

## Legislative Assembly of Alberta

Title: **Tuesday, November 28, 2000**

**8:00 p.m.**

Date: 00/11/28

[The Speaker in the chair]

THE SPEAKER: Please be seated.

head: Government Bills and Orders

head: Third Reading

### Bill 29

#### Protection of Children Involved in Prostitution Amendment Act, 2000

[Debate adjourned November 28: Dr. Massey speaking]

THE SPEAKER: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Speaker. I'm pleased to continue comments on the implications of Bill 29. I'd like to pick up where I left off in terms of the notion that Bill 29 is not going to be the solution to child prostitution. It'll help in terms of temporarily getting these youngsters off the street and trying to get them started in the right direction. I think we all applaud that bill for that, but I think we would have to be very careful, as I said before, that we don't leave this Assembly smug in the notion that we have actually solved the problem.

I think a number of writers and a number of authors have talked about the problem, and one notion is that we have to start and create a community where children don't fall into prostitution or aren't leading lives that are less than we would wish for them. We have to blame ourselves I think, Mr. Speaker, for much of what has happened.

I was revisiting *The Growing Gap*, a report on the growing inequality between the rich and poor in Canada. The report is rich with information on what's happened to families in our country, Mr. Speaker, and I'd like to just touch on four or five of the items from the report. They make the comment, for instance, that the rich are richer in our country. In 1973 the richest 10 percent of the families with children under 18 made 21 times more than the poorest 10 percent of the families, yet by 1996 the richest 10 percent of the families made 314 times more than the poorest 10 percent of the families.

The middle class has been shrinking, Mr. Speaker. In 1973 60 percent of families with children under 18 earned between \$24,500 and \$65,000. By 1996 that middle class had shrunk, and only 44 percent of families with dependant children made between \$24,500 and \$65,000. Most of the change has happened to the middle class. More importantly in terms of this particular bill women at work have increased, and families have increasingly had to rely on more than one income to get by. Two-thirds of mothers with children under three are in the labour force compared to one-third a generation ago. That's a marked change in family lives, and the absence of those mothers has to have an effect.

The report goes on to make some observations about the economy that we've created and the whole notion of a trickle-down policy, which had been so widely adopted, where the wealthy accumulate more and more in the belief that they'll make the investments that will eventually trickle down and make some benefits for people who are not so well off. These are parts of the kind of community, the milieu we're creating and into which we insert Bill 29.

One of the other observations they make talks about taxing and

how the tax burden has shifted in the country, the notion that there's been a marked change in who pays the bills from the corporate income tax payer to the personal income tax system. For example, the corporate contributions to paying for Canada represented 25 percent of all federal revenue in 1955. In 1973 they were at 17 percent, and in 1996 they accounted for only 12 percent of federal revenues, so a marked shift and that burden being picked up more and more by middle-class and lower income earners.

I guess the argument I'm trying to make, Mr. Speaker, is that we are responsible for creating the kinds of communities in which our children are raised and live, and some of the things we do are counterproductive in terms of making sure that child prostitution cannot flourish. If those children were in homes that fostered the kinds of values we would like all our children to have, we wouldn't have this law before us.

A final point, Mr. Speaker, is the whole notion of the inconsistencies, and I think those inconsistencies were pointed out by previous speakers on this bill. If you look at this bill and then compare it to some of the provisions in the Child Welfare Act, there doesn't seem to be a lot of consistency, and as other speakers have indicated, I suspect we'll be back here in the future making changes to the act so that it is more consistent with the ones we find in the Child Welfare Act.

In spite of the announcement the other day of additional funding, I'm concerned that the needed resources will be in place for this program to grow and to do the job that we expect of it. I think we all recognize that taking these children off the street is an emergency action, but that momentary action has to be part of a long-term plan to make sure that these children get the support and have the resources so that they are not led back into those conditions on the street.

So I think that with those comments, Mr. Speaker, I would support the bill and conclude my remarks. Thank you.

THE SPEAKER: The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you very much, Mr. Speaker. It's a pleasure to rise this evening and get an opportunity to participate in the debate on Bill 29. When the court case became public news this past summer regarding family court judge Karen Jordan in Calgary, my first response was that I was certainly part of the problem with this legislation because I was a member of this Assembly. I think that in some way all of us, all hon. members regardless of which side of the House they're on, are responsible for certainly this series of amendments.

There were certainly cautions from this side of the Assembly on whether or not the whole bill, the original bill, Bill 1 from the spring session of 1998, in effect would survive a court case and a Charter challenge. We all know that the Charter of Rights had been violated, Mr. Speaker, section 7 certainly – I won't go into detail – and section 8, where "everyone has the right to be secure against unreasonable search or seizure." We failed in the original Bill 1 to ensure that this had been looked at. So we all have to have an acceptance of the responsibility for this. We just can't get angry with the judge, in this case Judge Jordan, and bash the judiciary. It just is not appropriate. We cannot express outrage or indignation and use any means to condemn the family court judge's decision.

8:10

If we want to be responsible, Mr. Speaker – and I believe hon. members on this side of the House were responsible when we called on the government to reconvene the Legislative Assembly in September to deal with these changes immediately, but all members

of the House realize and Albertans do as well that this idea was refused or it was dismissed, and instead we embarked in the province on an application for a judicial review through Justice Rooke of the Court of Queen's Bench. I think this decision has yet to be delivered.

However, when we look at this problem, Mr. Speaker, again I have to say that the only people to blame are ourselves. Sometimes we're in a hurry to leave this Assembly. Now, I'm not talking about this bill, originally Bill 1, and the use of closure, but perhaps this is a lesson for all of us that we should not be hasty in our decisions in this Assembly. We should have a good look at every piece of legislation, and when an hon. member stands up, regardless of what side of the House they're on, and expresses a caution in debate, well, perhaps we should listen more seriously.

Now, the whole idea, Mr. Speaker, of Bill 1 certainly is sound, and there's not an hon. member of this Assembly that would tolerate any form of child abuse. That certainly would include the sexual exploitation of teen prostitutes. Now, I know that everyone worked together in 1998 to pass this law, and that's why, as I said before, we have to accept some responsibility for revisiting this. I am willing and my colleagues are willing, certainly the hon. Member for Calgary-Buffalo with his very sound amendments, which I was disappointed weren't added to this bill, to work to improve this bill. But we have to respect the role of the courts in protecting the rights of children.

What we have is a kind of dialogue on this bill between the Legislature and the courts. I know there are some hon. members of this House that have different views than I on the role of the courts, but it is up to our government to respect the very clear direction we get from the court and make the appropriate modification of a law that has been found in this case to be deficient.

Now, I heard, particularly on radio programs, where the original Bill 1 had removed child prostitution from the streets. It was removed visually, I should say, from the streets of Edmonton and Calgary and our bigger centres, but where did it go? Was it just removed from view? Out of sight, out of mind, so to speak. I certainly hope this is not the case.

This spring I recall talking to the hon. Minister of Justice during the Justice estimates about massage parlours and whether the province was going to do anything to regulate them. The hon. minister in due time – and I'm grateful for his response on this – informed me: no; it is a municipal jurisdiction. I cannot understand, for the life of me, why we're so keen on this, but another piece of the problem is the massage parlours, because I don't believe there's any regulation to police exactly who is working in there, what they're doing, and what age they are.

Now, I've conducted some research on this, Mr. Speaker. When you look at the licensing requirements of the municipalities – let's say Calgary and let's say Edmonton, and we'll use as an example also St. Albert – all three municipalities are different. The licensing course that you have to take in Edmonton is different than the one in St. Albert, and it's different in the hours that you need before you can get your licence. Calgary has no licensing requirements, as I understand. You can just walk in and have employment in a massage parlour.

Now, one part of the requirement was that you had to be over 18. I asked who was policing this. No one, Mr. Speaker, could answer. No one is doing this. I'm concerned that with their removal off the street, which is a very, very good idea, these same young prostitutes are winding up plying their trade, so to speak, behind closed doors in the massage parlours. I think that if we're serious about this – and I know we are – we have to encourage the government to also look at this as a provincewide problem, because each municipality can set up their own regulations, and they have.

Now, we have to look at this in the problem of teenage prostitution. The police forces across this province do not have the resources. They simply do not have the resources to go in and check to see who is working in these establishments and check even to see if it's a legal or an illegal activity. They just don't have the resources. If we have shifted from public view this whole trade, I would be very, very disappointed.

We need to have procedural safeguards that in no way prevent the apprehension of young women, but we at the same time have to realize that we have a responsibility. We have a responsibility to parents and their children. We also have a responsibility to the neighbourhoods, regardless of which city it's in in this province, because everyone deserves to grow up or to live in a neighbourhood where they can peacefully go about their business. This is a very difficult and vexing problem.

Now, where does the solution lie? I would hope that very quickly the government has a look at the role of these massage parlours and the role that perhaps – and I hope I'm wrong – underage prostitutes play in them and what sort of employment is going on there. This is a problem across the province. I can only hope that the hon. Minister of Justice will have another look at this, because when I asked about this before, I was not satisfied, of course, with the answers that I received. When we think of the young people of this province, we don't usually think of young girls being apprehended and placed under care, whether it be of a social worker or whether it be a police officer. We don't think of that, but unfortunately it happens.

8:20

Summing up my remarks this evening, I would like to say that this amendment, this Bill 29, this Protection of Children Involved in Prostitution Amendment Act, should serve as a warning to all hon. members of this Assembly that perhaps we're not being as keen in our duties as we think we are. Some hon. members may get upset whenever the judiciary questions legislation. Well, in this case I would have to say: too bad if Members of the Legislative Assembly had their feelings hurt whenever this decision came about. I would encourage all members to in the future take their time and have another look.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Edmonton-Riverview.

MRS. SLOAN: Thank you, Mr. Speaker. I'm pleased to rise at third reading to speak to Bill 29. We've had a significant amount of debate thus far on this bill, and we've had a series of government announcements relative to the amendments proposed and the new funding that's to be provided.

It's quite extraordinary in many respects that we've focused the amount of resources and energies and commitments on an issue which demographically, I would say, affects somewhere in the neighbourhood of 500 or less children in the province. In fact, I may be significantly over in my estimate. In contrast we had on average last year approximately 12,000 children in the care of this government in some type of status – PGO, TGO – and we have yet to see the type of focused attention placed on those children's well-being that seems to be orientated towards the protection of children that are involved in prostitution.

I have raised at earlier points in the debate my concerns that this bill doesn't really address the root causes. In fact, last evening I spoke about some of the ways in which we could utilize this bill beyond a justice sense if we were truly concerned about addressing and preventing young women from becoming prostitutes. The bill

doesn't really embody that intent, Mr. Speaker, unfortunately, but I have come across a piece of legislation that in fact does.

I was quite impressed by the statute that was created this year also in British Columbia entitled the Secure Care Act. Interestingly enough, the Secure Care Act in B.C. does propose to address the same issue as Bill 29. It does target prostitution, but it also is designed to address other forms of self-harm, such as severe drug addiction, it could be suicide, or other situations where a child or youth is placing themselves at risk. The act in B.C. creates an independent secure care board and a director of secure care within the Ministry for Children and Families. The ministry there committed over \$10 million to support a range of intervention after care and secure care services.

Now, I got looking at the specifics of the bill, and it occurred to me that had we had the foresight to design our bill in such a manner, this type of legislation could have in fact addressed and protected a great deal more children, Mr. Speaker.

I'd like to speak to a document that I obtained through freedom of information this year. In essence, the information is a summary of deaths of children in the care of child welfare from 1994 to March of 2000. We had a total of 108 children die during that period of time while they were in some form of government protection. This includes foster care, parental care, residential care, extended family, or independent living. A total of 108. Of those, Mr. Speaker, there were a number of children who went through a large number of placements during their course of time in care. Unfortunately, the records don't show what the cause of death was, but it seems to me that given the reality that the children died and if we exclude those who died from a medical condition, deaths that were anticipated, it is my belief that there would still be a significant number of children who perhaps in this situation could have benefited from a secure care type of legislation.

One child, in particular, in the document had a total of 49 placements from 1994 to 1998, a total of 49 placements. So in four years' time the child was placed 49 times. You've got to wonder . . .

THE SPEAKER: The hon. Member for Calgary-Egmont.

MR. HERARD: Yes. Mr. Speaker, we're in third reading of a bill, as I understand it, and . . .

THE SPEAKER: You're rising, sir, on a point of something?

#### **Point of Order Relevance**

MR. HERARD: Yes. Relevance, *Beauchesne* 459. It seems to me that when we're dealing in third reading with a bill, we're dealing with what has been already debated in principle, has been amended or not amended. We are dealing with what we've got before us as a result of the deliberation of this House. I'm listening to this discussion that the hon. member is bringing up, and I find no relevance whatsoever to what's between the first page and the last page of the bill that we're dealing with. You know, I think I've heard this particular speech before on some other occasion. At least, it sounds familiar to me. But it certainly isn't relevant to what we're doing here.

MRS. SLOAN: I think, Mr. Speaker, I would accept that as some points of clarification. I'm most certainly speaking of the secure treatment of children. The bill before us speaks to confinement of children that are practising dangerous activities. I believe that it's prudent as legislators that all points of debate contemplate other statutory alternatives that are available to us in this country to guide us in making the best form of legislation possible.

8:30

THE SPEAKER: Hon. members, before the House is Bill 29, Protection of Children Involved in Prostitution Amendment Act, 2000. Let us continue on that bill.

#### **Debate Continued**

MRS. SLOAN: Thank you. I was referring to the contrast between Bill 29 and the Secure Care Act of British Columbia. One of the other significant differences in relation to this is that in the B.C. act a parent can in fact identify a child and request that the child be placed in secure treatment. In my reading of Bill 29 it doesn't appear that a parent has that ability, Mr. Speaker.

I would also reference that in my review of fatality inquiry recommendations that have been made about the deaths of children in care over the course of the last 10 years, time and time again throughout these fatality inquiries judges have prompted legislators to look at the critical shortage of secure treatment beds for children and youth in Alberta. There have been some very compelling examples, even from the hon. member's own constituency and the city in which he resides. In 1997 a young man by the name of Isaac Mercer died by hanging himself. He was in the care of government. He had been placed in Hull Home. In the fatality inquiry arising from his death, the judge pointed out that there was a need for more attention to be paid to the placement of children, in hand with numerous other recommendations relative to that child's care and the gaps in it.

Olivia Calfrope was another where, again, had there been an appropriate placement for her in secure treatment, it was believed she would not have been successful in overdosing on morphine and, as a result, committing suicide at the age of 15. My point, Mr. Speaker, is that we could be doing so much more than what we're here tonight debating. There is, albeit, some political appeal in addressing the issue of prostitution. It's an occupation, as much as we might like to discount it or as distasteful as it is to us. It has been upon this Earth for some generations. It is laudable that the government is going to attempt to curtail prostitution, at least when it involves minors, but in that respect I think we could be doing much more.

Just to summarize and complete my comments on the B.C. legislation. Under that authority young people will be able to be detained for up to 72 hours in a secure care facility without board approval. The child or youth will be able to be referred to the director of secure care by police, the Ministry for Children and Families, family or friends, and community service providers. Inherent in that act they have already incorporated in that province safeguards to ensure the protection of the rights of young people and guarantee that the child is aware of their rights: aware of the right to legal counsel and the right to express their views. There's also inherent in that act the provision for the child to appeal. I think that's really the summary of my point with respect to that bill this evening.

Just to continue on the point of secure treatment, we know there has been for some years a secure treatment shortage in this province, and I referenced that earlier. The question now is: where is the ministry planning to detain these young women? There's been an expressed concern about not placing women who are partially rehabilitated with young women who are being taken off the street. I would suspect there is probably a desire to not mix these young women with other young women who may be vulnerable to falling into the same trap. So I guess I will be looking for further information about how in fact we're going to, from a facility standpoint, accommodate these children.

If in fact we're willing to make that accommodation, then let's

also make the accommodation for other young people that require secure treatment and are in the care of child welfare. As was referenced in a fatality inquiry, it's been common practice for social workers in child welfare to not designate the child as being in need of secure treatment simply because they know the reality is that there is not an adequate amount of beds and therefore there's no point in making that notation in the records.

If we say that as a standard we're going to provide for a high level of intervention, secure treatment, really the best we can provide for minors who are engaged in prostitution, then let us set that same standard for other children who are suicidal, who suffer from mental illness. Let's deal with the waiting lists we have in this province for children's mental health services. They have existed for at least two years, and I know there's some angst about these issues being repeatedly raised, but when they're not addressed, Mr. Speaker, what alternative do we have on this side of the House?

Really, if you will, it's the responsibility of governing. Right from the very onset when the government regionalized child welfare, they said that they were going to implement provincial standards in an accountability framework for child welfare, and this particular act will fall under that. Now, we don't see within the articles of Bill 29 any reference to that accountability framework, nor do we see any reference to the standard of accommodation. This bill is simply written as – well, how should I say it? It's primarily for justice purposes in many respects. The clientele are the clientele of child welfare, but the application, the implementation of this bill is largely going to be in the hands of the justice system.

What I don't find in this bill, which is what causes me concern this evening, is what child welfare is going to be doing relative to the treatment of these young women. There are going to be, unquestionably, issues of mental health. There most likely will be histories of these clients being sexually abused or having a history of violence in the home which has prompted them to leave home and enter this dangerous activity. So however we choose to implement the bill and however the treatment facilities are enacted, these young women are going to need services from other ministries of the Crown.

8:40

You know, this is the complexity of governing. You can write a bill that will perhaps dot all the i's and cross all the t's in a justice sense, and politically perhaps it may take you some miles because you'll be able to say that we did something about child prostitution, but behind the door it's not so easy for the public to see exactly how these victims are going to be cared for by government. The minister has made an announcement, made an announcement last week in fact, about the reinvestment of moneys into child welfare, and that's very promising and long overdue. I didn't hear, though, in there that we were going to hire and train staff to specifically deal with the care of children who fall under the confines of Bill 29.

The child welfare caseload growth report, which was completed in August 2000, this year, examined very, very closely the reasons why the child welfare caseload has grown to its highest level, on average 12,000 children in the care of government last year, the highest in the province's history. It cited a number of reasons, Mr. Speaker, which I won't be able to go through tonight, but one of the key areas that was focused on in this report was about the staff in the child welfare system. The authors went through in quite significant detail, which is most readily available to government members, that we have a workforce within the child welfare sector that is significantly undertrained. Alberta is the only province in the country that hires child welfare staff with less than a bachelor of social work. In addition to that, our turnover rate for staff is very high. Since 1993 over 900 child welfare workers have terminated or transferred out of

their position while combined with the hiring of new staff to respond to growing caseloads, recruiting to the vacated positions results in a chronic significant inexperience on the front line.

In addition to that, Mr. Speaker, there are no numbers available about staff working for First Nations agencies, and that raises another issue relative to the treatment of clients under Bill 29 who are aboriginal. Will the government in fact be planning to uphold their commitment to allow for the provision of services by First Nations communities to their own children who are in need of the care of child welfare? Will that commitment apply to the application of Bill 29? I am not sure.

I regret that my time is over, Mr. Speaker. I had a great deal more to say.

Thank you very much.

THE SPEAKER: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Mr. Speaker. It is indeed a pleasure to rise this evening and speak to Bill 29, the Protection of Children Involved in Prostitution Amendment Act, 2000. I would like to make a few comments and a few observations in regards to this bill.

Of course, what we are dealing with here is an issue in society that's felt by all people. It's an issue that most people in society have very strong views about. This, of course, is about children prostituting themselves. This is something that the majority of parents certainly do take as a very, very serious issue. Not only parents but society as a whole realizes the awesome responsibility we have to protect children.

We're here at this particular time debating Bill 29 primarily because in Bill 1 there were a number of shortfalls, and these were pointed out in a ruling by Judge Karen Jordan. Now, when Bill 1 was introduced, certainly everybody was happy. We cheered. We thought we had much more protection for our children and that as a society we were certainly fulfilling our responsibility to some degree to these young people. But in her ruling Judge Jordan certainly indicated that Bill 1 fell short. So here we have Bill 29, which does address many of those issues that Judge Jordan outlined in her ruling.

Certainly one of the clauses I notice in this bill is that the 72-hour period has been extended to five days. Again, when we're looking at children who are in this particular position, where they are out prostituting themselves, then certainly an increase in time is desired. That was a positive step here as well.

In this innovative legislation, in Bill 1 and now the follow-up Bill 29, we still see, though, that there is a shortfall in the legislation, and this shortfall is in the area of accountability, in the fact that there is no power in the bill to produce a desired or intended result. I think this is one area, Mr. Speaker, where we certainly could have strengthened this bill an awful lot.

When we're looking at this, we're talking about the apprehension of hundreds of youth and how their behaviour is changed because of this bill. Now, our stated goal for the bill is the protection of children, and we're looking here at children that are hard core. We are looking at children where the success rate for behaviour modification is certainly going to be much lower than it would be with your average child.

When we look at behaviour modification for this type of child, we certainly have to look at a much more intensive program. We certainly have to draw on many, many resources that we do have in the community, and we certainly do have to involve many of the departments in government, but the desired outcome then would certainly have much more of an opportunity of success. So when we

look at this and we're looking at a success rate, nowhere in the bill do we have any measurable outcome as to the success rate of apprehending these children that are prostituting themselves.

We don't have, for an example, any answers to the question: how many of these young people, after they are apprehended, will return to the streets? How many of them will go back and recommit? Of course, we know there are many, many factors out there that do impact these children enormously. Certainly a controlling pimp is one of the issues here, yet we don't have in this bill enough regulation to address this issue.

As well, for many of these young people this becomes easy money, money they couldn't make at any other job in the amount of time they would spend. As well, we'll find that many of these young people also have a great dependency on drugs. So it's a vicious circle that they're caught in, where they prostitute themselves to get their money, they buy their drugs, and the wheel keeps going around and around. This is why I would have liked to have seen in this legislation something to assess whether the law is achieving its desired outcome.

8:50

Now then, there is a way of doing that, Mr. Speaker, and that is a Children's Advocate office. We do have an office in this province, and it is responsible to report on Children's Services. Earlier in debate on Bill 29 the Member for Calgary-Buffalo stated in his comments how the jurisdiction in section 2.1 of the Child Welfare Act certainly has many recommendations and many parts to it that impact how we can deal with youth. Particularly what I enjoyed about his comments was that certainly this jurisdiction is there under the Children's Advocate office. We are not proposing anything new. It is something that is existing at this time, and there is no additional cost. The office does exist. It does have a mandate, and that mandate is to encompass what happens to children under this bill.

As well, there were some excellent suggestions as to how we could have strengthened this bill. One of those suggestions that came up I would have liked to have seen accepted when we were debating the bill, and that would be that the Children's Advocate would have to every year table in this Legislature their report. What that would do is identify many of the problems that we encounter as the authorities attempt to work with this act, and they would certainly be able from their hands-on work with these young prostitutes have the opportunity at that point to see what parts of this act are deficient, certainly make very good recommendations as to how we could strengthen this act. Certainly this act would be a work in progress where we are constantly striving to make it better for the youth of this province.

As well, we wouldn't only be identifying the problems with this act. What would also happen here is that we'd identify problem areas, for example, with the prostitutes. Certainly there are many, many questions out there that do beg an answer. We would by the statistics that the Children's Advocate could collect in this regard see how we could best address the problems at hand.

Of course, the first question would be: how many of our youth in this province are apprehended under Bill 29? Once we have gauged that, there are so many other questions that could be asked. Do we have a predominant number of females or males that are prostituting themselves out on the streets as minors? If it does indeed happen to be one sex or the other, then at that point we can target that as a problem area and target that particular sex.

Now, as well, I think what we have to look at here is the age. Is there a certain age when these child prostitutes are most vulnerable, when their attitudes, when their behaviour can be influenced by others such as a pimp, such as an older person who would have some influence on them? Is there an age when we would have to target

them again for a greater chance of reaching them and pulling them off the street at a much earlier stage in this particular problem.

Another thing we can look at here as well is: is this a rural issue, an urban issue? Do the populations we're dealing with here occur more in one of those areas or another? Certainly that would be another area the Children's Advocate in fulfilling their responsibilities could seek out.

I also think another area we could look at is: how many of these young prostitutes come from a single-parent home, or how many have both parents? Maybe something else we want to look at is the work habits of those parents. In other words, how many of them have to work evening shifts or afternoon shifts or whatever where they aren't at home when these young people are out of school.

MS CARLSON: Do the kids have adequate life skills?

MR. BONNER: Yes. Certainly when we look at a bill of this nature I think it's very, very important that we know what sort of life skills those young people have. Are they streetwise, or are they being taken advantage of by some older, more influential person in their lives?

Something else that I think the Children's Advocate would be able to do in reporting which would be so much more valuable is: what happens in the home? In other words, how many of these children come from an environment where violence in the home is quite prevalent? How many of these homes have there been complaints to the police about or the police have had some contact with because of some issue? So, again, all these factors certainly would help in determining how we could best protect the child.

Of course, we hear so often that many of these children that are out prostituting themselves do come from a background where there was some type of inappropriate behaviour in the home. Usually they have been molested by family, by someone they know. Again, this is another area here where I think this report by the Children's Advocate would make a big, big difference. It would certainly give us the tools and the information so that we could strengthen this bill.

As well, I think another great advantage of having the minister table the report of the Children's Advocate in this Legislature each year is that it brings awareness once a year to the minds of the members in here, to the minds of the media, and certainly with their help we can keep bringing attention to this big problem that we do have in our society, one that we would like to fix.

What this would do as well is remind the MLAs in here on an annual basis of this problem and this bill. It was a couple of weeks ago that I was looking at the pictures of the group that was elected in '93, and I went through the little brochure that we have of our seating arrangement in here for the group that was elected in '97. Then I checked to see just how many of those members from '93 will be available for the next election. The maximum number we could have elected that would remain after those two elections is only 50 percent. That's assuming that everybody that's running or seeking re-election gets elected. So, again, I think it is critical that we do have reminders in here, that we do have information that hon. members in this House could review from year to year, and that we do look at ways of doing this.

Now then, if teen prostitution and sexual exploitation is a major issue, why don't we make this bill much, much stronger? Why don't we use the enormous resources we have as a province, that we have as legislators to assist these youths in changing around their lives? What we want to do is turn around their behaviour, and the sooner we do that, certainly the more success we're going to have. So those are some of the comments that I wanted to make in regards to accountability.

This is another way as well, Mr. Speaker, by this report being tabled in here, that we bring the issue to the front. It's not dealt with as it has been for so many years in this province, when we've had sexual exploitation of our youth. It is something that we don't hide. It's something that we bring to the front, and we combat the issue of child prostitution. We know that in this trade, as people have talked about here — the hon. members for Edmonton-Riverview and Edmonton-Gold Bar certainly talked this evening about how in their areas, whether it be in massage parlors or children in care, things can change very quickly. We do know that child prostitution is one of those moving targets. The people involved, particularly the adults, get extremely creative, and we require everything that we can to fight those people.

9:00

It is not inconceivable to think, Mr. Speaker, that the legislation we hopefully will pass in this session will have to be changed and updated as we move along. There is no perfect legislation in this regard, and we should be prepared to change it from time to time to make it much stronger.

The hon. Member for Calgary-Buffalo also brought out that in the provinces that border us, Saskatchewan and British Columbia, they go much further in their legislation to protect the children. I would certainly hope that as we progress down this road, we also can strengthen our legislation here. I think a major part of that strengthening of this bill would be the inclusion of the reports we get from the workers, the people that have to work with these children. I want to say, Mr. Speaker, that I certainly don't knock the people out there, the men and women in this province that are trying to deal with child prostitution. They are dealing with a very, very unique group of young people, young people who, for whatever reason, do end up on the street, and they do have an enormous task in changing their behaviour.

A number of us went on a tour here shortly after we were elected. We did happen to go down to the Remand Centre, we did go down to the police holding cells, and it was quite an eye-opener for myself. Whenever they were dealing with youth, they would put them in handcuffs, they would shackle their ankles, and the reason, the guards told us, was that young people, more so than anyone else, are very skittish. They will react before they stop to think. This was another excellent suggestion that the Member for Calgary-Buffalo brought up, that this would be an ideal time, a superb time to supply duty counsel, where they would have the opportunity to talk to a lawyer, for these young people that obviously have made some very, very bad decisions in their life for whatever reasons, people who probably at this stage are not in a very good state to make good decisions or to make any decisions.

So with those comments and observations, Mr. Speaker, I thank the Assembly very much for this opportunity to speak to Bill 29.

THE SPEAKER: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Speaker. I welcome this opportunity to speak one final time to Bill 29, the Protection of Children Involved in Prostitution Amendment Act, 2000, at the stage of third reading, where what we have is an opportunity to review the bill in its final form after the shaping it has received in earlier stages.

Mr. Speaker, it's unfortunate that at this particular stage we see, with this bill having gone through the various stages available to us, that there has been no additional shaping to it. In fact, that outlines the major concern I have with regard to this bill, and that is the kind of attitude we have seen from the government when we talk about this bill, first in its initial stage as Bill 1 and now in its amended stage as Bill 29.

What we've seen the government bring to the floor of this Legislature and through every stage of drafting and throughout the debate that we've seen from members of the government is a real paternal attitude that has been incorporated into the drafting of the legislation. It's a we know best kind of attitude: it's our way; it's the right way; it's the only way. But in fact, Mr. Speaker, where this bill is concerned, we have seen already that it is not the only way and not necessarily the best way. Had it been the best way, we would have not seen Bill 29 hit the floor of the Legislature at all, because it is in fact amendments to the original bill, Bill 1.

[The Deputy Speaker in the chair]

Now, we in this House supported Bill 1. It's a case of where you have to take a look at the legislation and decide: is it mostly better than what we had, or is mostly not better than what we had? Certainly that bill was better in terms of addressing prostitution with minors than what we had before, which was virtually no legislation, so it was an improvement. Did it go as far, Mr. Speaker, as we thought was necessary? No, it did not. In fact, some of the very concerns that we see brought forward in Bill 29, which is the amendment of the Protection of Children Involved in Prostitution Act, address the concerns that we had brought forward in the original drafting of the bill.

Does it now address in its amended form all of the concerns we have? No, it doesn't. The paternalistic attitude that we see from the government means that they're not prepared to take a look at amendments from anyone other than themselves, and they have not seen fit at this particular stage to bring any in. So unfortunately we don't see any kinds of changes or shaping in the bill at its final reading.

The last opportunity I had to speak to this bill, Mr. Speaker, was in second reading, and at that time there were a number of excellent comments and recommendations made from many of my colleagues here in the Assembly that we certainly hoped we would have seen incorporated in the committee stage in amendments brought in either by us or by government. We would have been quite happy to see some strengthening of the bill, but we didn't see that. We brought forward excellent amendments that addressed some of the key issues that were missing from this bill, yet they were all defeated.

This portrays, I think, the next stage of this paternalistic attitude that we have seen from government members on this bill, where they move into a phase of smugness that I believe has clouded their decision-making process on this bill, Mr. Speaker. That's really unfortunate, because we're seeing a bill that I believe, as the Member for Calgary-Buffalo stated earlier today, we are going to see again in another amended fashion next year or the year after, because there just are some situations here that have not been addressed that will become issues, I think, as this bill unfolds.

With that in mind, I would like to take a look at some of the comments made by the Minister of Justice earlier this afternoon with regard to that, when he was provoked to address some of the concerns that were being outlined, where we saw the government become quite prickly about some of the concerns we had outlined. When he talked this afternoon in defence of not accepting any amendments or changes to the legislation, he said that this government was in the process of reviewing the act in its operation and working with the people who are in the front line of this operation working with these unfortunate children and getting feedback from them. He states that that's what Bill 29 is all about.

9:10

In fact, part of that feedback, Mr. Speaker, talked about what's missing in the bill. That's the process that I'm primarily concerned

about, in terms of these minors taking a great deal of responsibility for decision-making processes after they have been taken into custody. The minister went on to talk about acknowledging a change in the bill in terms of 72 hours being the initial recommendation for the young people and it being made stronger by having a five-day period, which we agree with. Seventy-two hours was a major concern of ours in the original drafting of the bill. We felt that often in cases it wouldn't be a long enough time period.

The minister goes on, Mr. Speaker, to talk about why they lengthened it to a five-day period, and he talks about how you barely have the opportunity to have the child sober up, have a good meal, have a good sleep. There's very little time left to provide counseling or to intervene in any way, to provide the child with guidance and an opportunity to move into counseling, to move into some other form of treatment.

Well, he's right. There's no doubt that those are very good points. Those are also very good arguments for the amendments that we brought forward in this legislation. If 72 hours is not enough time to provide an adequate opportunity for the minor to even sober up, then how can it be enough time to expect the minor in custody to have the ability or the capabilities to make decisions in terms of whether or not they should be accessing a lawyer, whether or not they should be having a court hearing, all of those really good points that were brought up in our amendments? The Justice minister in fact made our argument for us in accepting the amendments, yet he was one of the people who spoke against them and who defeated those amendments in this House.

So my concern still is that those issues haven't been addressed, that these kids are not in a position to do good decision-making themselves, that they need some assistance. He in fact painted a picture for us here of minors who are incapable of making those rational decisions that are going to be life-changing decisions for them and that they're going to need definite guidance on. That was one of the reasons why we thought duty counsel was so important, so that we really talk about the best interests of the child in a comprehensive, inclusive fashion, which is not just handing them a piece of paper with a lawyer's phone number on it, Mr. Speaker. We just don't think that's adequate.

We believe that in practice that's going to be an issue, that this bill will be back here for more amendments. The Minister of Justice said that that's okay, that legislation is living and breathing documentation that should be amended. Well, we don't disagree with that either, Mr. Speaker, but the fact is that when you know you've got the problem up front, why not address it? Take a look at how long until this legislation has come back for amendment now and come back for amendment under the pressure of a judge's ruling. Even then it took many months. The ruling came down in the summertime. We're now talking about the very end of November. That's a time lag wherein we've seen a number of minors whose lives could have been affected in a much more positive fashion than they have been with the loss of this amended legislation. If we were to strengthen that legislation now when we have the opportunity, when we have it on the floor of the Assembly, we would have a chance to make a difference in many more young people's lives, and that's what I'm concerned about.

Finally we see a piece of good legislation that addresses some of the social issues that are at the core of the problems in our province, and we don't do everything we can to make it the best possible legislation available to us. That's really a pity. Time after time we have seen legislation or regulations from this government where symptoms are addressed, where the government hasn't had the courage to actually address the causes of the problems. Once again we're seeing symptoms addressed here, but they're starting to

scratch the surface of some of the causes. They've been talked about in this Assembly, Mr. Speaker, and that's a very good first step. We would have liked to have seen that role expanded with more debate, stronger legislation, amendments passed that would have really enabled the legislation and this government to move forward in terms of protecting minors in the most comprehensive fashion available. It's too bad we haven't seen that.

I hope that I am around and available to talk to this amended legislation when it comes before us again in the future, because as my colleague from Edmonton-Glenarry said, by the time of the next election we'll have had a 50 percent attrition rate since 1993. If you think we may not see this legislation for some years in the future, then certainly there will be very few people here who will remember what it looked like when it was first brought before this Assembly. We will have to go through the process of re-educating legislators on all the shortfalls and shortcomings of the kinds of social legislation that is needed and necessary in this province. So it's too bad, Mr. Speaker, that we've missed an opportunity.

With that, I'll conclude my remarks on this bill.

[Motion carried; Bill 29 read a third time]

## Bill 20

### Justice Statutes Amendment Act, 2000

THE DEPUTY SPEAKER: The hon. Minister of Justice and Attorney General.

MR. HANCOCK: Thank you, Mr. Speaker. It's my pleasure to move Bill 20 for third reading.

Bill 20, the Justice Statutes Amendment Act, as we've discussed at second reading and in committee, will result, in my view, in a significant improvement of access by Albertans to their courts and to dispute resolution processes within the province. It will provide us with a framework to have an opportunity to improve the level and amount of civil court jurisdiction in the Provincial Court as well as other jurisdictions in the Provincial Court, which will allow Albertans easier access to dispute resolution processes there. It will allow the court to organize itself in a manner which makes the most efficient use of its resources.

In addressing some of the issues that were raised at second reading and in committee with respect to the sections of the act which do away with the outlining of specific divisions of the Provincial Court, I neglected to address the concept that while we're doing away with the formal divisions in the Provincial Court, it's not intended that that will in any way, shape, or form require the court to lose any expertise in any one area. For example, in the family and youth division there will still be judges sitting who have expertise in family and youth matters.

What doing away with the divisions will accomplish will be to allow us to appoint members to the Provincial Court as a whole rather than to any specific division and, again, will allow the court to orient its resources so the Chief Judge of the court will be able to ask members of the bench to move into a particular area. If, for example, family and youth court in any particular region or section has a long time to trial, a long period of time before issues can be dealt with, those resources can be marshaled and put into that area by the Chief Judge to deal with that particular issue. Once again, the concept is not to interfere with the organization of the court or to interfere with the court's ability to address particular expertise to an area of jurisdiction or an area of the court's affairs but, rather, to allow for the easier movement of people by the Chief Judge into places where there's a particular need at a particular time.

I just wanted to add those comments at third reading because I had neglected to address that particular question when it came up from Edmonton-Strathcona at earlier readings.

Mr. Speaker, the Justice Statutes Amendment Act is a good bill. It deals with a wide range of justice issues, very important and significant issues – for example, dealing with the Surrogate Court and other issues – which will allow for better use of the resources, better access by Albertans to the courts, and I would ask the House to support it.

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

MR. DICKSON: Thank you, Mr. Speaker. Bill 20 has been an interesting bill, and it culminates in actually a fairly lengthy consultation process. I'm thinking how many months ago it was that I was invited to meet with the Minister of Justice and, to my recollection, Sue Olsen, the former Justice critic for the Official Opposition, to review at that point a number of suggestions that the Justice minister was looking at and contemplating in terms of updating a series of Justice-related statutes.

9:20

Both Ms Olsen and this member had an opportunity to offer some commentary at the time, and I remember my initial reaction was that many of the changes that the minister signaled he was contemplating bringing forward in legislative form were changes that were important, that were remedial for the most part, that clarified, improved, and streamlined elements of the justice system, the biggest focus here being in terms of the civil justice side. So I thought that was a very positive initiative and, I say again, in the style that the Minister of Justice has become associated with and in some respects distinguished himself by an advanced consultation with opposition critics, as he did this afternoon when we talked about his earlier consultation on Bill 3, and then his readiness to deal with opposition-proposed amendments to make that bill clearer, stronger. Bill 20 reflects very much the minister's same kind of approach to what I describe as constructive lawmaking. It's a treat as a legislator to be able to dialogue with the minister outside this Chamber as well as inside in terms of trying to remedy omissions, deficiencies, conflicts, that sort of thing that exists in current legislation.

I'm encouraged somewhat by the minister's comment that he understands the importance of some of the specialized skills and experience being built up by having separate divisions of the Provincial Court. I take his comment that he doesn't plan on homogenizing the entire Provincial Court – certainly there had been some concern around that – that the intention is that we will still have a number of judges, men and women, on the bench who will be able to do what Judge Jordan did in the child prostitution bill we were talking about earlier; in other words, discharging her responsibility in an area where she has built up some specialized knowledge and experience in terms of dealing with children in distress.

There are provisions in terms of regulations – and I'm thinking of 5(a)(ii) and some of those other provisions – that invite my customary criticism that subordinate lawmaking in this province continues to be done for the most part in secret, tends to be done for the most part without Albertans or their elected representatives, unless they happen to be part of the government caucus, knowing anything about those regulations coming forward. One would have hoped that in the Justice Statutes Amendment Act, if ever there were an occasion to charge the Standing Committee on Law and Regulations with the responsibility to review this subordinate lawmaking . . .

MRS. SLOAN: One last attempt.

MR. DICKSON: Yeah. One of my colleagues suggests this is Calgary-Buffalo's last pitch for the Standing Committee on Law and Regulations. I hasten to say that there may be another opportunity, but I do take some modest satisfaction in knowing that those government members who are fortunate enough to return to this Assembly after the next provincial general election will sort of anticipate this amendment when they look at a bill. If the Member for Calgary-Glenmore and the Minister of Justice are back in their respective positions and they're reviewing government legislation, maybe, just maybe, somebody may say . . . [interjection] Well, I'm just indulging in the conceit of the government caucus that thinks they're coming back on the other side.

Mr. Speaker, it just occurred to me that just maybe somebody in the government caucus might say: "Hold it. You know, we're going to get beat up yet again for another four years by the opposition because we make regulations in secret. We're tired of being pummeled. We're tired of hearing the opposition take these shots at us. We're going to inoculate ourselves. We can wrap ourselves in kind of a cozy cocoon."

MRS. SLOAN: Like the flu shot.

MR. DICKSON: Very much like the flu shot. The flu shot would be simply taking that famous report written by Justice Cote and some other people who did that wonderful report, I think in the 1980s, on how Alberta could clean up their subordinate lawmaking, and we could have all those regulations vetted. And what better place to do it? What better minister to take the bold initiative? What better kind of statute to start regulating regulations in public view? Let's take it out of the secret lawmaking chamber. Let's bring it in here. This is the chance to do it.

I was sort of thinking the government caucus would be so happy to be rid of the Member for Calgary-Buffalo that to sort of hasten my departure, they might serve up a big, fat amendment that would in fact charge the Standing Committee on Law and Regulations, but alas it has not happened, and time runs out.

AN HON. MEMBER: We're scared you're going to change your mind.

MR. DICKSON: Well, I'd be prepared to make an irrevocable commitment: I will not come back if on Bill 20 – and a Mr. Edy might have something to say about it as well – the government were prepared to do that.

You know, if they don't, I want all members to know and I want the Minister of Justice to know that this is one of those arguments that works as well on the first bill as on the 40th bill or the 25th bill, any bill that deals with regulations. All of those Albertans are watching and waiting.

I can tell you that when the Liberal opposition marches in with those dozens and dozens of MLAs on that side of the Chamber, that's going to be one of the first things they do. We're going to repeal Bill 11. We're going to repeal Bill 40. Then what we're going to do, hopefully, is we're going to move to instruct the chairman of the Committee on Law and Regulations – in fact, I will come back. I will attempt to get a seat in the public gallery so that I can watch that auspicious occasion when with great fanfare – in fact, it could be like a new member being inducted into the Assembly – the chairman of the Standing Committee on Law and Regulations could pound on the door, symbolic of all of the years that he's been shut out and never able to enter the Chamber and do business



in public. He could be marched forward. It could be all party leaders linking arms with you, Mr. Speaker, as they march forward to the front, and there would be a tumultuous thumping of tables as we would with a single, united chorus . . .

MR. SAPERS: Don't forget about the trumpets. Don't forget about the fanfare of trumpets.

MR. DICKSON: And trumpets. Anyway, I'm getting carried away, Mr. Speaker, and you've been very kind in indulging me here as we focus on but one element of the bill.

You know, one of the other things that I want to say is that I've never been able to persuade a Justice minister to deal with an innovative idea that came forward – one of the partners at Bennett Jones had mentioned to me one time a number of years ago in terms of video: with the video capability we have, why we don't have a video record of trials. As I looked through Bill 20, I thought this might be addressed someplace. [interjection] Well, the typical civil trial may be a day or two days.

As I look through, we have a number of changes being made to our civil process. The Member for Calgary-Foothills, you know, I'm sure has got some observation to make on this very issue. I just think that what would make sense is that in 2000 we have the capability of having a video record of trials. I think of the Court of Appeal. When the Court of Appeal sits, instead of having to rely on appeal books and factums, they would have the opportunity to be able to view witnesses giving their evidence. [interjection]

You know, I really stood up with the view of just making a couple of comments. I always start out, Mr. Speaker, trying to make the most direct point from the start until the finish, but I'm not strong enough. I am simply not disciplined enough. When I hear an invitation to meander off on a bit of a side route, I take it every time. But I'm going to try hard and be more disciplined.

9:30

I think if you look at the latest newsletter from the Canadian Bar Association, there's a focus in there where they talk about courts examining technology. There's much to consider in terms having a video record. [interjections]

#### **Speaker's Ruling Decorum**

THE DEPUTY SPEAKER: Hon. members on the front bench and the second bench and the third bench, I wonder if we could hear the hon. Member for Calgary-Buffalo out without all the additional helping comments and encouraging comments and if the hon. Member for Calgary-Buffalo could address his remarks to the chair, as he is wont to sometimes wander.

#### **Debate Continued**

MR. DICKSON: Thank you very much, Mr. Speaker, for that intervention. It may be that our colleagues in the Assembly have forgotten that in fact we have 30 minutes to be able to debate this bill instead of the customary 20.

But I wanted to make another observation that one of the things that I'd hoped could have been identified and addressed more strongly in this bill – you know, I think we have a very farsighted Minister of Justice, a tough guy to criticize because he clearly brings a sense of fairness and a sense of . . . [interjections] There's some suggestion that I may be discrediting the Minister of Justice with my praise in front of his colleagues, so I'll go no further other than to say this. Mr. Speaker, the point I wanted to make is this: why has this Minister of Justice not seized the opportunity that Bill 20 would

afford him to be the first Justice minister in the history of this province that would say that the province has a responsibility for public legal education?

You know, one of the biggest problems we have with people getting access to justice is the cost, the cost of hiring a lawyer, the cost of going to the court system, and one of the most effective ways of addressing that is giving citizens more information. Give citizens more information about the system. The Court of Queen's Bench has recently produced a series of booklets. They're actually very good booklets in terms of information, and what they do is empower citizens to be able to find remedies and to be able to know how they're going to do some of those things.

I wasn't going to say, but, you know, I've thought there's some delicious irony every time I go in and see the Alberta Divorce Guide on the stand at McDougall Centre, because they've decided they haven't quite produced enough material to be able to assist people to do their own divorce but people are still asking for it. So there they actually have McDougall Centre – you go down there, and you find the Alberta Self-Counsel Press Alberta Divorce Guide smack in McDougall Centre. I can only suspect that the Premier hasn't been looking through the publications office. To see that displayed in fulsome fashion practically in the lobby of McDougall Centre is richly ironic and deserves some comment.

In any event, we have a chance to do something in terms of public legal education, and I've said it before, but we have in Alberta arguably one of the finest public legal education networks anywhere in Canada. The leadership that's provided with funding from the Alberta Law Foundation and the work that's being done by my old classmate Lois Gander and people at the Legal Resource Centre in Edmonton and Calgary Legal Guidance and Student Legal Services – it is amazing work, yet you know they don't get a nickel of money from the provincial government. We don't provide any provincial money in terms of public legal education, and I think we ought to do that.

Mr. Speaker, the other comment I wanted to make is in terms of legal aid. I wanted to say that I very much support the notion that we're now going to constitute legal aid separately. It's been always a strange, strange situation to have the Law Society of Alberta having to negotiate and be involved in this odd three-legged stool: you've got the Justice department, you've got the Law Society, and you've got legal aid. It's actually a big advantage in this bill to give legal aid some independent role and some independent status, and I think that's important. The difficulty is that legal aid funding still comes from the provincial government, and I get nervous because from time to time I hear members of the government saying some things that suggest to me they don't understand the importance of legal aid in terms of ensuring full accessibility to our legal system.

We've seen some adjustment in terms of legal aid rates, and I think that's a positive thing, but I think it's important that the government continue and in fact do better in terms of their funding for legal aid. I'm most anxious that as legal aid has a new governance structure that this is not seized upon by the government as some excuse to reduce funding or at least not increase funding to keep pace with the fact that we're growing as quickly as we are in the province of Alberta.

There are some questions that have been asked that I'm not sure have ever been fully answered in addition to the concern with respect to regulations. Some of the questions had to do with the kind of control that the Chief Judge will have with respect to the administration of the courts and, I guess, the privative clause, which will protect the decisions of the Chief Judge with respect to the administration of the court and insulate it, in fact effectively prevent any review by a superior court.

You know, I still wrestle with that, because the judicial independence is such a fundamental element of our legal system – and I haven't read the full trial judgment when Judge Reilly had gone firstly in front of a judge and then later in front of the Court of Appeal, but I had some very strong concerns, Mr. Speaker, around that. It seemed to me that it was important at the time that that opportunity be available. It certainly cost the province some money, and I understand that not being a very pleasant experience for them. They lost in front of the lower court judge, and they lost in front of the Court of Appeal.

Nonetheless, Mr. Speaker, I continue to question whether the privative clause is appropriate. The privative clause, of course, effectively eliminates what happened in the case of Judge Reilly.

9:40

I just want to signal also a concern I'd raised the other day, and I noticed that the Justice minister hasn't addressed that tonight. It had to do with the reduced standard in terms of proof of service of documents. We've gone from a position where we now can send a document by ordinary mail to the last known address, and that will be deemed to be good service. That's troublesome, because in some parts of the province it may not be a problem, but I think of downtown Calgary where typically many people live on average about five months in an apartment and then move somewhere else. It's easy to imagine that an attempt is going to be made to serve a defendant with a small claim summons and they've moved.

Now, when the limit was \$3,000 or \$7,500, the prejudice was not huge, and there's always the opportunity, I suppose, of going to the Court of Queen's Bench and trying to open up a judgment that was obtained if there was a defect in the service. But we're talking about increasing the jurisdiction of small claims court to \$50,000. Fifty thousand dollars is a significant amount of money. If somebody sues me and if somebody thinks my address here in Edmonton is my last known address and of course I clear out as soon as the Legislature ends and the mail doesn't come to me right away because it was sent to what somebody thought was my last known address, I may not find out that somebody is suing me for \$50,000. If they don't hear from me and in fact they proceed to an assessment of damages, the next thing I may know is that when the bailiff shows up at my door to seize my wife's computer, that may be the first notice I have, and that's the first installment on a \$50,000 claim against me.

You know, I think that's the sort of thing we have to think about. Is that a process we want? I can think of lots of people who don't get mail on a regular basis and move and change addresses. In the normal course when you had to sue under the rules of court in the Court of Queen's Bench, you couldn't get away with just sending a document to the last known address. This is something I haven't heard the Minister of Justice address. I think creditors have an extensive array of remedies, and it's not a question of trying to make it easier for debtors to avoid process, but if people are going to be sued for up to \$50,000, shouldn't we try a little harder to make sure they've got notice of the action, rather than just allowing the plaintiff to send it to the last known address?

In any event, it's one of those concerns I have in Bill 20. I understand the Law Society has reviewed this, and my information is that this wasn't something they had concern with. I don't know whether that's because too many plaintiffs' lawyers were offering commentary. I remember as a young lawyer starting out, as most young lawyers do, doing a collections practice. Boy, you know, it's not uncommon. People just don't get notice of those claims right away. So it's something I'd invite the Minister of Justice to review. It's not reason enough to vote against Bill 20, but I think it's very troubling to reduce the standard.

When I look at what happened with the federal voting list – and we may see this with the provincial voting list. I was one of those people who thought it was terrific to have sort of a universal voting list. We didn't have to go through the enormous cost of an enumeration, but you know we found in downtown Calgary, in Calgary-Buffalo very significant problems because you've got so many people that are moving. In fact it got to the point: I was sitting on the Legislative Offices Committee, and the Chief Electoral Officer told us that he, in effect, had to go in and not do an enumeration but do some fairly exhaustive checks and attempts to update the list.

Well, it's the same kind of problem. What we find is that lots of things can happen because people move around, and it potentially means people may end up with judgments of up to \$50,000 and the first they'll know of it is when their car is seized or their cheques start bouncing because they have no money in the bank account because it's been cleaned out by a garnishee. Things to consider, in any event.

I've talked about legal aid. We've identified the issue in terms of looking at a video record of trial proceedings to enhance the scrutiny by the Court of Appeal. I remember asking the former Minister of Justice, the current Minister of Economic Development, and it was something that he said he wasn't looking at in particular. I think he said that he'd take it under advisement, but we've never heard any further. I'm not sure I've asked this of the current Minister of Justice. I suspect I have and notice that hasn't been addressed.

We've talked about the need for the Justice department to recognize that they have a huge public responsibility in terms of public legal education. I think we've talked about that as maybe the single most empowering thing that we can do. When Calgary Legal Guidance was started in Calgary, when Student Legal Services was started in Edmonton, what you found were lots of people who didn't qualify for legal aid and yet couldn't begin to afford a lawyer on a private retainer. So what do we say to those people? What happened was lawyers in this province with help from the bench created the service. We created a model in Calgary, Calgary Legal Guidance, that now there are attempts to replicate in other places, and it has expanded far beyond what it was in 1973.

I think it identifies that there are needs there. I think the Justice department and for that matter the provincial government have been getting a kind of free ride, if you like, because organizations like the Alberta Law Foundation have been providing funding, and organizations like the Public Legal Education Network of Alberta and the John Howard Society and all those organizations that do important kinds of public education are really carrying the ball. I think it's high time in this province that we accepted there was a public responsibility in terms of providing that education.

The Minister of Community Development I think is signaling that he'd like to hear more. I was going to sit down, Mr. Speaker.

Mr. Speaker, I expect that we may not hear a lot more from other members on this bill, and that's why I'm trying to be as comprehensive as I can. So I hope that allays the concerns of members that are watching the clock.

The provision in terms of management of exhibits, I think, is a positive one. I think the prospect of providing clear provision for civil contempt in Provincial Court is good.

One of the questions we haven't heard answered yet – and I'm sure one of my colleagues has asked this – is when we said to the Minister of Justice: tell us what sort of costs we're looking at. We have the chair here in the Assembly this evening of the task force looking at a unified family court. I've had a chance to attend one of those hearings, and one of the things I haven't heard and I think Albertans want to know, Mr. Speaker – I understand there being

some cost analysis done in terms of the cost of the unified court.

Those are my comments. I'm out of time, Mr. Speaker. Thank you.

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

MR. SAPERS: Thanks, Mr. Speaker. The Justice Statutes Amendment Act, 2000, has probably attracted a little bit more debate than the Minister of Justice would have anticipated, but it just is an indication of how important members of the Liberal caucus feel the whole area of justice is, appropriate responses to crime, dealing with some of the issues that contribute to criminality, and, of course, the administration of justice. These have always been priorities for the Liberals in this province and will continue to be a priority focus of ours.

9:50

I just wanted to make a couple of comments about Bill 20. As I read through it again in preparing for third reading debate and I had the chance to review the minister's business plan, the minister from the Department of Justice, I was trying to find how Bill 20 would fit into this business plan, and I note from the justice . . . [interjections] I thought the Minister of Gaming was making an intervention, Mr. Speaker.

THE DEPUTY SPEAKER: Hon. member, I think the hon. Minister of Gaming, in fact, is reading aloud. Hopefully, so he doesn't interrupt you further, he will go back to silent reading.

MR. SAPERS: Thanks, Mr. Speaker. As I was reading through the minister's business plan, I noticed that the starting point on the minister's business plan is the justice summit and the justice summit report. The justice summit was held in about January of '99, I guess. A hundred and thirty-six delegates got together. The government, I know, made a real effort to gain a variety of opinions on a number of very important issues.

There were 25 key recommendations that came out of that justice summit, and those 25 key recommendations were in eight theme areas. I would like to just refresh the memory of those in the Chamber on what those themes were. Number one was to improve public knowledge, education, and awareness. Number two was to simplify the justice system. Number three was to increase sensitivity and cultural awareness. Number four was to enhance community partnerships. Five was to increase the role of victims. Six was to clarify accountability. Seven was to take action on previous studies and reports on justice, and the last one was to increase funding.

Now, I think there are parts of Bill 20 that address the second theme area; that is, to simplify the justice system. There may even be some attention being paid to clarifying accountability. But I'm very confused because I can't find how Bill 20 addresses the other six theme areas out of the justice summit report, which was supposed to influence the entire business plan this year for the minister.

I'm particularly concerned that the very first theme area, the one that calls for improving public knowledge, education, and awareness as it regards the administration of justice, hasn't been addressed at all. Now, there has been some discussion of the need for enhanced public education activities, and my colleague for Calgary-Buffalo has referred to the Public Legal Education Network of Alberta. I must say that made me feel a little nostalgic. Having been a participant in the Public Legal Education Network of Alberta for some time and even having had the privilege of chairing that organization, I'm somewhat familiar with the endeavours and with the member agencies.

You know, part of the discussion – and I'm not sure if it would be

picked up in *Hansard* or not, Mr. Speaker. When Calgary-Buffalo was making reference to the good work done by the member organizations of the Public Legal Education Network of Alberta and he asked, not rhetorically, about the lack of funding, there was some suggestion: well, if they do it for free, why should they be paid? Well, in fact, they don't do it for free. There's a real cost. It's just not a cost that the provincial government has recognized, even though one of those theme areas for the recommendations is to increase funding, including funding for the first theme area, which was to improve public knowledge, education, and awareness.

So we would have had an opportunity, we would have thought, for the minister to clarify that, perhaps even in this legislation, to build it in instead of relying as it were on the kindness of strangers, in this case the strangers being the Alberta Law Foundation, which is set up by the Law Society of Alberta.

I heard some rather disparaging comments from some members in this Chamber in regards to lawyers. I must say that if it wasn't for the lawyers of this province making a commitment to public legal education and ensuring that the Alberta Law Foundation was there and that its mandate was to pay for public legal education, it wouldn't be happening at all.

I think, you know, it's easy to take shots at members of the legal profession, but I just want to remind members in the Chamber that in most public opinion surveys lawyers rank just slightly above politicians in terms of the public perception of honesty and trustworthiness. Now, perhaps if you're a lawyer and a politician, it means you're in double trouble, Mr. Speaker; I'm not sure. My point is that it's easy to point the finger at the legal community and say they're not doing enough, but that sure sounds hollow when the finger is being pointed by members of this government. If it weren't for the legal community, very little in this area would be done at all.

Now the other sort of general comment I wanted to make had to do with another one of the goal statements in the Justice minister's plan. Goal 3 is "to provide access to justice services for persons in need," and it goes on to say that

families and the community are principally responsible for protecting the vulnerable, but critical contributions are made by the justice system. Access to justice services for Albertans in need is provided through maintenance enforcement, public trustee services, victim assistance, and the support for legal aid.

For the minister's reference I'm reading goal statement 3 on page 221 of the budget document that was provided to every member of this Chamber.

I guess I was looking for some more clarification as to how this particular goal was being achieved through the changes in Bill 20. Perhaps in the minister's closing comments he can let us know how these issues are being addressed, particularly when I look at some of the measures having to do with the collection of maintenance, maintenance payments, client satisfaction with the Public Trustee's office – there have been some questions raised about the Public Trustee's office that have not been satisfactorily answered – also to do with the number of persons receiving legal aid. Seeing as these are the measures, I would expect the minister would have paid some attention to how they may be impacted by his Justice Statutes Amendment Act.

Now, the one goal statement that is probably most on point is goal statement 5, which is "to improve access to civil and criminal justice." The ministry business plan goes on to explain that "the justice system is responsible for providing the infrastructure to resolve criminal and civil disputes" and then talks about, as the only goal statement, the "median elapsed time from first to last appearance." There is no measure in the document for the most recent past year, '98-99. We're told that the target is the Canadian average, but

we don't know what the Canadian average is because the department doesn't report it in this document.

I would expect, of course, that the minister has asked officials in his department to prepare some sort of briefing or a synopsis of how this goal statement will be achieved through the changes made in Bill 20. If we are working towards the Canadian average for the median elapsed time from first to last appearance and we are seeing a major reorganization of the courts, then I'm expecting that this must have something to do with the speedy access to civil and criminal justice. If that's the case, then I would invite the minister to tell us what his expectations are and to do it in such a way, Mr. Speaker, that informs us not before he adjusts his business plans but prior to when this Assembly is being asked to vote on his plans. He asked us, when he moved third reading, to please give his initiatives our support.

I would like to give this minister my support in these plans. I think he's got a very difficult portfolio, and one that he has done relatively well in achieving a balance between those who see the justice system as being too lax and those who are seeing the justice system as being too punitive. I think being Minister of Justice means you never make anybody particularly happy, and this minister is – well, I was going to say this minister is doing exactly that: he's making nobody happy. That may be a clever quip, Mr. Speaker, but I really meant to say it in a more complimentary way. I think this minister is achieving a reasonable balance between all the competing demands that are inherent in his portfolio.

10:00

So with that in mind, I would like to support this minister's initiatives in terms of reformation of the system, particularly if it will truly improve access to the process, but he hasn't given us any indication that these changes actually do address the goal statement. Now, this is troubling specifically because we're being asked to approve something, but it's troubling in a more general way as well, and that is it reminds me of the Auditor General's most recent report, when the Auditor General points out that department by department governmentwide there is a real mismatch between goal statements and the activities of ministries and that often we don't see money being attached to measurable outcomes and don't see any real accountability thread that is woven through the actions of the ministries and the goal statements and the outcome measures, if there are any, and the legislative initiatives.

I share the Auditor General's concern. I think that if a government is going to in part stake its reputation on its business planning, then there ought to be some consistency, there ought to be some accountability, and we certainly ought to see some relationship between the money that's being spent, department by department, and the stated or the hoped-for outcomes and of course the measures we would employ to determine whether those outcomes are met or not.

So, Mr. Speaker, those are my concerns about the Justice Statutes Amendment Act. We've had lots of time in debate on this statute, and we've raised, I think, some very legitimate concerns. I do appreciate that the minister has taken some time to answer some of the concerns, but really the answers have not been forthcoming to the more serious issues that have been raised in debate in second reading, in committee, and now in third reading. This would be the minister's last chance to stand up and get on the record and clarify his position and his government's position on these matters before we're called to vote, and of course the nature of his comments will have direct bearing on whether or not this member can support the minister's request for this bill.

Thank you.

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

MRS. SLOAN: Thank you, Mr. Speaker. I thought I would begin my comments on Bill 20 at third reading this evening by utilizing a quote that was made by the Church Council on Justice and Corrections in 1999. They said:

Let's end the talk about getting tough or being soft on crime, being for victims or being for offenders, as if you can only be for one . . . These young people in conflict with the law are members of our communities, not aliens. They come from our families, as do their victims. They are coming back to our communities. What we do with them in the meantime through serious interventions that stress positive and meaningful accountability and services to their victims will make the difference in whether we are a strong or weak community.

Mr. Speaker, I spoke to this bill last evening and talked about the aspect of the bill that relates to fines and the high incidence in Alberta of incarcerating people who default on fines. This evening I would like to continue to raise some issues on this statute and the broader issues related to it from the Justice and the Poor report produced in the spring of 2000 by the National Council of Welfare.

Just continuing on in a general sense, we have, as I indicated earlier, a statute which is bringing forward a number of different amendments. I'm cognizant of the fact that this may be the last bill I speak to in this Assembly. Probably in most respects, Mr. Speaker, I would have preferred that it would have been a health care bill, because I would have certainly felt much more competent to be analyzing and categorizing the effect of these amendments, but as fate would have it, tonight we're talking about amendments to the justice statutes.

I certainly have to admit that the debate on this bill has proven to be educational for me. I've learned a number of things. I've also learned in my time in the Assembly that the debate and the discussion that goes on in this process is not simply about the words or the paragraphs or the pages of the bills before us, but it is very much about the intent of those bills, what effect and what change they will bring about, and how that will affect our citizens individually and collectively.

We have had much good debate on Bill 20 already in this Assembly. In reviewing the *Hansard* and the issues that have been brought forward, I think that in summary there's certainly a good deal of support for the bill. There are some reasoned questions that have been made and await answers.

I have in my time in the Assembly been responsible for the portfolio of family and social services and under that category have become very familiar with this government's record on the treatment of the vulnerable in this province, whether it be the people who are utilizing disability programs, welfare programs, services for the homeless, child welfare services. In that context, Mr. Speaker, we have amendments before us, amendments about facilitating payment of fines through registries and, through that process, the incorporation of an additional surcharge. We know that certainly there's a large degree of fines that are levied that are municipally based and that there is also in the demographics of those fined a certain degree of those people who would fall into a vulnerable category.

Now, logistically I don't know how many government registries are right in the downtown core, but it would seem to me that if you are going to make it compulsory that people pay their fines at a registry, somehow for those people who don't have transportation, who can't afford bus fare, the government shouldn't be trying to make it additionally difficult for those people to pay their fines. But de facto that may be the case. We may have by agreeing to this

amendment – while for many people in the province it won't pose undue hardship, for those who are of limited means it perhaps may, both in terms of the surcharge and in terms of the location of the registry.

MR. DICKSON: It's a tax.

MRS. SLOAN: It is very much a tax, and that's been stated clearly before. I won't restate the obvious, but there's certainly been a long history of that type of hidden taxation in the policies of this government in my tenure.

I wanted to just raise a couple of other observations that were made in the Justice and the Poor report. Haveman in 1984 said that "the persistence of jailing in default of a fine as a Canadian problem is astounding." Going back much earlier to the Archambault Commission in 1938, the following statement was made:

Imprisonment for non-payment, when the convicted person has not the means or ability to pay, is, in fact, imprisonment for poverty . . . Your Commissioners are of the opinion that many . . . criminals receive their first education in crime upon being committed to prison for non-payment of fines.

That was evident, Mr. Speaker, to that commission some 60 years ago.

10:10

While we're in the process tonight of discussing how we pay fines – and I've stated the reality that we have a very high imprisonment rate for defaulting on fines – we don't have the political will within this Assembly tonight to address those issues. Mr. Speaker, we simply want to create another avenue to additionally tax people, through a surcharge on fines, and create more business for the private registries. In fact, that's another valid point, that again de facto this bill is generating business for private registries. It's taking the fine payment and basically in some ways telling these private registry owners: listen; this is going to be a market that you ought to be ready to accommodate. So in that respect I have concerns about that particular section of the justice statute that's before us.

I stated in my earlier comments as well that I'd like to continue for a bit on the lack of addressment within the amendments relative to their effect on women. We talked about the regionalization of the court system, the requirement for judges to become generalists. We talked about, I guess, the lack of consultation that has occurred in advance of this. We also talked in an earlier section about the lack of government respect for the judiciary, the historic issue of the 5 percent rollback and the angst that caused between the judiciary and government.

I have a great deal of respect as well for the Minister of Justice, and I think many of these amendments are well intended. However, I've come to learn in my term of office that there's an ideology embedded within this government that goes back far beyond the current Minister of Justice, and we write our laws to symbolize or give current reality to that ideology: pull up your bootstraps; children are parents' responsibility; if you can't make it on your own, don't expect government support. Some of those very, very callous and hard-nosed ideologies I've run headlong into, Mr. Speaker, as I've fulfilled my role in this Assembly. If we're going to take the opportunity to significantly amend the way in which our justice system operates, which in fact Bill 20 does – it talks about quite a significant reorganization of the court system – why not also look at the potential impact of that and the impact this ideology has had over time on certain segments of our society?

Again citing from the Justice and the Poor report, the observation that was made in the report was:

Even if judges treated men and women equally in handing out sentences, the impact would be harsher on women. Because more women have incomes below the poverty line than men, they cannot afford to pay the same fines.

We don't have a tiered structure of fines in this province that takes that gender disparity into consideration. Most imprisoned women are poor mothers, and the worst offence many of them commit is shoplifting. The study of women who appeared before Halifax courts between 1984 and 1998 found that the major crime they were charged with, accounting for 42 percent of all the charges, was theft under \$1,000. Overall 68 percent of the charges were for crimes against property, and the number of charges for theft over \$1,000 started to increase in August, when children needed school clothes, and peaked in December around Christmastime.

So, Mr. Speaker, in the context of talking about fines, why not talk about this reality, the reality that in the demographics of those charged with crimes and fines levied, this demographic exists and incorporate within the bill something that speaks to that? We have certainly seen the statistics. The municipalities in Alberta have studied the concentration of poverty in Alberta communities, and these statistics are related to the same demographic I'm speaking about tonight. In fact, the reality may be that the justice system is perpetuating those women's poverty.

Again speaking about who is affected by imprisonment for the nonpayment of fines and what offences they committed, I haven't seen anything in Alberta relative to statistics on this issue, but the minister may have information that he will make available to me. This was a reality: about three-quarters of our imprisonments are for violations of provincial laws and municipal bylaws in Alberta, and we are second highest in the country for the incarceration of women for fine default. The only province that has a higher rate of incarceration of women is Saskatchewan, and that is at 47 percent. Alberta is at 39 percent.

That's probably information that many members of the Assembly weren't aware of, Mr. Speaker, so I think it's important to make those issues to give this bill some context. Simply, if we were here tonight to do a finite analysis of the sections and the amendments within it, except perhaps for the esteemed lawyers amongst us, it would be a discussion which for most of us would not have a lot of relevance.

I've certainly learned a great deal from my colleague from Calgary-Buffalo, and I've considered it a privilege to sit beside him in this Assembly. He's a fine member of the legal profession, and I am so compelled by his campaign to activate the Law and Regulations Committee that I really think a motion should be brought forward to rename the committee the Dickson Law and Regulations Committee. [interjections] I would definitely vote in support of such a motion, and I hear the hon. members and minister on the other side expressing their support for that as well. Let's make it happen.

10:20

One of the last issues I'd just like to raise on a similar vein is relative to how the offences break down for people that are sent to prison. The top 10 offences that send the largest number of people to prison include two small offences: a minor assault and theft under \$1,000. Why are such small offenders sent to prison? There are many reasons, and all of them work to the disadvantage of the poor. When an Ottawa duty counsel was asked whether poor and affluent defendants received equal treatment in the court where she worked, she indignantly denied any possibility of discrimination. On second thought, she admitted that poor defendants had less negotiating

power in her bargaining sessions with prosecutors over less time for more fine. Because poor people have no money for more fine, they routinely end up doing more time for the same offences, an aspect which again Bill 20 does not address.

This reality that more poor people are sent to jail when better-off people are fined is confirmed by a Winnipeg study which examined more than a thousand cases heard in provincial court. The following conclusion was reached. Whether income, social status, or type of job is used as a measure, similar results emerge: those of lower socioeconomic status are treated more harshly. The best measure has proven to be employment status. The pattern is clear. Those who are employed pay for their crime with money, and those who are underemployed with a relatively short loss of freedom.

I could go on, Mr. Speaker, because there's a very relevant part in this report on the sentencing of aboriginal people, which I think applies in a number of amendments contained within Bill 20, most specifically the reorganization of the court system. I know that for those courts that have reserves within their boundaries, the location of the courts is most certainly what warrants our attention and discussion. You know, I've heard of judges who routinely pick up members of aboriginal communities on the side of the road and give them rides to the court hearings. That's not something which,

perhaps, members of the Assembly would think to consider, but we have to ensure, as we make these laws, that they're going to be functional, that they're going to be operational in a manner that serves all people in this province well. That's really one of our primary responsibilities.

With those thoughts, Mr. Speaker, I am most thankful to have had the opportunity to have spoken on Bill 20 this evening and, in a similar vein, to have had the opportunity to serve in this Assembly. Thank you.

[Motion carried; Bill 20 read a third time]

THE DEPUTY SPEAKER: The hon. Government House Leader.

MR. HANCOCK: Thank you, Mr. Speaker. The fall session has been very productive, so it's now my pleasure to move that pursuant to Government Motion 25, agreed to by this Assembly on November 14, the Assembly stand adjourned.

[Pursuant to Government Motion 25 the Assembly adjourned at 10:25 p.m.]