Legislative Assembly of Alberta

Title: **Monday, April 29, 2002 8:00 p.m.**
Date: 02/04/29
[The Deputy Speaker in the chair]

THE DEPUTY SPEAKER: Please be seated.

head: Motions Other than Government Motions

Impact of Aging Workforce

506. Ms Kryczka moved:
Be it resolved that the Legislative Assembly urge the government to seriously address the impact of a growing and aging population on the Alberta labour market, taking into consideration the present culture that largely accepts disengagement or early retirement of older workers.

[Debate adjourned April 22: Ms Blakeman speaking]

THE DEPUTY SPEAKER: The hon. Member for Wetaskiwin-Camrose.

MR. JOHNSON: Thank you, Mr. Speaker. I am pleased to have the opportunity to join the debate on Motion 506 tonight. To begin with, I would like to express my gratitude to the hon. Member for Calgary-West. I know how committed she is to the issues at hand and how much work she has put into Motion 506 to where it is today. For this reason I would like to commend her on her vision and foresight in sponsoring this motion.

We live in a culture that celebrates youth and youthfulness. The concept of being young and what a desirable state of existence it is surrounds us in most every way. Commercials on television or advertisements in newspapers and magazines routinely exult the virtues of being young, looking young, and acting young. Therefore, Mr. Speaker, it is perhaps not all that surprising that the desirability of youth as a concept has seeped into the culture at large.

Ours is a culture that by and large accepts and expects the disengagement or early retirement of older workers. Put differently, once a certain age is reached, there is cause for concern about job security. No longer are achievements and experience the sole primary indicators for job security. Age may be the key factor that tips the scale against job security.

In the course of the last 15 years or so, Mr. Speaker, the concept of sexual harassment in the workplace has garnered much attention. Gender-based discrimination, it is generally agreed, is a very real problem in our society, adversely affecting the lives of individuals and corporations alike. A less talked about but no less real problem is what we might call ageism, or age-based discrimination, in the workplace. It is perhaps an even more subtle form of disenfranchisement than is sexual harassment in that older workers are being, shall we say, phased out to make way or leave room for a younger generation. Relieving such workers of their duties may be the result only of their age. It has nothing to do with their skills, their knowledge, or their experience. In some instances it may also be financially advantageous to lay off older workers in favour of younger ones. Their contracts and their benefits are less costly.

There is currently no legislation prohibiting age discrimination in our province. Thus far only British Columbia and Ontario have enacted legal provisions that outlaw age discrimination. Now, Mr. Speaker, I am fully aware that the purpose of the motion is not to advocate that such legislation be passed. However, I believe that it is important to at least make mention of the current legal limit, for which Motion 506 has been introduced.

That said, Mr. Speaker, there is another side to not treating older employees like valued members of the team, and this goes far beyond the individual person. "Listen to your elders; it will serve you well," the old adage goes. Why? Because an older person has more experience than a young person does. With experience comes knowledge and sometimes even wisdom. By phasing out persons above a certain age, we not only lose the actual presence of the older workers but also large amounts of knowledge and experience.

For all of its purported desirability and attractiveness, Mr. Speaker, if there's one thing that youth or youthfulness cannot bring to the table, it's years of experience and the knowledge and wisdom that come with a great deal of experience. This is an indisputable fact. The longer a person lives, the greater are the experiences accumulated. There's a reason for the phrase "a lifetime's worth of experience."

Mr. Speaker, by attaching so much significance to youth and by glorifying youthfulness, we often tend to overlook the tremendous resources that reside within the older members of our society. Can we really afford not to make use of the experience and the knowledge of our older citizens for as long as they want to make them available to the rest of society? I think we are selling ourselves short if we do not take advantage of what the older members of our society have to offer. In addition, why would we ever want to place at a disadvantage those who came before us and to whom we owe so much?

Mr. Speaker, there are also long-term considerations to be made with regard to the aging workforce. While Alberta has one of the youngest populations in Canada, we are like the rest of the country in experiencing an aging trend. The number and proportion of seniors has increased steadily since the mid-1980s, and currently about 303,000, or 10 percent, of Albertans are 65 years of age and older. By 2026, however, it is predicted that Alberta seniors will more than double to 750,000, or about 20 percent of all Albertans. Today close to 20 percent of my constituents are seniors, at least in the city where I live, Camrose.

What is to account for this aging workforce? Not surprisingly the baby boom generation is closing in on its retirement, and as more and more of the baby boomers take stock of their options, it is widely expected that there will be an increase in retirement levels. However, Mr. Speaker, when a person retires from the workforce, it isn't simply the workforce that becomes diminished through the absence of that person from its ranks. Retirement means also that the workforce becomes diminished by virtue of the loss of a person's skills, knowledge, and experience. It may be an exaggeration to suggest that our workforce is in jeopardy of becoming impoverished with such a large number of retirees projected for the next 25 or 30 years. However, I think it would be tremendously shortsighted not to give serious consideration to the fact that within the span of a generation upwards of a quarter of Albertans will be retirees. I say this because current projections indicate that, in addition to an increase in the number of retirees, there will also be a shrinking of the workforce.

In a report published last year entitled Aging Populations in the Workforce: Challenges for Employers, the authors state that owing to their declining birthrates, Canada, the United States, and Great Britain will see much slower growth in the pool of potential workers. Indeed, growth is expected to even cease by the year 2030. As a result, Mr. Speaker, the report urges both private- and public-sector employers to adapt and/or develop new training strategies to tap underused resources such as older workers and immigrants and to target younger workers more effectively. Moreover, in September 2001 TD Canada Trust released a report that forecast that Canada's economic growth could be hampered within a decade if the private

sector is not prepared for the upcoming massive wave of retiring baby boomers. In the report TD Canada Trust urges companies to come up with more and unique ways of attracting older workers and retaining them in the labour market longer through flexible work arrangements, higher wages, and more training.

The message these two reports are sending is clear. Mr. Speaker, highly skilled older workers are key resources for addressing current and future labour and skill shortages. Even in Alberta today we are experiencing a labour shortage in many areas, and retired people are being asked to give more years to the workforce. It is therefore in everyone's interest that we find ways to allow and even encourage those who wish to work beyond – and I use the term advisedly – the traditional retirement age to do so. It's in society's best interest, it's in the interest of the business community, and it is in the best interest of the individuals themselves.

Mr. Speaker, there is another consideration as well. With people living longer and with an increasing number of people choosing to retire early, the average length of time a retiree draws a pension has increased considerably. In 1996, for instance, Statistics Canada reported that the average retirement age was 58.5 years for women and 61.4 years for men. Meanwhile, life expectancies in Canada rose 7.2 years for women and 7.7 years for men between 1960 and 1997. In Alberta, to be even more specific, the life expectancy for a woman is now 81.5 years and 76.5 years for a man. Thus in 1966 the average man would retire at 65 and then live to collect CPP for about three years. Today the average man will now do so for about 15.2 years, whereas women now live long enough on average to collect CPP for upwards of 23 years.

In conclusion, Mr. Speaker, I see a variety of benefits coming our way if we pass Motion 506. We will first and foremost retain in the workforce skilled workers with much experience and knowledge. Secondly, we will offset the impact on our economy of large numbers of baby boomers retiring by 2026, as current projections . . . [Mr. Johnson's speaking time expired]

8:10

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

MR. MacDONALD: Thank you very much, Mr. Speaker. It was with interest that I was listening to the remarks from the hon. Member for Wetaskiwin-Camrose, and it is refreshing to finally hear a member on the government side discuss the issue of aging in this province and at the same time recognize that we are on average currently the youngest province in the country. While I'm discussing this, it is important to note that this is the first government member to state this and not blame an aging population on the fact that health care costs in this province are totally out of control. It's refreshing to see this.

[Ms Graham in the chair]

Now, we are the youngest province in Canada, Madam Speaker, and by the year 2016 we will see an increase in the population that's over 65 from 10 percent currently to 16 percent. This motion is certainly in my view a step in the right direction because we can start planning now for the large number of citizens who will be retiring.

I believe the hon. member said that in 2026 there would be 20 percent of the population over the age of 65, and one would have to wonder where this bar came from for 65 as a retirement age. I believe that as history recalls it, it would be well over 100 years ago that Otto von Bismarck in Germany used the age of 65 to promise retirement benefits to citizens, knowing full well that very few of the citizens lived to collect that benefit from the state. Nonetheless, being concerned for their welfare, Bismarck did promote this as government policy.

Social policies not only in Europe changed but also in North America. Those social policies that changed were notions that perhaps public health care was a viable policy alternative and would increase citizens' age. We saw a dramatic increase in the average age of the population, and the hon. member stated, I believe, that females live to an average of 83 and males are a little bit behind at 79 years. So certainly there has been a lot of improvement in the life expectancy not only in North America, not only in Canada and Alberta, but certainly in Europe since Bismarck made his policy well over a century ago.

This, Madam Speaker, seems like a very reasonable request of the government, this motion:

> Be it resolved that the Legislative Assembly urge the government to seriously address the impact of a growing and aging population on the Alberta labour market, taking into consideration the present culture that largely accepts disengagement or early retirement of older workers.

Certainly there are reasons to have early retirement. I can only look at the front benches of this cabinet and think: wow; that would be the Premier's best alternative. In fact, there was a younger member who came into the Assembly today, and I'm certain that they could do very well for themselves in this cabinet. Perhaps early retirement is an option. Maybe I'll see the Premier in the hall, and I'll suggest that.

DR. TAYLOR: Quit insulting Ty like that. It has to do with brains, Hughie, not age. That's why you'll never make it.

MR. MacDONALD: Madam Speaker, if the hon. member wants to get involved in debate, certainly he could rise. There would be less pressure on his brain, and then perhaps his comments would make sense.

Now, there seems to be a very reasonable request of the government again, Madam Speaker. The loss of experienced workers is an issue that does and will continually challenge Alberta's workplaces both in the public and the private sector. I think it is worth noting that Alberta and also the province of Quebec have already ended forced retirement at age 65 for their civil servants as has, as I understand it, the federal government. So that's a step in the right direction.

[The Deputy Speaker in the chair]

When we think of the experiences that we've dealt with in the last decade, where there have been incentives for workers or individuals to take early retirement, I see the reverse of this happening, and there will be incentives in the future, because of labour shortages, to keep workers in the workforce, and I see it occurring soon, Mr. Speaker, because there is a labour shortage. The Minister of Human Resources and Employment certainly is aware of some of the labour shortages in this province. The Minister of Economic Development certainly is aware of some of the labour shortages that are developing in this province. The environment for change is there. It certainly is.

Now, what will we do to attract people to stay in the workforce? This motion will be the first step, Mr. Speaker, in that direction by this government. If we look back and we look at the possibility of eliminating mandatory retirement, the increasing challenges that are talked about to the constitutionality of mandatory retirement may become more common and certainly there will be lobbying taking

place. There was recently a conference held marking the 20th anniversary of the Charter of Rights.

DR. TAYLOR: The shameful document that it is.

MR. MacDONALD: Now, the Minister of Environment is saying that it's a shameful document, but I would object to that statement.

THE DEPUTY SPEAKER: I wonder if the Minister of Environment would put his name on the list and speak then, at the conclusion of the other speakers who are on the list. Until then, engage himself in his book or, if he wants, in lively conversation outside the Chamber.

The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you very much, Mr. Speaker. Now, because of our Charter of Rights mandatory retirement will be one of the big constitutional issues in coming years. This motion again gives us an ideal opportunity to reflect on that in this Assembly.

There are individuals – and I believe that Morris Rosenberg would be one of them. He states: "The Supreme Court of Canada . . . have to 'revisit' a 1990 ruling that declared mandatory retirement . . . an acceptable form of discrimination against seniors." Now, Mr. Rosenberg said this in a speech, and I have before me an article from one of the local newspapers regarding this speech. It is an issue that has been dealt with in the courts. The Chief Justice of this country, Beverley McLachlin, said last week that the court is open to taking a second look at rulings made in the early days of the Charter of Rights to see if they reflect today's society.

I would remind all members that the number of Canadians aged 65 or over is expected to nearly triple, from 3.7 million in 1997 to 10.8 million in 2046, so I'm going almost a generation beyond what the hon. Member for Wetaskiwin-Camrose has, but we have to look at this, and we have to look at this as perhaps a pool of labour for the looming shortages that are occurring.

8:20

In conclusion, Mr. Speaker, the government may want to look at options that offer incentives to workers to stay on. Now, I don't know what some of those options would be, but certainly it is something that is worth exploring. I think we're going to, as I said before, need incentives, not disincentives, to encourage citizens to remain active participants in the workforce, and the Department of Human Resources and Employment . . . [Mr. MacDonald's speaking time expired] I'm disappointed.

THE DEPUTY SPEAKER: Hon. minister, we have two ministers that apparently are prepared to speak on this topic. The hon. Minister of Environment?

The hon. Minister of Human Resources and Employment.

MR. DUNFORD: Well, thank you very much, Mr. Speaker. [some applause] Thank you. Thank you. I rise tonight in support of Motion 506, that has been brought forward by the MLA for Calgary-West. I certainly agree that Alberta needs to address the labour market issues that have been created by a very strong economy and an aging population.

As members here in the House will know, the Human Resources and Employment Department is Alberta's source for career workplace and labour market information. These labour force statistics that we have for our use show us how strong the economy has been and how it's helped people find jobs, including people that are aged 45 or older. With over 1.6 million people employed in 2001, there were more people working than ever before here in the province of Alberta, and in 2001 the average unemployment for older workers dropped to 17 weeks from 24 weeks in the year 2000.

Now, while this is good news, Mr. Speaker, we know that it is higher than the workforce average of 10 weeks, and this indicates to me that there may be some additional employment barriers that need to be addressed. Previous speakers on this very motion have talked about some of those. Words like ageism are now starting to appear in the vernacular, but I think that there would be something to be said about a barrier that in a large way is perhaps the attitude of employers. We find this in work that we try to do with aboriginals, and we find it also in the work that we try to do with disabled people, that to a large extent employers still have this attitude that they need someone young and strong and particularly white, and of course that whole world is changing. There are all kinds of workers that are available and would not fit that traditional mold.

Our department continues to lead initiatives and to work with other ministries to plan for and accommodate this aging labour force that we have. Just a short time ago we released the Prepared for Growth: Building Alberta's Labour Supply. This report, which we created in collaboration with 10 other ministries, clearly recognized the pressure that's created by an aging population and predicts that this trend will continue, of course, as baby boomers age. The report also tells us that 25 of 53 occupational categories are experiencing skill shortages, and we've had mention of that here tonight. While all of this is happening, of course, our unemployment rate is really the lowest in Canada, and that is very good news. I don't want to diminish in any way what employers here in the province are doing in keeping that unemployment rate down, but also then low unemployment rates in creating these shortages clearly show us that we have a smaller pool of available workers to draw from.

We also worked with seven other ministries to develop a new employer handbook, and we called this one Diversity: A Strategy to Meet Your Need for Skilled Workers. Now, this publication will be available soon. The report highlights the benefits of hiring older workers and nontraditional sources of labour, that I mentioned just briefly a few moments ago.

We're also working with other ministries to develop strategies within a seniors' policy initiative to help provide older workers with more choices about work and lifelong learning opportunities. I think many employers will agree that Alberta needs older, more experienced workers to share their wisdom with others and to help train younger workers, and we value the expertise offered by the older workers, especially in the areas, Mr. Speaker, of workplace health and safety. Some of the things that we're finding in terms of the current situation is that 26 percent of our lost time injury claims are happening to workers within the first six months of their employment. Now, this doesn't mean that they're necessarily a young worker, but what it does mean is that it is a worker that has come into the workforce and within that particular skill set that's required within that particular industry, we're finding that of course they don't have all of the skills developed yet in order to work in a very safe manner. If we take that statistic and look at it in the longer time frame, if we look at it in a year's time, then we find that 40 percent of our lost time claims are happening in the first year of that employment.

Again we need to focus on the opportunities that we have with older workers. The older workers know the ropes. While they might also know shortcuts, they do know that there's no shortcut to safety, that there's only one way to work in this province and that's to work safely. In fact, that'll be the more productive way in which to work. As a matter of fact, if you think you're going to save time by shortcutting safe workplace procedures, just think of the time that's going to be lost, the productive time that's going to be lost, if this in

fact leads to an injury. Just think what happens, then, if that worker that you've invested the money in is now injured. Hopefully it's not a fatality, although there are too many of those in our province as well. So we need to continue to focus on the productive opportunities that we have in working safely, and I believe that it's older workers generally and experienced workers specifically that can help us in that area.

Now, our department already offers support for people, including the older worker who wants to find a job and wants to keep working. As a matter of fact, Mr. Speaker, over $250 million will be invested through labour market programs and services this fiscal year. An example of this is career counseling. We have employment training programs. I was meeting earlier today with some folks, talking about additional programming in the self-employment area. We conduct a number of workshops around the province on a continual basis, helping people to develop resume writing, also the techniques of job interviewing, and of course helping with those job searches. As everyone here within this Assembly would know, it's a lot of work in trying to find employment, so we want to be as helpful as we can to workers of any age but specifically older workers and those that are older than 45 in finding this employment.

8:30

So Alberta's economy is strong, Mr. Speaker. More Albertans are working than ever before, yet when you look at the want ads and you have want ad indexes, employers will still need more employees. Now, our labour force is ever changing. Current trends like increasing technology and an aging workforce are driving the need for our department to adapt quickly to this change, and our ministry will continue to identify and forecast trends in the labour market and share that information with Albertans. I must say that what would be very, very helpful would be if associations, whether they be industrial associations or service type associations, would spend some time in human resource planning. There's nothing better to assist government, in my view, than good, practical suggestions that come from the very employer groups that actually hire these people. Now, it doesn't have to be by association particularly. There would be other opportunities to perhaps do it on a regional type basis. As the Member for West Yellowhead would be familiar with, we have opportunities to look into this particular area.

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

DR. MASSEY: Thank you, Mr. Speaker. I appreciate the opportunity to say a few words in support of the present motion, and I appreciate the report the minister of human resources gave in terms of activities that his department is undertaking with respect to older workers. The concern for an aging population is one that's being felt worldwide. If you check the web sites, almost every state in the United States has a part of their web site devoted to the problems of aging. There was recently a worldwide conference in Madrid, Spain, on aging that is attempting to come up with a political and economic document that could be used by governments around the world in determining policies that will ensure that older citizens fully realize their human rights, that they're able to live secure in poverty-free environments, and that they take full part in the economic, political, and social life of the societies in which they are a part. They focus, too, on eliminating violence and discrimination with respect to older persons, and they point out the vital importance of families in helping to address these problems.

So the issue that the member has raised, Motion 506, is an important one as more and more of our citizens and the baby boomers move into that part of their lives where aging becomes more and more of an issue. I think it's important that the motion, even though it is one that urges the government to address seriously the impact – and we've had a bit of a report from the minister of human resources. In looking at other states and their actions in terms of aging, I notice that in New York there were 37 subdepartments in the state government there that were charged with the issue of addressing aging and making plans. I think, if I recall, their plan was called the year 2015. They were looking forward to actions that should be in place in their state by that date to accommodate older workers.

I'm pleased the motion is here before us, Mr. Speaker, and I'm pleased to support it. Thank you.

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

MS GRAHAM: Thank you, Mr. Speaker. Tonight it is my pleasure to rise and speak in favour of Motion 506, which urges the government "to seriously address the impact of a growing and aging population on the Alberta labour market." But before doing so, I would like to commend the Member for Calgary-West for her work on seniors' issues over the years with her participation on the Seniors Advisory Council and for her efforts in bringing this motion forward before the Legislature.

Mr. Speaker, it's come to my attention that an aging population is becoming a major focus of governments around the world, and many different countries are realizing the implications of an aging population potentially on their workforce, with the impact of a massive worker shortage a real possibility. It has also come to my attention that other countries more so than Canada have developed programs which have encouraged seniors to participate in the labour force much beyond the norm.

Japan, in particular, Mr. Speaker, has a higher employment rate among older people than most other industrialized nations in the world, and in fact it has a very high rate for those over the age of 60. This is because Japan has a national policy which strongly promotes what is called active aging. What is involved here is an approach which encourages those who have retired to become re-employed, whether it be in new jobs with new employers in small businesses or to stay in a changed capacity in their old place of employment. Often these new positions are at a lower salary and on a part-time basis, but they still retain the involvement of the older person in the economy.

Another example of a country trying to deal with the aging population is Germany, which has a program called the 55-plus initiative, which emphasizes vocational training and lifelong learning and allows for the reintegration of older unemployed persons in the workforce.

I think, Mr. Speaker, it will be necessary for the province of Alberta and this country as a whole to change our attitudes towards older workers. I'm pleased to say that just last session the Minister of Justice brought forward the Provincial Court Amendment Act, which provided for our provincial court judges to work beyond the old mandatory retirement age of 70. Under the new changes judges can work up to the age of 75 on a year-by-year basis with extensions of their term with the consent of the Chief Judge. So the trend is changing here in Alberta, and it may be that we are leaders in this respect.

I do want to leave an opportunity for the Member for Calgary-West to sum up, but I would just like to encourage all members of the Assembly to support Motion 506, because it not only benefits older workers; it will certainly benefit our economy and Alberta as a whole if we adopt these policies. Thank you.

THE DEPUTY SPEAKER: Are there any further speakers?

SOME HON. MEMBERS: Question.

THE DEPUTY SPEAKER: No, we won't have the question. The rules permit to the end of 60 minutes, which has not yet elapsed. The hon. Member for Calgary-Fort was on my list. No? If there are no further speakers, then we'll call on the hon. Member for Calgary-West for her final five minutes.

8:40

MS KRYCZKA: Thank you, Mr. Speaker. It has indeed been an honour and a pleasure to sponsor Motion 506 in this Assembly. I'm confident this government will embrace the challenge to take a leadership role, this time adapting to Alberta's aging workforce.

As we've heard throughout the debate, there are many effective ways to help older people remain in the workforce as long as we start raising awareness early, and from what I've heard from the hon. Minister of Human Resources and Employment, that is happening. Having older workers remain in the workforce on a part-time, flexible basis would definitely help address the increasing void in our skilled workforce, especially in the next 10 to 20 years.

However, for this to happen, there needs to be a shift in attitude in Alberta. It is so important to realize and recognize the value that older workers have on our workforce. I'm sure there are many college graduates in middle management today who would rather the aging workforce just head off to the golf course. However, there is incredible value associated with being a mentor, for example, and leading younger generations with one's wisdom and experience.

Increasingly Albertans are realizing the dramatic aging curve in Alberta's population. Today, for example, there are approximately four working people for every retiree, and by 2030 there'll be just two working people for every retiree. Some of the problems associated with an aging workforce addressed in this Assembly include too few people providing the tax revenue base to support the pensions of an aging population, too many people retiring in their 50s and 60s when they are needed in the workforce. This will ultimately create extreme shortages in occupations, as mentioned earlier in my address to this Assembly. In the next five years, though, for another example, up to 500 sworn members, or 40 percent, of the Calgary Police Service will be eligible for early retirement.

Another very important consideration is that many older people with insufficient income from pensions will be unable to live satisfactorily in retirement. Thanks to the creation of a public pension plan, Albertans have been programmed to retire at age 65, and when one considers the trend toward early retirement packages, I think that the earlier the better is not going to be popular in the near future.

Many people, however, are also realizing that retiring isn't as easy as it sounds. The financial pressures of not working while maintaining an adequate lifestyle can be overwhelming. There are many older workers in Alberta who have expectations that the Canada pension plan and their limited savings will be enough for them to maintain their preferred lifestyle. However, we know that people are living longer than before and the baby boomers are going to be more active than past retirees, with a whole new set of demands. In the near future it is the myths and misconceptions about older workers approaching retirement age that will be the biggest barrier for convincing employers that older people can fill a vital role in the future of Alberta's labour market.

Mr. Speaker, I think that this government can help people realize that retirement from work can be a gradual process. As people reach their 60s, they can reduce their work schedules and the stress associated with their job, but new approaches in workplace flexibility depend on co-operation with employers. We have learned just earlier, a few minutes ago, from the hon. Member for Calgary-Lougheed that other governments have developed and implemented programs to retain older workers and have redefined early retirement. I would like to thank the Member for Calgary-Lougheed for talking about Germany and Japan and their problems and how they've addressed them, but I really feel we don't have to look at only other continents to find people concerned about this issue.

Just recently I received a copy of the Alberta Chambers of Commerce Human Resources Committee's resolution on the aging workforce, and it includes recommending that the government of Alberta work with the federal government where appropriate to achieve the following outcomes. I would quote only the two broad statements and not the details in the outcomes. First of all, "gathering all information about the aging issue affecting employment, business policy, taxation, pension policy and health." The second broad statement is: "Giving older citizens opportunities to continue in their trade, business or professional career past the 'normal' age of retirement." It makes four suggestions following, which I believe I don't have time to express tonight. I found it very interesting that the Calgary Chamber of Commerce for the past two years has done a fair amount of research in this area and has a resolution paper that they will be formally presenting to government. In the end, Mr. Speaker, I acknowledge that it is up to the individual to choose to remain in the workforce or seek retirement.

Lastly, I would like to thank the hon. Minister of Human Resources and Employment for his support tonight and the hon. members for Wetaskiwin-Camrose and Calgary-Lougheed and also those from the Official Opposition who supported Motion 506 in this Assembly.

Thank you, Mr. Speaker.

[Motion Other than Government Motion 506 carried]

Motor Vehicle Exhaust System Standards

507. Mr. Yankowsky moved:
Be it resolved that the Legislative Assembly of Alberta urge the government to introduce binding and enforceable legislation to make it a provincial offence to operate a motor vehicle with an exhaust system that has been modified such that it no longer meets the standards for noise suppression set out in the Motor Vehicle Safety Act of Canada for that class of vehicle.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Beverly-Clareview.

MR. YANKOWSKY: Thank you, Mr. Speaker. As sponsor of Motion 507 it is my pleasure to rise and discuss the importance of working to make our cities, towns, and pristine areas quieter. The shiny cars and trucks that we buy from the local dealer are made to be quiet and environmentally friendly, and that's the way they should be left, but our unenforceable laws make it possible for individuals to alter vehicle muffler systems and then proceed to disturb innocent individuals and families who are trying to get a good night's sleep or enjoy a leisurely time in the backyard on the very few warm days that we have in our summers. Instead of being serenaded by soft music or the sounds of children playing, they are blasted awake or forced to seek shelter because of insensitive persons roaring around in their vehicles equipped with bluebottles, cherry bombs, or no mufflers at all.

Of course, there is no point in calling the police, because they are

too busy to deal with it, and even if they do come out, the noisy vehicle is long gone. If on the off chance they do stop the offending vehicle, at best the operator will be issued a $57 ticket. What a joke. Anyone usually has $57 worth of loonies and toonies in their jeans, so it's a nothing fine. It's only a ticket, so they continue to drive and terrorize communities. Small towns are really being disturbed by these people. They can disturb the whole town because of the size of the town.

Mr. Speaker, this is a serious situation and getting worse. I have had complaints from constituents and have heard from our major cities and towns. This motion arises from a concern from municipalities and law enforcement agencies who feel that more enforceable legislation is needed to deal with the noise pollution and implement universal restrictions on acceptable decibel noise levels for vehicles. Motion 507 puts restrictions on any equipment which enhances exhaust system noise beyond the manufacturer's standards, as set out in the Motor Vehicle Safety Act of Canada. It urges the government to make it a provincial offence to operate a vehicle with an altered muffler that no longer meets federal standards.

The recognition of noise as a serious health hazard as opposed to a nuisance is a recent development. The World Health Organization considers the health effects of hazardous noise exposure to be an important public health problem, especially among children. The World Health Organization has linked high levels of ambient noise to social and health problems such as noise-induced hearing impairment, interference with speech communication, disturbance of rest and sleep, as well as psychophysiological, mental health, and performance effects such as increases in blood pressure, higher heart rates, and increased levels of stress hormones. These health effects in turn impact on behaviour and also interfere with attentive work and recreational activities. However, whether regarded as a nuisance or as a genuine health hazard, noise exposure is known to affect work, household productivity, quality of life, and property value.

Mr. Speaker, while we allow extremely noisy vehicles to roar up and down the streets in front of people's bedrooms, driving up our health care costs, industry on the other hand is doing a yeoman's job of lowering noise levels. For example, there was a picture in one of the newspapers showing a picture of a power plant with some geese in the foreground, and the caption was: only the geese are heard. Now, this power plant is located way out there in the boondocks, if I can use that term, yet they are making a great effort to lower the decibel noise level. Companies have spent millions of dollars to make coal hauling trucks whisper quiet. Again, they are operating way out there in the country.

8:50

Mr. Speaker, some of the loudest community noises are vehicles with modified muffler systems. In fact, many small towns are having serious problems with vehicles with altered components specifically designed to increase vehicle noise. These muffler alterations may come in the form of bluebottles, cherry bombs, or straight pipes and can often cause the vehicle to be very loud, with the sound penetrating even the best-insulated homes.

The Highway Traffic Act does contain provisions governing exhaust systems that have been modified to create more noise; however, these provisions are very difficult to enforce. For example, section 46 sets out regulations for muffler systems, stating:

> A motor vehicle propelled by an internal combustion engine shall be equipped with an exhaust [system] . . . which ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.

As you can imagine, a statement like "excessive noise" is subjective from one area to the next and even officer to officer. What might be excessive to one is not excessive to another. The act also gives municipalities the ability to define what constitutes excessive noise. Enforcing these bylaws requires an officer to catch the offender in the act of making excessive noise. The officer then must prove that the noise actually disturbed a human, which is extremely difficult to prove, and offenders escape without penalty.

Municipalities are asking for more enforceable vehicle noise legislation. One such request came from the city of Calgary. The mayor of Calgary sent me a letter earlier this year expressing his concern with the loud exhaust systems on cars in his city. He explained that city council had enacted bylaws to try to deal with noise violations but that they were having a difficult time enforcing the bylaw as it requires officers of the law to catch the offender in the act. He expressed to me that noise is an important issue for his citizens and that the noise problem in Calgary was having a pronounced effect on the quality of life in Calgary communities. The mayor explained that they have an extensive noise barrier construction program in progress to try to alleviate the noise problem in communities adjacent to major roadways. However, the city of Calgary has found that the public demand for noise barriers far exceeds the available financing for their construction.

This expense is largely unnecessary. All that needs to be done is to pass enforceable vehicle noise laws and remove the root cause of the noise. Calgary city council said that they would support any initiative taken by the province to create better legislation to deal with vehicle noise. They understand that the problem is going to get far worse before it gets any better.

Mr. Speaker, we are obligated to try and help municipalities deal with this problem. Municipalities have asked for better legislation, and Motion 507 does exactly that. It urges the government to enact better and enforceable vehicle noise control legislation. It is my hope that passing Motion 507 will give our police officers a simple, enforceable law that will rid our communities of unnecessary noise. Under Motion 507 officers would be able to simply examine a vehicle, and if the muffler system has been altered with the intent to create more noise, the vehicle owner would be subjected to a penalty. No decibel reading or other complicated task would be necessary. A simple visual check is all that would be needed before ticketing. If it's been altered and it's noisy, then ticket it or, preferably, tow it.

The penalties also need to be increased, Mr. Speaker, if this is going to be effective. What I ultimately hope is that by having this debate and bringing this problem to light, we may be able to come up with a strategy to alleviate vehicle noise pollution in our cities and towns. A quiet cities and towns initiative is long overdue, and we owe it to taxpayers. They pay taxes to have safe, clean, and I would add quiet neighbourhoods, and this will only happen with enforceable vehicle noise laws. No one should have the right to disturb anyone.

This is the least that we can do for our neighbours. I urge all members to vote favourably for Motion 507.

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

DR. TAFT: Thank you, Mr. Speaker. I'm going to participate with interest in this debate. Allow me to read the motion. Motion 507 reads:

> Be it resolved that the Legislative Assembly . . . urge the government to introduce binding and enforceable legislation to make it a provincial offence to operate a motor vehicle with an exhaust system that has been modified such that it no longer meets the standards for noise suppression set out in the Motor Vehicle Safety Act of Canada for that class of vehicle.

I listened to the comments of the sponsoring member, the hon. Member for Edmonton-Beverly-Clareview, with some interest. I live, like that hon. member, in Edmonton and I live near a couple of busy streets that aren't far from a major hospital. I am from time to time aware of traffic noise, especially if it's coming from, say, motorcycles or suped-up cars, modified cars.

DR. TAYLOR: It makes you wish you had one.

DR. TAFT: I myself have an old, beat-up car.

DR. TAYLOR: But does it have a muffler?

DR. TAFT: It does have a muffler.

THE DEPUTY SPEAKER: It is not necessary for the Minister of Environment to add his thoughts to every speaker. We'll let the speaker speak for himself.

Edmonton-Riverview.

DR. TAFT: Thank you, Mr. Speaker. I'm not sure that I've ever owned a car that has violated the noise suppression regulations or standards under the Motor Vehicle Safety Act of Canada, but I know many people do because I can hear them racing around the city or racing through some of the rural parts or smaller centres of the province. I will freely admit that I'm not familiar with the standards for noise suppression in the Motor Vehicle Safety Act, and I would appreciate it if maybe the sponsoring member could share some of those standards with me and perhaps with all the members of the Assembly.

Certainly noise on the road comes from all kinds of sources. Just the other day I was at a stoplight, and a vehicle pulled up beside me. The stereo was playing so loudly that the windows in the vehicle were vibrating, and in fact my car was vibrating from the noise. I wondered about this not only as an issue of intrusion of privacy and peace but also of the health of the poor person inside the vehicle, that will soon be deaf and, as a result of that, probably a burden on our health care system. So there are many issues to consider here.

Times up? Okay. Thank you. I'd like to carry on later, Mr. Speaker.

THE DEPUTY SPEAKER: We hesitate to interrupt the hon. Member for Edmonton-Riverview, but the time limit for consideration of this item of business on this day has now concluded.

9:00

head: Government Bills and Orders

Committee of the Whole

[Mr. Tannas in the chair]

THE CHAIR: I'd like to call the Committee of the Whole to order. For the benefit of those in the gallery this is the informal part of the Assembly, where people are allowed to move around. We have the rule that only one member may be standing and talking at a time, and they must always speak from their place in the House when they are speaking.

Bill 18
Social Care Facilities Review Committee Amendment Act, 2002

THE CHAIR: Any comments, questions, or amendments to be offered with respect to this? The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thanks, Mr. Chairman. I think that we've raised a number of questions about Bill 18, the Social Care Facilities Review Committee Amendment Act, 2002, in previous discussions, and I'm not sure that there is much to be added to the concerns that have been raised. I think that maybe for the most part those concerns have been addressed, and other than to revisit them, the comments I'd like to make have been outlined.

Thanks, Mr. Chairman.

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

DR. TAFT: Thank you, Mr. Chairman. Again we revisit this issue of the Social Care Facilities Review Committee. I did speak on this before, but my concerns remain with the general direction of our social care facilities in this province and the system through which we review and inspect those facilities and through which we follow up on complaints, through which we investigate those facilities. I am concerned that the ability of this committee to initiate an act is being narrowed, and that is, I think, if anything a greater concern as we watch some of the directions of this government in terms of its social care facilities.

We have gone through this review. I have profound concerns, and unless some information has come forward that hasn't been shared with me, those concerns remain. I don't see how this particular bill strengthens our society, strengthens our system for developing and managing social care facilities, or strengthens our commitment to children and to Albertans in need of care in these social facilities. I remain very concerned about this bill in particular and this bill as it fits into the larger context of our social care management in this province.

I did want to review some comments that were made on April 10, but I haven't had time at this moment to review those in enough detail to bring them to the attention of the Assembly. I will simply stay on record as expressing my most serious concern over this bill. Thank you, Mr. Chairman.

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

MR. MacDONALD: Thank you very much, Mr. Chairman. At this point in debate in committee on the Social Care Facilities Review Committee Amendment Act, I have the following comments and perhaps questions for the hon. minister. Now, we are amending section 1(b), and the new definition of facility certainly is going to be "a day care facility as defined in the Social Care Facilities Licensing Act." When one considers that four or more children in a facility would, as I understand it, constitute the old definition, how is this going to be an improvement? We all know that we have various standards of child care provided across the province, and this facility definition I think is very, very important. Certainly in light of the events that were reported in this Assembly last week during question period of the unfortunate circumstances, it was sort of like a day care that was like an ILO almost. It was incredible what was going on in St. Albert, and I can't understand how. The minister perhaps can clarify not only for this hon. member but clarify this for all members of the House: how is this to be an improvement?

Certainly there are other sections to this bill. We're looking at some changes to the Health Professions Act. We're also looking, I believe, at an amendment to the Pharmacy and Drug Act. These are, I think, quite standard, and in reading about this bill, well, to say the least, I believe they're acceptable.

Now, when we look at the definition as it's explained here, I think this causes this hon. member some concern. In conclusion, I would like to remind all hon. members of this Assembly of just the

importance a definition can have in a facility. If we look at "a facility that provides care, treatment or shelter and that is funded, wholly or partly, by the Department of Children's Services," that's a very broad brush, Mr. Chairman. There have been some attempts in the past to standardize care across the province, and I think this may be a veiled attempt at that, but I don't think it goes far enough. When you consider the number of different agencies and organizations that are providing care or treatment or shelter and the number that are funded, whether it's wholly or partly, by the department, in this case the Department of Children's Services, well, that definition is very, very important and also the definition for a day care facility.

When we consider a day care facility as defined in the Social Care Facilities Licensing Act, we should also be in this debate discussing the whole idea of who is employed in the day care facility. Certainly we were talking earlier about having a labour shortage. Well, there currently is a labour shortage in the day care facilities in this province. I am a little confused by the current section 1(b) and how it presently reads and what is being attempted here with the definition from the Social Care Facilities Licensing Act. If through the course of debate, Mr. Chairman, this can be clarified, I would be very, very grateful.

Thank you very much, Mr. Chairman.

9:10

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

DR. TAFT: Thank you, Mr. Chairman. I'd like to refer to some comments made on the evening of Wednesday, April 10, of this year in discussion earlier on this particular bill, in which the minister through whom the Social Care Facilities Review Committee reports to the Legislature was responding to some of my concerns. She said, among other things:

> We're making these amendments because we will shift the emphasis for the committee from inspections and investigations to service reviews, and we will do that because the Protection for Persons in Care Act is the piece of legislation that conducts investigations . . . If these amendments are passed, regulations will be developed to designate facilities under other departments to come under the jurisdiction of the Protection for Persons in Care Act.

Right away I have some concerns – and I would like to raise those – with the minister's comments.

First of all, it would be nice if the regulations were brought forward in conjunction with the legislation, as has been done historically in this Legislature, so that we knew some of the details about how this was going to be enacted. I still do not see in this a justification for shifting the emphasis from inspections and investigations to service reviews. Indeed, it's not clear to me from these comments what a service review is. If the committee receives a complaint, they should investigate. If they visit a facility and are concerned, they should investigate or they should cause an investigation to occur. A service review is an extraordinarily vague term. I mean, what does service review mean? Maybe the minister has a specific definition of a service review, but I don't know what that is, and lacking that information, I'm feeling very concerned about this particular bill.

In fact, the minister goes on here to talk about a review as opposed to investigation. Well, frankly, there are times and there are places in this province where investigations are necessary. I just sense confusion over the purposes of this bill, and I think it's regrettable that it's not laid out more clearly. Is this bill, as has been sometimes put to me, about clarifying the jurisdiction of the Health Facilities Review Committee and the Social Care Facilities Review Committee and drawing a clear line between what kind of facilities and programs come under each committee? Well, that would be commendable, but I don't see that in this bill. What I see in this bill are steps to weaken the power of this committee. This is a committee ultimately that reports to the Legislature. Sure, it comes through the minister, but it reports to this Legislature, and I think it owes all of us the duty of thoroughly fulfilling its mandate, which would include investigating complaints.

There are clearly – clearly – causes for complaints in the social care facilities of this province, and indeed the minister has a very active file on one right now and probably on a number of them and always will, and any minister would. I don't fault the minister for those complaints. Indeed, a well-functioning system will include a route for feeding back complaints. When we see the ability to investigate removed in some sense from the social care facilities committee, then I feel like we are letting down some of the most vulnerable and dependent people in this province. People do not end up in social care facilities unless they have serious problems, unless they are children or adults with very, very serious problems. They depend on us. They depend on groups like this committee to step in and protect them. I am troubled, as you can tell, by this particular bill and indeed by the larger context of our social care system that this bill is coming from.

Perhaps the minister can respond with more specifics and allay our concerns. We have not received any further information, I don't believe, since this last was debated on the 10th of April. That's more than two weeks ago, and as a result my concerns are not in any way allayed.

Thank you, Mr. Chairman.

MS EVANS: Mr. Chairman, I don't want to take a significant amount of time, but perhaps I could re-emphasize a couple of points. First of all, one of the hon. members talked about the part of section 1(b) which presently reads – and I jump ahead to (ii):

> a building or part of a building, other than a home maintained by a person to whom the children living in that home are related by blood or marriage, in which care, supervision or lodging is provided for 4 or more children under the age of 18.

This does not reference day homes or day cares. They are referenced later. This represents group homes or child care institutions that provide residential care for the purposes of Children's Services. So in fact we move back to point 2, section 1, where we amend by repealing clause (b) and substitute that facility is "a facility that provides care, treatment or shelter and that is funded," – this is key – "wholly or partly, by the Department of Children's Services" and, secondly, "a day care facility as defined in the Social Care Facilities Licensing Act."

Previously and heretofore some of the difficulty that we had relative to facilities was that there was an assumption that the Social Care Facilities Review Committee would review the context or the homes of people who were receiving care for the purpose of some form of mental illness or disability. They were adults, and they were not funded by Children's Services, and they were quite a different place.

Children's Services through the Social Care Facilities Review Committee is served in the following way: reviews are made of facilities; the officers that are trained are laypeople. They are trained in the opportunity to question people that use the facility, their parents, or, in the case of young boys and girls, their facility in a foster home, but they are not investigators. Investigators exist in our department through licensing officers and trained professionals with professional diplomas, postsecondary education, in the key points of investigation.

The Protection for Persons in Care Act is currently administered elsewhere, through the Community Development ministry, and deals

with all of those issues where complaints are made, because persons in care may or may not be receiving the appropriate care. I can attest to the fact that when I was here previously in the Ministry of Municipal Affairs, those investigations are very complicated, require significant resources, and do address and fill the void that has been suggested by the hon. members opposite that will be withdrawn if social care facilities are not investigated by the hon. member to my immediate right presently, who does a very commendable job of reviewing those facilities with others that are appointed, other laypeople appointed across Alberta who review for that purpose.

So I'd just like to comment that this is no longer a group that would investigate, because that is inappropriate in the way we both select and compensate these people. These are people that do a very good job of talking to people about what they find in facilities, but they neither investigate them for occupational health or safety nor for necessarily the practice issues by probing the professionals that are in that facility. They simply talk and review with the people that are using the facility to see if they're happy, the parents of the children in day cares, et cetera, et cetera.

9:20

Finally, I would hope that some of these responses have assured the hon. members opposite of what the intent of this bill is, that it is intended in fact to make sure that the review is simply that, that alerts are provided as a result of that review to the minister, to the deputy. Subsequently a follow-through is done by the child welfare director in each region or, in the case of shelters, with the shelters and the child welfare director as well as department officials who can determine whether further investigation is warranted because of the reviews that have been done. Then if further investigation is warranted, perhaps the persons in care would be involved.

These reviews are done to be complementary to Children's Services – in other words, work well with and alert us to concerns that might emerge – and are not intended in any way, shape, or form to be investigative in nature and imply a more thorough type of investigation, such as screening by officers that would be related to either the courts in some other fashion or by people who have particular expertise in the professional practice of social workers, day care providers, and others. Those functions are very well filled by other professionals in the system.

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

MR. MacDONALD: Thank you very much, Mr. Chairman. I appreciate the minister's response. I have one more question at this time, and this is specifically in regard to the definition of a social care facility as defined in the Social Care Facilities Licensing Act. Does that include a private babysitting facility and a day care facility and a facility with six or less children and a building or part of a building, which we have discussed here, but specifically a private babysitting facility and the number of children which legally can be occupying the premises on a daily basis.

Thank you.

MS EVANS: Mr. Chairman, I think that again the part that's being referred to is what exists in the present section, which we are trying to amend to say "a day care facility as defined in the Social Care Facilities Licensing Act." That's a different piece of legislation that does define day care.

If I may, the hon. member has tempted me once too often, so I'm going to get into the situation in St. Albert for just a minute to the delight, I'm sure, of the hon. members opposite. This was an unlicensed facility, Mr. Chairman, that is being referenced. No, we do not in fact in this particular legislation speak to facilities where people of their own volition but in unlicensed ways get involved in that kind of practice. What has been referenced in St. Albert was completely inappropriate and was not condoned or sanctioned by Children's Services.

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

DR. TAFT: Thank you. I'm seeking clarification. I'm not trying to make mischief here. Is it the case that an unlicensed family day home will be or will not be under the jurisdiction of the Social Care Facilities Review Committee?

MS EVANS: Again, an unlicensed family day home will not be under this Social Care Facilities Review Committee. What the hon. member is referencing would be similar to myself looking after my grandchildren and two neighbour children all under my roof. I would be considered, I suppose, for those purposes on that afternoon that that might occur an unlicensed family day home, and clearly this government does not get in and license all of those. I'm sure and confident that at the time we looked at the family day home for the purposes of licensure, it was determined that we were not going to get into other kitchens or living rooms of the nation and look after those where there may be casual babysitting or things that are done that are considered to be temporary. What they're trying very carefully to do, Mr. Chairman, is to try and make somebody who has appeared to be practising beyond the boundaries of our law, without a licence, without being condoned by the local regional children's services authority, and determine that somehow the government was found wanting for not doing something that was not clearly sanctioned by the government.

THE CHAIR: The hon. Member for Edmonton-Highlands.

MR. MASON: Thank you very much, Mr. Chairman. I'd like to ask the minister a question about the Social Care Facilities Review Committee. I've been looking at its web site. I'm trying to find the membership of the committee, and I don't see that. To make sure I've got the right one, SCFRC is basically the heading of the web site. I'd like to know, I guess, some general information before I make any comments.

Who sits on this committee? Why is there a committee at all? Why do investigations into situations that may take place in government facilities that might be halfway houses, that might be homes for people who have a mental disability, and so on – I guess the main question would be: why do you have a committee of laypeople going in there and doing the investigation instead of professionals from your department? It seems like a very, very strange way to deal with things. If the bill is passed into law, then what role will the committee play if there is someone who's got a problem? If they feel they are being abused for example, what do they do to make sure they're protected if they can no longer automatically trigger an investigation? I'd just like some general information.

Thank you.

MS EVANS: Mr. Chairman, through an order in council an MLA from the government is appointed to chair the Social Care Facilities Review Committee. In this case it's my colleague and our hon. Member for Calgary-Shaw that assumes that chairmanship. There's a possibility of having at least a dozen Albertans from all across Alberta. They are considered laypeople. In other words, they are not social workers, but they are people that represent the social

demographics, if you will, of the province, with aboriginal representation from various parts as well as Caucasian and people from other communities across Alberta. We try to get a cross section of people that might use facilities like day cares, might be experienced with day cares, like women's shelter, might be experienced with the needs of women who have experienced violence, or like group residential homes, and they are trained in a very precise way to ask meaningful questions of people who are living in these kinds of facilities. It's really to have a check and balance on the professional practice issues by good and well-referenced people that have a knowledge of Alberta and of these types of facilities but not necessarily in a professional capacity. They don't do investigations such as finding out whether or not procedures were followed to the extent of how somebody was dealing with the psychological complications that may have arisen that placed them in a group facility. But they'll ask, for example, young boys and girls in one of these kinds of facilities: "Do you find yourself well looked after here? Do you enjoy this facility? Do you have any complaints that we should refer to the ministry for follow-up?" They are openly invitational to them to really share some of the concerns.

9:30

They meet without their providers being in that facility or in that room at that time simply so that there can be a feeling of an unbiased representation, and there are absolutely no complaints about this process either by those facilities themselves, because they welcome the opportunity to showcase the care that they may be administering, or by the foster children, in the case of some foster children, and it is a way of just providing another check and balance. It is comparable to the Health Facilities Review Committee, that is chaired by the hon. Member for Edmonton-Meadowlark, that goes in and reviews health facilities, takes a look at them, finds out whether or not they are serving the public good.

Mr. Chair, I think it's important not to short-sell the importance of this committee. Because it isn't investigating doesn't mean that these reviews aren't important. We take seriously the comments made by the review team, and that's why the reports have to be well written. There has to be a documentation that enables some follow-up, and we do that as well as we can.

MR. MASON: One thing I'm not clear on, Mr. Chairman, is what exactly . . .

AN HON. MEMBER: Just one?

MR. MASON: Well, I certainly wonder about some other things, hon. member, but the one thing in my previous questions that I'm still not clear on is: what do people do if they don't feel that they are being well cared for, particularly people who may have some disabilities or a mental illness or something that? What is then their recourse if this committee . . .

MS EVANS: The Protection for Persons in Care Act.

THE CHAIR: The hon. minister.

MS EVANS: Yes. The Protection for Persons in Care Act, that's administered in Community Development. Trust me; there are significant complaints by Albertans, but it's mostly either the resident themselves that complains about a family member or some other provider. It does not necessarily imply that it's care provided by somebody contracted by government to provide the care, and as we know, elder abuse and some of the manner in which children treat their parents often, in my previous experience in the ministry involved with housing, was probably one of the major complaints for numerous investigations. A sad tragedy, but clearly parents or children who might provide a complaint to the Social Care Facilities Review Committee can have that complaint followed up on. They can still lodge that complaint, and that committee can recommend where further review has to be done, but most everything today is consolidated in Community Development. Perhaps the hon. minister would wish to supplement, please.

THE CHAIR: The hon. Minister of Community Development.

MR. ZWOZDESKY: Thank you. I will just very briefly, for the hon. member's attention and information, clarify that the Protection for Persons in Care Act is indeed administered by the Department of Community Development, which is under my charge, and it may be of interest for the hon. member to note that those organizations or facilities that are under this particular act, as one requirement for us to do a review if an allegation is submitted, have to be receiving public funding. So that's one of the definitions. I think the other thing, very quickly, Mr. Chair, is to just let the hon. member know that the vast, vast majority of the complaints that do come in go unsubstantiated in spite of a very thorough search and review that we as a department do through private investigators and so on that are hired for those purposes.

But the other concluding point here, Mr. Chair, is for all members of the House to recognize that we are in the throes of a review, a legislative review, of the PPIC Act, and there'll be more information on that flowing out very soon. We're also doing an administrative review, which the Ombudsman is involved with, because this is a five-year-old piece of legislation, or it soon will be five years old. It was a brand-new piece of legislation that actually was brought in by our current chair, the hon. Member for Highwood. As is fairly consistent with government practice, within that four- to five-year window of almost every piece of new legislation we do a very thorough review. So there will be more opportunity for this in the months to come, with more information flowing out to all members.

Thank you.

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

DR. TAFT: Thank you, Mr. Chairman. Just some ancient history for everybody involved. The actual predecessor, as you know, of the Social Care Facilities Review Committee is the Health Facilities Review Committee. What you may not know is that the predecessor to the Health Facilities Review Committee was something call the Hospital Visitors Committee. The Hospital Visitors Committee was formed in 1973 under Premier Peter Lougheed, and it borrowed from the British concept of hospital visitors, which were people very much like the minister described a few minutes ago: laypeople who went around to hospitals and visited with the patients and staff and kept an eye on things and acted as a very informal ombudsman.

The Hospital Visitors Committee was turned into the Health Facilities Review Committee probably about 1975 or 1976. Its mandate was shifted, the chairman became an MLA as opposed to a member of the general public, and its powers were somewhat clarified. That committee then led to the formation of this committee about probably 1979 or something. The first chairman was Dr. David Carter, who went on to become Speaker of the Assembly.

Now, many things remain concerns for me. There has been some discussion here by two different ministers of the Protection for Persons in Care Act, and some of the reassurance for us about Bill 18 is that the complaints and issues that may no longer be covered

by the Social Care Facilities Review Committee will be handled under the Protection for Persons in Care Act. But that act is being reviewed right now, so I have to wonder: why are we not waiting until that review is complete before we amend the terms of reference for the Social Care Facilities Review Committee? Is there a rush to push Bill 18 through?

MS EVANS: We're not rushing, but we are trying to put in place what in effect has been the practice of this committee for the last two years with the reorganization which gave Children's Services a very precise mandate. It was no longer appropriate for us to be reviewing some of the health care facilities as we had in the past, so sharpening the definition was deemed to be significant and important, especially while health was reviewing its own facility. So this sharpening of the definition is actually the practice since this ministry was put in place, and I don't know what more to say.

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

DR. TAFT: Thank you, Mr. Chairman. One of the effects of this sharpening of definitions of Bill 18 seems to be that when funding is shifted from going to an institution to going to the parents, who then choose the institution, that institution or facility or home would then no longer be eligible or be under the mandate of this particular committee, because it would not be receiving any public funding directly. I bring that forward as a concern here because it may be that facilities that a few years ago were receiving funding directly and therefore were under the mandate of this committee are now still out there functioning but will not be under the mandate of this committee.

9:40

MS EVANS: No, Mr. Chair. I think it's very clear. The "facility" in this new definition is anything "that provides care, treatment or shelter and that is funded, wholly or partly, by the Department of Children's Services." Very clear. Secondly, an entirely separate piece: "a day care facility as defined in the Social Care Facilities Licensing Act." So, in fact, we do inspect day cares as defined under the licensing act. We do not deviate from that in this situation. These facilities wholly or in part – Children's Services. The only other facilities we deal with that have any kind of supports from us, indirectly through the parents, are day care facilities.

THE CHAIR: The hon. Member for Edmonton-Highlands.

MR. MASON: Thank you, Mr. Chairman. I have an additional question. The section that's being repealed, section 12, includes a number of things.

> (iv) an emergency shelter,
> (v) a residential alcohol and drug abuse treatment centre,
> (vi) a day care facility . . .
> (vii) a group home or shelter for physically or mentally handicapped persons, or
> (viii) a vocational rehabilitation and training centre for physically or mentally handicapped persons,

other than those "defined as a hospital" are the facilities that the committee now deals with. I have here in the web site as well family homes, group homes, foster homes, hostels, emergency shelters, residential alcohol and drug abuse treatment centres, vocational rehabilitation and training centres, and continuing care facilities. Now, which of these will continue to be under the committee's jurisdiction as a result of their being funded by the Department of Children's Services, and which ones will not?

MS EVANS: Well, Mr. Chair, if I'm clear on what is being suggested, those ones that are currently listed in that section 12 – the Health Professions Act is amended – and then it illustrates that, those that are health. To be clear, facilities that are funded through Children's Services: shelters, which are funded through Children's Services; group and residential homes, which are funded through Children's Services; foster homes, which are funded through Children's Services; day care facilities, which are funded through parents but through the day care facility licensing act; and then those facilities that provide care or respite to families, families such as those that participate in Rosemount for special-needs children. All of those things are funded in whole or in part by Children's Services. I think that facility definition is extremely clear, certainly clear to me, that that's where we're spending our money, and those ones that are health care facilities are dealt with in the health legislation. That's how we've been working for two years. I don't know what more I can say.

DR. TAFT: I can't help myself here, Mr. Chairman. The one last question: would the minister consider recommending to the government that this bill not be brought into force until the review of the Protection for Persons in Care Act is completed so that the two can be properly co-ordinated?

MS EVANS: Mr. Chair, with greatest respect, I believe they are properly co-ordinated.

MR. MASON: I just want to follow up my previous question, Mr. Chairman. I want to understand this clearly, and it may be a lot clearer to the minister, but after all she's the minister of the department and has day-to-day familiarity with it. What we're saying is that anything that is not related to Children's Services; for example, vocational rehabilitation and training centres, group homes for adults – those are no longer going to be subject to review by this committee. Is that correct?

MS EVANS: Unless you're assuming that your group homes for adults could include shelters for women who have been subject to violence. No, it's a different type of group home, I'm assuming. You're talking about relative to the Mental Health Act perhaps. Those are clearly part of the mission of the health care.

[The clauses of Bill 18 agreed to]

[Title and preamble agreed to]

THE CHAIR: Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE CHAIR: Opposed? Carried.

Bill 24
Child Welfare Amendment Act, 2002 (No. 2)

THE CHAIR: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Minister of Children's Services.

MS EVANS: Thank you, Mr. Chairman. I thank the hon. member opposite who is the critic for Children's Services, Edmonton-Mill Woods, who has been kind enough to identify last week some of the issues that he was concerned about. Having reviewed *Hansard* of

last Wednesday evening, let me just try to follow up and give some responses.

In the first case, when the issue of the Court of Appeal refused the stay of their decision, it said that the parents should be notified that their children's temporary guardianship orders are invalid. As of April 26, 2002, the directors of child welfare in all but two regions, where there were no temporary guardianship orders during that period of time that would have been impacted – the other directors, where it would have been, including those on native reserves, have been directed and have in fact sent a letter to each parent or guardian of a child who is the subject of an invalid temporary guardianship order to inform them of that fact. The directors have included that legislation has been introduced to the Legislature which will ensure the validity of their child's temporary guardianship order when passed. Notice was not provided to parents earlier because if the stay had been granted, it would have taken effect on the date of the appeal court's decision, meaning that there would have been no invalid TGOs.

Let me talk about the number we're talking about here: 636 in total. Approximately 36 care plans that were filed either a day or sometimes two days late were included in that number. In terms of the number of temporary guardianship orders that had been contested by parents, out of that entire number less than 50 were involved. Directors have been asked, where appropriate, to consider and follow through with a reapprehension of the child.

I'd like to talk about: now, why did it become practice not to routinely file the plans of care? Because in some jurisdictions, admittedly not all and admittedly not in all circumstances, it was not practised. First of all, the practice of the courts has been to review the temporary guardianship orders in front of them along with the care plans at the time of the filing, from time to time, and the judges would simply say that it was not necessary to file the plan. They were actually told that in some of the courts. The director, in presenting that evidence to the court, provides detail on the services provided to the child and the family. The judges of the Provincial Court have previously been satisfied in many instances that sufficient evidence of a proper care plan was being provided and was provided to the family on that occasion, particularly where the families were involved.

The plans are written, and they are absolutely, all of them, available to be filed, but because of that Court of Appeal decision on March 4 we were not able to file them, because they were already considered by that court to be null and void, even though they were prepared to be filed. In some rural areas circuit court clerks have refused to file plans in the past because of the inconvenience to them and the fact that they were concerned about the amount of paper. In some other areas plans are filed by fax, and filed copies are not returned to the child protection workers. Some court clerks have said that they do not have room, as I've said, and Justice officials have taken steps to remedy these problems. I think that that's an important observation, because with the members opposite speaking last Wednesday, one has a feeling that they are casting some incredible doubts not only on the management of the department and the ministry, which I will accept because I'm not comfortable either that the plans were not filed, but on social workers and others who would better spend their resources and their time doing the jobs of protecting children and working with the children.

So the plans have not been filed because the resource issue really relates not to the dollars and cents provided but because wise allocation of resources with social workers would imply that they're working with their clients and working less with some of the filing opportunities, but we have insisted. Although there has been some suggestion by the hon. Member for Edmonton-Mill Woods that it has been unsettling in the courts not to have assurance that future care plans will be filed and provided, I can assure you that everybody is filing and providing those plans. Parents receive copies of the plans, and in these cases parents have received copies of the plans. The plans used by the social worker to guide services are very much available to the parents, children, families, and of course to those who will be attending them. All of this happens whether the plans have been filed in the court or not.

Allowing the social workers to file plans now for the invalid TGOs is a loosening of practice that is not allowed, and the late filing gets the government off the hook: well, clearly, we don't believe we're off the hook. You know, we are on the hook because we have a duty of diligence to follow through and make sure that these things are rectified in some fashion. I would agree with the hon. Minister of Justice, who has said that this isn't desirable, but it is in fact probably the best way of rectifying a situation which has occurred without taking time to go through every single one of those invalid temporary guardianship orders and reinstituting a reapprehension order. The Court of Appeal talked about the importance of having and filing a plan for each child, and I agree. I certainly and clearly agree with that importance.

9:50

Why is it that the bill applies to TGOs made by the courts before February 21, 2002? Well, in this instance, Mr. Chairman, the provisions of the bill are backward looking only. It applies only to those invalidated by the Court of Appeal's ruling. There's no need for the bill to apply to the future because all temporary guardianship orders granted will have plans of care filed in the courts, and that has been our follow-through.

Finally, what other solutions were considered besides legislating away the problem? Reapprehension and new court applications were considered, and this was rejected as a solution because of the hardship it may present to the children and their families. An application to court would have been required to reapprehend each child, and parents would then have been served with an application for another TGO. Mr. Chairman, there was not an intent by the court to recognize that the child could go back, because they were being protected for a very definite reason, and that's why those protection orders should still be in place. The court would have been required to hear evidence for another TGO, the same evidence the court had already heard. Parents would have spent emotional energy on the rehearing of their child's TGO, energy they might prefer to spend on working towards getting the child back, and reapprehensions and new court applications would divert child welfare and court resources away from emerging cases.

Mr. Speaker, we do know that concerns have been expressed about Bill 24 by the members of the opposition and the third party, concerns that have been expressed as well, I can assure you, by all who've been involved, concerns about the need to do the due diligence in the future, about the history of this particular situation. We believe that we have learned from that history, and we beg the indulgence of this Assembly to please enable us to go ahead with this legislation so that we can correct something that was clearly deemed to be wrong by the courts and make sure that it doesn't happen again.

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

DR. MASSEY: Thank you, Mr. Chairman, and thank you to the minister for providing the answers to those questions that I was able to share with her last week. The minister has gone out of her way to attempt to provide answers to our questions, and we appreciate that.

The bill is very, very brief, and I think we should be clear in terms of exactly what it's doing. It amends section 31(3) of the existing act, and that section states:

> Not more than 30 days after an order is made under subsection (1), the director shall file with the Court a plan for the care of the child, including a description of the services to be provided.

This amendment says:

> Despite any decision of any court, a temporary guardianship order for which a plan for the care of the child has not been filed in accordance with section 31(3) is deemed to be valid from the date the order was made.

So what it in effect does is say that even though there weren't plans filed with the court, they are now valid even without that plan. I listened to the minister and part of the explanations that were given, and I guess one of the concerns as I listened is that first of all it seems that the courts are being given responsibility for some of the plans not being filed. The second impression I get is that it was considered busywork or that it was considered a task that was unimportant given the other tasks that social workers had to perform.

I think those two explanations, Mr. Chairman, are really quite amazing given the history of care plans in the province. They arose out of an unfortunate and tragic suicide, and to prevent that from happening again, there were some recommendations that were made. One of the recommendations – and it was endorsed by the government – was that there be care plans put in place. If you go back to Board of Review: The Child Welfare System, I quote from it.

> We learned that some children were apprehended and put in temporary placements where they remained for a long time before anything was done to plan their futures, either with a view to restoring them to their families or making plans for them in care. We were told that children who became temporary wards were often placed by a social worker and then forgotten.

At the time that that comment was made, the government I think took the comment very seriously and came up with the need for care plans and the need for them to be filed with the court, the need for everyone, parents and those people who were going to be involved in rehabilitation or remedial work with families, to be aware of what the plan was. It's essential in working with these youngsters that there be a care plan, and if you look at exactly what the importance of a care plan is for children, it clearly lays out the steps that are going to be provided for their needs: how they're going to be fulfilled, how they're going to be sheltered, how there's going to be a secure environment for them. It also lists the kind of long-term objective such as a permanent place for them. So in terms of the plans and children, they're very, very important documents.

10:00

They're important documents also to parents, Mr. Chairman. They communicate to the parents what they need to do in order to regain the custody of their children, and I can't think of anything that could be more important to parents in these cases where they're seeking return of their children than to know exactly what it is they're going to have to do to get their youngsters back. It really impacts them in a big way. If they're going to retain custody of their children, often they have to make lifestyle changes and behavioral changes, the ways in which they discipline youngsters, the ways in which they look after their education and upbringing. So some important changes in their lives can be detailed in a case plan and often are.

It often also will lay out the schedule for treatments of the parents themselves, and you can think of all kinds of examples. It lays out the kind of therapy that family members must engage in before youngsters can be returned. If there are medication needs for the family, those too can be part of a plan. Without a case plan the goals that parents have to follow, or if they're unaware of a case plan or if the plan isn't filed with the courts where the judgments are going to be made, the well-being of the child may be jeopardized.

I think that the care plans are important to social workers and to judges. They're the way that the system can be held accountable for its work with children, and they're also very useful in helping social workers identify the resources that are required to help children. Ideally the plans give the social workers reassurance that the resources will be in place by the ministry for the elements of a plan, and I think that's important in terms of social workers being able to work with clients in a responsible manner. The care plans indicate to judges what everyone involved in caring for the child is going to do, what their roles and responsibilities are and how they are going to be carried out. That again includes the family. So they're important in terms of the judicial system and to the social workers that are involved.

If you look historically at why they were required, it was the death of Richard Cardinal in care in 1984 that was really the major impetus for the change. He was in a foster home, Mr. Chairman, and he took his own life. It was really that case that highlighted the need for social workers to have a long-term plan for children in care. The importance of the plan has been highlighted by the courts in the decision that was rendered on the 12th day of January. The decision says that the "debates on Bill 35 highlighted the new provisions for written plans of care that were designed to remedy the problem of children being lost in the system." That goes back to Alberta *Hansard* in April of 1984. It goes on to state:

> When the state removes a child from his family with a [temporary guardianship order], the requirement of a plan supports both purposes. Even the temporary removal of a child from a family is a severe invasion of rights which should be tempered by a plan showing how the state will care for the child and what the family must do to regain custody.

It goes on to say in another part of the judgment: "The plan of care is a fundamental part of the Director's obligation when a [temporary guardianship order] is put in place." Then further:

> Finally, as the above discussion makes clear, the Legislature viewed the requirement for a plan as an important tool in advancing the purpose of the Act. Thus, the objective of the legislation is better served by giving plans of care an important place in the scheme of the Act.

I think all of this, Mr. Chairman, points to the very high priority that the government in the mid-80s and the system and those people who were making recommendations to prevent cases like the Cardinal boy's from recurring gave to care plans. That's why I guess I find the comments about what happened, why the system failed, why care plans have fallen into the situation where they're not filed with the courts I guess to be an unsatisfactory state of affairs and the remedy that we have before us to be distasteful.

I'll conclude with just a few more comments, Mr. Chairman. There's a lot of concern about retroactive legislation. I suspect that for opposition parties there are few things that we would argue longer and stronger against than retroactive legislation, and that's in most instances. There are instances of course where retroactive legislation is needed and has been useful. There are areas where it has been very useful. But if you look at comments about retroactive legislation, they're viewed as a challenge to the stability and the certainty of the justice system, and I think that for that reason alone any kind of retroactive legislation has be carefully examined. "The adoption of retroactivity is altogether inadmissible [and] it is unjust": comments from another source talking about retroactive legislation. Another comment about concerns with retroactive legislation: smacks of arbitrary and unpredictable lawmaking.

So there are two issues in the bill. The one issue, the most

important one, is the care plans and making sure that the importance and the use that is to be made of those plans is clear and that the act as it was intended is followed. I guess the second one is dealing with the problem of using retroactive legislation, which, as I said, is most unsatisfactory.

I think that with those comments I'll conclude for now. Thank you, Mr. Chairman.

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

10:10

DR. TAFT: Thank you, Mr. Chairman. Can you remind me how much time I have to speak on this? [interjection] Twenty? Okay. Thank you.

AN HON. MEMBER: Or less.

DR. TAFT: Or less. You wish.

I rise with two profound concerns with Bill 24. I think that in fact all legislators should be concerned or at least share one of my concerns, which is the clause that begins the most active part of this bill, which reads: "Despite any decision of any court". Now, I want all MLAs in this Assembly to contemplate the implications of passing a law that says: "despite any decision of any court." Are we prepared to pass a law like that and on what grounds? What does that tell us about the nature of our legislation and the nature of our Assembly? Do we think we can place ourselves above the court system? Do we think that we can somehow remove the laws from the normal checks and balances that keep a parliamentary democracy functioning smoothly and properly? What right do we think we have to pass a bill that puts itself beyond any reproach from the legal system?

I don't think we have any right, and I think that we will find, although I'm not a lawyer, that this bill is wide open to challenges on the basis of a Charter case because of that very clause. A clause that is intended to put the actions of this government, actions that are openly and freely in violation of its own laws, beyond recall or comment from the courts is simply unacceptable. I suspect that legally this bill has a huge, huge hole in it. There are certainly lawyers on the government side of the Assembly who perhaps should be considering this. And maybe I'll stand corrected. I'm not a lawyer. But I have profound problems with that particular clause.

If we look back through the whole development of the rule of law in a parliamentary democracy, it's a tradition that goes back almost a millennium, and step by step by step, starting from the late Middle Ages till today, there has been a body of judicial rulings developed that make it clear that the rule of law is absolutely vital to the functioning of any democratic society. The rule of law is essential to the protection of citizens against the arbitrary use of state authority. That's exactly what the rule of law is about.

This bill I believe violates that rule of law. If we allow this to stand, then what's to happen the next time that there is an error, that there is a change of heart? What's to protect the citizens in our society from the arbitrary use of state authority, a state that passes a law and then years later, having broken that law repeatedly, passes another law that at least attempts to put it all outside of the courts? This I think is a fundamental problem here. Courts are a crucial guardian against arbitrary government, and I'm afraid that what we're seeing here is arbitrary government.

A fundamental premise of the rule of law is predictable legal systems. What we are seeing here is anything but predictable. We are seeing a law passed, a law broken by the government, and then another law brought in to remove this all from legal recall. How is the government to be accountable when it changes its laws this way or, worse, attempts to put them beyond the reach of the courts? I predict that if there is a litigious parent out there with a good lawyer who is unhappy with their child being taken away from their family by this government, they could well take this to the Supreme Court and have this whole bill tossed out. So that's the basis of my first concern, and frankly I would suggest that all MLAs here think hard and long before they vote in favour of a bill that begins: "Despite any decision of any court." A fundamental, fundamental worry in the development of the Legislature of Alberta.

The other major set of concerns that I have has to do with social work practice, child welfare protection, and frankly the state of affairs of the Department of Children's Services. How did we get in this situation where there are over 600 child welfare cases in which case plans were not filed with the courts in accordance with the Child Welfare Act? Now, believe it or not, I'm not an entirely unreasonable person. There undoubtedly are situations in which these can be reasonably explained away: courts may have adjourned and made it impossible for a social worker to meet the deadline; it may have been impossible to find the parents in time to meet the deadline. There could be other reasonable explanations for a certain number of these cases, but we're talking over 600 cases.

If I understood the minister correctly – and she's welcome to stand and tell me that I didn't and explain why I'm wrong – of the 636 cases I believe she said that 36 involved cases that were a day or two late. Fair enough. Even though that's a violation of the law, it's reasonable I guess. Maybe another 50 or so are being contested by parents who disagree with the nature of the temporary guardianship order. That still leaves about 550 cases in which a case plan was not filed in accordance with the law. What's the explanation for that? That's 550 children, 550 families. That is a very, very serious problem that we have got ourselves into through this department.

I think it's worth reflecting, Mr. Chairman, on why this particular requirement was put into law. There has been some reference in discussion in this Assembly of the story of Richard Cardinal, a case that I still remember from the media coverage, and I'm sure other people here do as well. A Metis boy born in 1967, apprehended from his home at the age of four, and over the next 13 years placed in something like I think it was 28 different foster homes and group homes and other facilities, and finally at the age of 18 he went into the backyard of the foster home in which he was living, slung a rope over a tree, and hung himself. That case led to a review of the Child Welfare Act done by no less than the dean of the social work department at the University of Calgary, Dr. Ray Tomlison, and that in turn led to this provision being placed in the Child Welfare Act. It's profoundly serious. This is literally a matter of life and death.

So how did we get into this situation where such a tragic and serious case was ultimately being ignored by ignoring the law that was created in response to the case? I think that there are some serious problems to be raised about the functioning of the Department of Children's Services as a result. Certainly the information that I am getting from a wide variety of sources is that we are seeing a children's services system in a kind of chronic state of breakdown. The system is breaking down. I don't lay this entirely at the feet of the minister. It's something that has been building for some years.

10:20

I think we need to ask ourselves about the whole aspect of regionalization. There are 17 regional child welfare authorities and one provincewide one for Metis children. Before those 18 children's services authorities were created, the previous system, which had tons of problems of its own, nonetheless had a much simpler administrative structure. There were seven regions provincewide,

seven regional directors, and those regional directors didn't just look after child welfare. They also looked after income security, handicapped children's services, resources for the dependent handicapped, and a number of other programs. Certainly there is a strong case to be made that there is a close correlation between the problems of child welfare and issues of income security, and by creating regions strictly limited to child welfare, we have pulled apart the opportunity to have a co-ordinated response through both income supports and child welfare.

I'm also concerned that we have 18 different CEOs of children's services, 18 different administrative structures, 18 different boards, when prior we had seven. Indeed, we had seven that worked under the same department without any board; they had a single line of authority. So I think that what we are seeing here is a situation in which the department itself and the whole process of regionalization needs to be reviewed. It is indeed breaking down.

One of the symptoms of this is not just the cases that we've seen brought forward in recent months and years but in fact a perception on the part of many intimate observers that the system does not any longer support good social work practice. Filing a case plan for a child whose life you are taking into your hands is fundamental to good social work practice, a plan that not only lays out what you're going to do with this child – after all, you are its guardian; you are this child's parent – but also what you're going to do to restore that child to his proper place in his family if that is safe and possible to do. These plans it seems are not being properly developed, and as a result we risk returning to the very situation that Richard Cardinal faced, which is children being brought into care, being left on the bottom of a file, and being passed from social worker to social worker. I know that this happens today, and those children are ultimately being left to drift without a plan.

Part of the problem of this I think is the deprofessionalization of social work staff. We are seeing I believe a smaller and smaller percentage of highly trained social workers working with these children, fewer and fewer people with, say, masters of social work, and fewer and fewer highly specialized experts in the system. I'm not aware, for example, that the various children's authorities have teams of specialized workers with advanced training in things like sexual abuse or physical abuse or other conditions that will assist and support social workers in developing plans for their wards.

We've also seen a real loss of senior staff, the people who through decades of hard work and training have paid the dues to become the senior managers of children's lives. Those people have in large number left the department. They've either left, they've retired, they've burned out, or they simply throw their hands up after a career of service in a sense of exasperation with what's happening with this system.

So those kinds of problems led to a situation in which we are forced to bring forward a bill that says:

> Despite any decision of any court, a temporary guardianship order for which a plan for the care of the child has not been filed in accordance with section 31(3) is deemed to be valid from the date the order was made.

In other words, as some people have described this legislation to me, legislation to cover the government's butt.

I am unhappy with this legislation. If it is necessary, if there are no choices, it is an evil that is necessary, and I hope we never, ever have to rise in this Legislature to debate anything like this bill again.

Thank you, Mr. Chairman.

MS EVANS: Well, Mr. Chairman, I'd like to address the points made by the hon. colleagues opposite and just really be brief. The hon. Member for Edmonton-Mill Woods talked about the purpose of plans, parental rights to know about the services, and that the plans are to help social workers provide the services. I have already answered this in citing that the plans are made, are discussed with the parents, the parents sign off on these plans, and they reserve a copy. All this is happening, even if the plan isn't filed.

Bill 24 allows the late filing so social workers can ensure that a plan is filed for each child and allows the policy underpinning the filing of plans to be fulfilled. I think that that is an important element.

The other comments that were made by the hon. Member for Edmonton-Riverview relate to two concerns. He cites: "Despite any decision of any court." Can we place ourselves above the court system? Well, the answer really lies in this, Mr. Chairman. The Legislature's ability to override a court's decision is part of the checks and balances. The government introduced Bill 24 to keep the children safe, to keep the children safe and protected.

In all of the rhetoric that I have heard this evening or read on other occasions, I have really never heard any other viable way to manage what is an untenable situation if we don't get on with Bill 24. I have acknowledged that this is not our first preference, but it clearly is the most expedient way to ensure that we look after children and that we make sure that we do this as soon as possible to deal with our temporary guardianship orders, which have just recently been acknowledged to be null and void if we don't have some kind of retroactive legislation or other action.

On the comments by the hon. Member for Edmonton-Riverview on the possibility of a court challenge I'm going to cite the following, and this is why the lawyers that are in support of this legislation in government believe that there likely won't be a Charter challenge. First, this is an attempt to keep children protected and safe. The TGOs that would be validated by the bill originated from a judicial process in the courts, a determination that the child did in fact need protection. The court's original determination should have more weight regardless of the lack of timing in terms of the filing of the plan. So again the child is paramount over the process of filing the plan, acknowledging, though, that the plan is needed.

Secondly, the act provides a right of review at any point during the temporary guardianship order. So parents already have a right of review, whether or not the TGO has been invalidated.

Thirdly, the goal of the act is to protect children and to work toward their safe return to their families. The bill promotes this possibility without the need for additional processes. The TGOs that would be validated by the bill will have case plans filed as required under the act and for the future courts to review, so then the courts will accept those plans that have already been reviewed by the parents.

Finally, parents have other remedies, such as administrative review and judicial review, that they could follow up.

Mr. Chairman, I would for this evening adjourn debate on Bill 24.

[Motion to adjourn debate carried]

MR. ZWOZDESKY: I was just going to move that the committee now rise and report Bill 18 and report progress on Bill 24.

[Motion carried]

[The Deputy Speaker in the chair]

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

MS GRAHAM: Yes, Mr. Speaker. The Committee of the Whole has

had under consideration certain bills. The committee reports Bill 18 and also reports progress on Bill 24.

THE DEPUTY SPEAKER: Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

10:30

head: Government Bills and Orders

Second Reading

Bill 26
Workers' Compensation Amendment Act, 2002

THE DEPUTY SPEAKER: The hon. Minister of Human Resources and Employment to move.

MR. DUNFORD: Thank you, Mr. Speaker. It's my pleasure to rise this evening to move second reading of Bill 26, the Workers' Compensation Amendment Act, 2002.

Bill 26 is the result of two years of consultation on the workers' compensation system in Alberta. The process began in late 1999, early 2000 when the MLA/WCB service review input committee and the Review Committee of the Workers' Compensation Board Appeal Systems were struck. The two committees made 59 recommendations for improving the workers' compensation system; 49 of these recommendations were accepted and taken through extensive consultation. This included a symposium on the workers' compensation system, roundtable discussions on accountability, and a tribunal task force on the screening criteria and review process for long-standing, contentious WCB claims. The legislation before the House today is a culmination of all of this work and has two components, one arising from the government review and another requested by the WCB which I'll speak to later.

The legislated change in the future operations of the workers' compensation system will have a cost estimated by WCB and my department to increase employer WCB premiums by less than 1 cent per $100 of insured earnings.

I'll address the government initiatives first. There are four different aspects to these: improving the WCB decision-making process; secondly, independence of the Appeals Commission; third, improving the accountability of the WCB and Appeals Commission; and, fourth, reviewing long-standing, contentious WCB claims.

The WCB decision-making process will be improved in a number of ways. The WCB has developed a new quality review process to test new methods of meeting client needs over the next few months. Part of the process involves replacing the Claims Services Review Committee and the Assessment Review Committee with an open and collaborative process to resolve entitlement issues. The final WCB decision will be made following consultation with the parties and exploring resolution options. The legislation enables the WCB to take the best methods of operating developed in the quality review process and adopt these methods as WCB policy.

An issue repeatedly cited by injured workers was the lack of consultation by the WCB with their personal physicians, particularly when they disputed WCB medical findings. A medical panel will address differences in medial opinions, and its decisions will be binding on both the WCB and the Appeals Commission. The WCB is developing a pilot, and its performance measures will be submitted for the minister's approval in May.

The purpose of the medical panel is to get an independent, expert, consensus-based medical opinion. It is intended that a medical panel can be initiated where there are conflicting medical opinions by the WCB, by the Appeals Commission, or more importantly, Mr. Speaker, by the physician of an injured worker. Panels will be established from a list of physicians prepared and approved by the College of Physicians and Surgeons of Alberta. These changes will also enable a caseworker to consult earlier with the injured worker's physician and bring forward that physician's opinion.

The next area is ensuring the independence of the Appeals Commission. This will be done by making the Appeals Commission a government reporting entity effective September 1, 2002. Appeals Commission staff will no longer be WCB employees. The governance model of the Appeals Commission will be changed to address stakeholder responses and the Renner report on accountability of agencies, boards, and commissions to a model comparable with the Alberta Labour Relations Board. The WCB will no longer be able to direct the Appeals Commission to reconsider its policy interpretations. Instead, the WCB will be allowed to make representations on interpretations of its policy at Appeals Commission hearings. All parties will have a right of appeal to the Court of Queen's Bench on matters of law and jurisdiction. On applications of the WCB or the interested party, the commission may state a case before the Court of Queen's Bench on questions of law or jurisdiction. Bill 26 will also require the WCB to implement Appeals Commission decisions within 30 days or in such time as the commission directs. All these changes will make the workings of the appeals process more open and transparent.

The next area is improving the accountability of the WCB and the Appeals Commission. Bill 26 will enable the Minister of Human Resources and Employment to specify the performance measures on the service outcomes both for WCB and for the Appeals Commission. My ministry, the WCB, and the Appeals Commission are currently establishing these performance measures based on the results of the accountability roundtable held in November of 2001. These stakeholders agreed that the performance measures should focus on the service outcomes of fairness, timeliness, returning the injured worker to the workforce, financial stability, prevention of injuries, and communication between all parties in the system. By June 2002 I will sign two memoranda of understanding which will include performance measures with the WCB and with the Appeals Commission. These will be consistent with the Renner report.

The act also provides for an expanded role for the Auditor General to audit the WCB. The Appeals Commission will be audited by the Auditor General as is usual for a government reporting entity. The performance measures that we develop will form part of the Auditor General's audit of the WCB and of the Appeals Commission. The WCB will hold advertised public annual general meetings, which will include a report on its performance using these measures. The Appeals Commission will also hold annual general meetings, with a similar report.

Now, I want to talk to you about the review body for long-standing, contentious WCB claims, as recommended by both the Friedman and Doerksen committees. The Tribunal Task Force was charged with making recommendations on the criteria for assessing the body, the process the body would use, and the costs. The task force submitted a report to me in October of 2001. I released the report to stakeholders and the public and received over 200 responses. Although Bill 26 will give the Lieutenant Governor in Council the authority to create a body to review long-standing, contentious WCB claims, the government will not move ahead on this provision until there is a consensus among stakeholders on the process to be used and on the cost. The review body must achieve two objectives: it will have to recognize any previous unfairness to injured workers, and it must be fair to the employers who have to

pay for the system today. Therefore, the MLA for Calgary-Egmont, the MLA for Bonnyville-Cold Lake, and the MLA for Calgary-Cross will take the latest proposal for the review of long-standing, contentious claims to employers, who pay for the system. They will report back to me in June, and I will announce their course of action on July 31, 2002.

Bill 26 also contains amendments put forward by the WCB. The WCB conducted stakeholder consultations of its own and has put forward these changes having heard their stakeholders' recommendations. The main areas are, first, protecting workers from having WCB employer premiums deducted from their wages; second, greater protection of the accident fund from fraud; third, greater internal WCB administrative efficiency; and, fourth, clarifying legal terms so that they may be understood by all parties. These changes include the increasing of fines for failure to report incidents. The increase will follow an education process that will also re-emphasize the importance of safety for Alberta workers.

10:40

It should be made quite clear that due process under the law will be followed for the award of any fine, as it always has been. Under section 152(1) of the act, "a person who contravenes this Act or a regulation or order made under it is guilty of an offence," which means that the person must be prosecuted and found guilty in court. Further, the amendments will allow the WCB to impose administrative penalties against employers who obstruct a WCB claim or investigation or who fail to report injuries. Under these amendments the administrative penalties are considered to be WCB assessments. This means that the employer can then dispute the assessment with the WCB as part of their internal appeal process, take the penalty to the Appeals Commission, and ultimately take the assessments before the Court of Queen's Bench on matters of law or jurisdiction. In all cases no fine can be imposed unless an offence under the act can be shown to have taken place. Also, in all cases there will be a means of appeal.

Another item would allow WCB benefits to be exempted from the Insurance Act, which would allow the WCB to provide coverage to sole proprietors.

I am confident that these amendments will create fairness and confidence for the future. In short, it will make an already good system even better. Mr. Speaker, I encourage all of my colleagues to join me in support of Bill 26 and look forward to hearing their comments during the debate.

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

MR. MacDONALD: Thank you very much, Mr. Speaker. It's with a great deal of interest that I rise to speak after all the consultations that have been conducted regarding the Workers' Compensation Board in this province. I believe 1995 was the last time the WCB act was amended. Like a lot of other Albertans I'm reading this bill and reading it quite cautiously because of some of the increases in discretionary powers that we are proceeding to give the WCB.

The Workers' Compensation Act in Alberta is guided by the following principles articulated more than 80 years ago by then Chief Justice of Ontario, Sir William Meredith. In his report on workers' compensation the four principles that he outlined have to be consistent in this Bill 26 whenever it is finished in this Assembly. Now, certainly negligence and fault for the cause of injury are not considerations. Workers receive compensation benefits for work-related injuries at no cost. Employers bear the cost of compensation and in return receive protection, protection from lawsuits arising from injuries. Lastly, the system is administered by an impartial agency having exclusive jurisdiction over all matters arising out of the enabling legislation. This is what should occur, and unfortunately in the time that I've had to examine this bill, I can't say that this bill will protect what was outlined over 80 years ago and what has guided the principles of the WCB ever since.

Now, you consider some of the conclusions that have been made after the two years of consultation, the two high-profile reports certainly, and the lobbying by MLAs. The government has finally introduced the changes in this bill, yet we have to look at the reports not only by hon. members from this Assembly but particularly by retired Justice Samuel Friedman, QC, the report which I'm sure all members of this Assembly are familiar with. It concluded:

> The greatest and most immediate need is to bring accountability into the appeals process. If government wishes to maintain an arm's length relationship with the WCB, the only effective recourse to guarantee accountability is to strengthen the Appeals Commission and improve access to court review.

Now, if in this legislation, Bill 26, that was the only change and the Appeals Commission was going to be as the hon. minister has stated, then perhaps I could accept it.

The final report regarding the appeals system by Justice Friedman notes in recommendation 4 "that the Office of the Appeals Adviser report to the Ministry of Justice." Now, I have no problem with the Minister of Human Resources and Employment perhaps appointing these individuals to this Appeals Commission. I could live with that, Mr. Speaker, but to allow a little bit of distance, shall I say, political distance from the minister, perhaps it's prudent that we follow the recommendation of the Friedman report and have this Appeals Commission report to the Ministry of Justice.

Now, we all know that we have to guarantee independence and restore public confidence not only in the Appeals Commission but in the entire WCB system and the process, and I believe, as I said before, that the Ministry of Justice is the natural home for the Appeals Commission. Perhaps it is suitable that the appointments be made but have it independent and at arm's length, as we have all been told so many times in this Assembly. That is where the Appeals Commission, in my view, belongs. No disrespect to the Human Resources and Employment department but the current proposal in Bill 26 is again not at arm's length.

Also, Mr. Speaker, Bill 26 is unfortunately allowing the WCB to be even more adversarial, in my view, towards injured workers. We are also allowing the WCB to proceed with these wide, sweeping powers that we're giving it, from a culture of denial to further denial of not only employee rights but also employer rights.

In the time that I have allotted, there has been a lot of comment made in this House and outside this House regarding the long-standing contentious claims by the injured workers, and there has been case after case, file after file. Many of them have been documented publicly. I cannot understand for the life of me why any organization that was managed prudently would start a rate and benefit stabilization reserve fund specifically for times like these, to deal with the long-standing and contentious claims – now, there have been many price ranges to settle these claims. It's gone from $50 million to as high as $220 million, and there were millions and millions and millions of dollars set aside in that rate and benefit stabilization fund, and what did we do? We liquidated the fund, and it has simply disappeared. I don't consider that to be good management, Mr. Speaker, and now the money could be used. There would be no question of where we're going to get the money from.

Another matter with the rate and benefit stabilization fund: what would happen if there was a catastrophic accident in this province? Where would we get the money to deal with it? This was in the past.

The board showed a great deal of wisdom, but then we liquidated the fund, and now we can tell the injured workers that we have no money. We can plead poverty. Of course, premiums have gone up by double digits last year, 27.4 percent to be precise, and now they're going up, I'm told, by double-digit amounts as well this year. In order to meet the amount of money, premiums have to be, as I understand it, about $1.81 per hundred dollars of payroll.

10:50

Mr. Speaker, in regard to the long-standing contentious claims, I just can't believe that we have to put it off and we have to study it further. Everyone knows what needs to be done. It's just a matter of, in my view, having the political will to deal with it.

Now, there's also the issue of the medical panels, and perhaps in the debate that's going to occur – hopefully we'll have a chance to debate this bill at length in this Assembly. The idea of the medical panels – certainly every report that came across to the minister discussed the importance of having independent medical panels and that the medical panels should be set up not in WCB policy, in my view, but they should be set up in statute.

We are allowing again here far too much discretionary power for the board.

> (4) The Board may make rules governing
>
> (a) the appointment of the members of the medical panel,
>
> (b) the determination of what constitutes a difference of medical opinion for the purposes of subsection (2), and
>
> (c) the practice and procedure applicable to proceedings before a medical panel.

Where in all of this is the role of the family physician or the attending physician in the accident? The hon. Minister of Innovation and Science in his report earlier discussed this specifically, about the role of the GP. Recommendation 7 from the Friedman report:

> It is recommended that a Medical Resolution Committee be established under the auspices of the Appeals Commission to review all cases where there is a difference of medical opinion between the medical adviser and the treating physician. A physician of the claimant's choice must be given reasonable opportunity to firstly, participate as a Medical Resolution Committee member (with his or her attendance paid for by the WCB) or, secondly, be contacted by the Committee Chairman to discuss the differing medical opinion of the diagnosis.

Now, this is from recommendation 7 of the Friedman report.

How can general practitioners have a say in the medical panels? Now, someone is going to tell me that, oh, it's going to be in policy. But it should not be in policy because these medical panels are where all the differences of opinion start. The minister himself will admit that it is far too high, it tells us that there's something wrong, whenever close to half, precisely 45 percent, of files that go to the Appeals Commission – and this is in the last year that there was an annual report – are overturned fully or perhaps partially, Mr. Speaker. So we do have problems, and to say that we're going to have a new review body: it's cosmetic. It's cosmetic. Instead of these reports we should have gotten the Avon lady to have a look at the WCB legislation and then just given us a cosmetic overview. That's exactly what has gone on here. This is just cosmetic. We're looking at this pilot project that's going on, and what difference is this between what we have now, the Claims Services Review Committee or the ARC? I need to be assured that there's going to be a difference in this. A resolution specialist just doesn't cut it. Again, I'm sorry; I view this as cosmetic.

Now, the medical panels are also going to unfortunately usurp the authority of the Appeals Commission. I don't think that is going to solve a lot of problems, and the authority of the Appeals Commission, I think, is compromised in section 13, because of course the medical findings of a medical panel are binding on the board, the Appeals Commission, and all other persons with a direct interest in a claim. The Appeals Commission is going to have their hands tied by the board. Again, more and more discretionary powers.

Now, Mr. Speaker, in light of all this, we have again this special police force. The hon. minister stated: due process will be followed. This is in regards to the extended powers in my view of the special investigations unit, or the SIU.

These administrative penalties. I have to remind all hon. members now of the Constitution Act, 1982, schedule B, Canadian Charter of Rights and Freedoms, under legal rights, proceedings in criminal and penal matters: "To be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal." How can this occur under the new section 152(1)(4.1): "A person who pays an administrative penalty under section 152.1 in respect of a contravention may not be charged under this Act with an offence in respect of that contravention"?

Now, in my view the WCB does not want this to go to court and risk full public disclosure. They want everything going on behind closed doors. If the minister thinks we have frustrated, injured workers now, I think this is going to make the matter worse. I don't understand how there can be both a fine in the courts and by the board. How is due process being followed here? I just can't understand this. It is common knowledge, Mr. Speaker, that the WCB's special investigations unit spies on injured workers and tries to build a case that will give them an excuse to reduce compensation to the worker. These injured workers are followed around by the WCB secret police. It is known that their activities are videotaped by the secret police without their knowledge, without their consent. The proposed legislation will give this SIU, the secret police force, even more power than they already have. Not only will they have policing power, but they will also have the power to be judge and jury, and I don't think that is right.

The minister talked about the fines. Injured workers deemed guilty by the WCB special investigations unit will be slapped with hefty fines, up to $25,000 – and that's a 5,000 percent increase in fines – and then forced to prove their innocence to the WCB. This is completely unjust and violates workers' rights to a fair and just process. It also does nothing to address the issues raised in the Friedman report, and the WCB has a culture that treats many long-term disability claimants with suspicion.

I just can't support this legislation. It is my view that workers' rights will continue to be violated, and we are giving the WCB secret police far too much power. When one considers this, hopefully in debate we will compare the fines or the changes in fines and how they relate to injured workers or employees and also how they relate to employers, because certainly employers are going to have to be careful of this secret police. Section 19 is going to be involved in this; notice by employer, section 33; section 105, employer commencing business; section 106, employer ceasing to be an employer; employers' records; persons who might be employers; separate statements for each industry, section 110; board order ceasing to employ workers, section 138; unauthorized deductions, section 139; and it goes on. This also applies to employers. This expansion of powers is quite unusual, and why it is quite unusual is because there has been no history of fraud in the WCB. We are told that one-tenth of 1 percent of claims are fraudulent, so why do we need these wide, sweeping powers with large fines? It's beyond me.

11:00

Another issue that is not addressed in this bill is the issue of governance. I have with me the 1997 report, where termination benefits of $580,294, to be exact, were paid to the retiring president and CEO. This was in accordance with the contract of employment.

There are other executives that are very well paid, and it would be my view that in this legislation – we're currently looking for a new CEO, and if they don't like the terms, they don't have to apply for the job. The complete compensation package for that individual should be public knowledge. Anyone in the province can look up the hon. Minister of Human Resources and Employment's compensation package and his termination benefits. If it's good enough for him, then it's good enough for the new CEO of the WCB. This is just inexcusable. Who knows what the retiring CEO is going to receive in benefits? It's inexcusable.

Now, unfortunately, Mr. Speaker, I believe that my time has expired. I look forward to debate of Bill 26 in the Assembly.

At this time I now move that we adjourn debate on Bill 26. Thank you.

[Motion to adjourn debate carried]

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

MR. ZWOZDESKY: Thank you, Mr. Speaker. It's been a very enlightening evening, a great day of progress in the House, and I would now move that the Assembly stand adjourned until 1:30 p.m. tomorrow.

[Motion carried; at 11:01 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]