

Legislative Assembly of Alberta

Title: **Tuesday, November 23, 1999** 8:00 p.m.

Date: 99/11/23

[The Deputy Speaker in the chair]

THE DEPUTY SPEAKER: Please be seated.

head: Government Bills and Orders

head: Second Reading

Bill 44

Insurance Statutes Amendment Act, 1999

[Adjourned debate November 22: Mr. MacDonald]

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Centre.

MS BLAKEMAN: Thank you very much, Mr. Speaker. I'm pleased to be able to rise and speak to second reading of Bill 44, the Insurance Statutes Amendment Act, 1999. This feels familiar to me, because I think a lot of the issues that are raised by the proposal of Bill 44 are many of the same that were raised and debated in the spring, when we talked about Bill 12, the Domestic Relations Amendment Act. As I see it, I think one of the key issues around what's being proposed in these amendments is responsibility and care.

Why does an individual partake of an insurance plan, which is what is being regulated and administered by this act? I think a person would engage in that or purchase an insurance plan or pay a premium on it because they accept responsibility and they understand that it's about caring: caring for their family, for their loved ones, perhaps even for themselves, caring for their community to make sure they don't become a burden on the community, burden on their family perhaps, or in the worst case scenario, where a life is lost, that they don't leave their community, their family, their loved ones in a bereft position.

I think that they are trying to care for their family. They are trying to provide for loved ones if there is a disaster; for example, a loss of earnings, which would have a negative impact on the economics of a household, a domestic situation. I think that without taking this care, without accepting and acting responsibly, individuals run the risk of subjecting their family to possible severe hardship.

I'm sure that we've all heard stories of people. I'm thinking of one I heard from a constituent just the other day where they'd never considered that their apartment might be broken into, so they'd never taken tenant insurance. And, sure enough, their apartment was broken into. Unfortunately, this individual had a visual disability. They had a computer to help them with that. They were very interested in music and had some music equipment there. Of course, all of it was stolen, and they didn't have tenant insurance. So their life was bereft. They, of course, volunteered to go and play at a number of hospitals, senior citizens lodges, that sort of thing. Those people were now without this. Happily, there were a couple of groups in the community that came forward. The point of the story is to show that people do take these steps and purchase insurance or engage in this because they do care, because they are accepting responsibility.

I think that in a worst case scenario people worry that if a life were lost or there were no possible future earnings for an individual, they would have to throw themselves or perhaps their family onto the benefits of the state. Albertans are a hardy stock and independent and want to look after themselves and do that with great pride and with great responsibility.

Shoot. They started the timer. [interjections] I forgot to start my timer. Sorry.

AN HON. MEMBER: Better to enunciate a little better.

MS BLAKEMAN: I'll endeavour to do that. Thank you for the coaching from the other side.

What's interesting about this is that given the government's extreme vigilance regarding the accessibility of social assistance, that upon which people do not wish to find themselves and therefore do engage in an insurance plan – this government is very vigilant about it, has been very restrictive in how people access it or who it's accessible to. I have to admit that I am puzzled as to why the government didn't jump at the chance, as they opened this insurance statutes act, to capture all possible Albertans under this legislation, ensure that as many people as possible could accept responsibility for themselves and for their families and care for themselves and for their families. I would expect that they would extend that vigilance to even pursue people to make sure that people were taking advantage of this so that they wouldn't end up having to throw themselves on social assistance should they have some unfortunate disaster or trauma and were not insured to get themselves out of it. But, no, this government is deliberately excluding a group of people from taking responsibility for themselves.

Where have we seen that before? We saw that before in Bill 12, the Domestic Relations Amendment Act, 1999. Again, that was an example of legislation that was there to provide a remedy for individuals. In the case of people who were living in a domestic relationship and the arrangement dissolved or split up for whatever reason, if we had one partner there or one individual who was going to suffer extreme economic hardship, that legislation was giving the ability to pursue through the courts a remedy to that poverty, a remedy keeping them off social assistance, to insist that if there had been an arrangement, one individual was able to pursue through the courts the other individual involved here so that there was some economic arrangement so that they could take responsibility for themselves.

I see many of the same issues raised here in Bill 44. We have the government once again deliberately excluding a specific group of people who would like to take responsibility for themselves, and that is same-sex couples, gays and lesbians, in Alberta. Does this government want this group to have to access government benefits? Well, I guess so, because they certainly don't want them to be able to take advantage of the remedies that are available, to look after themselves and take responsibility. I find that odd, because we've often spoken in this Chamber of how independent Albertans are, how insistent they are on looking after themselves wherever possible. I think they want independence. They want responsibility. They want to care for their families and their loved ones. But that doesn't seem to be in what's being proposed in Bill 44.

To me one of my frustrations as a legislator in this Chamber, watching the debates, watching the legislation that's proposed, is when we see legislation being brought forward that we suspect or perhaps we even know might contravene our Constitution in Canada or the Charter of Rights and Freedoms. I'm very frustrated when I see that, knowing that we have the ability in this Chamber to make sure that we're producing legislation that is good, solid legislation that is not subject to a Charter challenge.

I'm very frustrated when I see an ideological drive behind legislation that pushes it forward even knowing that the taxpayers of Alberta will likely have to fund a lengthy, expensive court battle as the legislation that we've produced is in fact challenged all the way to the Supreme Court and how much money that will indeed cost the

taxpayers of Alberta. It's always interesting, because if there's one thing that's consistent that I see from what's being offered by the government, it's their inconsistency, that stated desire to do the best by all taxpayers in Alberta, to keep costs low, to be efficient, yet knowingly going ahead and passing legislation that is going to incur a lot of cost in court battles.

8:10

Today outside on the steps of the Legislature Building I was very pleased to meet with the group Equal=Alberta to accept Be Like Mike postcards. They were signed by almost 1,000 Albertans. Now, I know that these cards had been printed up, distributed, signed, collected back again, and handed over to myself and representatives from the two other parties in less than two weeks: 1,000 Albertans, less than two weeks. That's a very efficient campaign, in my opinion. Just imagine how many more people would have signed those cards had that campaign run a bit longer.

Now, the cards urged Premier Klein to be more like Mike. [interjection] Well, Mike is Mike Harris, the Premier of Ontario, arch rival to our Premier Ralph Klein, nemesis in Premier Klein's quest to be the first, the cheapest, the lowest, the best. Well, this is interesting, because Premier Mike Harris has already passed legislation which ensures extension of benefits and remedies available in legislation to same-sex couples and other nontraditional family units. Already done. So this is a challenge that's being posed to this government, a challenge from the nemesis, Premier Mike Harris, to try and catch up with him on this one. It will be interesting to see how long it takes Alberta to do that.

I had mentioned before that one of the themes that I had noticed from this government was the consistency of being inconsistent. The Liberal opposition did work mightily and was happy to be generous in offering this government a nice, clean way out of the sticky situation that was presented with Bill 12, the Domestic Relations Amendment Act. The same proposals that we brought forward for Bill 12 apply here, as we said they would, and we are more than willing to be generous in offering the same remedy this time around. I will be happy to be participating in that debate when we reach Committee of the Whole and we have an amendment that's tabled. [some applause] Thank you. I note the enthusiasm from my colleagues to that.

See, specifically in Bill 12 we were suggesting that the act be amended to include partnerships. Now, I think that's a nice solution to some of the problems underlaid by ideology, as they are for some people and not for others. It takes away the stigma of talking about marriage. It talks about the reality in many family units.

The same solution that was available for Bill 12 is available here in that the partnerships have as a criterion that common-law relationships are defined as people that have been in a stable relationship for X period of time – let's say two years – that there is a child, or that the parties have signed a contract which notes that a given act, such as the Domestic Relations Act, or, indeed, Bill 44, the Insurance Statutes Amendment Act, has an impact on the contract, that the legislation would apply, and they agree that it applies to the contract that's held, the agreement between the partners.

Now, the Supreme Court had to order Alberta to include common-law couples under our Domestic Relations Act. We've come to a point in Canada where we understand that common-law couples should not be precluded from being able to access remedies or benefits that are available in law to married couples. Those same qualities must be offered to common-law couples as well. In this case there was even a date by which the Supreme Court gave Alberta to comply, and indeed we did comply with Bill 12 exactly as

required. But, at the same time, we knew that the M and H case was going to be decided by the upper court in Ontario. We knew that it was in a matter of days that that decision was going to happen, that any day it was going to come down, and we could have anticipated that. We could have been ahead of it. We could have been more Mike than Mike. We could have been ahead of it. But, no, the decision was made here, against opposition, to in fact not include those remedies and extend them to all people in Alberta. So Bill 12, the Domestic Relations Amendment Act, was pushed through without including same-sex couples or any other domestic relationship which might have benefited from the legislation.

During the debate on Bill 12 I did give examples of some other domestic relationships, some of them my constituents, that would have benefited from this. In particular, I can think of two sisters who had established a household, maintained it for many years together, were economically independent of one another. They liked their relationship, but they were offered no protection under law, and they still aren't. Another example I have is an elderly woman living with an adult child, a son. The same thing: a very stable domestic relationship, economically independent of each other, a caring household. They are not able to seek any kind of assistance through legislation because they were specifically precluded by this Legislature refusing to consider the proposals the Liberals brought forward.

Now, I think it's a matter of time in Canada. Ontario has now passed omnibus legislation which defined "spouse" in all of its legislation to include same-sex couples. All of its legislation, omnibus. It's done. Ontario is way ahead of us there. The federal government is well on its way to doing that, and a number of other provinces have already indicated that they will be moving quickly along that road as well.

Here we are in Alberta yet again bringing forward legislation which specifically excludes a group of people from being able to seek remedy under our legislation. It doesn't take a crystal ball. This will end up being challenged. We know it will end up being chased all the way through the courts at the taxpayers' expense, and we in this Chamber are perfectly capable of anticipating that and taking the right steps now. I believe strongly that it is wrong for us, absolutely wrong, to specifically exclude a group of people from legislation. It does not encapsulate Albertans' tolerance and our respect for human rights and our value for human rights in this province.

We don't like to see people singled out for any reason. We believe that each should make their way. True, indeed. But I don't think Albertans are comfortable with specifically excluding a group of people, throwing them out, shutting the gate, locking the door, saying: no, no, you can't come in; we won't let you.

MR. DICKSON: It's not the Alberta way.

MS BLAKEMAN: I don't think it is the Alberta way. I think Albertans are very uncomfortable with that.

For my colleagues in the Chamber I urge you to reconsider what is being proposed in Bill 44. We have the opportunity here to anticipate what is happening in the rest of Canada and to do the right thing here in Alberta. We have the opportunity to make sure that we are extending and capturing all Albertans in what we are doing, and I think that's the right thing to be considered by what we as legislators are doing here.

Those comments bring my opinions on second reading of Bill 44 to a close. I know that a number of my colleagues are eager to join in the debate, and I do look forward to debating this bill further in Committee of the Whole and third reading. I thank you for the opportunity to speak to it tonight.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Mr. Speaker. I'd just like to move forward, maybe give a bit of a background on this particular bill in terms of the issue arising in the courts. A 1995 Supreme Court decision ruled that marital status is grounds for discrimination under section 15 of the Charter of Rights and Freedoms. The Canadian Charter of Rights and Freedoms is a document that we should all respect and share and honour.

DR. TAYLOR: Foisted on us by the Liberal government.

MS OLSEN: I know that the hon. minister of economic . . .

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: No. This is the Minister of Innovation and Science.

I wonder, hon. minister, since you've been anxious to get into the debate, whether you would take your turn when Edmonton-Norwood finishes her speech. In the meanwhile, let's hear from her and not from you. We'll call upon you when she's finished her speech. Thank you.

Edmonton-Norwood.

8:20

Debate Continued

MS OLSEN: Thank you, Mr. Speaker. The Canadian Charter of Rights and Freedoms, I might add, is something that I know members on this side of the House respect and appreciate and want to make law that supports the Charter, that in fact says what the Charter states it should do, and lives by the principles of the Canadian Charter of Rights and Freedoms. That means that when we're creating law, we should apply a bit of a lens to what we're doing, and I would suggest an equality lens. In *Miron versus Trudel* in 1995 at the Supreme Court level that's basically what they did.

Miron versus Trudel involves a case of an unmarried couple living together with children. In 1987 Miron was injured while a passenger in an uninsured motor vehicle driven by an uninsured driver. Something, I might add, Mr. Speaker, that is very common on the streets of this province. After the accident Miron could no longer work or contribute to his family's support. He made a claim for accident benefits for loss of income and damages against his common-law spouse's insurance policy which extended accident benefits to the spouse of the policyholder. The respondent insurer denied the claim on the grounds that Miron was not legally married to his common-law spouse, hence not her spouse. That's a little bit of the background as to how this particular issue came up.

The Supreme Court ruled in 1995 that the exclusion of unmarried persons from accident benefits available to married partners under the policy violated section 15(1) of the Charter: denial of equal benefit on the basis of marital status is grounds for discrimination on the basis that it

touches the essential dignity and worth of the individual in the same way as other recognized grounds of discrimination violative of fundamental human rights.

In that decision it further states that

the state has failed to demonstrate that the exclusion of unmarried members of family units from motor vehicle accident benefits is demonstrably justified in a free and democratic society . . . Marital status is not a reasonably relevant marker of individuals who should receive benefits in the event of injury to a family member in an automobile accident, having regard to available alternative criteria and the need to minimize prejudice.

What we see, then, is the Supreme Court ruling that the new definition of "spouse" adopted in 1990, which includes heterosexual couples who have cohabited for three years or who have lived in a permanent relationship with a child, should be . . . "read in" to the . . . legislation.

It's important that the Alberta government, then, be forced to change their legislation, their Insurance Act, to include common-law spouse. That particular need arises otherwise there will be subsequent court challenges. The Supreme Court has spoken, and the Supreme Court should be respected.

But what happens with this bill and this decision is that it leaves out other groups. It does not recognize, Mr. Speaker, the variety of mutually supportive living arrangements chosen by Albertans. The proposal put forward by the Liberal caucus under the direction and guidance of the hon. Member for Calgary-Buffalo stated that for Bill 12, that just went through the Legislature – we put forward a bit of, I guess, a compromise to the whole same-sex issue. We didn't offer to redefine the term "spouse" or "marriage." We recognize that those particular terms are very much terms that Albertans have decided are specific to relationships between a man and a woman.

What we did offer for a compromise, that would fit very well, Mr. Speaker, with this particular bill, is the offer of a section that would allow a mutually supportive relationship to be acknowledged, and that would read as a simple contract between two adults that the act should apply to – well, it fits here – or the fact that two adults have cohabited for three consecutive years or that a child is born or adopted by the partners. Those are elements within the framework set out for partnerships that we feel could be adopted into this particular bill, the Insurance Statutes Amendment Act.

I guess I feel that when we look at what's happening in this province, we notice now there are omissions, and there will continue to be omissions in legislation. It will not be balanced or judged with an equality lens. This government has said: "We'll go to the Supreme Court. We'll drive everything to the roof if we can," which is going to cost the taxpayers a lot of money. I kind of look at that sort of attitude in relation to same-sex relationships, and I try to reconcile this omission, if you will, the omission to include same-sex couples in this legislation, with Bill 38. Okay? I think both are targeted towards the gay and lesbian community. That's very obvious. Bill 38 and this particular bill spell out, as far as I'm concerned, the lack of respect for the relationships that gay and lesbian partners have, and quite frankly I find that attitude very oppressive. We should be going forward, Mr. Speaker, not stepping backwards. The Supreme Court has also spoken and, as my colleague from Edmonton-Centre has ably put to you, has instructed the Ontario government to amend its legislation. They did so. They're not going to spend thousands and thousands and thousands of taxpayers' dollars going to the Supreme Court, fighting this every step of the way.

I believe there's something like 72 pieces of legislation in this province that could be amended by adding the particular wording that the hon. Member for Calgary-Buffalo put forward under the Domestic Relations Act last spring. For a government that is supposed to be fiscally responsible, that would save a tremendous amount of money. That money could go right into health care. It could go right into those publicly funded, publicly operated hospitals, and quite frankly with the costs of going to the Supreme Court and with the issues that this government would go to the Supreme Court on, an oppressive issue not related to anything but political ideology, I would suggest to you that that is not a good use of the taxpayer's dollar.

I look at the government again speaking out of both sides of its mouth; right? "We're fiscally responsible, but we're going to drive

all of these ideological issues to the Supreme Court of Canada." Guess what? When you go on ideology, most of the time you lose. It's pragmatism, Mr. Speaker, common sense that says let's just move on from here. We haven't reached that, and that's why we're here in this Legislature debating this particular issue today, and I think Albertans are getting tired of it. I think Albertans need to move on to more important debates. The Prime Minister of the day, Pierre Elliott Trudeau, made the comment that we need to be out of the bedrooms of Canadians. I would suggest that's what this government has to do as well. They often talk about not wanting to be Big Brother. They don't want to be seen as paternalistic. Well, this kind of legislation, that has omissions, that's exclusive of any particular legitimate relationship in this province, is paternalistic. It is being a bit of a Big Brother. I know that's hard for some members of the House to deal with. I know that the hon. Member for Edmonton-Beverly-Clareview is shaking his head yes to me. It's tough for him to deal with, but you know, sometimes life is a compromise, hon. member, and sometimes you just have to give in.

8:30

However, Mr. Speaker, I think you'll see some amendments coming forward from this side of the House. I cannot support this particular amendment as it stands. This government becomes progressively regressive. There's no forward thinking. There are no visionaries. The whole notion that human rights in this province are something to be respected – this government is still being exclusive and still being oppressive. Therefore, I cannot support this piece of legislation.

Thank you.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Strathcona.

DR. PANNU: Thank you, Mr. Speaker. I rise to speak on Bill 44 in its second reading. With your permission I would like to preface my remarks on the bill with what I heard on the news this evening as I went home for supper. I heard two news stories.

One reported that Premier Klein, in responding to some questions from reporters this afternoon, said something that I found every Albertan should take note of. The question was asked about the Equal=Alberta representatives, who were on the grounds of the Legislature today and were also in the public gallery this afternoon. They had asked that the Premier follow the example of his close friend Mike Harris in Ontario and start introducing changes to our legislation to include all Albertans in the laws of this province and stop the exclusion. Reference was made to an omnibus bill that the Harris government had proposed and passed in the Legislature in Ontario to bring the laws of the province of Ontario in correspondence with the letter and spirit of the decision of the Supreme Court of Canada. Premier Klein's response was: I will respect the decisions of the courts of Alberta, and we will proceed on that basis.

The other news story, Mr. Speaker, had to do with an interview on one of the TV stations tonight with one of the great Albertans, who at this moment is the Chief Justice of Canada, Madam Justice Beverley McLachlin. She was interviewed this evening. I speak with a great deal of pride about the Chief Justice's accomplishments. The fact that she was born in or near Pincher Creek, grew up in southern Alberta, has risen to the highest court of the country, and is a leading jurist internationally has brought a great deal of credit to all of us as Albertans. In her interview she was asked about her position on the Charter of Rights. She said: in a constitutional democracy like Canada the Charter of Rights must be respected, and it's the duty of the courts to ensure that the laws passed by the

Assemblies and the Parliament of this Canada are respectful of and in agreement with the Charter of Rights and Freedoms, that is an integral part of the Constitution of Canada.

So here are two Albertans, one speaking in defence of the Charter of Canada, one speaking in defence of the rights that every one of us as Canadians now enjoys as a result of the fact that the Charter of Canada is enshrined in the Constitution of Canada, and there is a court, the Supreme Court of Canada, that ensures that those rights that we enjoy as citizens, as individuals are respected and observed in this country. That was one message that made me very proud.

The other message was the message of a vision that balkanizes Canada but cuts Alberta out of the rest of Canada and says, "I will as Premier of this province listen to no one else but to a decision made by the court of this province," a court that is junior to the court which another Albertan presides over at the national level. It's ironic that one should get these two messages at the same time, but it also is very revealing. It's useful for Albertans to pay attention to both of these messages conveyed during the same evening on the national news. Let them judge who is right and who is wrong, who makes us proud and who makes us feel embarrassed about the position that we are taking.

Now to the bill, Mr. Speaker. This bill is an attempt as promised by this government – I had hoped that they would have given some thought to their own position that they're taking, which is rigid, which I thought was unfair, which I thought was discriminatory – when they said that they were going to build legislative fences in light of the Supreme Court decision which came down not very long ago. This bill represents, in my view, that infamous attempt to build a legislative fence. It excludes by definition those Albertans who don't fit the moral preferences of this particular government.

Governments are not about imposing on citizens the moral preferences of a particular sect, of a particular group of people. There are certain rights that we all enjoy in common. These are rights that are also held in trust by elected Assemblies and by elected parliaments and by our judicial courts and by our jurists. They should never be violated either directly or indirectly. They should never be offended either directly or indirectly. In my view, this bill does precisely that. It offends those fundamental rights. It excludes gays and lesbians on the grounds of sexual orientation from inclusion under the insurance statutes of this province, and I think that is deeply regrettable.

It is in my view a bad day, a day that we wouldn't want to remember, hopefully. It's also a day on which I think we are forced to ask the question whether or not this government, whether or not the Premier of this province when he brought to this Legislature two years ago the social union agreement, that we were asked to endorse and which we all across party lines to the last person in this Assembly voted to endorse and support – that social union agreement to me symbolized the unity of Canada, a unity of purpose, a unity in terms of commitment to certain values and rights, a unity of certain democratic traditions, and I voted for that social union agreement in that spirit. Mr. Speaker, I stand today to express my concern, with regret, that this bill seems to now ignore and offend that very social union agreement to which this province and this Legislature gave its support wholeheartedly and without condition.

8:40

This bill is about whether or not the laws of this province respect human rights. We had in this province a year ago an international conference on human rights, a very, very significant event at which Albertans and Canadians and people from all across the world renewed their commitment to respect for human rights, human rights which also include the rights of gays and lesbians. This bill is a slap

in the face of those who endorse human rights, of those who support the Charter of Rights and Freedoms in this province. Therefore, Mr. Speaker, I think the principles on which this bill are based are such that they cannot be defended by any democratically minded person, by a person who is committed to human rights, by a person who is committed to respecting the Charter of Rights and Freedoms of this Canada.

I therefore, Mr. Speaker, am unable to support this bill, and in conclusion I simply say that I regret to have to do that. This bill is one small step forward and a very big step backwards, and therefore it doesn't deserve my support and the support of other members of the Assembly.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: Thank you, Mr. Speaker. I want to say a few words about this bill. You know, many of us in here view marriage and spouse under the sanctity of the sacrament of marriage. I most certainly do. Then I get a bill like this that says: well, we're talking about partnerships. Is a partnership relationship different than a marriage? It is to me. My husband and I were married in a church with the sanctity of marriage, under the eyes of God, with the support of my community. But we look at partnerships. Do Raymond and I have a partnership as well? I would say we do. We share our paycheques, thankfully. We share our debts - we have no choice; we created them - and the running around and the care of our children of course we share.

But there are legal bindings in a relationship, and then there are spiritual bindings. That's for me how I look at how we as legislators, as lawmakers, as people looking at legal bindings of partners have failed in this bill. If we look at relationships that aren't like many in this room, do we expect those people to enjoy all the benefits of the law and the responsibilities? I think we do.

DR. TAYLOR: Shame on you, Colleen.

MRS. SOETAERT: The Member for Cypress-Medicine Hat says, "Shame on you." Well, shame on you if you belong to a church and are that un-Christian that you can't see that other people live differently than you do. Shame on you.

I'm rolling now, Mr. Speaker. It's hard for me to speak on a bill like this, but when ignorant people ignore the fact that there are people who live differently from them and would deny them the same rights under the law, you have no regard for human rights. Member for Cypress-Medicine Hat, I would challenge you in any church in this province and certainly in mine.

You know what? I debated speaking about this bill. I did. You know, when you're from rural Alberta, well, gay people don't stay there. They're shunned. They move to the city where they can have a safe community where people may understand them and give them a chance. We all know people who are gay. Many of us have relatives who are gay. Does that mean we shun them? Does that mean we deny them opportunity under the law? Well, if we do, shame on us.

So, Mr. Speaker, I look at this amendment and think: okay, we've gone to common-law couples; maybe we don't like that either, but it is the reality of our world. So do we ignore them? No. The Supreme Court says that we don't. And you know what? If we pass this bill this way, we'll end up back in the courts again, blowing taxpayers' money. For what? Because we're narrow minded? Because we like Albertans to look like rednecks? I guess so. But not because I haven't tried.

So I am disappointed in this legislation, that it has to be so narrow. I hope people will give it a second thought. You know what? Go back to your faith community this weekend, those of you who have one, and ask them: should we have different laws for gay people? Should we? No, we shouldn't. They should have the same responsibilities under the law and the same privileges as you and I.

Thank you.

THE DEPUTY SPEAKER: The hon. Member for Lethbridge-East.

DR. NICOL: Thank you, Mr. Speaker. It's an opportunity for me this evening to get up and speak to the Insurance Statutes Amendment Act. This is a bill that's going to change three different aspects of the bill in terms of clarifying the regulatory power of cabinet, and this part of it I think is quite useful. It supports the idea of a more flexible insurance statute, and so does the third part, which talks about the clarification of the provisions that would constitute an offence, and it looks at the issue of how those kinds of offences can be designated. This also goes on and clarifies in a good way the different aspects of the bill.

I guess in that particular area the one that would raise an issue for me is looking at the last part, where they're talking about how they give undue prominence or a statutory condition that would increase premiums or decrease benefits. Then that has to be notified. To me that would just effectively be a logical thing that would have to be done by insurance companies in order for the contract to be modified, and I guess this is something I was quite surprised to see.

Obviously the most controversial part of the bill is the first part, that looks at the amendment to the Insurance Act, that deals with the idea of a spousal relationship. In this area, Mr. Speaker, I see that once again we're kind of trying to get into an area where we should be letting the contract relationship between two individuals define how that contract is operating, the scope of that contract, and the provisions of that contract. If we truly believe that all Canadians have equality under our laws, we have to make sure that that provision shows up in how we allow for contracts to be defined.

In the context here of insurance, what we should be doing is making sure that our insurance acts are such that any person who wants to undertake insurance can define for the purposes of that insurance who another person is who can become a part of that insurance. Obviously, if we are going to put someone else, like a spouse, under that, the obligation of the insurance provider becomes greater. There should be a different premium associated with it. If you don't have a spouse, a partner, whatever you want to call it, you don't place that insurance company under as great an obligation, so you should be able to go in there and say, "If I get into a car accident, there'll be no spousal benefits, no partnership benefits," and you should have a different premium. This is the kind of thing that we should be leaving to the negotiation between the insured and the insurer rather than trying to put in legislation any kind of conditions that have to apply, because then what we do is we take out of the contract the option for the individual to negotiate specific to their conditions. What we've got then is a situation where the provisions would have to apply to everybody because the contract has to apply in the case where you have a spouse under whatever definition that has.

8:50

So what we're dealing with here is trying to put into words under law some ideas and some relationships that effectively should be left to the individuals in the contract to define rather than our trying to define them by law. This way we create the true equality of everybody, the true equality of opportunity for everybody to enter

into a contract that fits their need. If an insurance company is in the position of not wanting to undertake a particular kind of relationship because of risk or because of some other perception, then they can say: no, under that condition we will not insure you. The individual can go to another insurance company and negotiate with them. We always see insurance companies coming out with specialty programs that are modified to meet the needs of particular persons seeking insurance, and this then can be adopted in that context.

When we try to deal with this, all we're doing is trying to impose the beliefs that we have as individuals and as a society onto contract arrangements. That shouldn't be done. We should be defining our contracts so that everybody has the opportunity to go in there and on an equal basis negotiate the conditions of that contract, whether it's insurance, whether it's a rental agreement, whether it's anything. That's how we should be basing our perception of law and its relationship to the human rights of each of us as individuals. If we don't do that, we're going to end up in a constant debate about what constitutes the issue of a human rights violation, what constitutes something that would fit under that human rights relationship.

What we should be doing, then, is trying to define in our laws situations that treat each of us as individuals and provide us with the openness and the opportunity to negotiate with the supplier of the service we are negotiating for – in this case, insurance under the Insurance Act – under the conditions and for the conditions that we define and expect to have coverage.

If I were involved in this situation, Mr. Speaker, it would be quite easy for me because Linda and I are married and we fit nicely under this. But we just happen to have lived together for a period before we got married. How would we define this? How would we fit into this? Yet when I went and negotiated with my bank for mortgages, when I went and asked them to put insurance on that mortgage, I could put Linda down as my dependant or as the person who would be the beneficiary. So why do we have to start specifying under certain subclauses of a contract how people get involved? If I'd wanted to put somebody else down – they didn't even ask me if I wanted to put my wife down on that contract – I could have put anybody else down on it. That's the kind of flexibility that should be allowed here. Now, I know I would have had to answer to Linda very strongly if I hadn't put her down as the beneficiary. Still, that's the option that each of us should be able to designate when we deal with these.

I think that we should start now and make sure that our laws are such that every individual under that law has equal opportunity to negotiate the conditions that are necessary and sufficient to give them satisfaction. That's what we should be doing in our laws when we amend the definitions and put in the conditions that incorporate the opportunities provided to each of us under the Charter of Rights and Freedoms.

So I think it would be wise now if we looked again at how this should happen and if we could come back and deal with this act in particular, because it's the one we're addressing right now, in that context of providing the individual with the rights to negotiate their relationship with an insurance company under the conditions that they want, not ones that we impose on them. Then by breaking this contractual negotiation out from our society and our moral beliefs, we take away the whole debate about what constitutes the kind of society and the morality of the issue. That also takes away any kind of a concept of inequality for each of us under the Charter of Rights and Freedoms.

As we get into committee stage of the bill, we'll have to look at whether or not these kinds of issues can be addressed through amendments, because we want to make sure, when this bill comes out, that we're not coming back in two or three years and changing

it if the Supreme Court broadens or modifies the definition and forces us to look at a different context.

If we just provide each individual with the freedom to negotiate with their insurance company and include any other individual in any relationship for any reason that they want as a co-dependent and then have the insurance companies create a premium situation so that the fees charged are reflective of that increased or decreased obligation by the insurance company, that creates the true freedom that we need to have for people when they negotiate these kinds of contracts.

So with that, Mr. Speaker, I'll wait for committee stage, and we'll see what we can do. Thank you.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you. I'd like to move that we adjourn debate on this bill, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader has moved that we adjourn debate on Bill 44. All those in support of this motion please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed please say no.

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: Carried.

Bill 43

Fiscal Responsibility Amendment Act, 1999

[Adjourned debate November 23: Mr. Havelock]

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Mr. Speaker. Back in the spring we had Bill 1 come forward. At that time I had categorized this bill as a slogan bill. I think it is now the epitome of slogan bills. Last spring I spoke to the need for a penalty section in this Fiscal Responsibility Act, and now I'm more than ever convinced that there should be a penalty section in this act. All of those people who have done their research and talk about the different fiscal responsibility bills that have become commonplace in Legislatures of North America are talking about the lack of and the need for penalty sections.

We see that need because of what has occurred this year, a few short months, six months, from the Premier and the Treasurer touting Bill 1, bringing it in as the premium bill of the spring Legislature, and here we are now. He can't break his own law, but he can come in here and at his whim just change the law. Well, you know, Albertans can't do that, Mr. Speaker. They can't just come in and change a law that they don't agree with, but the big, old, powerful Treasurer can do that.

I'm going to bring my discussion around to management. Bad management isn't just when a company goes under or a government has deficits. Bad management is when there is a problem with their ability to make prudent assumptions and forecasts with the billions of dollars they manage. One of my colleagues has often talked about the lowballing, and I have talked about the lowballing of the budget, that is, purposely underestimating the forecast surplus. That's become commonplace in Legislatures across North America. The

reason it's become commonplace is because for so many years Legislatures were bringing in deficit budgets. This government brought in six in a row that many of these members here were part of the making of. What happened was that governments started to lowball because they understood that the voting public no longer wanted to hear the words "deficit" or "deficit budgeting." The public wanted some accountability. The public said: enough is enough. So now we have financial responsibility acts and now we have lowballing, purposeful lowballing, in budgeting, and that simply means that we're just going to underestimate the surplus, the potential surplus, for the year.

9:00

You know, I have read where economists say that if there's a variance of 1 or 2 percent in budgets, that is prudent budgeting. This government goes way over; okay? This government exceeds that. Not only is deficit budgeting bad management but so is not forecasting in a realistic manner your surpluses, because then what happens, what's happened in this province specifically, is that government services have been gutted, school budgets have been gutted, the municipalities have lost their grants, RHAs have been gutted. Now you get into this picture where the government paints themselves as the saviour, the saviour of all those public institutions.

Well, Mr. Speaker, the problem was created by the government to begin with, first with deficits, then with massive cuts. No balance and no forward-looking thinking as to how we can manage in a prudent way within that 1 or 2 percent forecasting and make it easy on Albertans as we get our debt under control. That hasn't happened in this province. Now what we have is the government acknowledging the need to increase the budget of many different establishments. The RHAs, the educational institutions, the municipalities need more money, so now we have onetime spending; okay? Every year we're going to have onetime spending, and then every year this government can come back, you see, and amend their Fiscal Responsibility Act.

So what happens here is that now we have somewhere in the area of \$613 million that the government has given out in goodies. Instead of good planning and good management the government just says: hey, we've got to give money back because we've got all these problems, pressure points. Pressure points: it's like a big boil is ready to burst. So they're just going to throw money right back at it, and they're going to be in the same trouble, Mr. Speaker, that they were in years ago. It's not just good enough to have the dough and then throw it back as: "Here's your bone, dogs. We'll throw you a bone every time you squeak, and then we'll take it away and maybe we'll give you a little pat on the head. You know, Albertans, we'll give you a little pat on the head." We're going to go through that whole cycle again.

With good management you don't do that. With good management you know what the issues are. You design systems not on how much money is enough; you say: what is the quality of health care we want to provide? What is essential in a public education? What is it that the municipalities need, and how do we help municipalities keep up with their programs and their infrastructure needs? Then you say: well, we're going to fund it. That doesn't mean you have to go mad. It just means you have to have a plan, and that's sorely lacking. So while the government can get up and the Premier can get up and bang his chest and say, "We just gave \$613 million back, and you know we have a \$2.3 billion surplus projected for the end of the year" – okay; he doesn't have a chest to bang – that's not good enough. Management is essential.

I know for a fact that there's at least one minister who has gone to one of the best schools in the world just recently to the tune of I

think a good management budget of about \$36,000 for tuition. So with that education, that gold-plated education, he should be able to inform the Treasurer and all his colleagues as to actually what good management is. The London School of Business is a pretty posh place, a place we'd all like to go, but you know some ministers only get to go to Mexico, and some only get to go to Cambridge. But, hey, that's the way it goes.

I think if they're going to do that and if they're going to spend the taxpayers' dollars on postsecondary education, they should come home and be able to influence the decision-making going on in the government benches. They should be able to pass on that knowledge they have so graciously been given by Albertans. They should be able to impart that right into the beans of those guys sitting up at the front, those guys that are making those management decisions, because this is all about bad management. That's why we're back here. If you can believe it, in the same session we have Bill 1, and then we don't even get through all our bills and we have Bill 43, an amendment to Bill 1. Tell me that's good management. I don't know, Mr. Speaker.

However, it is clear to me that the proposed override of the allocation formula of the economic cushion that exists here is nothing more than a manipulation of the provincial finances. It's not any commitment, any commitment to long-term planning.

I want to draw your attention, Mr. Speaker, to the Treasurer's debate of February 23, 1999. He debated the Fiscal Responsibility Act, and I remember that clearly because he got so incensed when I was patting him on the back for patting Paul Martin on the back. He got so incensed and outraged at that. I remember that very clearly. Just to refresh the memories of his colleagues, what the Treasurer said on that day was:

Twenty-five percent of that will be available to us for items like infrastructure, [those] pressures, and onetime capital spending that is in place already. There will be a plan where we can see in an orderly way what we can do to accelerate some of the infrastructure costs.

So the plan is simple . . .
Very simple, and I don't even know if it's written down on one line.
. . . yet detailed . . .
I'd debate that.

. . . but it builds in the fiscal discipline in terms of our own planning process. Every minister who's planning their budgetary spending has to realize that we have three-year business plans in place, that they're being reinforced by this particular act. This puts teeth in the three-year business planning process and puts discipline in our own particular planning [process].

Those were the words of the hon. Treasurer, Stockwell Day, *Hansard*, February 23, 1999. I guess that if we're to believe that, the teeth in these plans have rotted and they're falling out, because here we are again, Bill 43.

Obviously by now, Mr. Speaker, you know my intent is not to support this particular piece of legislation. I remember the Treasurer asking me after my debate was delivered in the House – it must have been February 23, because he spoke right after me – and he said: I don't really know where the hon. member is coming from. Well, now let it be clear to the hon. member: I am not supporting this piece of legislation. I think it is an insult to Albertans, an absolute insult to Albertans to have this amendment come forward to an act that was just passed, an insult to Albertans that their government even needs a Fiscal Responsibility Act. It should be incumbent upon any government to govern and manage in an appropriate way. That's not by deficit budgeting, that's not by lowballing budgets, and that's not by having \$2.3 billion surpluses. That's not good management. Albertans need a government they can trust, a government that is going to ensure that there is balance in their approach to financial management. There isn't any balance here at all, Mr. Speaker, none.

9:10

We often hear from the other side that we don't really offer up anything, that we sit here as the opposition and we're not really interested in providing anything substantive. That's what we hear from the other side all the time. But, you know, I've done a fair amount of research on this particular issue, this whole issue of fiscal responsibility acts, and all of the legislation. As a matter of fact, there is a tremendous amount of legislation around North America.

Mr. Speaker, what these acts don't do and what is the major criticism is that they don't provide for a penalty section. Right now this whole front bench would be fired, if that were the case, or fined, and they would have to take some of that luscious dough they've been spending on their publicly-funded educations and pay the fines. So that's what a lot of these bills lack, and quite frankly if I were the financial police, they would have that ticket in their hand. They'd have to go to court, and they'd have to stand before the judge – which is, quite frankly, Albertans – and explain why they're back here with this piece of legislation.

The Treasurer will get up one day and he'll pontificate about how it is that I could oppose this piece of legislation and that I want to withhold money from Albertans. Well, that's his game. That's a game of the government. They want to say, "You guys don't want to give any money back; you don't want to do anything that's positive." Well, this is not a positive step. Certainly Albertans need to have money invested in what's important to them, but they also want a plan, and this is not planning. It's beyond me to think how long this Treasurer anticipates he's going to be able to continue down this path, because quite frankly this whole management system that this government has embarked upon ignores the high variability of the Alberta economy. Therefore we get these variations. We have this extreme variation.

We try to look at all of the good programs and things that are offered in this province and what could be done. I guess one of the things I see here is that the government is going to be able to take this \$613 million, because they've invested it, and then what they're going to do, Mr. Speaker, is they're going to now have this new financial responsibility act that they'll amend. They'll also be able to take 25 percent of that excess, and they'll have another 400 and some million dollars. They're going to give out more goodies – right? – but onetime spending. Onetime spending.

It ain't good enough, because what happens down the road when the potholes get bigger? What happens when the infrastructure in the hospitals and in the schools gets worse? So we not only have mice in one school; we have mice and all sorts of health problems and concerns in other schools, and we have maybe some engineering problems and all sorts of things like that. That's not planned for, you see. That's not planned for at all. It's the onetime spending that is a huge issue for me. So bad management, and something that I'm concerned about. If this government puts forward a plan, I mean, it's all well and good, and I congratulate the government that we're not operating in a deficit situation anymore and that we're paying down the bills. But you know what? That's not where it stops. You have to have a bigger vision, and the government doesn't have a bigger vision.

We know what the government is going to do now. We know that they want to have tax breaks. We know that that's a big concern for Albertans, so they're going to pursue that avenue. We know that private health care is an issue for them, so they're going to walk down the path they want. But, quite frankly, you can't convince me and you can't convince a lot of Albertans that this is all good management, so I can't support this particular amendment to this particular act at this time.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you, Mr. Speaker. I'd like to move that debate on Bill 43 be adjourned.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader has moved that we adjourn debate on Bill 43 at this time. All those in support of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: The motion is carried.

Bill 40 Health Information Act

[Adjourned debate November 22: Mr. Jonson]

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Mr. Speaker. I'm pleased to rise today to speak to an issue that I consider very important to Albertans, one of the most essential aspects of Alberta health that I think needs to be discussed. We're talking about the Health Information Act, a bill that has the potential to expose some of Albertans' most closely guarded secrets in their life, and that's their health information.

Mr. Speaker, I think it's important to note that the fundamental element of a doctor/patient relationship is confidentiality. Doctor/patient confidentiality is absolutely an essential element of very effective medical treatment. We need an extremely high level of patient privacy, and I think that if we don't have that, what we will end up with is many Albertans being deterred from giving all the information to their family physician or health care worker and not providing some of the more critical information that is important for their physician to make an informed decision about treatment, prognosis, diagnosis, all of those kinds of needs.

Mr. Speaker, we need to err on the side of caution when we're discussing health privacy and the protection of health privacy. So when we're constructing legislation, we have to understand that the main tenet is the protection of health information. What I want to note is that this bill used to be called the Health Information Protection Act, and protection has been removed from that particular title. That creates a bit of a problem for me, because protection is the key element.

Yesterday I read off a definition from the *Oxford* dictionary about "protect," and I think that if we reflect on that, this particular act is to in fact protect Albertans. It's to protect the information that they share with their family physician or health provider. I shouldn't even say health provider, because that's just way too American for me.

9:20

We also need to talk about the issues of informed consent. It's been raised across North America when we look at privacy legislation or health information, health protection. You name it; the titles go on and on and on. The words "informed consent" and "confidentiality" have specific meanings and specific duties assigned to them. A social science researcher would face definite disciplinary action

and potentially legal sanctions or be discredited within their discipline if in fact they didn't comply with telling their subjects exactly what it is that they're doing. So explain what confidentiality is. Explain what informed consent is and ensure that that particular individual knows exactly what that is.

So I bring that particular notion forward, and I reflect upon my work as a police officer. When the Canadian Charter of Rights and Freedoms came into being in this province – pardon me; in this country – there were certain duties . . .

HON. MEMBERS: It happened in this province too.

MS OLSEN: Well, I'm not sure if the Canadian Charter of Rights and Freedoms actually does apply here.

The whole notion of having another duty apply to your work is important. We know that if we're going to have a Health Information Act, we want those people who are going to be releasing information at the request of a doctor or a custodian, as it's defined in the act, to know what it is that's being released. We want them to have the information.

Mr. Speaker, when I talk about using the analogy of being a police officer, every time I arrested somebody, I had to read out a caution, and the caution was pursuant to section 10(b) of the Canadian Charter of Rights and Freedoms. I had to say:

You have the right to retain and instruct counsel without delay. This means that, before I . . . proceed with the investigation, you may call any lawyer you wish or get free legal advice from duty counsel immediately. If you want to call duty counsel, I . . . will provide you with a telephone and telephone numbers. If you wish to contact any other lawyer, a telephone and telephone book will be provided [for you]. If you are charged with an offence you may also apply to Legal Aid for assistance.

Then I had to ask that person, "Do you understand?" or "Do you want to call . . . Counsel or any other lawyer?" I had to read that to every single person I arrested. I made a habit of doing that, and I made a habit of noting in my notebook the response. The reason for that is that I could lose a case in court if I didn't read this, and not only that, I could lose a case in court if I read this to somebody who didn't understand English.

So I use that as an analogy to informed consent under the Health Information Act specifically because it's very easy just to say, "Do you understand what I'm saying?" instead of clarifying the whole issue of confidentiality and informed consent. I think it would be very easy after a number of patients to become complacent about it. I bring it to the attention of the Assembly just as a caution because it concerns me a great deal. If Bill 40 allows for the disclosure of medical information and there's no informed consent and the information isn't voluntarily given, then it is really almost impossible to do anything about the damage that may come down the road.

So, Mr. Speaker, let's talk about some of the damage from a breach of the act. Medical records can include some very personal and private information. It can include information such as a heart disease, terminal illness, STDs, records of alcohol or drug abuse, or even a person's sexual orientation. That can be a scary notion to people because they know the state that they operate in in this province, that there is no protection as far as the province is concerned. They're not very good at that. These breaches could jeopardize careers, families, and certainly any friendships or relationships that the individual has. That concerns me a great deal.

Now, what I do feel is important is drawing the attention of the Assembly – well, first, we'll go to the response that the Information and Privacy Commissioner put out. He gave a very detailed response on this particular piece of legislation. I find that kind of interesting, because although he pointed out some good features of the bill, he also identified some that raised concerns for me.

"It does not require the consent of the individual for the collection, use and disclosure of personal health information in a number of situations." I think that we need to be telling people if we're going to pass on the information. I think that some of the information that I've outlined to the Assembly is very personal and private information, and it's not information that people would like to give out on a daily basis. When you start talking about electronically sending information – you know, you think about the Internet bogeyman and things like that – all sorts of things can happen to that information. We know there are people out in the world who are diabolical enough to access the United States defence records and things like that, so nothing here suggests to me that we shouldn't be extremely careful about how we're dealing with this data.

"It does not apply to entities in the private sector, such as insurance companies." I want to talk about that a bit, Mr. Speaker, because what I see happening here is this government walking down the path of private health care. We know that's happening, and whatever plan, flavour, manipulation the government seems to throw out to Albertans, there's one plan that is very clear: this government is going to go down the path of private health care come hell or high water. There is no question in my mind that that's not going to happen. That's why this government needs this bill. That's why this government needs Bill 7. They're on their way.

You see, what they've done, what's happened here is that this government has specifically excluded the private sector, specifically excluded private entities that will potentially be collecting private health information or any other information from a patient's file. So do I trust the government? Uh uh. No, I don't. There's absolutely no way that I trust this government and would leap to them and think that they're going to act in good faith with my health information, my family's health information, or any other Albertan's health information. I just am not there yet; okay? I can't make that leap.

"There is no prohibition or legal sanction on the collection or use of the personal health number for the purposes other than health care." So the potential, Mr. Speaker, for the sale of this information or, if the sale is illegal, for just passing it on – that happens every day. Information gets passed on; files get e-mailed into somebody's data bank that shouldn't have it. We know that every time we use our credit card on the phone or we get a magazine subscription, there is potential for abuse and misuse. Our magazine subscription: the information is sold. With your credit card you're taking a risk every time you use it on the phone. We've certainly had cases of that occur on a very frequent basis.

I am extremely concerned about the lack of any sanction – any sanction – to anybody who abuses information from a fourth party, because it would end up being a fourth party. The fact that there is nothing here for that tells me another thing. Yes, this helps confirm in my mind the scheme that the government has to privatize hospitals and all health information. In fact, it makes me think about the HMOs and the whole issue of managed care again, so I'm concerned about that.

9:30

The Privacy Commissioner says that

the Minister may require production of health information from other custodians which he may, in turn, disclose to public health boards, the Cancer Board and regional . . . authorities.

Here's the clincher: "Custodians cannot refuse to produce this information to the Minister." You know what? That's a really sad state of affairs, Mr. Speaker, when a custodian cannot refuse to give a minister of this province information he shouldn't have. There is no way – no way – at the level of a minister in this Assembly, that they should need anybody's personal health care information. None. So do I trust the government? No, not at all.

Those are some of the concerns of the Information and Privacy Commissioner, and now he says that "the negative features are mitigated to some extent," and he goes on to explain those issues. With respect, I have difficulty, period. I'll tell you that I have a huge, huge concern about any minister of health in this Assembly having the outright ability to act as king of the hill when it comes to health care information, thank you.

Now, what I'd like to further draw the Assembly's attention to is the Canadian Medical Association health information privacy code. The Canadian Medical Association health information code has a number of different sections in it that I think are quite satisfactory. In fact, they go well beyond what this legislation does. I'll just give you a little bit of information.

This code is produced by physicians – and that's under the Canadian Medical Association health information privacy code – to protect the privacy of their patients and the integrity of their therapeutic relationship. Going back to my first point, that's the absolute essence of the patient/doctor relationship and good medical care. They must keep that relationship in order for the patient to receive the best care possible. They further state that it "applies to all health information and to all individuals, groups or organizations that collect . . . such information."

Well, there are no exemptions here, Mr. Speaker. There are no exemptions like the five or six in the actual act itself. They're saying that anybody, even insurance companies who collect information, any private sector is covered. This one doesn't. So that tells me another story. We're not really in the protection business with this act. We're in the data collection business; okay? There's a difference there.

This bill doesn't apply to the groups as identified: the Alberta Alcohol and Drug Abuse Commission, those who deal with persons with developmental disabilities, all private health care institutions. Hmm. What are we talking about? The biggest issue that's on the table for us is the contracting out and private health care concerns. So we're leaving Albertans unprotected; all right? And we're not providing the protection. You see that's taken out of the title. We are not providing the protection that is supposed to go in this act, but what we are doing is collecting their personal information.

One of the other key points from the Canadian Medical Association code is that health institutions "shall adhere to these principles as a whole." Private institutions in Alberta, Mr. Speaker, that also provide care to the public sector will only have the public-sector records subjected to this act. Okay? So what happens if someone who gets paid by Alberta health later goes for private treatment, say at the Gimbel eye clinic or – I don't know – some other private facility, HRG or something?

Mr. Speaker, it looks like my time is running out to speak to some of these issues. This is a huge, huge issue, and I really think the hon. members over there should take this bill a little more seriously, because it's setting the groundwork for private health care. They really should open their eyes and look at the big picture, because that's what this is all about, nothing else, and it's a manipulation of the public. Let's give the public good protection and good privacy, and let's have the act do what the title should say it does.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: Thank you, Mr. Speaker. I'm pleased to have the opportunity to speak to Bill 40, the Health Information Act. You know what I hope is going to happen to this bill? I'm hoping that, oh, by the end of this session – they don't like their feet to the fire

very much, so regretfully it'll probably end sooner than we all want, and they'll say: "You know what? Let's just leave Bill 40 out there so people can have a look at it, and then we'll bring it back in the spring under a new title and a new number." I have a feeling that Bill 40 is going to be like so many other bills in this Legislature. It'll have more amendments than the bill itself. We've seen that happen a few times, haven't we? The Minister of Justice's bill. I think the MGA. Oh, there have been a few bills where the amendments have outnumbered the bill itself.

[Mr. Shariff in the chair]

Mr. Speaker, I'm going to preface my remarks with the hope that we're just going to end up letting this die on the Order Paper this fall session and that it'll come back in an amended version so we don't have to amend it with a good 30, 40 amendments to make it a decent piece of legislation. It's amazing that this government keeps coming up with legislation like this. Wouldn't it be amazing if we actually had a bill that didn't need amending? But then again maybe they do it just to test us, to make sure we're on our toes, keeping their feet to the fire and watching them like hawks.

We're going to do it again with Bill 40, because truly they've missed the boat on a few things, actually quite a few things. Let's talk about all employees having access to information, and let's talk about the minister wanting information on someone. I'm trying to think of a reason why a minister might want that. When it says that you can get information on my health records without my permission, that's bothersome. Because you know what? Quite honestly, if I had a medical condition and knew that doing research would help somebody else, you bet I'd agree. If it can help somebody else, I would go for it. And you know what? I would bet you that most of the population would. So why wouldn't we give them that option? Why wouldn't we give them that protection of privacy and that ability to say, "Sure, use my health records in that way"? Instead we're taking away that privilege. I would say that it's more a right, not a privilege. It's a right. That's something personal that we should protect: our personal health records.

9:40

So why would the minister want information about one person? I wish I could hear an example or a reason. Last night the minister spoke to this, and not once did I hear an answer to that question. He gave a chronology of how the bill came about, but he didn't explain why. Maybe the minister wants to check up on an individual who is questioning the government on a policy or somebody who's lobbying for his spot. Maybe he wants him out of the way. Now, why would a minister want to check up on somebody? Why would they want to check up on somebody's health records? I'm trying to fathom what would be a reason.

You know what? There are some things that still have stigmas attached to them. When people go on stress leave or have a mental health leave, people don't understand it. It still has a stigma attached to it because we can't see it. It's not like a replaced hip with somebody limping around with a cane. It's not like a rash. It's not like a disease that we can see, like chicken pox. Mental health is something that because we can't see it, we don't understand it as well as others. I think we're working towards that, and I know that Bettie Hewes did a lot of work in that area in the '70s with her work with the Mental Health Board. I know she did. I think we made progress as a society, but I still think there's a stigma attached.

So maybe people don't want that out there. Maybe they don't want the minister to know that or his employees to know that. Don't they have the right to say, "That was a bad time in my life that really

I don't want the public knowing about"? Maybe they'll say: "You know what? I suffered a stress leave, and this is why. If research on it can help, I'll gladly do a survey." I'll bet you that if you asked them, they would willingly give it, but to take it without their permission I really feel is wrong. I really do. That's probably my biggest concern with this bill.

Health information is important: to collect data, to do research, to have an immediate response to situations. There's a need to get it quickly and efficiently and consistently, and that part I recognize, but I do think we're missing the balance of protection of people's rights.

Interestingly enough, totally eliminated from this bill are the ambulance services. They're not included. They're not included as a custodian section. I'd like an explanation as to why not. Often ambulance drivers . . .

MR. DICKSON: Paramedics.

MRS. SOETAERT: Paramedics. Thank you.

The drivers are there, but the EMTs are the ones on the scene. They're the first ones there, and they're not considered custodians and able to relay it. So I think that's totally missing from the bill. If a paramedic in an ambulance picks up somebody at a nursing home and then takes them to the hospital, they're not allowed to relay information, are they?

MR. DICKSON: Or vice versa.

MRS. SOETAERT: Or vice versa, like back to the hospital, back to the lodge. That is something that is totally forgotten in this, and I would think that's one sector of our population that we certainly would want to help. So we've totally missed that one. There is one amendment I'm sure the minister will address next spring when he changes the bill.

Firefighters are not covered by this bill. Why not? Why aren't they? They are often, again, one of the first people to provide medical attention to ill people.

MS BLAKEMAN: Sixty-three percent of first response.

MRS. SOETAERT: Sixty-three percent of first response, I'm informed, is done by firefighters. So why aren't they included under the governance of who can collect information and who can dispose of it? Why aren't they included in that?

MR. DICKSON: How many holes are there?

MRS. SOETAERT: Well, there are so many holes in this bill, it's leaking like a sieve. Those are just two examples.

Now, there are a few other points I wanted to make. This bill allows disclosure of individually identifiable health care information without consent for far too many reasons. Don't we want to respect that a bit in here? [interjections] Some people say no. I guess that's obvious by this legislation. I am hoping, though, that maybe their caucus will discuss it a bit more and say: "You guys, is it true what the opposition are saying? They can look into my history? The minister and any of his employees can go look into my history and use it for anything they want?" Who's to say that everyone in every medical department all over this province is totally, totally discreet? You know what? I'll bet you most are, but I'll bet it'll be one of our 50 amendments that addresses that issue. You know, it would be nice. You know what? Here's my suggestion. Just table it, let people make amendments to it, add to it, and in the spring bring

back a decent piece of legislation, because this is far too flawed. Though I enjoy the company of this Legislature, I do not want to spend Christmas here in the Chamber. In order to fix it, this bill will at least take till Christmas. At least. Or next.

I want to know why the Minister of Health and Wellness needs this much power. I don't know why. I guess he can't answer that till we close second reading, because he's already spoken to it and he didn't answer that question. I know he'll think seriously about my question, and I hope he will answer it when he concludes debate on second reading.

I don't think the public has had an opportunity for input into this bill. I know there have been different groups going around and getting input from some people, but I think the general public doesn't know exactly what this means to them in their lives. I think the minister should do his homework there and let people know. Don't give a watered-down version. Give some facts about what it will mean. Don't dilute it. Don't do one of those workbooks where the answers are predestined and limited; okay? Give them the facts straight.

I have a few more comments to make about this bill. Interestingly enough, we've just dealt with Bill 7, that is a power and control issue over doctors. Here we go: the Medical Association has strongly objected to this bill. I would think that they're very close to their patients. They take an oath. I would expect that this would disturb them. You know what? Is a patient going to talk as openly to their doctor to get the best help they need if they know that that information is available to the department, to the minister to use in any capacity the minister desires? Are they really going to open up to their doctor about their concerns, about the implications of an illness they may have? I don't think so. So I see that as a flaw of the bill that I would ask this Assembly to address, hopefully in committee or under totally new legislation.

This probably wouldn't happen very often, but if you took this right to the letter of the law and if you really pushed this right to the nth degree, anyone in the Department of Health and Wellness – now, that's quite a few employees who work very hard for us in Alberta – could actually walk into a doctor's office and demand to see an individual's health record without consent. That's actually what the bill says. How many of you, going to your constituents, could say: do you realize that your neighbour who works for the department of health could go to your doctor's office and ask for your information? They actually could. Are you comfortable with that? Do you know it means that? No, he doesn't know it means that. What's new? I remember what the Senator said about the minister of resources and his past life as a vet. We'll talk about that another time. The Senator had it on the record; I don't need to repeat it.

9:50

DR. WEST: Was that the Senator that was elected?

MRS. SOETAERT: Yeah, he was. He was elected as an MLA several times, Senator Nick Taylor. Mighty proud of my good friend.

I also want to talk for a moment about what it will cost in time and money if doctors have to fight to keep their patients' records confidential and have to appear before the commissioner each time. Now, if you're a doctor and somebody from the department walks in and you say as the doctor, "No, I'm sorry; you're not taking that," and the person says, "Excuse me, but I have the right to take that," and then the doctor says, "Take me to the commissioner," what are we going to have? Lineups at the commissioner's for people asking for patient information or doctors saying no. Watch that hit the media. Where has that person's privacy gone? Out the window. What is the point of the department?

[The Deputy Speaker in the chair]

I have real concerns about this bill. There are pieces of legislation that we have supported and that have gone through quickly, but I cannot in good conscience allow this bill – I have to do what it takes to stall this bill so that this department, this minister, this government takes another look. Mr. Speaker, I think I've indicated my concerns about this, and I don't need to go on again.

I just want to recap. Think about the people you know. Think about your constituents. When you go home this weekend, tell them: "We have an act that says that anybody in the department can come in and access your medical records. Oh, for good causes. We're going to do research. We're going to help people. We're going to get information to them. We're going to make the system work more efficiently. It'll be for good causes; honest. Trust us. Once again, trust us." I don't think they'll buy it. I think if you said: "With your permission we would like to use your health records for research, to help make this province more available, to have more information going between those health boundaries with brick walls, but we may help with information going through it. They're all reasons why we want information to be accessible. You have the right to say yes or no." If I have an accident in WestView and I live in Aspen and all my records are there and then they ship me to Edmonton, it would be nice to have quick access to my records to know if I'm allergic to something, to know if I've had an operation before, if I'm allergic to different things. That would be nice to have, but it's my right to give that information. It is not your right to take it.

It's a night of quotable quotes, Mr. Speaker, and I'm going to end on that note. I have real concerns about Bill 40. I am asking this government to have a look. We have at least 50 amendments. If you want to table it to next spring, we'll give you the amendments. You fix it up, bring it back as your own, we'll praise you for seeing the light, and we'll pass the bill. Those are my suggestions on Bill 40.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. HAVELOCK: I'd like to move that we adjourn the debate on Bill 40.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader has moved that we adjourn the debate on Bill 40. All those in support of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: Carried.

[At 9:55 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]