowingly and willingly permit suspended persons to operate motor vehicles which they have in their care, possession, or control, and the principle of the presumption of innocence would still be maintained and preserved.

I think that in those circumstances, if the Solicitor General felt that because of the words "knowingly or willingly" that are in the proposed amendments to section 5.1 and are in the present legislation, there's too much latitude there in terms of "knowingly or willingly," it might even be possible to tighten up that section to make it more in the nature of an absolute liability offence, regardless of knowledge, so that the onus would then come clearly back home to the person who is allowing other persons to use the motor vehicle to ascertain with a certainty that the persons that they are allowing to have possession, care, or control of their motor vehicle do have valid driver's licences and that their licences are not suspended. I submit that that would be a measure which would be more in keeping with the principles of law which we have attempted over the centuries to maintain in this country. We could also deal with the possibility of amending section 112 to make it mandatory on a conviction – rather than the present proposals in the Bill, going back to the original section 112 – for the judge to impose seizure or immobilization. Rather than 30 days, I'd be quite prepared to argue that an even harsher penalty could be imposed here. Make it a 60-day penalty, but make it mandatory so that the judge must implement it.

There are also administrative measures that can be taken in this area. I know I've had occasion to discuss the situation with respect to the operation of the traffic courts, and I know that on many occasions persons are charged more than once with driving while their licence is suspended, yet the penalties that are imposed on them are certainly not penalties which are obviously sufficient to deter the commission of the offence. I think we could also give consideration to some amendments to the legislation in those areas to beef up the penalties that are imposed on a second conviction, perhaps even a first conviction

for driving while suspended, but certainly second and third convictions for driving while suspended. These sorts of measures would also maintain the presumption of innocence principle.

I want to move on briefly to discuss a number of other sections of the Bill. The Bill amends regulations governing applications to the Driver Control Board to allow for the owner or operator or other interested person of a seized or immobilized vehicle to apply for revocation or a variation of a seizure or immobilization order. It seems to me, as I said previously, that it would make better sense to await the conviction rather than set up a new bureaucracy with all the inconveniences and unfairness that I suspect will be attendant upon that in this situation. The amendment, of course, to this part of the Bill provides for the regulations that we've discussed previously.

The Bill also permits what I'll describe as a contracting-out situation to arise. We all know that there is contracting out of the sale of licence plates. As I read the Bill, it will also expand upon that so that it will permit the contracting out of operators' licences, certificates of registration, and other types of departmental services. Currently the section is restricted to licence plates, and of course this opens the door once again to further contracting out with the consequential jobs that this is likely to entail. I'm wondering whether the minister has any information that he can provide to the Assembly with respect to the implications of that section in terms of employment in the public service. We know there's been a substantial use of the contracting out of licence plates. Are there any projections as to how widespread the contracting out of these other services, such as the sale of operators' licences, sale of certificates of registration, and the other departmental services, are likely to be? Given that the motor vehicles branch employees run, I think, one of the most efficient services in the entire government, I'm wondering again as to the wisdom of it and whether or not this is projected to result in savings to the public.

I see my time is up. If I have an opportunity, I'll carry on.

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

MR. CHUMIR: Thank you, Mr. Speaker. I'm pleased to participate in this debate on Bill 39. Those who have been in this House for the last five years or even any significant portion thereof will realize that for years our caucus has argued for tougher penalties for those who drive while their licence has been suspended, particularly with respect to impaired driving offences. This particular legislation, as has been noted by the Member for Edmonton-Strathcona, of course goes beyond the impaired situation and deals with suspensions in a number of other circumstances. Of course, it is important that we do have sanctions in respect of those who do drive while their licence is suspended with respect to other matters, but the impaired driving scenario is the most important situation.

[Mr. Jonson in the Chair]

It's important to keep in mind that in the past the concern we've had is that our law has provided for little more than a slap on the wrist in respect of a first offence for someone driving while their licence has been suspended. In fact, the research that we had engaged in indicated that a relatively modest fine of \$150 to \$250 was the norm in respect of those who were apprehended for driving while their licence was suspended for impaired driving or otherwise. When one considers the low risk of apprehension – firstly, the low risk, as we're aware, of actually

being apprehended in respect of impaired driving and then to have the bad luck of being the needle in the haystack, of having been stopped while you were driving while your licence was suspended – it was no accident that generally individuals who had their licences suspended were driving in wholesale lots because of the unlikelihood of getting caught.

4:00

So the main deterrent with respect to impaired driving in particular, that being that of licence suspension, turned out not to in fact have been a deterrent because there was so little sanction in respect of apprehension for driving while the licence was suspended. This is a matter which has required attention for some long period of time, and I'm pleased that it's being addressed.

Now, in terms of the way it's being addressed, I must say that I have some serious misgivings. Although in principle we support a tougher approach, particularly with respect to impaired driving – I might say that we're going to vote for this legislation on second reading regardless of our misgivings about methodology – unless there are some significant changes, we're not going to support some of the key provisions in committee nor on third reading.

I might note that in terms of alternatives that might be used, we have proposed this alternative in the past, and that is applying the sanction of a jail sentence after conviction by a court and not by a police officer and administrative manner, as has been done in British Columbia for some period of time, where a mandatory seven-day jail sentence is applied, and de facto that would mean a weekend in jail. I'm advised that Prince Edward Island also applies a jail sentence in these circumstances. Now, with clogged jails and some perception in the community that the short weekend sentence is not effective, perhaps that's the reason the government hasn't proceeded. I must say in terms of the due process issue, I would very much have preferred to see that as the methodology chosen.

I'd like to talk about some of the problems we have with the legislation, and of course there is the primary difficulty of the apparent absence of due process in the sense that the vehicle is seized without a finding of guilt by a court or indeed any hearing whatsoever, whether by a driver board or otherwise. Now, there is a theory that the suspension of the licence per se can be considered to be an administrative act and need not go through the full court process. Indeed, in the United States there is legislation in a number of states which has been upheld by the United States Supreme Court which does allow and approve of administrative cancellation of licences.

However, the principle that has been applied in the judgments of the U.S. Supreme Court is that that is permissible only in the event that there is a very hasty administrative remedy available, an appeal available on short notice to individuals who may feel themselves aggrieved by the possibility of error, and indeed there is the possibility of error, particularly, as mentioned by the Member for Edmonton-Strathcona, in the case of the cancellation of licences re demerit points, where individuals may not have kept track of their points, a notice is mailed out, and they're unaware of the situation. There can be some significant injustices, and I think there needs to be a provision to deal with those injustices. Indeed, errors can be made in respect of suspensions of licences in the case of impaired driving, although in that instance it would be simply a matter of knowledge of the law: once a conviction has taken place, the person would be presumed to know that there would be a suspension for a period of time. I'm less troubled by that, but there may be other

circumstances in which a computer error is made or the licence suspension time has terminated, and notice has not been provided on the computer system.

It seems to me that at the very least this legislation should provide for a quick hearing, say within a 48-hour maximum time frame, in the event that it is alleged that there is some error, some defence to the particular charge. This would require a very speedy process, certainly something that's not the case at the present time, and I believe that in order to meet the call of justice, we would have to set up the machinery to make that possible.

Now, I note that section 23.2(1) deals with the possibility of the driver review board releasing the vehicle, but the legislation itself is merely framework legislation. It's a bare skeleton, and no principle is provided with respect to some very important issues that should be dealt with. *Au contraire*, what we find is a scheme which is intended to operate through regulation. It's obvious that in many instances much of the detail of how statutes operate has to be governed by regulation, but regulation shouldn't apply in the instance of fundamental principle governing the rights of individuals. We find that in the introductory comments of the minister, he advises, for example, that the vehicle is to be returned where there is a third-party owner if there was no reasonable way in which that person would have known that the individual would be driving the vehicle or that their licence was suspended. Well, that seems to me to be a very basic principle, and as a principle it should be set out in the legislation rather than having something fundamental in terms of civil rights dealt with behind the closed doors of the Solicitor General's office. Indeed, I think much more thought needs to be given with respect to where regulation should appropriately be used and where specifics should be set out in the legislation as being somewhat fundamental to the rights of individuals.

That in itself, the broad scope of the regulations, is a significant flaw in this matter. I would be very interested in hearing the minister's response in that regard, certainly to see what the regulations say, although seeing them doesn't vitiate the defect of the fact that they are overly relied on to begin with. I very much want to see some provision for a very speedy hearing. Nothing could be calculated to cause greater and more justifiable grievance on the part of individuals than to find that they do have a valid defence, an error has been made, and you have a plodding process where the seizure period has elapsed before the individual can have their rights heard before a court. That's why generally punishment should only follow after conviction pursuant to due process.

4:10

There's a second broad problem that I would like to allude to, Mr. Speaker. It's one that pervades our legal system generally, and it's a problem that perhaps militates and would argue for the alternative type of scheme that I had suggested, a jail sentence. By the way, I might note that as I understand it, there is a jail sentence provided for on second conviction in respect of driving while a licence is disqualified. I'd say that the one needle in a haystack is pretty remote; to get two of them is extremely difficult. In any event, I digress.

The second problem that I think is something we should start to think of a bit more effectively in terms of how we run our judicial system generally is that seizure of vehicles by its nature impacts more heavily on low-income persons with respect to the towing and the storing costs. It's of course very similar to our fine system where we have flat fines on all persons regardless of income, and I've mentioned my concerns in this House before

where individuals are jailed for nonpayment of fines. In fact, the Cawsey report has commented on that difficulty with respect to native Indians where a fine is levied. Someone with resources just peels a few bucks off the roll, and a lower income person ends up in the can, the crowbar hotel, for a period of time. We're moving in the same direction; we certainly have not taken the issue of means into any significant account here. It's noteworthy that there's nothing more egalitarian than a weekend in jail. I'm generally not a great advocate of long-term imprisonment and so on, but there are circumstances where a quick shower in the form of a weekend in jail may be very salutary in respect of an offence like impaired driving.

Now, it's been brought to our attention in a related way with respect to the way in which this would impact individuals differently with respect to rural residents. We understand there has been some difficulty in Manitoba with respect to rural residents being far from home, issues of how they get back home, the costs of towing, and so on. These are matters that need to be addressed.

I've already commented very briefly about the reality that this also deals with licence suspensions other than those for impaired driving. We need to consider some flexibility in that situation with respect to the absence of notice and other matters, taking into account the scope of appeals to the driver review board.

The second broad issue in the Bill relates to that of immobilization of vehicles when a charge has been laid in respect of impaired driving and in respect of having a suspended driver's licence. Now, the minister alluded to difficulties with the previous legislation in terms of the way in which it required a peace officer to have a reasonable suspicion "that the person charged may within 24 hours of being charged again commit an offence." I can understand that there would be difficulties in applying that test, but a condition of that sort seems to me to be kind of essential in a philosophical sense in order to justify the impounding of a vehicle under circumstances where there has only been a charge. The punishment here again is without due process, and perhaps when we're dealing with a matter such as licence suspension, one may argue that this is so objectively determinable – either it is or it isn't – it's less of a problem. There is more of a problem, however, in the case of impaired, where there are many other issues and questions that may arise.

It would seem to me, Mr. Speaker, that we should be able to devise a more sophisticated provision which would recognize that the concept of impoundment is in some ways the danger of the offender or person who is perceived to be in no condition to drive a vehicle or disqualified from driving a vehicle, thereby taking up and in fact driving again. I understand the difficulties. Even if you allow somebody else to drive the vehicle, a friend, there's always the worry that that individual then may in fact release the vehicle or be talked into allowing the vehicle to be driven by the person who has been charged and may be released but may be in no condition. But it seems to me that notwithstanding those difficulties, we are moving in a somewhat problematic direction in trying to address a very difficult question. Without wrestling with the very difficult issues of defining these matters in a principled way, we seem to be justifying rather absolutist measures.

Those are concerns that I have. As I mentioned, we're going to support this legislation on second reading in principle because of the very strong feelings we have that it is important to deal very strongly with the issue of impaired driving, but we do have grave reservations that we're going to express in voting in committee and on third reading with respect to the absence of due process, the overreliance on regulations in face of this due

process concern, and the generally overly broad sweep of the legislation. I hope we'll have some answers and perhaps hopefully some changes from the minister on this matter. We think it needs to be improved before it advances.

Thank you, Mr. Speaker.

MR. ACTING DEPUTY SPEAKER: The Member for Stony Plain.

MR. WOLOSHYN: Thank you, Mr. Speaker. I would like to make a few comments. After listening to the two previous speakers, I would also like to suggest that I support this Bill in principle, but I go further than that. I support the amendments virtually as they stand. Any difficulty that I do have with them is perhaps that the adjustments are not strong enough.

I find it rather sad that section 112 was repealed largely due to the fact that judges didn't use it as much as they perhaps should have. That's the one relating to the alcohol-related driving offences. I think something that we have to keep in mind when we talk about motor vehicles and operators' licences is whether this is a privilege or a right. Either way it amounts to the same thing. If it is a privilege, it can be revoked without explanation; if it is a right, as such then also there have to be responsibilities that go with this.

4:20

I think one of the responsibilities of owning a motor vehicle is that you accept responsibility for that vehicle regardless. That puts the onus squarely on your shoulders to ensure that the people who are driving that vehicle not only have a valid driver's licence but that that licence is also valid under the insurance that is applied to that vehicle, because we are certainly aware that unfortunately in this province we have different degrees of validity of insurance. You have something known as underage drivers, and vehicles operated by an underage driver could certainly create difficulties for the recipient on the bad end of an accident or, in fact, the registered owner in terms of the level of coverage that goes along with it. I'm also of the understanding that a vehicle operated by a suspended driver is not insured other than what is mandated by legislation, which is roughly a \$200,000 liability which the insurance company can get back on the registered owner for as a recovery business.

[Mr. Deputy Speaker in the Chair]

So we have to not only look at what is happening to the person being charged, we have to look at, I think, very much the protection of the public. I do repeat that it is unfortunate that we have come to this point because the laws of the land perhaps were not invoked to the degree that the judges should have, and we've now got a really serious problem.

The differentiation between alcohol-related and other causes for suspension I find very interesting. A suspension is a suspension; you lose the right to drive. Given that situation that you have lost the right to drive, if you take care and control of a motor vehicle, you are breaking the law. Certainly the liquor-related offences put a more serious tenor on it. I would like to see legislation that would go further, if you will, in terms of alcohol-related violations of driving suspensions. At the moment what we're looking at here is what happens when with due reason, with probable cause, a police officer finds somebody who has been suspended at the wheel of a vehicle: that motor vehicle is seized. I would go one step further. If the person who is driving the vehicle is actually the registered owner, I

would like to question why that vehicle would be given back anytime prior to the suspension having run out. That's one that I think we should consider also.

The other aspect is that if the driver is not the owner of the vehicle, then I think it's the responsibility of the owner to either determine that that person has the right to drive it, if you will, or is qualified to drive it, with a valid licence. If the car is taken without permission, I would hope that somewhere along the line there would have been a stolen vehicle report go out. Thereby I would say that if that were the case, then the recovery of the vehicle would be quite straightforward and simple, hopefully, under regulations.

In both of these clauses – I would suggest that one doesn't go quite far enough, and the other, as far as I personally am concerned, is certainly in order.

Going back to alcohol-related offences for a moment, I think we can't place too much emphasis on the problems of drinking and driving. But there's also another area of behaviour behind the wheel which doesn't involve alcohol but can be just as bad. You can be guilty of and convicted of something called dangerous driving and not be impaired by any substance whatsoever. That particular activity can be just as harmful or potentially harmful to the public as any other kind. So I think what we have to instill into the minds of the public and into the minds of the people who lose operators' licences is that once you have lost the operator's licence through a suspension, you have lost it and it is illegal to get behind and have the care and control of a motor vehicle, period.

With respect to the defence that perhaps they couldn't catch this charged person to tell him that his licence was invalid, if the registered mail can't catch up to the individual to let him know that he has a problem, then I have a problem with the credibility of the individual we're trying to find. I believe you are responsible to let motor vehicles branch be aware of your most current address, and along with that, I think that anybody who claims they didn't know their driver's licence was either suspended or about to be suspended has held their head in the sand, and that's also a problem with the credibility of that individual. Thereby, I wouldn't have an awful lot of sympathy with it. Perhaps it's more properly in legislation, that some safeguards be placed in there – maybe this will come in the regulations; I don't know – some regulations to ensure a very quick remedy if in fact a person has been falsely accused. However, unless it's just a Check Stop, a person who has been pulled over is usually pulled over for an offence. It's very rare that the police have time to just pull people over on a whim, unless it's a Check Stop.

I would look forward to seeing some sort of mechanism placed in there that would remedy very quickly if an error in fact has been made. That has to do with the driver charged, if you will, and also in the same instance to make sure in the regulations to protect the people who have been innocently – and sure, we can say that ignorance is no excuse and all this sort of thing – misled into loaning their vehicle out, that they can, as quickly as possible, retrieve the vehicle without necessarily going the 30 days. I know that in the legislation 30 days is a maximum, but I'm sure there can be some mechanism placed through the regulations to expedite this matter, provided again that it's only a one-shot situation, because if you're in the habit of lending your motor vehicle for other people to use, that has got problems in itself.

On that I conclude, Mr. Speaker, and I commend the minister on this legislation. Thank you very much.

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

MS M. LAING: Thank you, Mr. Speaker. I rise to raise strong concerns about this Bill. In voicing these concerns, I am in no way negating the seriousness of driving while suspended, particularly for having been convicted of impaired driving. [interjection] The member beside me says that yes I am. I'm not sure he can read my mind, however, so perhaps he would desist until he can.

I believe very strongly that we have to deal in the most stringent ways particularly with people who drive while they're impaired, but my belief is that you impound drivers, not vehicles, and I'll talk about that. We have to have strong measures that come into being quickly. I think the immediacy of a response is really important, and the delays in these cases getting to court I think is a significant issue that needs to be addressed. However, I have serious concerns that this Bill provides for failure to attend to due process and the presumption of innocence until found guilty. I think it applies in two ways. It applies to the person who is driving, who is a suspended driver, and it applies in regard to the owner of a vehicle, a third-party owner if the vehicle is not owned by the driver.

In the first instance there is no opportunity for an assessment as to an error in the computer or whatever. There is no opportunity for assessment of mitigating circumstances. I think here of the driver who may have been suspended on the basis of demerits driving a child to a hospital. If a child was injured or ill, they would probably jump in the car and drive the child. So I think it's very important that we look into mitigating circumstances.

To yield on the presumption of innocence is very dangerous, because this may be only a start. There are times when I think that we should yield on the presumption of innocence in regard to certain crimes that are committed, but I believe very strongly, as I think most Albertans, most Canadians do, in the principle of the presumption of innocence until proven guilty and a due process. So I raise this concern in terms of due process, one of the fundamentals of our society.

The second area is, of course, in regard to the person who may be a third-party owner. Do they know, and did they knowingly and willingly give the vehicle, knowing that the driver had a suspended licence? But the issue of willingness too: was there a threat of violence, coercion, that kind of thing? I'll talk about that later.

4:30

Mr. Speaker, I have another issue that I would raise in this debate. Both Bertha Wilson and Beverley McLachlin, Supreme Court justices in Canada, as well as the Canadian Judicial Council have taken note of gender bias in the law. They have drawn attention not only to gender bias in the administration of justice but also in the writing of the laws and the failure when writing laws to take into account the differential impact on women that a particular law may have. That, I think, is part of the difficulty with this Bill. In addressing the measures proposed in this Bill, there is an assumption that the driver alone or the third-party owner of the vehicle alone will suffer the consequences of the loss of that vehicle, and that the third-party owner would be someone that would willingly give the vehicle and certainly should be held accountable for being so stupid as to give someone the keys to their vehicle when they know they have a suspended licence.

But there is another group of individuals that may well be affected by this legislation, and that is the spouse of either the driver or the lender, who will suffer the loss of the vehicle. All too often, Mr. Speaker, that is a woman, who would withhold, I would suggest, the keys at her peril, because in most cases her spouse would be bigger than her, larger, taller, heavier, more experienced in getting what he wants through physical means. We also know that violence in the family is often coexistent with alcohol abuse and that there is a similar personality configuration of a failure to take into account the impact of one's behaviour on others and the well-being of others. So do we say to a woman that she should suffer being beaten up to stop her suspended or impaired spouse from driving the car or she faces the negative consequences of the loss of the vehicle, which may be used to get to work, take children to school, to swimming and music lessons, the doctor, church, and to get the groceries?

I have heard the suggestion that the spouse could take the bus. Well, Mr. Speaker, if you've ever had to shop for groceries with children, the thought of taking the children on the bus to the grocery store is formidable enough, but taking the bus home with several bags of groceries is beyond the pale. Anyone that has had any experience in shopping with children and taking the bus would think that this is probably not a very acceptable alternative.

MR. SIGURDSON: No buses in rural Alberta.

MS M. LAING: Just a minute.

Taxis, of course, may be too expensive, and certainly if we're in a family where there's alcohol abuse, often hard-earned money goes to pay for alcohol and not for the groceries. And as the Member for Edmonton-Belmont has said, this is particularly relevant for rural Alberta. How does a family get around in rural Alberta if the vehicle has been impounded? So I say: impound the driver. [interjections] We hear that social services will give them a taxi or a bus. I'm not sure if that's true.

AN HON. MEMBER: A horse.

MS M. LAING: Or a horse. Okay.

Mr. Speaker, a Bill that fails to take into account the consequences for the family should perhaps – and I would ask the Member for Red Deer-North to pay attention – be referred to the Premier's council on the family, because this Bill has real implications for families. I believe we need to deal with drivers who drive while suspended, while impaired. We have to deal with them in a way that stops them but does not have serious consequences, negative consequences, for their family members who are innocent, who have probably suffered a great deal as a result of this propensity not only to drink but to drink and drive. So we have to look at this in the context of the family members, and I think, you know, the members to my right here have been making light of a very serious matter for rural families. I think we should take note of that. This is not a joking matter, and the impact of the loss of a vehicle on a family can be very serious.

I think that if we're going to be fair about this, we have to make provision that an owner or a co-owner would have not only the defence of the lack of knowledge of the person asking for the car keys being a suspended driver but a defence of being an unwilling participant, that the keys are given out of coercion, a threat or fear of harm, especially in the case of a spouse. It would seem to me that it would be more appropriate to deal

with a third-party owner separate from the owner of the vehicle, that we have to put in place measures that deal with each person's part of this problem and that we would deal then with the suspended driver as a suspended driver.

A number of years ago I was in the Soviet Union, and they had a really good way of dealing with people who misbehaved while under the influence of alcohol. They put them into treatment centres. These people went to work during the day so they could support their families, and they were incarcerated in treatment centres at night and on weekends. That would sure keep them off the highways; their families would be taken care of.

There are lots of alternatives, Mr. Speaker, and I think what it requires is some creativity and some sensitivity to the wide implications that this kind of Bill has for people. However, the most serious, I believe, is the failure to respect due process and to hold people accountable for their own behaviour and not hold and punish other people for the behaviour of a third party.

I thank you.

MR. DEPUTY SPEAKER: Order please. The hon. Solicitor General, if he speaks, will close the debate. Did anybody else wish to . . .

The hon. Member for Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Speaker. I apologize for the delay. I thought the Member for Lacombe was rising to speak, but I guess that was not the case.

I, too, would like to get just a few comments on the record with respect to this proposed amendment, Bill 39, the Motor Vehicle Administration Amendment Act. I think, Mr. Speaker, the intent of this legislation is absolutely correct in terms of proposing that we get tougher with those individuals that have had their licences suspended and continue to drive nonetheless. I think that's a terrific direction. I think that's an appropriate thing for the Solicitor General, for his department, for the government to be doing. I do, however, have a few concerns that I would like to raise. My honourable and learned colleague from Calgary-*Buffalo* already raised a few, but there are just a couple of others that I want to mention.

Mr. Speaker, I'm perhaps guessing and generalizing a bit here, but I would suspect that in some instances there may be cases where the individual who was stopped under this provision might be driving a vehicle colloquially known as a beater. In rural Alberta, or even in urban Alberta, the towing costs can be \$50 to \$100 just to tow the vehicle, and then on top of that you have storage costs, typically running around \$5 a day. So the person who owns the vehicle could face himself with a cost of around \$250, perhaps, just to get the vehicle back again. In some cases, quite frankly, the owner may decide that it's simply not worth it, that \$250 just to get the vehicle out of storage, and then he's got the loss of the use of the vehicle for a month. He or she has to worry about finding alternate means of transportation. As the Member for Edmonton-*Avonmore* referred to, particularly in rural Alberta it can be difficult. Even in urban Alberta, where you have alternate forms of transportation, there is an inconvenience factor.

4:40

There's no mention made in this particular Bill, Mr. Speaker, with respect to what happens to vehicles in the event that the vehicle that is impounded and stored for 30 days, wherever that may be, is not collected by the owner. Then the person who owns that storage facility, whether it's simply a garage or

whatever, has got to store that vehicle for an additional length of time. I think one of the things we look at then is that being added on to the cost of the vehicle; you've got administration costs and so on and so forth. I think that could be a problem for the storage lot owner, when he has to deal with bookkeeping facilities, providing tow trucks to transport these vehicles from one place to another, and so on. That can run into difficulty, and I'm wondering if perhaps there has been indication or suggestion to the Solicitor General to amend, as in Manitoba, the Garage Keepers Act that suggests that if the vehicle is abandoned by the owner, then the ownership transfers to the lot owner. That way the person who owns the lot and suddenly finds himself in possession of a vehicle which the previous owner is not coming around to collect can then dispose of the vehicle. That allows him at least some opportunity to recoup some loss or some costs that may have been incurred with the storage of that vehicle.

I think the biggest concern was raised by previous speakers to this Bill in that the concept of due process . . . I must confess that I have some substantial difficulty with the concept of a police officer pulling over a vehicle, calling in a message on a two-way radio to ask someone in a central office someplace to check the computer, first of all – and we know that computer glitches are many and various – to see if in fact the licence has been suspended. Now, let's assume for a moment, and this could be a large assumption on my part, that the computer records are accurate. Then in a sense what ends up happening is the police officer out on highway number whatever it is, or even on a secondary road that may not even have a number, acts as police officer, acts as jury, acts as judge, in a sense acts as executioner, calls the tow truck, and hauls the vehicle away. Now, even in urban Alberta in the evening you may find yourself in difficulty with finding alternate transportation. In rural Alberta, if you consider, for example – Mr. Speaker, let's use the constituency of *Drumheller* as an example, with which I think you may be familiar here. There are certainly places where if a person had his vehicle towed away, he might have a fair walk even to get to a telephone, let alone a town. I'm sure that particularly out in the eastern areas there are places where there's a lot of distance from farmstead to farmstead. It could prove to be unbearably difficult for someone who's charged under this.

Now, if the "driving while" suspension occurs and that individual is driving while suspended and intoxicated, I have no problem with throwing the book at that individual, but there are a number of cases, I think, where consideration needs to be given. The Member for Edmonton-*Avonmore* talked about a husband and wife team. I want to throw out a potential other situation. Suppose someone's vehicle is a pickup truck. Of course, we know that in many instances the ownership and operation and use of a pickup truck can be essential to the financial well-being of that small business. There are a great number of small businessmen. We always hear, Mr. Speaker, of the government saying we support small business, but if you come along and take away his pickup truck, you may take away not only his means of transportation but his means of livelihood. Now, the Member for Edmonton-*Avonmore* talked about a husband and wife team, for example. Well, what about a father/son team who go into business together and need this vehicle for their livelihood? If they no longer can transport materials or remove materials from the jobsite, if it's a renovation project – there's any number of variations that go on. If you haven't got the means to do that, then you run into difficulties in terms of being able to earn a living. Then not only do

we have a situation wherein the individual and his family have lost the use of the vehicle, but also in effect we've taken away that person's livelihood because they no longer have the ability to haul materials around.

Now, I notice it does say goods within the vehicle, so tools are exempted, but somehow I just find it a little difficult to envision a workman having a truck with all his tools in it – hammers, perhaps power tools that are fairly bulky – being dropped off at curbside, saying, "There you go; here's your tools; go off and earn a living." He's got to walk off with maybe a table saw or a chain saw or any number of relatively large, heavyweight power tools that he needs for his living. So he's left abandoned on the roadside, perhaps with the contents of the vehicle but no vehicle with which to transport them. When we look at that, I think that's a concern, and it's something which hasn't been addressed by this particular Bill. I hope the minister would make some comment about that.

I just want to briefly talk about the computer aspect. I said we're assuming, and it may be a large assumption on my part, that the computer records are in fact accurate. Well, Mr. Speaker, as I've said before, I'm sure you've had the experience, and many other hon. members as well, of going to the bank and hearing, "Well, the computer's down." So the very instrument, the very tool we're relying on to provide us with information is not functioning. Or conversely, you go the bank, for example, on a Friday afternoon, and they say, "The transaction isn't going to be credited or debited from your account until the following Monday because there's a time delay in there." Well, it could well be that an individual's suspension may end on, for example, the 30th of a month, but that information hasn't been put into the computer until the 2nd or 3rd of the month, so there may be a problem there. The person may in fact have had his driver's licence reinstated, may in fact be allowed under the laws of the land to drive a vehicle once again, but unfortunately the computer hasn't been updated, so all of a sudden he's finding himself as an innocent victim because the computer is not appropriate. So it's a bit of a concern when you have perhaps one or two police officers on the side of the road who can make all the judgments about a particular individual and his or her vehicle.

Now, Mr. Speaker, there's another concern I have here that I think perhaps was best exemplified just over the weekend. We know that our local RCMP officers have got some new hot rods to pursue vehicles, and the first chase, I understand, occurred on the weekend with a fellow who, amongst other things, is going to be charged with having the inappropriate licence. The fellow was on a motorcycle and apparently, according to my understanding, did not have a licence appropriate to operate a motorcycle. As you're probably aware, you need a different licence, a different class of licence to operate different types of vehicles. A standard car is one type of licence, a motorcycle is another, a bus is one, a truck is another, and so on and so forth. Yet if that does eventually go to the courts and that individual is found guilty of driving without the appropriate licence, it could be that not only does he lose the one licence but he loses all manners of licence, all classes of licence. So an individual charged under one class of licence who needs another class of licence for his work may, in fact, lose that licence as well. I'm wondering if the minister would make some comment about that, because it seems you could get a suspension occurring and an impoundment of a vehicle occurring despite the fact that the person may need that vehicle, as I said, for making a living. So I think there are some concerns there.

Ultimately, of course, I suppose the reality, too, is that the individual whose vehicle is impounded will then also be charged again sequentially and will face an additional fine. On one hand, the individual faces a fine for being a driver of a vehicle while he has no licence and will be fined appropriately for that, but he's also in a sense, Mr. Speaker, going to be fined from the standpoint that his vehicle is going to be towed away and stored for 30 days. So it's really a double jeopardy; this individual is going to be fined in two different ways for the same charge. It seems to me that it's entirely appropriate for the individual to be fined or, if it's a serious enough offence or a repeat offence, perhaps even to be jailed for driving without a licence. On the other hand, to take away the vehicle and deny his family the use of that vehicle if there are other drivers in the family or deny them perhaps the use of that vehicle for a livelihood is really double jeopardy and I think perhaps should be reconsidered.

Just in closing, Mr. Speaker, as I said at the opening of my comments, I think this has a good intent. I think the Bill is well intentioned, but I would suggest to the minister that more detailed study needs to be made, and perhaps the minister will be tabling some amendments on this when we get to the committee stage.

Thank you.

4:50

MR. FOWLER: Mr. Speaker, I'll only take a couple of minutes in response because of course, as expected, I will be reviewing the *Hansard* from today to be able to respond in more detail during committee study.

However, I've been accused of not having a lot of faith in some decisions of some courts in Canada. It would seem to me that that's indicated here today by the hon. opposition members who say that we are not going to be following due process. The exact law that we're proposing today has already met a constitutional test in the province of Manitoba. I would have introduced the legislation last year except that we knew Manitoba had it on the books and the fact that it was going to be challenged. We have used the precise language of the Manitoba law that was struck down in the first instance by the Court of Queen's Bench on August 9, 1990; appealed to the Manitoba Court of Appeal, to a very strong court of five members without hearing from the respondents, the respondents being the government of Manitoba; and the legislation upheld on December 18, 1990. So it has already withstood that challenge.

The latest comment from the Liberal side was that there's double jeopardy here because a vehicle is immediately seized. Every time a motor operator's licence is suspended, there can also be an accusation of double jeopardy, which of course it isn't. There's a fine placed as well as the licence pulled, and if that is double jeopardy, which I submit it is not, then it's still one that's acceptable to the people of the province. Yes, it is applicable to the demerit suspension as well as the suspension for impaired driving or driving while drunk. That is for the simple reason, as suggested by the hon. Member for Stony Plain, that a suspension is a suspension for whatever reason it is. It is a fact that the law is being flouted, that the vehicle is in fact being taken away for 30 days maximum. Mr. Speaker, there is no discussion as to the length of time. It's 30 days; it's 30 days minimum, and it's 30 days maximum. There's going to be no regulatory body that's going to respond to that. Will the police enforce it? Well, in the province of Manitoba, since its implementation there, 2,600 times it has in fact been enforced. Of course, it's not 2,600 people that receive the message; it's 2,600 people plus what's in the press plus those that are involved and whatnot.

So I think it is good legislation. Notwithstanding that, I think some valid comments have been made from the side opposite, and in reviewing this debate today from *Hansard*, I will be pleased to look at it with an open mind in respect to a number of those suggestions.

Thank you.

SOME HON. MEMBERS: Question.

[Motion carried; Bill 39 read a second time]

Bill 36
Safety Codes Act

[Adjourned debate June 14: Mr. Bruseker]

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

MR. BRUSEKER: Thank you, Mr. Speaker. Last day when we were dealing with Bill 36, the proposed Safety Codes Act, I concluded my comments that day with this phrase: "Mr. Speaker, I think that this Bill proposes to weaken those safety concerns, and I think it should be opposed."

Mr. Speaker, this Bill is proposing a number of things, one of which is the elimination of seven pieces of legislation that are referred to in section 71, towards the back of the Bill, and to which I'll be speaking in a moment.

My concerns are several, and they are not simply my concerns. They're not the concerns of just one of us opposition guys. In fact, Mr. Speaker, the concerns I am voicing today are concerns as expressed to me by a number of people who will be directly interested and affected and involved with the implementation of this Bill should it go through. I'm going to make more reference to those further on for hon. members.

One of the big concerns, I think probably the biggest concern, with this Bill is that it proposes really to take the enforcement and application of safety codes from the public sector, from the provincial government that now has the responsibility for that, and to pass it into the private sector. It's not a privatization from the standpoint that you are going to be seeing the government reap dollars from this from the sale of some product such as PetroCan or Air Canada or, as in the case of the provincial government last year, AGT. Mr. Speaker, it is a privatization from the standpoint that the intent behind this is for other bodies, other individuals to carry the costs of investigation, to carry the costs of inspections of a variety of facilities under appropriate areas.

Some of the concerns I have with that, Mr. Speaker, deal with that whole accreditation process. In other words, who is it that is going to be assuming responsibility for those inspections and investigations? There's a whole section in here, starting with section 23, then 24, 25, and 26, that talks about accredited municipalities, accredited agencies, and accredited individuals. One of the problems with this is that there are absolutely no criteria in this piece of legislation that we have before us today that tell us what it is that would be required for any one of those groups, any one of those bodies to fulfill what is necessary for accreditation. In other words, how do we know that the individuals, the municipalities, the organizations, whatever, are in fact going to have the expertise necessary to do the investigations?

As a case in point, the different sections simply say, "the Minister may, by order," and this is from section 23, "designate

a municipality as an accredited municipality." Similarly, in section 26, "On the application of a person an Administrator may by order designate the person as an accredited agency." There's no indication of what the terms are, what the expertise is, and so on. Let's for a moment say that I as an individual wanted to become accredited to investigate elevators. Well, Mr. Speaker, other than knowing which buttons to push on the elevator, quite honestly I don't know a whole lot of detail in terms of how the things really work. I know the theory, but I would not presume to want to become an elevator inspector. Yet under this piece of legislation it's wide open; there's nothing to say that I can or cannot be an inspector. If the minister decides that I can be an inspector, well, I can be an inspector.

In all three sections that I referred to, 23, 24, and 26, it says "may": "The Minister may include terms and conditions in an order under this section." Now, it doesn't say "shall"; it says "may," so we don't know if there are going to be any terms and conditions. We don't know, in fact, if there are terms and conditions that will be introduced, what those terms and conditions may be. There's no indication in here that suggests that the inspections that are occurring are going to be occurring often enough, that they're going to be in-depth enough, or that they're going to be along the lines of what we really need in this province, which is to reduce the number of injuries and accidents that have been occurring.

5:00

Now, perhaps this sounds like doom and gloom. Well, Mr. Speaker, unfortunately it's not just doom and gloom. We have to look at what in fact has been happening in the provincial government lately. For example, a relatively recently produced document from an Occupational Health and Safety program of the Alberta government is entitled Stalled Elevator Safety Recommendations. We're producing a document to tell us what we have to do in case we're involved in an elevator stalled between floors and we can't get out of the thing. It's a full-page document that tells us what we need to do. Why do we have to have a document like that in the first place? I'll tell you why. It's because this government isn't doing its job.

If we look at the number of elevator inspections – and this information comes from the Department of Labour's annual report; it looks at a variety of different departments and branches within that department and one of those is elevator inspections – and look at 1984-85, we had just under 8,900 elevators inspected. By 1989-90 we're down to 4,700 elevators inspected. Does that mean we're no longer using elevators? Well, I suggest, Mr. Speaker, that's not the case. In fact, the number of elevators from 1984-85, the first figure I quoted, has in fact increased and not decreased as the number of inspections would show. Further, the number of accident investigations: in 1986-87 there were 14 accident investigations when we had a reasonably high number of elevator inspections, almost 7,400. But by 1989-90, 4,700 inspections – I already gave you the figure for that – there were 24 accident investigations. So when we reduce the number of inspections, we increase the number of accidents. When you have an elevator plunging down an elevator shaft, the chance of injury is rather high, and that is a direct result of this government, the Department of Labour in particular, not doing their job.

So now what they would like us to believe under the Safety Codes Act is that by privatizing this whole process, by allowing private individuals to take this over whether it's a municipality or an agency or an individual, in fact that record will improve.

Quite frankly, Mr. Speaker, I can't believe that would be the case. Because if an individual comes along and says, "Sorry, this elevator is not working," all we have to do is have an individual say, "Well, gee, I don't have the money to repair it; give me an extra couple of days, weeks, months, whatever," and all of a sudden you may have some deals occurring wherein we don't get safety maintained at the appropriate level.

The example I just used was elevators. Another recent case in point is within the area of fire fighters and fire alarms, inspections of fire extinguishers and smoke alarm sensors. Mr. Speaker, having had that privatized recently, we now see that the number of inspections has dropped off. Instead of having, for example, sprinklers maintained and inspected every year, now it's only one out of three that has to be maintained and inspected on an annual basis. What about the other two out of three? If you have a fire in a building and only one out of three nozzles works on a fire extinguisher system - I'm talking about the ceiling-mounted type - the end result is that you could have a building go up and perhaps lives lost. I cannot believe that reducing the number of inspections by allowing people who maybe have a vested interest in a particular inspection occurring or perhaps not occurring is the best way to go.

What ends up happening here is that we see the province delegating responsibility, saying, "No, we don't want to be involved with this; we want somebody else to be handling it, and we want them to look after it." But you know, one of the things I have heard amongst other things, because realistically most of this is probably going to fall on the shoulders of the municipalities, is the concern many municipalities have: what happens if something goes wrong and we end up getting sued? We find under section 12 this liability exemption. It says - and the phrase used here on a number of occasions is "acting in good faith" - that if you are acting in good faith under this Act, you're not liable. You can go in and say, "Well, gee, I did my best; son of a gun," but there's no criteria that tells me that you or I or any individual who is an inspector under this particular piece of legislation has to have any ability at all. I could walk in and say: "I'm an elevator inspector, and I gave it a good look, gave it my best shot. Son of a gun, 12 people died when the thing collapsed and fell from the 37th floor of a high rise in downtown Edmonton to the basement floor. I acted in good faith. Gee whiz, you shouldn't be able to sue me. Just because I don't know what I'm doing doesn't mean you should be allowed to sue me." That's what this Bill says. This Bill says that a person could go in and be an inspector, not know what he's doing, and not be responsible for it. Mr. Speaker, that is atrocious. That is absolutely frightening. Every member in this Legislature should be frightened by that concept and should vote against the Bill for that reason if no other.

But there are other reasons, Mr. Speaker. Unfortunately, there are many other reasons. I'd like to look for a moment at section 16, Safety Codes Council. Safety Codes Council talks about the idea of bringing in a bunch of people to form something new called the safety codes council, yet again we see that little word "may." It says, "Among the persons appointed to the Council the Minister may include persons who are experts in" and then lists a variety of things. You could have people appointed to a council who don't know what they're doing, selecting people to go out and be inspectors who don't know what they're doing, and under section 12 nobody's responsible. What a terrific system. What a terrific system. It's frightening that that would even be considered, would even be contemplated, and that something like that would be involved.

It says a little further on that maybe we'll hire somebody if we think we need them under the staff section; we may hire some people. But gee whiz, that's sort of up in the air and loosey-goosey. The only place we see anything in here that talks about an appropriate certificate of competency, it talks about it under safety codes officers, and that is found further on in the designation section, section 27. Again it says the "Administrator may." That doesn't say "must." It says "may." "An Administrator may designate a person who holds an appropriate certificate." So all through this whole Bill we see loopholes big enough to drive a tank through, big enough to drop an elevator through in fact, big enough for a whole variety of things to go through that are absolutely frightening.

Now, Mr. Speaker, one of the things we often hear from the government side is: "It's just the opposition talking. This isn't what the real world is all about." Well, I want to talk to you about the real world. I want to talk to you about people who are involved directly with this. I want to quote from a couple of letters. I've got a stack of them here, but I don't have time under the time allotment to quote from all of them. I've got some that I think are important, and I want to share them with you and with other members. For example, this is a letter to all Edmonton area MLAs. This is a letter from John Lackey, the city manager for the city of Edmonton. Quote:

The safety of the public could be jeopardized under a system that relies on self-policing by industry.

Further, he says,

The short time frame for response mitigates against a full and comprehensive review and is not conducive to maximizing the review process.

That's from the city of Edmonton, Mr. Speaker.

There are others. I would like to just mention another one. This, Mr. Speaker, is from the Consulting Engineers of Alberta. They went through the Bill and looked at a variety of different things, and one of the things they were concerned about in their general comments - this is dated March 1991 - was: "There is no definition of the qualification of a risk management officer." That's the section I just referred to. We don't know exactly what a certificate of competency is. We don't know if that individual must have it. In fact, it says he doesn't have to have it; he may have it. It might be nice for him to have it, but he doesn't have to under this piece of legislation. We can drop whatever we want into that, but it should say "must." It doesn't say that, Mr. Speaker. That's a major problem - a major problem - with this piece of legislation with respect to the safety codes officers.

We look at some others, Mr. Speaker. I want to look at the Calgary fire fighters, for example.

Point of Order Quoting Documents

MR. HORSMAN: Point of order, Mr. Speaker.

MR. DEPUTY SPEAKER: The hon. Minister of Federal and Intergovernmental Affairs.

MR. HORSMAN: The quotation of other people's views endlessly by members of the Assembly in the course of debate is not an acceptable parliamentary procedure.

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

MR. BRUSEKER: Is that a point of order? I didn't hear any point of order there, Mr. Speaker. I didn't hear a citation mentioned, so I . . .

MR. DEPUTY SPEAKER: Order please. The hon. Government House Leader has pointed out that there is a rule against endless citations. Most hon. members are familiar . . . The Chair would just remind the hon. member that that rule does exist and to bear that in mind when making his continued remarks.

5:10

MR. BRUSEKER: Certainly I shall bear that in mind.

Mr. Speaker, what I'm saying is that I am dead set opposed to the principles of this Bill, and I'm not alone. That's what I'm trying to elucidate. There are a number of reasons why I am opposed to the principles, and that's what I'm putting in here. But I will take that under advisement. I will shorten down to a certain extent the list of the people that have spoken in opposition to this Bill. There are a couple more that I would like to make, and then I will conclude shortly.

Debate Continued

MR. BRUSEKER: Mr. Speaker, one letter from the county of Barrhead No. 11, again to a variety of individuals, and this quote I think is really interesting:

The Government will be proceeding with the phasing out of the various Provincial Inspectors and therefore forcing local municipalities to hire their own or as she indicates, do without.

The concept of being without inspectors in a variety of areas is very frightening. The writer of this, who is Mr. Charles, the county manager, goes on to say,

This will place a greater burden on the municipal budget . . . and should be continued by the Province in the interest of safety to our taxpayers.

I want to underline that because it's in the title Safety Codes Act. I think safety has to be the paramount concern of this legislation, as unfortunately I don't believe it is, and this individual points it out as well.

So there are a number of people that are concerned about it. The one which I think is not only upsetting but perhaps frightening really questions the ethics and the integrity of the government in producing this particular Bill. Mr. Speaker, there is a group of people in the province who refer to themselves as power engineers. These are people who work with pressure vessels, boilers under high pressure and high temperature vessels. The problem here is that literally what you have with these vessels are potential bombs. I don't mean a bomb in a political sense; I mean a bomb as something exploding in your face. There are two problems here. Number one, you can have a vessel, a container, made out of some kind of steel perhaps, explode as a result of a flaw. The end result is that you have fast-moving steel particles, otherwise known as bullets or shrapnel. The unfortunate thing that comes with that is when a boiler explodes, you also have liquid inside, often water but often water mixed with a variety of other things. So not only do you have the initial explosion that itself can be disastrous, but then you have hundreds or perhaps even thousands of gallons of liquid following afterwards.

The power engineers in this province are seriously concerned about one of the things that will happen here, and that is referred to in section 71. Section 71(7) in this Bill says that "The Boilers and Pressure Vessels Act is repealed." Mr. Speaker, the power engineers have voiced a number of concerns not only to this member but I'm sure to the New Democrat caucus and also, I know, in discussions with the hon. member who introduced the Bill and the Minister of Labour, who's obviously been involved with this Bill. Some of the concerns

raised by these individuals – this is a letter to me from a power engineer in the city of Edmonton, Ronald Weigel. It says:

The implementation of the Safety Codes Act will cause the Boilers and Pressure Vessels Act to be repealed with no plans for legislation to replace it in the terms of requiring certification of Power Engineers to continue.

That's the concern, and that's supported in fact by the Bill. The Bill says in 71(7), and I want to read it once again, "The Boilers and Pressure Vessels Act is repealed." So as soon as this Act comes into force, this piece of legislation will cause the repealing of the Boilers and Pressure Vessels Act.

The concern I have here is that in attempting to first of all find out about this Bill, the Department of Labour denied the existence of the Bill. When we phoned, twice we were told, "There's nothing in the works; there's nothing going on, nothing coming down." Obviously, that's not the case, because today we are debating it. You don't suddenly pull this Bill from out of the air. But the scary thing, Mr. Speaker: the deputy minister in this department, Robin Ford, says in a letter to Mr. Ray Kjenner, chairman of the Institute of Power Engineers:

If the Safety Codes Act is passed nothing changes automatically.

The Boilers and Pressure Vessels Act remains in place. The Safety Codes Act does not automatically replace or repeal it and is not an alternative to it.

Mr. Speaker, that shows that either the deputy minister in the Department of Labour does not understand this piece of legislation, in which case he should be fired, or it suggests that that individual is attempting to mislead the public, mislead Albertans, and mislead what is going to be happening with this Bill, in which case he should be fired. The bottom line here is that this Department of Labour in creating the Bill, in proposing the Bill, in supporting the Bill has in fact not been forthright with all Albertans, has not, as the deputy minister has said himself, debated and met with all individuals, and has not in fact consulted with all individuals. So what it attempts to do is roll this through and put this into place before in fact all people are dealt with here.

Mr. Speaker, I know all members of the House should be firmly opposed to this Bill. In particular, there are a number of members in the House today who were members when the Boilers and Pressure Vessels Act was created in 1975 and voted in favour of that Act in 1975. Those individuals currently sitting are . . . The hon. Premier was one of the individuals in the House when that Bill was proposed. The hon. Member for Peace River and the Member for Taber-Warner were in the House at the time. The hon. Member for Lethbridge-East was in the House at that time. All these individuals supported the Boilers and Pressure Vessels Act, voted for it in 1975 when it was created. Further, the hon. Member for Lethbridge-West, our hon. Deputy Premier, was a member of the House at that time and voted in favour of a Bill his government is now trying to defeat. The members for Bow Valley, Cypress-Redcliff, Pincher Creek-Crowsnest, and Whitecourt all voted in favour of the Boilers and Pressure Vessels Act.

Even if you support the concept of putting all these Bills together, there is a major problem with this Bill. It's a problem I have raised before, and it's a problem I want to raise again. The problem is that this piece of legislation by itself is less than half a sandwich. It's not even the bread, Mr. Speaker, and it's certainly not the stuffing. I'm not sure what it is. I think it's probably just the crust. We're missing a lot of the regulations that should be going with this, and there is a major concern that we don't have the regulations. Without the regulations to back up this piece of legislation, quite frankly we have nothing. Until

those regulations are before the House, I cannot support this Bill. I've said that before; I'll say it again.

Because there are no regulations, I would like to introduce at this time an amendment to Bill 36. I have sufficient copies for all hon. members to review that.

MR. DEPUTY SPEAKER: Order please. Has the hon. member cleared this amendment with the Table in any way, shape, or form?

MR. BRUSEKER: Yes, I have, Mr. Speaker.

MR. DEPUTY SPEAKER: This is a reasoned . . .

MR. BRUSEKER: Mr. Speaker, this is . . .

MR. DEPUTY SPEAKER: Order please. Just wait for a moment.

Proceed.

MR. BRUSEKER: Thank you, Mr. Speaker. If I could just read it into the record. The amendment is one that I'm sure hon. members are familiar with. It is the hoist amendment as found on page 200 of *Beauchesne*. The amendment says: "Bill 36, the Safety Codes Act, be not now read a second time but that it be read a second time this day six months hence."

[Mr. Speaker in the Chair]

Mr. Speaker, in speaking to the amendment, the purpose behind this amendment: I have elucidated, I think, a number of the concerns, a number of the flaws that I feel are a part of this particular piece of legislation. The most serious of those is the fact that there are no regulations that go with this particular Bill. Until we have a commitment – and this Bill really is a partnership. It proposes a partnership between private industry, the people affected by the various Bills, the seven Bills referred to in section 72, a partnership between those seven bodies – it's actually more than seven bodies. The bodies that are going to be affected by those seven pieces of legislation are expected, anticipated to work in co-operation with the variety of accredited organizations that are going to be doing the inspections. That may occur, and it actually must occur for this Bill to work. But if we don't have those regulations accompanying this Bill, if we don't have a commitment on one hand by those various inspection agencies to in fact fulfill the inspections and, on the other hand, private industry coming forward and saying, "Here are the things we need, the inspections we have to have, the standards and the codes, the frequencies, the details of the inspections we need to have," until we see those two things happening together, Mr. Speaker, we have a very dangerous situation.

5:20

If this Bill is passed and we have the repealing of all the pieces of legislation referred to in section 71, as soon as we repeal those, quite frankly we have a void. We do have the safety codes, but we don't have those codes yet. We don't have the regulations that are going to go with this; we don't have the safety council created; we don't have the officers in place. There is, to a certain extent, a bit of a carryover referred to, but there is going to be a tremendous gap occurring between this Bill coming into force and coming into real force. I'm not just talking about saying, "Well, we've passed a Bill." I'm concerned

that we're going to pass a Bill here that only has part of the details.

So the reason for introducing this amendment is really to allow the government the opportunity to meet with the players, to meet with the people involved with the current legislation, the Fire Prevention Act people, the people affected by the environmental protection Act, the Elevator and Fixed Conveyances Act, the Gas Protection Act, the Plumbing and Drainage Act, and the Boilers and Pressure Vessels Act. Let's get those in place, because the way this Bill is drafted right now, as soon as we pass the Bill those are all gone and we've got nothing. We've got no regulations, because they're not presented here with this. We've got no means of ensuring that the safety of Albertans is going to continue. We may have a hiatus in which time there is no inspection occurring because we don't have those inspectors set up. Having a six-month hoist, Mr. Speaker, allows the government to meet, to find out the details, to come forward into this Legislative Assembly and say, "Here is on one hand what we need for safety codes, and here is on the other hand – and this hand is empty, you'll notice, Mr. Speaker – what we need to balance it off, the regulations to go with this piece of legislation so we can ensure the safety of the workers first and foremost, the people that are going to be involved, and second the average Albertan, the Alberta public that is affected directly and indirectly by these different pieces of legislation.

So, Mr. Speaker, for that reason I think it's important . . . We've got half of it now, we've got to wait for the other half, and then we can proceed in six months' time with debating the entire legislation.

Thank you.

MR. SPEAKER: Edmonton-Belmont, with respect to the amendment.

MR. SIGURDSON: Thank you, Mr. Speaker. It's not the intent of the New Democrat Official Opposition to filibuster this Bill, but we will be supporting this hoist amendment. The Member for Calgary-North West has outlined a number of reasons why there ought to be a period of time for the players involved and the potential players involved with this piece of legislation to have more input on Bill 36.

He did indeed quote from a letter from John Lackey of the city of Edmonton, who was very much concerned about the kind of time line that had been given Edmonton city council to respond to Bill 36. This hoist would, in effect, allow the city of Edmonton council to respond more fully to their concerns. Other municipalities throughout the province as well should be afforded an opportunity to have some input. In that those municipalities may very well become accredited agencies or accredited municipalities at some point, they should have more input on this. There are some economic considerations they're going to have to deal with, and there's also the power of inspections that's going to go on from people that will become either accredited agencies or accredited corporations. Those individuals, too, ought to be allowed to have further input.

Mr. Speaker, if we were to pass this motion to hoist, it wouldn't necessarily change the Bill at all. All it would do is allow for that opportunity to have input from those people that believe the accreditation process is flawed or the accountability process – a concern we on this side of the House have is in the accountability area, because we believe the makeup of the council and the powers the council would have are far too permissive and the latitude is too great and there's no real

political or ministerial responsibility contained inside Bill 36. So again, sir, while it's not the intention for us to hold up the legislation, we would very much prefer that there be an opportunity for interested stakeholders to have more feedback to the government either through a committee made up of government or a committee made up of the Legislature. We think it's important, given the nature and scope of Bill 36, that period be afforded to those stakeholders so they can make their comments known to all members of the Legislature.

MR. SPEAKER: The Member for Rocky Mountain House.

MR. LUND: Thank you, Mr. Speaker. I rise to speak in opposition to this hoist. Certainly the consultation process has been going on for some two and a half to three years. While it is true there was a change in the proposal back in November, I personally met with many, many stakeholders. I know the department has had meetings with many. The indications we've had by letter from many stakeholders are that they are now satisfied.

In view of the hour, I would move that we adjourn debate.

MR. SPEAKER: All those favour of the motion to adjourn debate, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: The motion carries.

MR. HORSMAN: Mr. Speaker, this evening in Government Bills and Orders for second reading we plan to give the Provincial Treasurer an opportunity to deal with the Bills on the Order Paper standing in his name. I'm sure all hon. members will look forward to that occasion.

[The Assembly adjourned at 5:27 p.m.]

