

## Legislative Assembly of Alberta

**Title:** Tuesday, March 10, 1998 1:30 p.m.  
**Date:** 98/03/10

[The Speaker in the chair]

head: **Prayers**

THE SPEAKER: Good afternoon. Let us pray.

Our Father, we confidently ask for Your strength and encouragement in our service of You through our service of others.

We ask for Your gift of wisdom to guide us in making good laws and good decisions for the present and the future of Alberta. Amen.

Please be seated.

head: **Presenting Petitions**

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

MR. DICKSON: Thank you, Mr. Speaker. I'm pleased to present a petition signed by 1,500 Albertans that urges this Assembly and the government of Alberta to

examine and amend the [WCB] Act to provide appropriate benefits to those Albertans whose spouses died in work-related accidents, and who subsequently lost their benefits due to remarriage.

Thank you.

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

MS CARLSON: Thank you, Mr. Speaker. I too rise to present petitions signed by 1,928 people from throughout Alberta urging the government to

examine and amend the [WCB] Act to provide appropriate benefits to those Albertans whose spouses died in work-related accidents, and who subsequently lost their benefits due to remarriage.

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

MS BLAKEMAN: Thank you, Mr. Speaker. I would also like to rise and present a petition signed by 1,675 people in support of the Disenfranchised Widows Action Group asking the Workers' Compensation Board Act to be opened up and appropriate benefits given to the disenfranchised widows.

Thank you.

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

MR. BONNER: Thank you, Mr. Speaker. I also rise today to present a petition signed by 2,250 Albertans that also urges the government of Alberta to

examine and amend the Workers' Compensation Board Act to provide appropriate benefits to those Albertans whose spouses died in work-related accidents, and who subsequently lost their benefits due to remarriage.

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

MS LEIBOVICI: Thank you, Mr. Speaker. I, too, have a petition signed by 1,000 Albertans urging the government of Alberta to examine and amend the Workers' Compensation Board Act to provide appropriate benefits to those Albertans whose spouses died in work-related accidents, and who . . . lost their benefits due to remarriage.

MS BARRETT: Mr. Speaker, I rise as well to table with the Assembly a petition signed by 282 Albertans in support of the disenfranchised widows who are in the gallery today observing the introduction of these petitions in support of changing the Workers' Compensation Act to end the discrimination of those who remarried before 1982 compared to those who remarried after 1982 once they had lost their husbands to work-related deaths.

head: **Notices of Motions**

MRS. BLACK: Mr. Speaker, pursuant to Standing Order 34(2)(a) I am giving notice that tomorrow I'll move that written questions appearing on the Order Paper stand and retain their places with the exception of written questions 24, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, and 37.

I will also be giving notice that tomorrow I'll move that motions for returns appearing on the Order Paper stand and retain their places.

head: **Introduction of Bills**

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

### Bill 26

#### Institutional Confinement and Sexual Sterilization Compensation Act, 1998

MR. HAVELOCK: Thank you, Mr. Speaker. I request leave to introduce a bill being the Institutional Confinement and Sexual Sterilization Compensation Act, 1998.

This bill balances the interests of those who are bringing claims against the government for wrongful sterilization or wrongful confinement in provincial institutions and the interests of all Albertans by removing obstacles to compensation and by establishing compensation principles which will assist in resolving claims in a fair and consistent manner.

[Leave granted; Bill 26 read a first time]

### Bill 24

#### Medical Profession Amendment Act, 1998

MR. JONSON: Mr. Speaker, I move first reading of Bill 24, the Medical Profession Amendment Act, 1998.

Mr. Speaker, this bill has three primary features. First of all it provides for a performance review and improvement program for physicians. Secondly, as part of that performance review program the performance review committee must include representation of the particular area of medical practice being reviewed, such as alternative medicine. Thirdly, the bill makes certain changes with respect to professional fees.

[Leave granted; Bill 24 read a first time]

head: **Tabling Returns and Reports**

MR. LUND: Mr. Speaker, I am pleased to table today the 1996 State of the Environment Report on aquatic ecosystems and the latest State of the Environment Fact Sheet, Duck Populations: An Ecosystem Indicator.

Mr. Speaker, aquatic ecosystems are a key to the maintenance of a healthy and diverse environment. As this report shows, their condition in Alberta is generally very good. I know this report will prove a useful source of information and understanding about

aquatic ecosystems. The report's comprehensive nature will make it a useful benchmark to measure future progress in Alberta's ecosystem management.

THE SPEAKER: Hon. minister and hon. members, let's just proceed with the tablings of returns and reports without comment.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thank you, Mr. Speaker. I have three tablings. The first one is copies of a letter of even date written to Dr. Bill Anderson, president of the Alberta Medical Association, raising concern with respect to the prospect of direct billing of Albertans by their physicians for insured services.

The second tabling is my correspondence to the Minister of Health dated March 5, 1998, seeking to negotiate Bill 22 to obviate excessive debate in the House.

My last tabling is pursuant to an undertaking given to the Assembly on, I think, February 2, 1998: copies of all of this MLA's expense documents, including member's committee allowance, automobile allowance, personal expense and temporary residence allowance claim forms for the fiscal year 1997-1998.

#### Speaker's Ruling Tabling Documents

THE SPEAKER: Well, obviously there's been a misunderstanding. After cautioning the Minister of Environmental Protection, the hon. Member for Calgary-Buffalo then proceeded to provide comment. This section is called Tabling Returns and Reports. Let's table the return. Let's table the report. Let's sit down. Without comment.

The hon. Member for Edmonton-Centre.

#### head: **Tabling Returns and Reports** (continued)

MS BLAKEMAN: Thank you. I have two tablings today. I'm sorry. Can I say anything more?

One of them is 92 signatures of support from Manitoba, Saskatchewan, and Ontario for the Disenfranchised Widows Action Group.

The second is 342 more signatures, also in support of the Disenfranchised Widows Action Group and their action regarding the Workers' Compensation Board.

Thank you.

THE SPEAKER: Thank you, hon. member. That was clinically well done.

The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you, Mr. Speaker. I also have two tablings. The first is from the Canadian Council of Railway Operating Unions, and they're sending these letters in support of the Disenfranchised Widows Action Group.

The second tabling is copies of 498 letters of support calling for fair entitlements for all spouses widowed due to work-related accidents.

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

MR. MITCHELL: Thank you, Mr. Speaker. I rise to table four copies of a survey done by the Population Research Laboratory at the University of Alberta at the request of the task force on

private schools. It is titled Private Schools Funding Survey Results, because all they surveyed were private schools and nobody interested in public schools.

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

MS OLSEN: Thank you, Mr. Speaker. I'd just like table an article from the Canadian Police Association *Express* magazine on a successful gang-related program through the Winnipeg Police Service.

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

1:40

MRS. SOETAERT: Thank you, Mr. Speaker. I'd like to table five copies of a letter sent to the Premier and copied to me from John Bauman. He's very concerned about medical services in Alberta. He compares it to *M\*A\*S\*H*, the old TV series.

THE SPEAKER: Okay. Anybody else for tablings?

The hon. Member for Edmonton-Meadowlark.

MS LEIBOVICI: Thank you, Mr. Speaker. I have four copies of correspondence from 33 individuals asking for reinstatement of benefits for disenfranchised widows.

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

MRS. SLOAN: Thank you. I rise to table 20 personal testimonies of women and their children who lost their husbands through work-related accidents.

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

MS BARRETT: Thank you, Mr. Speaker. I have three tablings today, the first being five copies of letters in support of reversal of the workers' comp policy to deny benefits to selected widows of workers killed on the job; five copies of what is called Consumer Reality Check: Private Health System Options, a comparative analysis prepared by the Alberta chapter of the Consumers' Association of Canada; and five copies of a document prepared by the Seniors Action Liaison Team with respect to what was offered as private, for-profit health care law.

#### head: **Introduction of Guests**

MS EVANS: Mr. Speaker, it's my privilege and pleasure this afternoon to introduce to you and through you to the Assembly the OLPH students, Our Lady of Perpetual Help students, from Sherwood Park. There are two grade 6 classes accompanied by Mr. Normand Dupont and Ms Denise Bouchard. Would the Assembly please greet as they rise the very excellent students from OLPH school.

MRS. McCLELLAN: Mr. Speaker, on your behalf I would like to introduce to you and through you Mr. Fred Windwick, president and chief executive officer for Junior Achievement of Northern Alberta and the Northwest Territories. Mr. Windwick's continued support to educate and inspire young Canadians to value free enterprise, understand business and economics, and develop entrepreneurial and leadership skills is recognized throughout the business community. In 1996-97 over 20,000 students in 70

communities participated in a Junior Achievement program. Mr. Windwick is standing in your gallery, Mr. Speaker. I would invite all members of the Legislature to accord him a very warm welcome.

THE SPEAKER: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Speaker. It's with a great deal of pleasure that I have the opportunity to introduce to you and through you to Members of the Legislative Assembly a group of 25 students from Caroline school. They're accompanied by Mr. David Brockler, Mr. Kevin Heinze, and Mrs. Terri Harris. I believe they're seated in the members gallery. I would ask them to rise and receive the warm welcome of the Assembly.

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

MR. ZWOZDESKY: Thank you, Mr. Speaker. It's a pleasure for me to introduce to you and through you to all members of the House a constituent named Ken Nelson, who's a keen observer of the democratic process. He has on many occasions called my office as well as the Provincial Treasurer and a number of other people. He's in the public gallery. He is one of hundreds of other Albertans who were incarcerated, unfortunately, years ago at the Michener Centre, so he obviously has a personal interest in the sterilization legislation that is before us today. I would ask him to rise and receive the very warm welcome from all of us.

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

MS CARLSON: Thank you, Mr. Speaker. Today I rise to introduce to you and through you to Members of the Legislative Assembly 44 students from grade 6 who go to Sakaw elementary school. Today they are accompanied by teachers Ms Susan Bertocini and Mrs. Sandi James and parent helpers Mrs. Darlene Guy, Mrs. Debbie Wilde, Ms Karen Evans, Mrs. Joan Lehman, and Mr. Lawrence Willis. I would ask that they now rise and receive the traditional warm welcome of the Assembly.

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

MR. MITCHELL: Mr. Speaker, I would like to introduce to the Members of the Legislative Assembly Mike MacDonald. He is a prominent and longtime lawyer in the city of Edmonton, has been involved over the years, it seems to me, in almost every feature and area of public service and community service, and he is, of course, well known in political circles. I would ask that he rise in the gallery and receive the welcome of the Members of the Legislative Assembly.

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

MR. BONNER: Thank you, Mr. Speaker. I'd like to introduce to you and through you to Members of the Legislative Assembly Carolyn Berube, Shirley Fry, Val Benoit, Sandy Franzen-Perras. They are on the organizing committee of the Disenfranchised Widows Action Group. They're in the public gallery, and with your permission I would ask that they now stand and receive the traditional warm welcome of the House.

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

MS BLAKEMAN: Thank you, Mr. Speaker. It is my great pleasure to rise today and introduce to you and through you to Members of the Legislative Assembly other members of the organizing committee: Joan Snow, Shirley Hipfner, Leta Schmaltz, Vera Prest, and Ev Miller. I believe a number of other members of the Disenfranchised Widows Action Group, Alberta branch, are seated in both the public gallery and the members' gallery. I would ask them all to please rise and accept the warm welcome of the House.

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

MR. SAPERS: Thank you, Mr. Speaker. It's my pleasure to introduce to you and through you once again to all the members of the Assembly Mr. William Kobluk, who is here visiting. He's in the public gallery. It's a strange occurrence to see Bill here without being surrounded by his students, as he brought classes to this Assembly for some 30 years in a row. It's a pleasure to see that he can't get enough of the place and that he's still a keen observer of political happenings in this province. I'd ask him to rise and please be welcomed once more by this Assembly.

head:

### Oral Question Period Private Schools

MR. MITCHELL: Mr. Speaker, some people argue that private schools are needed because public schools fail to impart strong values to our children. Many people think that it's time the Premier buried this kind of bias once and for all and stopped taking action that erodes the public school system. To the Premier: why won't the Premier support unequivocally the public school system and stop taking action that erodes the ability of public schools to impart those values which form the foundation of our pluralistic democracy, values of equality of opportunity and inclusion, access, appreciation of differences, and the celebration of diversity?

MR. KLEIN: I agree with all those things, Mr. Speaker, especially the celebration of diversity. That's what this is all about. Diversity also means choice.

Mr. Speaker, our commitment to public education is very, very strong indeed, to the tune of something like \$3.3 billion annually. Our commitment to private schools represents 1 percent of that budget.

MR. MITCHELL: Mr. Speaker, what criteria did the Premier use in determining that private school funding would be pegged at 60 percent rather than 22 and a half percent or maybe 78 and three-quarters percent or maybe just leaving well enough alone?

1:50

MR. KLEIN: Well, Mr. Speaker, as the leader of the Liberal opposition well knows, there was a very extensive public consultation process. Twelve thousand submissions were received either through people attending the various public meetings throughout the province or accessing the various government communications systems or writing or phoning, and as a result of that there was a report prepared that contained 26 recommendations, one of which was to increase from 50 to 60 percent the level of public funding for private education. So in answer to the question, the recommendation to the government caucus came as the result of full and extensive public consultation.

MR. SAPERS: Why don't you put it in the budget so we can debate it?

### Speaker's Ruling Decorum

THE SPEAKER: Hon. Leader of the Official Opposition, yesterday I asked the hon. Opposition House Leader to show some restraint and to take a leadership role in quitting his interjecting. That seemed not to work. Could I ask you to ask him to do that as you proceed to your third question?

MR. MITCHELL: I greatly enjoy the input from the hon. House leader, Mr. Speaker. He's a very strong and prominent member of our caucus. Thank you.

### Private Schools (continued)

MR. MITCHELL: Mr. Speaker, to the Premier: how can the Premier say that this was an extensive and open consultative process when the only broadly based survey undertaken by the task force was one that solicited only input from private schools, not from public schools, and a process that has excluded any open public debate in this Legislative Assembly?

MR. KLEIN: Well, Mr. Speaker, there was plenty of open and public debate on this issue. We believe as a government that it's very important to get out from under the dome and talk to the people about issues before developing government policy.

Mr. Speaker, this isn't the first time that this matter has been before the Legislature. I go to the *Hansard* of 1988, and the then Minister of Education says:

But as far as suggesting that we should not be supportive of private education in this province or that we should not be funding it publicly, I'm afraid we cannot turn back the clock, and to do so would be inconsistent with the Supreme Court judgment.

There was a Supreme Court judgment in 1986. There was a reference to the Supreme Court that said that funding of private schools by the province of Alberta was indeed fair and equitable in terms of providing choices.

# The then minister goes on to say:

But in terms of a balance, yes, we are recognizing it, and yes, we feel it's an important part of delivery of education within this province . . . This is not a lessening of support for public education . . .

That's what that minister said.

. . . which we are proponents of and supporters of . . .

And we are indeed today.

. . . and I'm a product of. But to say that we should limit it or wipe it out entirely is simply not consistent with the law of the Supreme Court of Canada.

She was alluding to that Supreme Court decision.

AN HON. MEMBER: Who was that?

MR. KLEIN: The minister is named Mrs. Betkowski, now known as Mrs. MacBeth and a contender for the leadership of the Liberal Party, Mr. Speaker.

THE SPEAKER: Second Official Opposition main question. The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Speaker. It doesn't matter what they teach at the school just so long as they have the proper

textbooks on the shelves when Alberta Education comes around: these are the words of a private school principal to one of his teachers. My question is to the Premier. How does the government justify giving 20 percent more public money to private schools when it has no idea whether the money already being spent is being used wisely?

MR. KLEIN: Mr. Speaker, indeed there are many, many rules governing the operation of private schools and certainly the curriculum in private schools. The teachers and the administration of private schools have to abide by all of the principles that relate to public education, and I would suspect – and I'll have the hon. Minister of Education respond. If they're in violation of any of these principles, I am sure that the Minister of Education and the department have every right and every authority to take action.

MR. MAR: Mr. Speaker, in looking at the recommendations made by the task force on private schools, I invite the hon. member to read them and realize that there are greater notions of accountability for private schools and also more stringent criteria that have been established for eligibility for private schools to receive funding. I don't think that it is a fair characterization of private schools to say that they ignore rules, nor is it a fair characterization to suggest that they do not follow the Alberta curriculum.

Mr. Speaker, the Leader of the Opposition himself attended a private school, and he turned out to be a Liberal. So we shouldn't suggest in any way, shape, or form that private schools are not doing a good job of educating young people.

DR. MASSEY: Thank you. To the Minister of Education, Mr. Speaker: can the minister confirm that private schools are virtually never inspected unless there are specific complaints?

MR. MAR: Mr. Speaker, of course we do review private schools, just as we endeavour to inspect public schools as well, but it appears to me that upon the inspections that we make from time to time, private schools do appear to be accountable for the rules that we establish for them.

DR. MASSEY: Thank you, Mr. Speaker. How is the minister going to monitor how public money is spent in 150-plus private schools when he doesn't even have the wherewithal to investigate conflict-of-interest allegations in the Chinook's Edge public school division?

MR. MAR: Well, Mr. Speaker, I would refer the hon. member to the record of *Hansard* on the day that he asked this question with respect to the issue at Chinook's Edge. Upon review of that transcript, I think he'll find that the question was asked and answered, that the matter of the employment contract between the superintendent and the board was a matter which was within the knowledge of the public board, which was charged with the responsibility of labour relations, including the employment contract with its employee. As a local matter, it was dealt with locally.

THE SPEAKER: Third Official Opposition main question. The hon. Member for Edmonton-Meadowlark.

### WCB Survivors' Pensions

MS LEIBOVICI: Thank you. Mr. Speaker, the government likes

to tell us that the Workers' Compensation Board operates at arm's length from government, but in reality the board can only do what their governing act allows them to do. When it comes to pensions for dependent spouses who are widowed due to job-related deaths, this government has entrenched discrimination right into the act. My questions are to the Premier. Given that the Canadian Charter of Rights prohibits discrimination based on marital status, can this Premier explain how it's fair that one group of widows loses their benefits when they remarry and another one doesn't?

MR. KLEIN: Well, as I understand this issue – and it's an issue that only came to my attention today. [interjections] Mr. Speaker, that is entirely the truth. I understand that there was a rally outside the Legislature. I haven't had the opportunity to discuss this specific issue with the Minister of Labour. The Minister of Labour will probably supplement my answer.

As I understand, the benefits paid under the insurance plan changed with time and circumstances. I understand that prior to 1982 someone whose spouse died while working was entitled to a pension that lasted until remarriage. Everyone knew that. This was the insurance benefit in place at the time. It covered all spouses equally, and anyone who felt the benefit was insufficient was free to take out personal life insurance. Anyone who received this benefit knew the remarriage would result in a lump sum payment and an end to the pension. Benefits in this area, as I understand it, changed in 1982. Lifetime pensions for dependent spouses were replaced with term pensions and vocational training opportunities.

As I understand it, Mr. Speaker, there was a court case in Ontario and B.C. relative to this issue. The court cases ruled in favour of the widows on the basis of inequality. As I understand it, the position here in Alberta is that there isn't an issue of inequality, that all recipients are treated equally, whether it happened before, as in the case of Ontario, 1985, or in the case of B.C., I believe, 1975.

I'll have the hon. minister supplement.

**2:00**

THE SPEAKER: I think we'll move on. That was almost a three-and-a-half-minute response to a question.

MS LEIBOVICI: Given that the Premier is now aware of the issue and I don't believe quite has the facts right, will you commit now to ensuring that the WCB provides fair and equal entitlements for all Albertans who've suffered the tragedy of having their spouse killed on the job? That's contrary to the information you have there, Mr. Premier.

MR. KLEIN: Certainly, Mr. Speaker, I'll discuss this further with the hon. Minister of Labour, but he has all of the information, the detailed information, relative to this particular circumstance, and I will have him supplement.

MR. SMITH: Mr. Speaker, as the member has pointed out, the WCB is an arm's-length, board-governed organization. It operates under legislation in this particular instance that was put in place by an all-party committee, which included the former leader of the NDP, Grant Notley, in 1982. The widows' action group met in mid-February with the board and I understand will be meeting further with the WCB.

MS LEIBOVICI: Given that this government has the power to change the WCB act, which controls the benefits that WCB can

provide to the disenfranchised widows, will the Premier ensure that the widows who are affected will not have to go through a costly court challenge based on the decisions that have been made in Ontario and in B.C. that have ruled in their favour? Are you going to make them go through a costly court challenge when there's no need for them to do that?

MR. KLEIN: Well, Mr. Speaker, I'm sure that the WCB has reviewed this situation in the past. We have no problems with reviewing it in the future. As I pointed out, the benefits paid under the insurance plan changed with time and circumstances, so certainly I believe that the hon. minister will work with this group to find a reasonable solution.

I have to point out again that there was a review, an all-party review, of this situation in 1982. It was a legislative committee. It was determined that the program brought in at that particular time was fair and equitable to all, and that is the difference between the situation in British Columbia and in Ontario: it was not fair and equitable to all. It all depended on when a person was remarried. In one case, if they remarried before a certain date, then they lost their benefits. If they remarried after a certain date, they kept their benefits. So, Mr. Speaker, the circumstances in B.C. and Ontario, according to the minister and according to WCB officials, were much different than they were here, but we can review the situation. We don't need to go out and participate in rallies and protests to do that. We can do it in a responsible and reasonable manner.

#### **Institutional Confinement and Sexual Sterilization Compensation Act**

MS BARRETT: Mr. Speaker, the Attorney General and Minister of Justice has just introduced the most galling and arrogant bit of legislation I have ever seen in this Assembly, and I've been around this building for the most part since 1982. This act calls for overriding the Canadian Charter of Rights, the Alberta Bill of Rights – and, yes, they are invoking the notwithstanding clause – and further, insults the people who were wrongfully institutionalized, sexually sterilized, and abused between 1927 and whatever year this bill says is the end of that horrible episode of Alberta history. How can the minister justify directing the courts to limit the amount of compensation these victims can receive? How can he possibly justify this?

MR. KLEIN: The minister will supplement. Mr. Speaker, I just have to take exception to one component. It was the legislation at that time that was abhorrent and awful. Speak to the legislation at that time. What we are trying to do many, many, years later – most of us in this Legislature hadn't even been born. We're compensating and finding ways to treat these people sensitively and fairly and equitably. That's what I would have to say to this hon. member. The crime was committed many, many, years ago, and we want to deal with it responsibly today.

MR. HAVELOCK: Mr. Speaker, the legislation, which was tabled today, is designed to balance the interests of over 700 claimants who have commenced actions against the province of Alberta in respect of alleged wrongful institutional confinement and wrongful sexual sterilization with the interests of all Albertans. That is one of the primary purposes behind the legislation. Another one is to promote an effective and reasonable resolution of these claims. These have been outstanding for a good number of years. We are doing this in good faith. We want to sit down

with the plaintiffs and work through the process as quickly as possible so we can settle this and let them get on with their lives.

MS BARRETT: Isn't it the case, Mr. Speaker, that the reason this government is invoking the notwithstanding clause and overriding the Alberta Bill of Rights is because it is fundamentally wrong in a modern democracy for the government to be interfering with the judiciary, which is what this bill does.

MR. HAVELOCK: Mr. Speaker, the notwithstanding provision in the Charter of Rights and Freedoms is as legitimate a part of the Charter as any other provision. The provision has been used on six different occasions, I believe, once by Saskatchewan and five by the province of Quebec. We have instituted it in this situation because we do not want this legislation to be subject to a long constitutional battle. We want to resolve the issue and let these people move forward.

MS BARRETT: How can the minister justify introducing this kind of legislation, which, if passed, will legally limit the amount of compensation those victims of abuse can claim against the Alberta government, without even consulting with the victims?

MR. HAVELOCK: Mr. Speaker, we have just tabled the legislation today. I would ask, perhaps, in the future that these types of questions be limited. Nevertheless, I'm prepared to respond at this time. The member will have a great opportunity in the future to debate the legislation.

MR. KLEIN: The hon. minister is absolutely right. This will be before the Legislature for debate. What I would suggest, if she thinks this is bad legislation and will do nothing to compensate those people who were so unjustly treated way back in the '20s, the '30s, the '40s, the '50s, and the '60s – it was in the '70s when this government, the Progressive Conservative government, rescinded, repealed that abhorrent act. This government, Mr. Speaker. Then she can stand up and tell those 700 people who want this adjudicated fairly that she did not support the legislation. She did not support them.

THE SPEAKER: The hon. Member for Wainwright, followed by the hon. Member for Calgary-*Buffalo*.

2:10

### Health Care System

MR. FISCHER: Thank you, Mr. Speaker. Many of our rural RHAs have proposed deficit budgets for the '98-99 year. These deficits are the result of spending pressures such as a 4 to 5 percent growth in inflation factor, the compliance 2000 factor, the 2 and a half percent wage increase settlement, costs associated with the rural physician program. As we move towards the population-based funding formula, increases of 1 to 2 percent for the RHAs is just not enough to maintain basic health care. Is it the intention of your ministry to squeeze our RHA budgets, forcing more and more transfers to the city, or will you be assisting the RHAs in dealing with the projected deficits?

MR. JONSON: Mr. Speaker, the regional health authorities across this province received an overall increase in funding of 3.2 percent. Certain RHAs such as the major RHAs in Edmonton and Calgary received considerable additional funding with respect to provincewide services and other areas. Also, of course, there was the \$38 million approved in supplementary estimates for the debts

and deficits that were inherited by certain regional health authorities. In addition to the 3.2 percent overall there was the equivalent of 1 percent in a onetime capital grant that was evenly distributed across regional health authorities.

However, Mr. Speaker, despite that particular very significant infusion of funds, as the Premier has indicated and I have certainly followed up, we are prepared to meet with and hear from regional health authorities with respect to their concerns. The evening last I met with the chief executive officers of regional health authorities across the province, and there is a further meeting scheduled as I understand it by the Council of Chairs of the regional health authorities. So we are hearing their responses on this particular matter, and I acknowledge that MLAs, government MLAs at least, have certainly been representing their regions as well.

MR. FISCHER: Thank you. Could the minister advise if there will be any extra funding to address the vital compliance 2000 situation?

MR. JONSON: Mr. Speaker, certainly this is a major issue, this compliance 2000 issue, which affects or could affect much of our computing and technical medical equipment. We have taken the initiative here. I think it's been indicated that we're actually somewhat ahead of other provinces in this regard. We've done an assessment of the overall implications of this computer-based or very technical-based problem. I have indicated to regional health authorities that we recognize that there is a significant additional cost of a very unusual nature facing the regional health authorities and that when we have fully assessed the implications, we will be providing some support in this regard.

MR. FISCHER: Thank you. Given that our rural physician action plan has recruited doctors to rural Alberta, will the minister assure rural constituents that there will be enough funding to supply support staff in order to retain these rural physicians that we have recruited?

MR. JONSON: Well, Mr. Speaker, I am not quite sure who the support staff are that the member is referring to, but I would like to emphasize that, of course, our rural physicians will be paid according to our agreement with the Alberta Medical Association. In addition to that we are prepared to commit additional resources to the recruitment of physicians in needy rural areas as well as look at some of the particular work-related conditions or concerns of rural physicians.

THE SPEAKER: The hon. Member for Calgary-*Buffalo*, followed by the hon. Member for Livingstone-*Macleod*.

### Institutional Confinement and Sexual Sterilization Compensation Act (continued)

MR. DICKSON: Mr. Speaker, it's sadly apparent that the Premier and the Minister of Justice have absolutely no appreciation for the gravity of what they've done with Bill 26. The Charter of Rights and Freedoms protects Alberta citizens. It protects those citizens from a powerful, bullying government that has no respect for their protective and individual rights. My question is to the hon. Premier this afternoon. On what basis has this Premier determined that the rights of potentially 703 Alberta citizens can be suspended, trampled, and this can all happen retroactively? On what basis, Mr. Premier?

MR. KLEIN: Mr. Speaker, I would point out that one of the key elements of this legislation, which by the way will be debated – and I'm sure it will be a very emotional and thoughtful debate – is that we waive all of our defences. We give up all of our defences, any of the defences we would have used in court actions.

Mr. Speaker, I can understand from a legal point of view and being a lawyer why he would want this prolonged and have challenge after challenge after challenge, some of which might take 10 years to resolve. We want to do this sensitively, we want to do it fairly, we want to do it equitably, and we want to do it expeditiously so that the people who deserve compensation will in fact get that compensation in a timely manner.

MR. DICKSON: Mr. Speaker, since I implored this government not more than three years ago to avoid court litigation around the sterilization claims, to look at a mediated settlement, I want to ask the Premier today: why is it that two or three years ago it was good enough to put these litigants to court and their legal remedies and now he's prepared to retroactively extinguish the rights of 703 Alberta citizens?

MR. KLEIN: Mr. Speaker, there was a law case. It proceeded to court. The Leilani Muir case. It was found in her favour. Since that time there has been a review of the situation, and there has been a tremendous amount of thought within Alberta Justice as to how we deal with this situation in a fair and equitable manner.

Mr. Speaker, again I say to the hon. Member for Calgary-Buffalo, if he thinks that this legislation at the end of the day is unfair and improper, then I would encourage him to vote against the legislation and then go out and tell the people we're trying to help that he didn't want to help them.

MR. HAVELOCK: Again, to reiterate, Mr. Speaker, we're attempting with this legislation to balance the interests of all claimants with those of all Albertans. The compensation proposed within the legislation is reasonable based on existing case law. We, in fact, studied existing case law across the country. As the Premier has indicated, we have waived all limitation defences in the legislation. We have waived all defences available to us with respect to sterilization. The purpose of this legislation is to facilitate settlement, fair and reasonable settlement for the claimants.

MR. DICKSON: Given that the province of Alberta has now thrown out the constitutional protection and the rules that protect Albertans, would the Premier be good enough to share with us what the criteria are that are going to apply in the future so we know what group is next? Is it gays, lesbians, new immigrants? Is it people with some kind of a severe disability? Who's next on the list now that the rule book is thrown out?

MR. KLEIN: Well, it appears that the Member for Calgary-Buffalo is talking about long, prolonged court cases, court cases where the lawyers make a lot of money, Mr. Speaker.

2:20

MR. DICKSON: This is absurd.

MR. KLEIN: This is not absurd, Mr. Speaker. We are trying through this legislation to deal with these people, these unfortunate souls, in a fair and equitable manner.

I go back to my original comment. We did not bring in this reprehensible, abhorrent legislation. It was our government that rescinded that legislation. Now we're trying to deal with a situation involving about 700 people, to treat these people fairly and equitably. [interjections]

If he thinks it's despicable, then vote against the legislation. He will have plenty of time. He will have plenty of time to either amend the legislation or vote against the legislation. That is his prerogative. That's what this Legislative Assembly is all about. He can express his views; we can express our views. That's why the legislation is before us today, so we can have reasonable – reasonable – debate without the benefit of emotional and really thoughtless comments.

THE SPEAKER: The hon. Member for Livingstone-Macleod, followed by the hon. Member for Edmonton Glenora.

### Random Camping on Crown Land

MR. COUTTS: Thank you, Mr. Speaker. Last week I tabled a petition from a number of my constituents regarding their opposition to the proposed ban on random camping on Crown land within 1.5 kilometres of a designated campground. My constituents did not approve of this and indicated that they would not support it. In fact, many have suggested they would simply just move outside the buffer zone, thereby avoiding the ban. To the Minister of Environment Protection: given that a great many campers that frequent the eastern slopes and foothills do not support the 1.5 kilometre random camping ban on lands surrounding designated campsites and given that they will likely move farther into the forest to avoid the ban, is the minister now prepared to reconsider this direction or at least look at various options?

MR. LUND: Mr. Speaker, it is true that we did look at the possibility of putting in a random camping ban within 1.5 kilometres of a designated campground. That was brought about because of some difficulties we've been experiencing relative to random camping just outside a designated campground, where individuals inside the campground are paying for the right to use the facilities inside the campground. In fact, we had complaints from folks camping inside the campgrounds that they could not use the facilities because folks from outside were using them, and they had paid to use them already. So we took a look at what we might do. When we went and had a further review of the situation, we learned that in fact there are many campgrounds where it really did not make sense to put the ban in place. So rather than exempting sites around the province and the public not knowing which are exempt and which aren't, I instructed the department to look at other ways that we could achieve the same things that we would have with the ban of random camping.

MR. COUTTS: Thank you, Mr. Minister. I can appreciate that alternatives needed to be developed, and my constituents will be happy to hear this. However, there really isn't much time prior to this year's camping season. Is the minister prepared to share some of the deliberations that your department has been going through, and can you let me know the direction that you're leaning in?

MR. LUND: Thanks, Mr. Speaker. The fact is that the deliberations are over. In fact, we will be allowing the campground operators and the facility operators to charge for things like

firewood. We will also allow them to put in an honour system where people who want to contribute toward the facility that's in the campground that they're using will be able to do that, and we will not be instituting the random camping ban within 1.5 kilometres of a designated campground.

THE SPEAKER: The hon. Member for Edmonton-Glenora, followed by the hon. Member for Spruce Grove-Sturgeon-St. Albert.

### **Institutional Confinement and Sexual Sterilization Compensation Act**

*(continued)*

MR. SAPERS: Mr. Speaker, my questions are directly to the Premier. I want to know whether he will tell this Assembly whether he will commit to holding public consultations, as he has on private school funding, on how the surplus might be reinvested or respent, and how freedom of information issues will be dealt with in this province? Does he think that taking away the rights of Albertans is just as important, and will he hold public consultations on Bill 26 before this bill is debated in the Legislature?

MR. KLEIN: Well, Mr. Speaker, this is something to be debated before the Legislature. Also, there is, as we speak, a court action that is alive. I don't know how one relates to the other.

The hon. member talked about public consultation on private schools and public consultation on the surplus and freedom of information. Well, we don't construe it that way, and it ought not to be construed that way.

Again, the hon. member, all of these hon. members, have the opportunity to debate this. I mean, this is legislation that was tabled today. They gave unanimous consent to first reading of this legislation. They gave unanimous consent yesterday to the introduction of this bill. So there is an opportunity to have a full and open debate and for all the public to see if they want to see.

MR. SAPERS: Would the Premier please advise the Assembly exactly how much money his government plans on saving? What was the calculation used to determine that it was cheaper to take away people's rights than to allow these issues to be settled in court where they belong?

MR. KLEIN: Mr. Speaker, I'll have the hon. minister supplement, but again I remind the hon. member that this is a matter that will be debated in the Legislature. I'm glad he's given us warning of those issues. Perhaps it's a question that can be addressed. Perhaps it's a question that cannot be addressed at this time. Litigators know the answer to this question better than I, so there is a legal question. There is the whole question of liability and to what extent liability should be extended. So I just don't have the answers to those questions, but I will have our lawyer, the province's top lawyer, respond.

MR. HAVELOCK: Thank you, Mr. Speaker. The purpose of the legislation again is not to limit liability. What we are trying to do is balance the interest of the claimants with the interest of all Albertans and to facilitate settlement. The amounts listed in the legislation are based on an extensive review of Canadian law, and those amounts were put in on that basis.

What I'm hearing, Mr. Speaker, is that the opposition would prefer that we do not attempt to settle these matters with the litigants but rather drag them through years and years of court,

assuming that they hopefully die and they won't have a cause of action anymore. Well, we're not prepared to do that. We're prepared to sit down with them and make sure we can settle this fairly and reasonably.

MR. SAPERS: Mr. Premier, in what universe is it considered balance when a government uses all of its strength and all of its lawyers to take away the right of 703 ordinary Albertans? How is that considered fair and balanced?

MR. KLEIN: He's taking yelling lessons from the hon. leader of the NDs, Mr. Speaker.

Mr. Speaker, this legislation in our mind is fair, it is equitable, and it speaks, I think, in a responsible way to a very, very unfortunate situation. Again, I go back to when this awful legislation was introduced. Yes, we have to find a way today to deal with legislation that in no way, shape, or form relates to anyone sitting in this Legislature. That's one of the unfortunate things.

I think that the hon. member should recognize that we're dealing as fairly and as equitably as we possibly can with a situation that was brought upon us by Legislatures 40 or 50 years ago. We are trying to be as fair and as equitable as we possibly can without subjecting these unfortunate souls, these really unfortunate people, to many, many years of expensive and prolonged and anguishing court action.

THE SPEAKER: The hon. Member for St. Albert, followed by the hon. Member for Edmonton-Ellerslie.

**2:30**

### **Doctors' Fee Negotiations**

MRS. O'NEILL: Thank you, Mr. Speaker. I understand that the Royal Bank has signed a deal to enable doctors to bill patients while they're in their offices. In addition, I understand the Alberta Medical Association is preparing to ask members to bill patients directly for insured medicare services and have the patient claim back the expense from Alberta Health. My question is to the Minister of Health. Can a doctor both direct bill a patient and still claim from Alberta Health Care?

MR. JONSON: Well, Mr. Speaker, professional physicians are very important to our health care system. We as a government certainly recognize that. Considerable effort on the part of Alberta Health has gone into providing for prompt payment of doctors, and much of our whole system of billings is dealt with electronically. So the system we have is a modern one. It is very prompt in its payment of doctors because we recognize that they are very important to the health care system and we want to provide an accurate and prompt payment to them.

Mr. Speaker, the type of direct billing that is being contemplated will involve a two- or three-step process. It will be somewhat time-consuming and will cause Alberta Health to have to divert resources to it if it were to occur, so we hope it will not. In terms of the specific concern of the hon. member, it is still possible to direct bill a patient from a legal standpoint. It is just that with a good system in place right now, which does I think provide for the convenience and the prompt payment of doctors, we would hope this would not occur.

MRS. O'NEILL: Thank you. Mr. Speaker, again to the Minister of Health. In the case of doctors who might wish to claim payment from both sources, would he be prepared to remove the ability of the direct billing doctor to direct bill Alberta Health?



MR. JONSON: Well, Mr. Speaker, the question focuses on a situation that I certainly hope would not occur. I would hope that there would not be any type of double billing contemplated. I have heard no suggestion that it would, but we would in this eventuality have to, as I said, commit additional personnel and resources to track billings in the two different formats for all doctors in the province, which would be very unfortunate.

Mr. Speaker, I'm not suggesting here that any doctor would double bill. The hon. member, however, asked the question. I suppose we would have to, if that seemed to be contemplated, put in place a dual mechanism to track and police that.

MRS. O'NEILL: Thank you. Mr. Speaker, to the same minister: my question was not so much whether they would double bill for the same service, but will doctors be required to bill to receive their payment either by direct billing or completely by accessing the Alberta Health repayment?

MR. JONSON: Well, Mr. Speaker, as I've indicated, this particular type of situation is not one that has, to my knowledge, ever occurred since we've had the modern system of payment and the comprehensive public health care system in this province. I think the important thing here is to look at the real thing that needs to be accomplished here, as I understand it, and that is that we achieve a settlement with the Alberta Medical Association. However, if this unfortunate eventuality should come to be, we would have to, as I said, endeavour to put in place a tracking system and also, I guess, contemplate one type of billing or the other. But this to me just does not make any sense, that we would have to put effort into that. We do have a good billing system now.

THE SPEAKER: The hon. Member for Edmonton-Ellerslie, followed by the hon. Member for Calgary-Fish Creek.

**Institutional Confinement and  
Sexual Sterilization Compensation Act**  
(continued)

MS CARLSON: Mr. Speaker, first the government in this province took away the rights of these people to ever have children. Now they're taking away the rights of these people again without their permission by overriding the Charter and taking away their rights under the Charter of Rights and Freedoms, an unforeseen action in this government. How many times . . . You laugh, but it isn't funny. It absolutely isn't funny to take away their rights. Can the Minister of Justice please answer this question: how many times is the government in this province going to take away the rights of these 703 people?

MR. HAVELOCK: Well, as we've mentioned time and time again today, Mr. Speaker, we are enabling through this legislation to preserve those rights by waiving some defences which ordinarily would be available to the government. Those defences are those relating to limitations of actions, and all defences relating to sterilization are being waived. Therefore, we are attempting to facilitate settlement to allow these individuals, who unfortunately suffered as a result of sterilization a number of years ago, to be compensated for what happened to them.

MS CARLSON: This is absolutely outrageous, Mr. Speaker. Can this minister tell us why these people still have to go through this long court process when they no longer have any rights in this province?

MR. HAVELOCK: Well, Mr. Speaker, each plaintiff, if they so choose, can continue to take the matter through the courts. However, what we are attempting to do here by waiving some of the defences is to facilitate these matters being brought to a conclusion.

MS CARLSON: Well, Mr. Speaker, will he tell us precisely how he justifies taking away the rights? With all the rhetoric we've heard in here today, we have not seen that answer.

MR. HAVELOCK: Mr. Speaker, if the question relates to the Charter, one of the reasons we are opting out is, again, to facilitate this issue being resolved quickly. It's been before the courts for a number of years. We do not wish to see this tied up in the courts through a lengthy constitutional battle. We would much prefer to sit down with the claimants and the claimants' legal counsel and work through their claims in a reasonable manner. We'll probably use some mediation. There will be some discoveries. This will be a detailed process. Then we'll hopefully come to a fair and reasonable resolution on behalf of the claimants with respect to the claims.

head: **Members' Statements**

THE SPEAKER: Three members have advised of their desire to make a statement today. We'll proceed in this order. First of all, the hon. Member for St. Albert, followed by the hon. Member for Edmonton-Centre, followed by the hon. Member for Livingstone-Macleod.

**Helmut Entrup**

MRS. O'NEILL: Thank you, Mr. Speaker. With the sentiments of the hon. Minister of Agricultural, Food and Rural Development, I wish today to acknowledge the life and recent death of one of my constituents, Helmut Entrup, the former Farmers' Advocate of Alberta.

Helmut Entrup was born in Petersdorf in what used to be West Germany and immigrated to Alberta in 1954. He worked briefly as a cowboy before becoming construction superintendent of a telephone construction company, then at the Brooks Research Centre in charge of vegetable research and plant breeding. In 1963 he began operating his own irrigation farm in Tilley, Alberta.

**2:40**

Mr. Entrup was appointed the first Farmers' Advocate of Alberta on January 1, 1973. Mr. Speaker, during his 15 years in this position Mr. Entrup earned a reputation as a fair-minded spokesman for Alberta farmers, helping thousands of people and gaining the respect of not only the farming community but government and industry as well. His work, especially in the field of surface rights, has had a lasting impact on agriculture and its relationship with the resource industry. Mr. Entrup's leadership resulted in improved revenue from well sites, seismic operations, mineral leases, pipelines, and power lines on agricultural land, better contracts and increased awareness of the rights of farmers. His untiring efforts contributed to the rural gas program, under which over 79,000 rural families are now served with natural gas.

These contributions weren't limited, though, to agriculture. Mr. Entrup was also chairman of a provincial steering committee responsible for establishing the Rural Crime Watch program jointly with the Alberta Cattle Commission and the Western Stock

Growers Association. Mr. Speaker, I'd like to say – and I think my hon. colleagues would agree – that Alberta is a better place today because of Helmut Entrup's contributions.

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

### WCB Survivors' Pensions

MS BLAKEMAN: Thank you, Mr. Speaker. Two days ago was March 8, International Women's Day, and I rise this afternoon to speak about another issue affecting a group of women in Alberta. The plight of women who are surviving spouses of workers killed on the job and therefore covered by the Workers' Compensation Board has been brought up in this House before. Women widowed before 1982 who remarried are treated differently than women widowed before 1982 who did not remarry. In other words, there is legislated discrimination between WCB widows who did not remarry and those who did: same life circumstances except for marital status.

As the Premier noted, women with a similar grievance in Ontario and B.C. have challenged their provincial governments and WC boards and have either won or settled on the issue of discrimination on the basis of marital status. As Alberta's legislation was last changed in 1982, preceding the Charter of Rights and Freedoms and provincial and federal human rights legislation, the widows here do not have the same legal recourse open to them, nor can they avail themselves of class action suits in Alberta.

We are joined today by many women, over 80 of them, who are members of the Disenfranchised Widows Action Group, Alberta chapter, and Carolyn Berube, the leader of the Alberta group. These women have been trying to plead their case here in Alberta. They are seeking fairness. They are attempting to achieve equity. They have written to and met with WCB representatives and been told they have no recourse under the Charter or told it would cost too much money, and they were told that they should appear before the WCB panel currently being held. Well, most of the widows who tried to book a space the day after they saw the notice about the hearings were told: sorry; all booked up, no spaces left. This situation does not reflect well on Alberta. I urge the members of this Legislature to look for ways in which Alberta can treat these women fairly and address the disparity of our treatment towards them. We don't need legislated discrimination towards WCB widows.

Thank you.

THE SPEAKER: The hon. Member for Livingstone-Macleod.

### Tobacco Sales to Young People

MR. COUTTS: Thank you, Mr. Speaker. This government has admirably placed Alberta youth in the limelight of our concern by providing them with an education that will give them a firm foundation for entering the growing workforce in this province. Furthermore, it passed legislation aimed at teenage prostitution. Our young people are our future, and they will inherit a debt-free province and an opportunity to succeed.

However, Mr. Speaker, we have an epidemic on our hands, and that epidemic is stealing our future generations from us. That epidemic is tobacco. This year in the province of Alberta an estimated 10,000 of our children under the age of 18 will take up the use of tobacco. Of those 10,000 Albertans 2,000, or 20 percent, will die of tobacco-related disease, and that is the

epidemic. Alberta and Quebec are the only two provinces in Canada that will not have provincial legislation restricting sales of tobacco to minors. While we have been remiss in not providing protection to our youth, we now have the advantage of learning from legislative efforts in other provinces, and we have the ability to provide protection to our youth through tough legislation aimed at manufacturers.

Reduced tobacco will also reduce health care costs, will promote healthy, productive living styles, and reduce nonsmokers' exposure to sidestream environmental tobacco smoke, which is even more poisonous than tobacco smoke that has been filtered through a smoker's lungs. There is some very basic protection that we can provide through removal of tobacco products from the view and the reach of youth.

Furthermore, we can provide legislation against the importation or sale of what is known as kiddie packs of tobacco products, and we can provide stiff penalties for those who flaunt the selling of tobacco to our youth. Finally, with the able assistance of youth we can develop preventative and restorative programs for youngsters who are about to experiment with tobacco or have become regular users.

I urge this government to look closely at the good work done by the Alberta Tobacco Reduction Alliance's tobacco plan and adopt measures to protect our youth and future generations against this epidemic.

THE SPEAKER: Before calling Orders of the Day, we have a purported point of order by the hon. Member for Edmonton-Glenora.

### Point of Order Imputing Motives

MR. SAPERS: Thank you, Mr. Speaker. I rise under Standing Order 23, which reads:

A member will be called to order by the Speaker if, in the Speaker's opinion, that member . . .

(i) imputes false or unavowed motives to another member.

Mr. Speaker, I'm referring to an exchange between the Premier and the Member for Calgary-Buffalo in which the Member for Calgary-Buffalo posed a correct question to the Premier regarding government policy. Obviously I don't have the Blues in front of me, but I took notes as the Premier spoke. My notes indicate that the Premier responded in part by saying that he understands why that member as a lawyer, referring to Calgary-Buffalo, would want to prolong this issue, the issue being the satisfaction of claims by disenfranchised widows as a result of WCB legislation.

Mr. Speaker, several times in this Assembly we have debated a point of order under this Standing Order, and several times in this Assembly you and previous Speakers have pointed out that there can be no point of order when the motive is not ascribed to an individual but is just sort of left as more general comment. This was a very specific and personal attack on the part of the Premier aimed at the Member for Calgary-Buffalo. It is a classic case of ascribing a motive to a member which is a dishonourable motive and a motive which of course the Premier has no justification or proof of.

Mr. Speaker, earlier, just this week I believe, the Premier was called upon to apologize in a letter for a similar personal attack questioning the credibility of another hon. member.

THE SPEAKER: Hon. member, sit down.

MR. SAPERS: I would like to . . .

THE SPEAKER: Sit down.

MR. SAPERS: I'm not . . .

THE SPEAKER: I'm telling you to sit down.

MR. SAPERS: Well, I'm not . . .

THE SPEAKER: I'm telling you to sit down.

MR. SAPERS: I'd like to finish my point.

THE SPEAKER: No. Sit down.

MR. SAPERS: Are you going to give me another chance?

THE SPEAKER: Hon. member, you do not debate with the Speaker. Now, sit down. Sit down, hon. member. Sit down, hon. member.

Fact: the Premier was not called upon to apologize by anyone in this Assembly. The Premier chose voluntarily to write a letter to the Speaker. The Speaker provided a letter in turn to the hon. Member for Edmonton-Mill Creek. So, please, let us be truthful about what we talk about.

Proceed with your purported point of order.

MR. SAPERS: Mr. Speaker, I am being very truthful about what I am speaking about. The hon. Member for Calgary . . .

THE SPEAKER: Okay. Hon. member, sit down. [interjection] Hon. Member for Edmonton-Glenora, sit down, and that's enough of that. Absolutely the end of that discussion. If you want to proceed on your purported point of order, you proceed and you proceed very carefully henceforth.

MR. SAPERS: I hope I'll be able to proceed without interruption.

THE SPEAKER: Okay. Sit down, please. Sit down. That's it.

head: **Orders of the Day**  
 head: **Public Bills and Orders Other than**  
 head: **Government Bills and Orders**  
 head: **Second Reading**  
**Bill 207**  
**Whistleblower Protection Act**

[Adjourned debate March 4: Mr. Johnson]

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

MR. JOHNSON: Thank you, Mr. Speaker. I appreciate the opportunity to rise today to speak to Bill 207, the Whistleblower Protection Act.

As has been stated, the intent of this bill is to expand the mechanism by which public service employees would be able to bring matters that they consider to be serious wrongdoings on the part of the government to the direct attention of the provincial Ombudsman. The intent of the bill is obviously clear. However, I have misgivings about its necessity and the consequences that may result.

Mr. Speaker, Bill 207 is based upon a principle that is honourable. However, the bill has some undesirable consequences. It

is true that cases of serious government wrongdoing should be brought to light and that the whistle-blower ought to be protected, but such a system is already in place in Alberta, and it works well. This bill, then, seeks to make changes where they are really not necessary.

Bill 207 may also create an environment of apprehension and anxiety in the public service sector. Mr. Speaker, Alberta has a system in place which already protects employees who disclose information about matters they feel are instances of government wrongdoing. To begin with, there is the Freedom of Information and Protection of Privacy Act. Under the FOIP Act a public service employee may disclose confidential information to the Information and Privacy Commissioner, and the identity of that employee cannot be disclosed without the expressed consent of the employee. The FOIP Act prevents an employer from taking adverse employment action or legal action against an employee who has disclosed information to the commissioner.

2:50

Section 77 of the FOIP Act deals exclusively with the actions of a whistle-blower. If after a review it is found that the employee acted properly and in good faith, then section 77 ensures that the individual is protected from negative consequences directly relating to the disclosure. It is worrisome that in Bill 207 there appears to be no provision comparable to section 77 of the FOIP Act whereby the whistle-blower's action is reviewed to ensure that it is fully within the terms of the legislation.

Mr. Speaker, there are also mechanisms in place through the Ombudsman Act that facilitate and manage disclosure by public service employees of government wrongdoing. The Ombudsman exists at arm's length from the government, and the Ombudsman has the authority to investigate such matters as those covered in Bill 207. In fact any Albertan, not just public-sector employees, can approach the Ombudsman to address an issue under the Ombudsman's jurisdiction. The concept of ombudsmanship has served Albertans extremely well for over 30 years, and I see no reason to abandon the system for an expanded unproven one.

To ensure the anonymity of complainants, section 19 of the Ombudsman Act states clearly that the Ombudsman and all members of the Ombudsman's office "shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions." That's a quote. This is a high level of assurance that complainants can remain anonymous if they so desire. It is, I believe, a higher degree of anonymity than Bill 207 offers. This bill would lead us towards a highly inequitable situation whereby members of the public would be entitled to a greater degree of confidentiality in the Ombudsman's investigative process than would public employees. Under Alberta's present system confidentiality is available to all Albertans equally, regardless of their employer.

It is clear that Albertans already have an effective system in place to deal with matters that Bill 207 attempts to address. Bill 207 raises some concerns with respect to the level of confidentiality of complainants. There are also issues of duplication and conflict with existing legislation that would arise with Bill 207.

Mr. Speaker, a bill such as Bill 207 is likely to create an environment of suspicion and distrust in the public service. In order to operate effectively day in and day out, it is extremely important that colleagues respect each other and have confidence in each other. This is even more true when dealing with sensitive information. If public service employees are made to feel as though what they say or do may be used against them, then efficiency in the workplace is bound to suffer. Even "Whistle-

blower," in the title of the bill, implies a certain mistrust and is, in my mind, a negative label to put on someone courageous enough to come forward and report a serious situation.

Mr. Speaker, this type of situation may not only reduce constructive feedback from employees within a department, but it could create an adversarial relationship between management and staff. Management could become distrustful and suspicious of their staff and vice versa. One of the problems I see with this bill is that it makes it easier for claimants to make false claims or to make claims that are not made in good faith. There are many circumstances in which an employee could conceivably make claims or submit damaging information for purely selfish reasons.

Under the current system the Ombudsman reviews every disclosure as a matter of course, whether the employee requests it or not, and independently decides whether there is merit to the allegation. In looking at section 5(1) of Bill 207, it appears as though the Ombudsman would be allowed to review and make a determination of wrongdoing only at the request of the employee. This, it seems, would create a potential for abuse of this mechanism.

Bill 207 would put too much power in the hands of the whistle-blower, power that ought to be fully in the hands of the Ombudsman, who is in a position to be objective on all matters. This bill would allow the whistle-blower to make decisions regarding the disclosure of information, which certainly is not a desirable situation. Surely the whistle-blower . . .

THE SPEAKER: I hate to interrupt the hon. Member for Wetaskiwin-Camrose, but under Standing Order 8(5)(a), which provides for up to five minutes for the sponsor of a private member's public bill to close debate before all questions must be put to conclude debate on the motion for second reading, I'd invite the hon. Member for Edmonton-Gold Bar to close debate on Bill 207.

MR. MacDONALD: Thank you, Mr. Speaker. My colleague from Edmonton-Ellerslie has comments, and I would request that she be allowed to speak on this matter.

THE SPEAKER: Hon. member, the rules are very clear. The sponsor of the bill can now conclude the debate if he chooses to.

MR. MacDONALD: Very well, Mr. Speaker.

Bill 207, the Whistleblower Protection Act. We need this legislation now more than ever, and I would encourage the members across the way to think long and hard about this legislation, because we will have a better province if this is to become law. We all talk about open and accountable government – the Provincial Treasurer in his budget – and we talked all winter about openness, accountability. This will give the government the openness and accountability it does not have.

I realize that in the past, in 1994, five members of the present government voted in favour of this legislation. They said yes to Bill 207. Some of them have gone on to Executive Council, and they must realize in their new positions that there has to be a means, particularly with so much of the government now performed by delegated administrative organizations, and that there is a need for this legislation. Thirty-five American states have this legislation, not only for public-sector employees, but 11 of them also have it for private-sector employees. The province of Ontario has this legislation, and they're getting ready to use this legislation. They do not use the Ombudsman; they use special counsel.

Now, the Ombudsman – we all talk about this – is a very

respected and honoured office in this province. Previous members, previous people who have been hired for the role of Ombudsman have stated that they want this type of legislation. We cannot put a gag on the civil servants. We cannot go and lay so many of them off and not realize that the rest of them, the remainder, will be intimidated. They, too, will be afraid for their jobs if they stand up and speak out.

This legislation, Mr. Speaker, will allow them to stand up and speak out if they see government wrongdoing, if they see "gross mismanagement," if they see "gross waste of public money," "abuse of authority." They can stand up and correct the situation, and they can do it by a means that is proper. They can go to the Ombudsman. The Ombudsman will have a look at this, and the Ombudsman will make the decision. There is nothing the matter with this. It will allow this province to advance. Instead of having one Auditor General, the members across the way can look at it that every government employee, after this becomes law, will become in some small way a member of the Auditor General's crack team. We need the Auditor General, and he needs the employees' help so that he can perform his job.

3:00

Now, this legislation, whenever we think about it, will give everyone in this province a better understanding of where this government is coming from. There was all this mismanagement and ill-use of taxpayers' funds for industrial strategies that did not work. I can only think that if we'd had the whistle-blower legislation in 1989 or 1990, whenever all this was coming to light, what a better province we would have. We would have an excellent province. And then, because of all the industrial strategies that failed, the industrial strategies that did not work, we wouldn't have had to decimate our education system or our health care system to get over this mismanagement.

Now, Mr. Speaker, the whistle-blower legislation would also enable and allow the social service workers some protection perhaps from ministers that want to intimidate them by threatening to lay them off. This will prevent any sort of gag order by the province. I believe it goes back to last summer, when the provincial government said that it doesn't maintain a gag order on its employees. But in a department memo: public servants must endorse policies or keep quiet.

Thank you, Mr. Speaker.

THE SPEAKER: All those in favour of second reading of Bill 207, Whistleblower Protection Act, please say aye.

SOME HON. MEMBERS: Aye.

THE SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

THE SPEAKER: Bill 207 is defeated.

[Several members rose calling for a division. The division bell was rung at 3:02 p.m.]

[Ten minutes having elapsed, the Assembly divided]

[The Speaker in the chair]

For the motion:

Blakeman	Massey	Sapers
Bonner	Mitchell	Soetaert

Carlson	Nicol	White
Leibovici	Paul	Zwozdesky
MacDonald		
Against the motion:		
Black	Haley	Melchin
Boutilier	Hancock	Oberg
Burgener	Herard	O'Neill
Cao	Hierath	Paszkowski
Cardinal	Hlady	Renner
Clegg	Jacques	Severtson
Coutts	Johnson	Smith
Day	Klapstein	Stelmach
Doerksen	Kryczka	Stevens
Ducharme	Laing	Strang
Dunford	Lougheed	Tannas
Forsyth	Magnus	Tarchuk
Friedel	Mar	Thurber
Fritz	Marz	West
Gordon	McClellan	Woloshyn
Graham	McFarland	Yankowsky
Totals:	For - 13	Against - 48

[Motion lost]

**Bill 208**  
**Government Accountability Amendment Act, 1998**

THE SPEAKER: The hon. Member for Fort McMurray.

MR. BOUTILIER: Thank you, Mr. Speaker. I now move second reading of Bill 208, being the Government Accountability Amendment Act.

Many of my constituents have told me that they want to turn the light onto government, on how their money is being spent. Many gaze on in befuddlement every year when legislators report to them their budgets for the coming year. They ask: what does it mean to me? When numbers in the millions of dollars fly by them in the postbudget reporting media frenzy, what they want to know are important questions.

[The Deputy Speaker in the chair]

This bill seeks to address legislation that is introduced in the Legislature that requires expenditure of public funds. In these situations Bill 208 would require the minister to table an estimate of the annual cost and/or the projected revenues of the initiative for a three-year period. In many ways this is intended to accomplish the feat of: are we getting our best bang for the buck? The intent of Bill 208 is to provide both legislators and taxpayers with an immediate outline of the cost of revenues for government initiatives. My hope is that this amendment will help ensure that the financial implications of government bills are completely understood by all members of this House when they are debated in the Legislature and, ultimately, to be able to determine what a bill will actually cost each and every Albertan on a per capita basis. Ultimately, through this process and the members who serve them, the public would have an opportunity to understand the costs and the implications of government legislation. You never go forward and buy a car without first asking the dealer: how much is it going to cost?

Government should be open, accountable, and transparent to

those it serves, and I know that the government of Alberta is committed to this concept. Bill 208 is an attempt to simply enhance and strengthen this commitment. I stand here before you today and say this because the evidence is there. Much work has been done in previous sessions, and I would like to build on the success of already existing legislation.

Alberta already has in place the most accountable fiscal process in our country, the Government Accountability Act. This was passed back in May of 1995, legislating the requirement for fiscal responsibility. The Treasurer is required to prepare a three-year business plan, which is made public when estimates are tabled in the Assembly each fiscal year. I must say that the hon. Provincial Treasurer has been very helpful in providing insight into this accountability in keeping taxpayers more aware of the benefits of that.

Among other requirements, this plan must include a detailed breakdown of both consolidated revenue and expenditure and total revenue and expenditure. The Treasurer is also required to prepare a consolidated three-year business plan which includes goals set for the government as a whole, performance measures, and a summary of department business plans. The accuracy of this plan is reported quarterly to the Lieutenant Governor in Council.

Now, in addition, the Government Accountability Act makes it incumbent upon each department to prepare a three-year business plan – much positive work has taken place over the past few years towards that end – which is made available for public review when the Provincial Treasurer introduces the consolidated plan for the government. Three-year business plans set out detailed goals, strategies, and performance indicators for the upcoming three-year period. This is a part of good government.

The Government Accountability Act sets a standard of financial reporting for government accountability that no other government in North America, not only Canada, is required to meet. While we already have in place the most stringent standards for cost accountability, there is always room for improvement. The attitude of this member is that we can always try to do better, no matter what the issue is.

Out of the Growth Summit came the recommendation for government to continuously look to new ways of doing things, to look at new efficiencies. Bill 208 tries to improve on our efficient system by focusing on cost accountability at the legislation level. Within our current annual budgeting process the government outlines its fiscal policy for the following fiscal year, including both expected expenditure and expected revenue. A consolidated three-year plan for the government is included in the budget document. Once the Provincial Treasurer has developed this budget, it is available for public review. As the estimates and department business plans in their entirety are put together, at this time the estimates process begins, a process, I might add, that we are currently embroiled in. Annual expenditure estimates for each department are provided by the minister responsible when the budget is delivered to the Assembly. Estimates contain detailed operating, capital, and nonbudgetary expenses as well as annual business plans outlining the department's goals, strategies, and performance measures for that year.

**3:20**

But estimates do not include all program expenditures. This is the key point. The estimates which we have before us do not include all program expenditures. In my initial research I found that no other provincial jurisdiction in Canada requires ministers to table estimates of costs included in bills when they are intro-

duced. This is not intended to micromanage. This is simply asking the question: how much does the car cost, and in fact are we getting our best bang for each Albertan in terms of a per capita estimate on the program cost? With our three-year business plans in place and estimates in the Committee of Supply, which is responsible for reviewing estimates for each department, combining both sides of the Legislature, then there is direct accountability.

Now, according to the Auditor General and which we've done research on, presenting program costs and revenue information is already accomplished by the government, which reports cost and revenue information in its three-year business plans and in the government estimates. But I would infer that Bill 208 could augment this process by making it easier to determine a program's total cost, because they may be spread among different ministries or among different expenditure elements reported by a minister, again trying to achieve the purpose, "Are we getting the best bang for our dollar?" which I believe each and every Albertan should be aware of.

What we may consider beyond the scope of the bill in its current form is how to distinguish between new legislation, which this Bill 208 addresses, and those acts that are already in place or programs that do not require legislation. Much good work has already been completed under the existing law of accountability, but as it stands, Bill 208, Mr. Speaker, would augment some existing policies and procedures. However, there could be improvements to the bill to expand upon existing policies and procedures.

If my understanding of the existing budgeting process is correct – and I'm only a rookie – many departments already create a cost breakdown for new programs. While Bill 208 focuses on costs and revenue, there should be some mention of outcomes, performance measures, and risks associated with a new program such as: is it already accomplished in the business plan? Now, a per capita calculation as is proposed in the bill would allow individual Albertans to determine how the cost impacts them directly by putting it in an easily understood perspective, something that could be viewed as user friendly.

I strongly feel that a top priority of this government is to inform Albertans of where tax dollars are being spent by developing a transparent system of financial reporting and an allocation through the use of three-year business plans, annual reports, and consultation with Albertans. I believe that by and large we have done a good job of doing this. Albertans have a solid and transparent government like no other provincial government in Canada, but as an elected member from Fort McMurray it's my duty to present ideas that may improve and enhance the current system. We should always be asking ourselves: can we do better, and if we can do better, how can we go about doing that?

So the question is: how can we improve things as they presently exist? Bill 208 is an attempt to do this by bringing forward a private member's bill to this Legislature and having genuine debate on the subject, which may shed further light on the issue of the government's financial accountability.

I look forward to the debate on the presentation of 208 as another means to provide this information to Albertans.

Thank you very much, Mr. Speaker.

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

MR. ZWOZDESKY: Thank you, Mr. Speaker. With reference

to Bill 208, that being the Government Accountability Amendment Act, 1998, as presented by the hon. Member for Fort McMurray, I have a number of comments, but I think today we only have about five minutes of debating time left, so I'll just zero in on a few of those items.

You know, in theory and in concept, Mr. Speaker, I support what the gist of this bill is, because I strongly believe in helping to improve our accountability of taxpayers' dollars to the taxpayers who provide them. I also, however, would like to suggest that while this bill is a good first step, it tends to focus rather exclusively on the input side of the equation only and doesn't give enough balance on the outcome side. In other words, as good a bill as it is, I would ask the hon. presenter, the hon. member, to review an effective and accountable performance measurement framework within this bill, which would help link the moneys that are going in at the input level to the outcomes that are expected and hopefully would be achieved.

Fundamentally, Mr. Speaker, I don't think there's a single member in this House who is opposed to any further scrutiny or accountability of public moneys expended. I think governments have to be as transparent and as open and accountable as possible. So this bill actually requires that the estimated annual costs and revenues and the costs and revenues per capita of every new government program be tabled as part of any bill that introduces or authorizes a new program in the Legislative Assembly. While I am quite familiar with the term "program" as a matter of legislative jargon, I think the member should perhaps also provide a brief description somewhere of his definition of "program," which he refers to in item (2). That would have the effect of assisting readers to better understand what it is that we're really talking about.

I also note that the estimate of the cost revenues and the cost revenues per capita would be provided "for the first 3 years" only of a particular program. I'm curious to know from the hon. member why it is that he specified only three years. Obviously, the bill doesn't have room for that explanation or that theory, but perhaps the hon. member would comment on that point as well.

The other thing that I want to say is that we want to do everything we can through bills like this that help ensure that the programs that are being delivered, the programs that are being brought on, the new ones in particular, are being delivered on a very cost-effective and as efficient a basis as possible. I know the government tries to do that, but it's not always the case that it gets accomplished. At least, in the mind of the public it doesn't always get accomplished to the degree that is required. I will do everything possible to bolster the effectiveness of the House in that respect and, in particular, the effectiveness of us as MLAs, who are trying to serve constituents through an accountability framework, by providing those constituents with the kind of detailed information that they require relative to costs, revenues, and expenditures.

However, I think it's extremely important that at some point we link those costs, that we link the dollars to actual outcomes. So that sort of springs up a number of items that I think would help improve our accountability framework. A bill like this, government accountability, has the breadth and scope in its title to do that. I'll give you five quick points here in the time remaining, Mr. Speaker, and then we'll get into some of the details perhaps at a later date when the bill comes back.

One of them would be to look at performance-based budgeting. Now, that would go a long way toward improving government accountability. Another idea is to enhance the annual performance

reports and make them more results oriented. A third point to consider would be the auditing of those annual performance reports by the Auditor General. In particular, items that come forward could be put forward in a very straightforward and readable fashion by the government so that it's more easily understood by the general public. A fourth point deals with an economic and fiscal strategy report, which would help a great deal to improve government openness and honesty and transparency. The fifth point, the final point for this afternoon for me, Mr. Speaker, is the establishment of a fiscal stabilization fund, which would not only make government more accountable to the general public but would also provide for sharp downturns in our cyclical economy.

Thank you.

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

head: **Motions Other than Government Motions**

3:30

**Capital Gains Tax**

506. Mr. Hlady moved:

Be it resolved that the Legislative Assembly urge the government to press the federal government to introduce legislation to repeal the capital gains tax.

[Debate adjourned March 3: Mr. Hlady speaking]

THE DEPUTY SPEAKER: The hon. Member for Calgary-Mountain View.

MR. HLADY: Well, thank you, Mr. Speaker. I rise to give you some more points and statistics in support of my motion. I have discussed this motion with Mark Milke from the Canadian Taxpayers' Federation and Brad Wright of the Canadian Federation of Independent Business. Both support this motion and agree that the taxation of capital gains to the level they are taxed in Canada creates a disincentive for investment and inhibits the growth of small businesses.

Mr. Speaker, the environment for small business and investment must include a high level of freedom to make investment decisions without government interference. The Alberta advantage and the Agenda for Opportunity provide this environment. However, some taxation issues fall to the federal government, including taxation on capital gains. Capital gains are the financial gains made on an investment property. Anything from land to stocks would be classified as a capital gain. Seventy-five percent of one's capital gains are considered as income and taxed as such.

Taxation on capital gains has undergone significant changes since 1971, when they were first implemented. The taxation system was reviewed in the 1960s by the Carter commission, and changes were implemented in the early '70s. The Carter commission recommended that capital gains be included as income. The government chose to include only 50 percent of capital gains as income.

Mr. Speaker, two significant changes to the taxation of capital gains have occurred since 1971. In 1987 the inclusion rate was increased to 75 percent, and a \$500,000 lifetime capital exemption was created. In practice, however, this was only applied as a lifetime exemption of \$100,000 except for certain classes of farm property and small business corporate shares. The lifetime

exemption benefited investors, especially young investors. The increase in the inclusion rate decreased the viability of those who would claim that exemption early in its existence and be faced with the 75 percent inclusion rate for future gains. The second point: in 1995 the federal Liberal government eliminated the lifetime exemption. I'd like to make an important point. It is not right that future generations do not have the ability to benefit from an opportunity to become financially independent through personally investing returns equal to past generations. Taxation on capital gains is oppressive to investment and small business.

There are always risks in business and investment. These risks are balanced by the ability of the individual to realize rewards when they are successful. There should be an expectation on the part of investors that they will be able to benefit from their financial success. The more we reduce their ability to realize benefits, the less often these investments will be made, to the detriment of the local, provincial, and national economies. When faced with the decision on where to invest, what to sell, and where capital should be allocated on a general basis, it is fair to say that the expected return will be considered along with the associated risks. Each of us makes these considerations whether we are in business or not. When the risks are high, the ability to realize gains is limited, and the investments are not made.

What is happening to this potential investment? It is easier to move capital internationally today than it has ever been. Investors are moving their investments to other countries where overall taxation rates are lower, including taxation on capital gains. This is a global issue. Alberta is currently in negotiations with the federal government and OECD members on the multilateral agreement on investment. The MAI will necessitate only that foreign and domestic investors be treated alike. We cannot overlook the competitive advantage of providing a more attractive environment for investment. Mr. Speaker, the obvious destination for some of this investment is the United States. The United States taxes capital gains minimally, at 20 percent, and have always taxed capital gains at a lower rate than Canada.

The relationship between risk and return is undeniable. High-risk investors prefer to put their money in investments in which they will be able to keep a significant amount of their gains. This is not a new approach to investment, but the federal government is not adequately addressing this under the current taxation system.

Increased investment translates into increased employment, increased research and development money, higher real wages, and a more diverse economy. In a province with a significant portion of our revenue from the energy and agriculture sectors, we understand how important it is to diversify the economy. The private sector creates jobs and supports investment and should be rewarded for doing so.

Another disadvantage of taxation on capital gains is that some investors choose not to move or circulate their capital and realize their gains at a time when the natural circulation of these assets would occur according to market conditions. Since 75 percent of the gain will be taxed, some small business owners and investors lock in their gains until a time when they have a lower overall income and will pay less tax on their realized gain. This is an artificial influence on the allocation of capital and the markets, which creates an unnecessary drag on the economy.

Mr. Speaker, the taxation system needs to be simplified across all jurisdictions. We have a very complicated system of taxation, and the best way to simplify it is to remove the programs which are unnecessary. If we ever chose to move to a flat tax, as an

example, it would be much simpler if we uncomplicated the existing system.

Mr. Speaker, in 1995 the federal government received \$7.4 billion in revenue from capital gains taxation. This represents over \$10 billion in actual capital gains. If small businesses are given the opportunity to realize these gains and reinvest these funds into their businesses and other businesses, the federal government would see an increase in revenue from many other sources. Personal income tax from the newly employed and the increased revenue from small business and corporate income tax paid by growing companies would balance the loss from the decline in capital gains revenue very easily.

The most recent figures available are from 1995. At that time the \$100,000 lifetime exemption was still in place for some small business shares and farm property. There were 28,200 capital gains from small business shares, worth \$2.9 billion, and 30,130 capital gains from farm property, worth \$1.3 billion, which were not eligible to be taxed. This money was left to the small business to invest as they chose. Since the exemption has been removed, 75 percent of these funds would now be subject to taxation.

Mr. Speaker, the federal government is involved in an inexhaustible number of small business improvement programs. Western Economic Diversification Canada provides most of these services in western Canada. Similar regional organizations exist in Ontario, the territories, the Maritimes, and Quebec. These agencies provide small business with various types of assistance: grants, loan guarantees, assistance with marketing, distribution, exporting, creating business plans, and financial management.

The federal Small Business Loans Act is administered under regional agencies and has been in place since 1961. Its purpose is to encourage private lenders to increase the availability of loans to establish, expand, modernize, and improve small business enterprises. The SBLA provides a guarantee to financial institutions for 90 percent of certain types of small business improvement loans. In '95-96 the SBLA was responsible for guaranteeing \$2.2 billion in small improvement loans, affecting 34,300 businesses. The SBLA improperly subsidizes returns to shareholders, distorts lenders' assessment of risk, and weakens the economy by encouraging an unjustified level of investment in risky enterprises.

Mr. Speaker, the elimination of taxation on capital gains would allow small businesses to reinvest their own funds and would reduce this reliance on SBLA for the economy. The federal government would see a substantial decrease in the demand for small business loans if they allowed businesses to reinvest the entirety of their realized capital gains. This decrease in demand would balance the lost revenue from capital gains. A more direct approach would be much more effective. Small business owners should be able to keep their capital gains and invest as they see fit, removing government involvement in providing assistance of any sort.

Mr. Speaker, the argument that the removal of taxation on capital gains will only benefit the wealthy is incorrect. In 1995 the most common income levels who claimed capital gains are individuals with incomes up to \$60,000. There were 1,003,660 people who claimed capital gains on their income tax in 1995. Of that, 736,600, or 73.4 percent, had incomes below \$60,000. These figures represent a substantial number of individuals who are trying to develop their assets. They should be provided with a better chance of doing so.

In conclusion, I ask each of you to support me in urging the

federal government to revisit their policy on capital gains taxation and repeal the measures it currently has in place.

Thank you very much.

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

3:40

MR. ZWOZDESKY: Thank you, Mr. Speaker. I want to thank the hon. member for bringing this motion forward, because it gives us a chance to talk about a lot of issues surrounding taxation, capital gains being one of them. I think in theory most members in the House would support tax reductions and, wherever possible, elimination of taxes as well. While the member does have a good idea here, it's probably an idea that's a little before its time.

In this instance, timing is everything. When we're looking at revenue crunches such as the province is going to be facing very shortly primarily as a result of low oil prices, when we're looking at revenue crunches in the health area – for example, 16 out of 17 RHAs are now reporting the need for more moneys; they're running deficit budgets – when we see municipalities having great pressures put on them, with deficits that are developing at their level and projects being put off for whatever length of time, when education needs more dollars, it just seems that this might not be the most opportune time for a capital gains forgiveness. But it is a good idea at some point. I will give the member credit for that.

What I would like to sort of highlight, however, is that the capital gains issue does have a tendency to favour, obviously, those people who are in a lucrative enough position to be able to in fact sell, trade, exchange property where capital gains taxes might apply. In fact, capital gains in Canada are obviously recognized when realized, but it has much more to do with the disposition and the sale of these assets. When I think about that, I'm thinking to myself: now, which strata of the population is most involved in that? Clearly, it's the higher income earners. At some point, yes, they will need a break as well, but I don't think that they are the people who are screaming out for a break just yet, because they are all concerned about the status of our fiscal revenues in this province and across Canada and elsewhere.

So when I think about these types of transactions where capital gains are involved – and we're talking about primarily gains on real estate or bonds or debentures or promissory notes, qualified farm property, and gains on shares and so on – we have to be very careful as we go through this debate. Before we can endorse it, we have to understand some other facts. Much of what the hon. member said I can agree with, but I'm talking about primarily the timing here.

In Canada, Mr. Speaker, 75 percent of any capital gain is included in the calculation of taxable income and is subject to the tax at the applicable rate. Then what's left over, the 25 percent of that capital gain, is tax free. That reduced income inclusion rate provides an incentive for individuals and corporations, as the member said, to invest by increasing the after-tax return on their investment. That provides, I think, for some recognition of the inflation-related portion of the capital gains discussion. In fact, it was the case that all individuals used to be entitled to a \$100,000 lifetime capital gains exemption. Taxable capital gain was included in net income for tax purposes, but an offsetting deduction was actually allowed in computing taxable income.

In the 1995 taxation year, to give you an example, the total amount of capital gains that were assessed in Canada and included as taxable income was in the order of \$7.4 billion. That was



based on over 1 million tax filers. That represented somewhere in the neighbourhood of 1.4 percent of the total income assessed. So it's a significant amount of money that's involved here. Following up on that example, in the same taxation year, 1995, in Alberta the amount of capital gains assessed and included as taxable income was \$1.013 billion. That was based on 121,000 tax filers. In graphic terms it represented about 1.9 percent of the total income assessed in 1995. So the impact in Alberta is also quite significant.

I would say to the hon. member that we acknowledge that there are some problems with the present system of taxing capital gains. I don't think there's any doubt about that. We know, for example, that there are some distortions that are occurring, and the distortions are in the current system, where certain gains are exempted while others are taxed at different rates, some at three-quarters and some at other rates. We know, for example, that the capital gain on shares and the gain on real estate and depreciable property, the gain on bonds, debentures, promissory notes, et cetera, is treated at a 75 percent inclusion rate for assessment of taxable income. Meanwhile, the capital gains on sales of qualified small business corporation shares, which I think he referred to, and qualified farm property is subject to the \$500,000 lifetime capital gains deduction. This constitutes, in my mind at least, a special treatment for certain types of capital gains over others. So there's a distortion there.

Another problem and difficulty with the entire issue of the capital gains tax assessment regime is the inequity that may be created. I would say that to some extent the current system is in fact inequitable because it tends to benefit mostly the high-income individuals, and that is obviously an unlevel playing field.

A third point in this argument of difficulties with this present system has to do with the complexity issue. The current system is quite complicated, Mr. Speaker. Individuals as well as Revenue Canada have to maintain these cumulative records of capital gains and losses and investment expenses, and that amounts to a significant amount of work in tracking and monitoring and so on. But there are other examples of complexities inherent within the Canadian system, that we can go into at another time.

I would move to the fourth point in this argument about fixing up or helping to understand the difficulties or shortfalls in the capital gains assessment scenario, and that has to do with tax fairness. I think we would recognize that eliminating the taxation of capital gains in Canada may well serve to stimulate increased investment, as the hon. member properly pointed out, particularly in this case among middle- and high-income earners and, in fact, might result in increased revenue feedback for both federal and provincial coffers over the medium and long term. But there's also an issue of tax fairness that has to be addressed.

I would just quickly offer to the hon. member some points for his consideration relative to tax fairness. Number one, taxes have to first of all reflect the ability of the individuals to pay. Secondly, it has to reflect that those who need the help do in fact receive it. Thirdly, taxes that are owed and payable should indeed be paid. Those would be three basic concepts that would level the playing field of tax fairness.

So I simply want to say that while our preference on the tax side would be to see a reduction of federal taxes at some point and an adjustment in, for example, nonrefundable tax credits, I think it has to be done, Mr. Speaker, at an appropriate time and within the framework of a balanced budget. It's true at the moment, for example, that we see individuals paying the 3 percent surtax if you earn under \$50,000, and if you earn over – what is it? –

\$50,000, I think it's 5 percent. Perhaps we should look at some of those taxes being eliminated, which has a broader base of appeal because it affects a larger number of people. But, again, you have to take a look at when it's appropriate to eliminate those 3 percent or 5 percent surtaxes. Certainly at some point I would favour the reduction or the elimination of at least the 3 percent surtax because that applies to those income earners that are receiving less than \$50,000 a year. I would say that a large number of individuals fall into that category.

Mr. Speaker, it's interesting that when the federal budget was announced here a couple of weeks ago, both the Provincial Treasurer and the Premier, to both their credit, did applaud certain aspects of that announcement. I think that what they did in doing that was to focus on the fact that there are some other priorities that have to take place here. In particular, some of those priorities are with respect to Canada's burgeoning debt, which is approaching the \$600 billion mark. To forgive a capital gains tax at this time would simply tie the hands of our federal counterparts from being able to address that mounting debt. So we don't believe that this is necessarily the optimum time or the most appropriate time for a serious consideration of the elimination of the taxation on capital gains in Canada, particularly given that the federal government does have these other priorities.

### 3:50

I would say that some of the priorities facing them, in addition to that almost \$600 billion debt, are also to do with strategic and targeted investments in other areas, such as education and health care. Let's parlay that on further to the possible restoration of transfer payments to our province and to others for things like health care and social programs. I think these are priorities that both the Treasurer and the Premier and perhaps an array of ministers have supported in their comments, at least from what I've heard and read. So there has to be some balance in that whole approach there. I'm always happy when I see those kinds of comments made because I think it sharply focuses on the need for the CHS transfers and other social program transfers being restored at a rate that allows us to recompense the people and the departments that are most in need of them.

The final point in the couple of minutes remaining that I will make, then, is with respect to the implications directly on the budget itself. A motion like this is a good idea at some point, but right now we have to just question whether this is the appropriate time. At some point I'd be very interested to hear the Provincial Treasurer's comments on this particular motion in the House or privately or elsewhere, because there are significant budgetary implications that flow out of the elimination of the taxation of capital gains not just for Canada, for the Canadian government, but also the net effect on the province of Alberta.

Again if we look at the data available from the 1995 taxation year, the elimination of the tax treatment of capital gains would in fact result in a \$1 billion reduction in personal income tax revenues for the federal government and approximately a \$453 million reduction in provincial personal income taxes. In Alberta, Mr. Speaker, the elimination of the tax treatment of capital gains would result in a \$128 million reduction in the federal portion of personal income taxes collected in this province and a further reduction of \$56.6 million in provincial personal income taxes collected in this province. So I would be very interested to hear the Provincial Treasurer's comments on this particular motion. As I say, in the House or privately I would just like to have a little chance to chat with the Treasurer about that or to hear his

comments, particularly as we look at what is becoming more and more apparent as being a revenue problem.

I know we've spoken in this House many times and we've heard many times that Alberta doesn't have a revenue problem; we have a spending problem. Well, I agree. We had a spending problem. We've solved that particular problem to some extent, but I have always said that we're either in a revenue problem situation or we're going to soon be facing one. I look at the budget, which is targeting our west Texas crude pricing of oil at \$17.50 per barrel, and today we're looking at prices less than \$14.50 per barrel. That's a \$3 difference per barrel. That is very significant, because for every dollar drop in oil we suffer a net loss of approximately \$155 million to \$175 million, so we're quite a ways away from having our revenue picture as rosy as I would like it. I say that with no glee whatsoever. I'm concerned, and in fact I'd like to talk to the Treasurer about that at some point too. Maybe we should be revising that price a little bit as we look at the incoming price projections and revenue pictures so as to cushion ourselves, again, against that. I know that the Treasurer has in fact provided some good information with respect to some cushions, but I'm not sure if that's going to be quite sufficient.

I also know that the hon. Minister of Energy has done quite a lot in respect to Alberta royalty tax credits. In doing so, he's trying to increase investment in the tar sands so that we can look at greater production of synthetic crude and do what they call back-end loading: let's give a little forgiveness over here now so that we can reap a greater benefit there. Hon. minister, I support that concept. I think we have to look at what we can do to increase some of that investment, because we want to see some benefits from it later.

Another area that's impacted here, of course, is Crown leases. Well, there's just a whole variety of things that I think we'll need to look at as we consider this motion.

So, hon. member, I'm sorry that I'm not able to support your motion at this time. I would be very happy to relook at it and to consider it at some point in the future, given a quick chat with the Provincial Treasurer on how he sees it. I will perhaps have a chat with him as well at another time, but I do want to allow my hon. colleagues to have a chance to speak to this as well.

So with those few comments, Mr. Speaker, I would take leave and allow someone else to continue the debate. Thank you.

THE DEPUTY SPEAKER: The hon. Provincial Treasurer.

MR. DAY: Thanks, Mr. Speaker. I want to commend the Member for Calgary-Mountain View for this motion. It's based, at least in terms of what I've discussed with him, on a concern for seeing the economy rejuvenated and seeing people not suffer the punitive effects of taxation. All taxes are punitive in some way and all taxes are a disincentive, yet we need taxes in some form or other to operate government. That's why we feel, at least on this side of the House, so compelled to keep our costs of operation down, because the higher your cost, then the more you have to tax people and business to basically run the operation.

I have to say, speaking on it from the point of view of Treasurer, that I would be, I think, somewhat irresponsible if I were to say to just eliminate a certain tax when I don't have an option either, to say that the tax needs to be replaced in some way or in some other form or that that revenue needs to be replaced without really considering what would be the effect of removing a particular tax.

I think my Treasury critic, who has just spoken, is correct in saying that we are in a time when there are some concerns about revenue. No question about that, the price of oil being what it is. I know we've constructed a budget with certain levers and mechanisms and escape valves, as it were, so we can make adjustments as we go through the year on a quarterly basis, but it was, as my own colleagues would know, with great caution that we were even able to reduce taxes on the provincial income side by 1.5 percent. That alone is an impact of \$123 million on the overall economy.

Related to the capital gains tax, sometimes I feel this tax is particularly obnoxious. It was interesting that back in the '60s the Carter commission looked at taxes and made the conclusion that a dollar is a dollar – as they said in interviews at that time, a buck is a buck; now we say a loony is a loony; it's even less than that – and income should be taxed no matter what the source. That was sort of the basis for this type of taxation. That's how the capital gains tax as we know it today was actually created.

Believe it or not, it was introduced – at the time it was seen as part of a major tax reform – because it was simplifying the overall tax system, or that's how it was sold. Anytime an elected person is selling a tax, they always have to be an excellent marketer, because you're convincing people that somehow paying more is going to do great wonders for them as individuals. In fact, it was promoted that way, as simplifying the overall tax system in Canada by replacing so-called wealth taxes – those are estate taxes and inheritance taxes – with the taxable capital gains. That was the reason it was sold at the time, and I can't recall or seem to glean from the reporting of the time if there was a huge upheaval at the time in terms of people in rebellion, as there was with the GST. I don't think that was occurring. But it was sold on this basis of reform and replacing the so-called wealth taxes, the estate taxes and the inheritance taxes.

It also was seen as a way to stop people from avoiding paying taxes by simply having their income classified as capital gains. If you didn't have this type of tax, then you would say to your employer, "Just pay me in this certain way, I'll call it a capital gain, and we don't tax capital gains," and there could be a total avoidance of tax. As much as I find that taxation in general is odious, I have said that it's necessary, and for people to be able to come up with creative ways where they could just have their income classified as a capital gain would result in a lot of people in fact not paying any tax at all.

4:00

I have to say I was not excited about nor was I supportive of the federal Liberals in 1995 eliminating the lifetime exemption levels for the capital gains tax. I think that was an important point of freedom that was taken away from people.

You know, there are two sides to the capital gains tax issue, Mr. Speaker. Some people will say that the capital gains tax increases economic efficiency because then the broader base allows lower overall tax rates, reduces compliance and administration costs, and improves equity, which takes you back to the Carter commission, which basically said a dollar is a dollar, a buck is a buck, and a loonette is a loonette, and we should do what we can to tax them. That's what people would say in support of those who are against the capital gains tax. They would talk about the increased investment that results from not taxing capital gains and that whatever we would lose in terms of the reduction in our equity in fact would be gained because it would spur all kinds of economic activity. I tend to lean towards that particular econometric model. I do believe that lower

taxation in general leads to a more vibrant economy, leads to more opportunities for individuals, and opens many doors. So I tend to lean in that direction.

Unfortunately, we have built up over decades so many various government programs that we need a high level of taxation across the board to be able to support them. Until we hear a cry from citizens to eliminate, to jettison a lot of the program delivery that we're into now, it seems that we're forced to continue that program delivery and therefore continue taxing people. But I do think that a reduction in the capital gains tax in fact would spur certain types of economic activity. People who don't like the tax also feel it's a form of double taxation, and they feel that it encourages people to invest in bonds and life insurance rather than in equities. I think there's an argument to be made there also; that is, that investment in bonds and life insurance – and I'm not standing here as Treasurer telling people how they should invest, but I don't think it leads to the same vibrancy and vitality in an economy when all your investment is going, for instance, into bonds and life insurance rather than in equities. So I think there are obviously arguments on both sides of this equation.

At this time, though I understand the motivation of the Member for Calgary-Mountain View, I can't stand here and say I would advocate total elimination of this tax at this time, really by virtue of the fact that we have just put a tax commission, a tax committee, in place to do an overview of all of our taxation right now. I think as the one instituting that committee, I'd be in the position of pre-empting the work. So I'm in a bit of difficult situation there, but I think the discussion that's going on here today is going to be valuable for those committee members to consider. I want to congratulate again the Member for Calgary-Mountain View; this type of input will go into their discussion process. For that reason I can't stand here and advocate to eliminate it, but I will be asking that the review committee look at the capital gains tax and make recommendations on that.

The other reason I can't in good conscience suggest its elimination today is that, as my critic has suggested, we're in a time of revenue crunch right now. I'm using '95 figures on this, but going on '95 figures the revenue forgone would be about \$135 million in terms of forgone revenue to our bottom line. And when we're looking this year at a surplus, projecting a surplus of only \$165 million, albeit with a \$420 million cushion, that still is fairly limiting.

So I think there would be benefit in seeing the capital gains tax lowered. I think the economy could sustain that. I'd like to see more work done on this in the upcoming months, and what the tax committee is doing is not going to be a long-term project. They're going to be very focused, and in the next two or three months they're going to be coming back with suggestions on this. So I would support it being lowered. I do agree it's punitive.

The other reason I would worry about seeing it eliminated right now is that I'm not convinced, then, that the federal government wouldn't just turn around and reintroduce estate taxes or inheritance taxes. That wouldn't make any of us happy. So without getting some kind of qualifier from the federal government that they wouldn't move quickly to fill that ditch and punish all of us in terms of the inheritance tax and the estate tax, then I've got some caution there also and some nervousness. I'd want to do a full consultation.

I hope the remarks have been helpful, especially to the mover of this and the proposer of the motion. I am for the direction of lowering taxes. I do believe it would lead to a more vibrant economy and more vibrant investment. The cautions I have right

now are based on the tax review committee and the work they are doing, that there's no guarantee the federal government wouldn't introduce other taxes to compensate, and looking at our revenue situation right now. But I think the debate is a good one, it's important, and I'll make sure that the information from this debate is forwarded to the tax review committee.

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

**MS CARLSON:** Thank you, Mr. Speaker. I have absolutely no problem opposing this motion. In fact, I think it's a complete waste of the Legislature's time. [interjections] It is. It is absolutely a waste of time. To ask the federal government to do something where you would be tinkering with a very complex system is completely a waste of our time.

I would suggest that if the member wanted to do something that was really proactive in terms of something on tax reform in this province, he would put forward suggestions and recommendations to the Tax Review Commission that has been traveling this province for a long time working on a lot of the kinds of recommendations and concerns that people in this province have had. That would be productive. To bring something like that into this Legislature would give us something useful to talk about that this government could actually act on.

What this is, when you bring in motions that are recommending that the federal government do something, is nothing more than a public relations exercise that you can take back to your constituents and say: see; those feds are bad guys; we support business. [interjections] No. That's what you do with this information. There is no jurisdiction for this province, for this Legislature to be mandating that the federal government do anything. It's a feel-good exercise that you can take back to Calgary and say: look at us; we support business.

There are a lot of problems, Mr. Speaker, with this kind of a motion being brought forward to this Legislature. The propensity in the first place for the government to tinker with pieces of legislation is a huge problem. Then for them to recommend that kind of tinkering in another kind of system has all kinds of outcomes that haven't been thought out in this particular motion.

#### **Speaker's Ruling Private Members' Motions**

**THE DEPUTY SPEAKER:** All hon. members are reminded that we are discussing for a period of time this afternoon and tomorrow for all the afternoon matters of private members' motions, private members' public bills. This is not a government motion. This is a private member's motion.

#### **Debate Continued**

**MS CARLSON:** Thank you, Mr. Speaker. I stand corrected on the comments with regard to the government. But I certainly know that this member in bringing forward this private member's motion has support from members of his side of the Legislature. [interjection] We just heard the Treasurer stand in support of a great deal of what was said here, and I'm sure you're scheduled to speak on this issue too.

All of the members in this Legislature, Mr. Speaker, support legislation in this House that will reform the provincial tax system, which is where you have the power to do something about it, which is where, for the past five years I've been here, I haven't seen any kind of wholesale changes being brought in that

address the systemic problems that we have in this province.

One of those systemic problems is that it's very easy to give more to those who have and to take more from those who don't have. If you were going to do some sort of a change to the tax regime, Mr. Speaker, then I would suggest what this private member could have brought forward was something that is more of an equalizing kind of payment for people who don't have money right now.

The Treasurer talked about putting money back into supporting economic activity and that reducing the capital gains tax would do that. Well, I would suggest that the first level of economic activity that we would want to stimulate in this province is the ability for parents to feed, clothe, and educate their children and that that would be the first priority this province would speak to as opposed to . . .

**4:10**

MR. DAY: A point of order.

THE DEPUTY SPEAKER: The hon. Provincial Treasurer rising on a point of order.

#### Point of Order

##### Questioning a Member

MR. DAY: Referencing *Beauchesne*, would the member opposite entertain a brief question?

MS CARLSON: Absolutely not. I only have 20 minutes. He can forward the question on paper, and I'll answer it at that point.

#### Debate Continued

MS CARLSON: If he wants to stimulate economic activity, there are much better ways to do it at this point in time in the history of this province. Certainly he talked about people being concerned about the capital gains tax being double taxation, or he had all the arguments for it not being included as income. Well, Mr. Speaker, for sure in most cases capital gains are not windfall income. They are a deliberate attempt to increase wealth. Increasing wealth is income in anybody else's hands, and it should be taxed as such. People who are making below the poverty line in this province do not have any options in how their income is taxed. The Provincial Treasurer assesses what the provincial tax portion of it is going to be, and they pay accordingly. They don't have any options. They don't have any flexibility in terms of how they invest to reduce or marginalize their tax rates like people who have a higher income do.

The member in introducing the bill talked about many of the people who access this particular claim earning below \$60,000. Well, I wonder, Mr. Speaker, if he identified those people who access this claim who live below the poverty level. I would suggest that it is absolutely zero, that those are the people who need tax support and tax help in this province and not other people.

MR. DAY: They get a thousand dollars . . .

MS CARLSON: The Provincial Treasurer is happy to remind us that they're getting a thousand dollar lump sum. Mr. Speaker, that is not a systemic change that addresses the day-to-day needs of these people. Establishing a base level where there would be no taxes on those people would be a good step forward. That would be a progressive step forward. To throw money at them in

one lump sum does not help on a monthly basis in the day-to-day organizing of their daily lives, in the buying of the groceries and all the extra supplies they need in education now, Mr. Treasurer, because of all of the fees and the implications of the downloading that this government has put forward on parents. There is a great deal of pressure right now on people in this province who would really welcome tax relief, who need the tax relief, who are not looking for tax relief as a means of avoiding taxation or as a means of having excess income they can once again invest in income-earning vehicles. Rather, we would see economic activity stimulation through putting the money in people's hands on a day-to-day basis so that they can meet their needs.

The member who introduced this motion said that small business needs this to reinvest in their own funds. Mr. Speaker, I've had a 20-year history of dealing with small businesses in this province, and throughout that time very, very, very few of them, less than .5 percent of them, actually used capital gains wealth for that specific purpose. They use it for many other reasons, but that has not been one of them. I would like to know if the member who introduced this motion could table that information so that we can verify it. That would be of a great deal of interest to me.

It was interesting to see that the Provincial Treasurer in addressing this motion talked about how there was a problem with this motion superseding the tax review commission report that we hope one day soon ultimately will be put forward for debate in this Legislature or at least tabled for information. He's right; it would be pre-emptive to put forward this motion before that review commission comes forward. But it's interesting to note that the Provincial Treasurer had no problem pre-empting that commission's report when he brought in that teeny, tiny tax relief break that we got in this last provincial budget. So I'm wondering how he can say that it's no good for one system, but it's okay for another system. If he could clarify that remark for me, I would be very interested in hearing how he justifies that.

There has been something brought forward in the latest federal budget that did put in the hands of the people at a level that is sustainable and is necessary throughout this country, not only in this province – that's the education tax credit. If you're looking at tax relief for people, Mr. Speaker, I would suggest that that is one of the first kinds of steps you would want to take. An education tax credit gives parents credit for putting money aside for their children to go on to some sort of further education. What that does is relieve pressure in the day-to-day operations of people who are trying to fund extra education. It gives lower income families an opportunity to start to save for their children's education, which in fact levels the playing field for more children to be able to access advanced education. I would say that if you're looking at changes in the federal tax regime, that's a progressive kind of change that you could promote. That would be something that could be embraced by all provinces and by all people who really need it, including those people who are currently benefiting from the capital tax exemptions that do exist.

So I would think that before this member brings another motion like this into this House, he would look at the full-fledged implications of what it is he's bringing forward and would bring forward something that has a substantial impact on and is accessible to all people in this province, not just those who have extra income they can invest in capital gains measures.

THE DEPUTY SPEAKER: The hon. Member for Cardston-Taber-Warner.

MR. HIERATH: Thank you, Mr. Speaker. We have heard some useful comments and some not so useful comments today on how taxation can affect small business and investment. I would like to address a few more points in support of this motion.

I don't think there is much doubt that any system of taxation directly affects the economy. As legislators in a free market economy we need to make sure that the taxation system does not interfere with the economy any more than absolutely necessary. Mr. Speaker, we need to provide a fair taxation system for all investors, small business, and individuals. The current policy of the federal government on capital gains taxation interferes with the natural flow of capital and investment in Canada to an unacceptable degree. Any investment in Canadian business is beneficial to our economy. We should recognize this and develop a fiscal policy that supports this investment.

As the Member for Calgary-Mountain View pointed out, the relationship between risk and return is undeniable. If an investor is going to take a financial risk, especially in high-risk venture capital, they expect a high return will be possible. They also expect that the return will be substantively available to them and that it will not be taxed away. From an investor's point of view, high-risk investment must provide a high return or they simply will not make the investment. This hurts Canadian interests, because investors are aware that 75 percent of any capital gain will be subject to taxation.

In the field of international investment this puts Canada at a global disadvantage. All things being equal, if our competitors for investment applied similar rules of taxation, Canada would be no worse off. However, Mr. Speaker, we do not live in an environment based on equal competition. The United States taxes capital gain at 20 percent. Investors want a high return. They can get it outside of Canada. In this environment it becomes difficult to attract high-risk capital investment into Canada. This is not simply an issue of providing a disincentive for foreign investors to bring their money to Canada. The current taxation on capital gains also provides an incentive for Canadians to invest elsewhere. We are systematically draining capital from our economy.

To complicate the issue further, we do not index capital gain to inflation. Revenue Canada makes a simple calculation on the purchase price and the sale price of property when determining capital gains. Since inflation is not considered under our system, it is reasonable that an investor can be taxed on a nominal loss. As an example, if an investment of \$100,000 is made in 1970 and sold for \$130,000 in 1998, it yields a net gain of \$30,000. If the value of the dollar declined in that period by 50 percent, the original investment would have been worth \$200,000 in 1998 dollars and would therefore have been sold for a loss of \$70,000. This puts Canada at yet another disadvantage to countries like Australia and the United Kingdom, who index capital gain to inflation.

The argument has been made that the decrease in revenue from taxation of capital gains would affect the bottom line of the federal government and possibly the provincial governments in the form of reduced transfer payments. This is a possibility in the short term, but in the long term increased revenue generated from higher investment would balance any loss.

We must think and act proactively to provide the private sector with tools to compete fairly. The issue of taxation comes down to fairness. A fair taxation system gives everyone the same opportunity to fail or succeed. This is what investors and small businesses are asking for. Small business owners and investors

want to succeed on their own and to rely as little as possible on government for assistance. We need to reward them fairly for taking these risks. Punitive taxation is not the answer and will never create investment opportunities.

Mr. Speaker, I support the Member for Calgary-Mountain View in bringing this motion forward in an effort to make the taxation system less complicated, and I encourage all members to support this motion.

[Motion carried]

#### 4:20 Age of Consent for Sexual Activities

507. Mr. Magnus moved:

Be it resolved that the Legislative Assembly urge the government to encourage the federal government to increase the age of consent for sexual activities from 14 to 16 years of age.

THE DEPUTY SPEAKER: The hon. Member for Calgary-North Hill.

MR. MAGNUS: Thank you, Mr. Speaker. Normally in this Legislature when we begin a speech, it's custom and tradition to some extent to talk about a privilege and a pleasure. In this case it's with something of a heavy heart that I rise today to speak to Motion 507, which presses the federal government "to increase the age of consent for sexual activities from 14 to 16 years of age." It is frustrating, indeed heartbreaking to know that this type of action is necessary in our society. I speak today for those 14- and 15-year-old children and their families who have been victims of sexual abuse.

Mr. Speaker, this motion is a step toward providing children with greater protection from sexual abuse by adults. Children between 14 and 16 are extremely vulnerable to the sexual advances of adults, particularly adults who occupy positions of trust or authority over that child. Children under 16 are not yet mature enough to fully distinguish between what it means to consent to sexual activity and what it means to be coerced into that same sexual activity with an adult. The nature of the type of assault we are considering involves the blatant abuse of power. It involves a fully constituted adult emotionally and often physically overpowering and unduly influencing children of 14 to 15 years of age.

Mr. Speaker, I must make it completely clear that this motion is not meant to apply to children in the same peer group who are close in age. Peers engaging in sexual activities is drastically different from an adult preying upon the vulnerabilities of children under the age of 16. With peers sexual activity usually arises from curiosity and not malicious intent. It is experimentation, prudent or otherwise. The potential damage resulting from two children who are peers engaging in sexual activities cannot compare to the devastating, often irreversible damage resulting from sexual violation by an adult, especially if that adult occupies a position of trust.

Surely an adult who coerces, manipulates, or influences a child under 16 to engage in sexual activity can be seen as a sexual predator. Fourteen- and 15-year-old children today are not adequately protected from such violations by Canadian law, and I think, Mr. Speaker, that this is a very little known fact. Children under the age of 16 may not possess a driver's licence. They can't drink alcohol. They can't buy cigarettes, and they can't quit school. They can't play the lotteries. Importantly, they

can't vote and affect this legal process, and they are not considered responsible or mature enough to make informed decisions on personal and societal concerns. We protect our children from the harmful effects of alcohol and tobacco until they reach the age of 18. We defer their responsibilities to the community in elections until they are 18. Yet at 14 and 15 we consider them mature enough to understand, make reasonable choices, and undertake assertive action when confronted with the unwanted demands of an adult sexual predator.

This legal assumption aids the sexual predator in the commission of what most reasonable people believe is a crime. The defence of consent is often used to silence a child victim of sexual abuse, and being repeatedly told that no one will believe a 14 or 15 year old crying foul over a full-grown adult crying consent is a common feature of these offences.

Most often threats of reprisals for reporting the incident either directed at the child or the child's family further diminishes the child's ability to respond decisively and rationally in their own best interest. Think of the implications for a child experiencing this horror. The fear, the confusion, the helplessness, and the internalized shame that these victims feel prevent them from seeking help when they most desperately need it.

Mr. Speaker, there's a fundamental problem here. Our laws deny that a child under 16 can responsibly drive a car, and a child under 18 can't make reasonable choices regarding drinking, smoking, gambling, or voting, yet our law states that 14 and 15 year olds can knowingly consent to sexual activities with an adult. The federal government needs to seriously re-evaluate the magnitude of a child's decision to willingly consent to sexual activities with an adult, and clearly we know that children of 14 and 15 are not capable of making this decision and are compromised in their ability to effectively deal with the situation should it occur.

In one situation that I'm familiar with, the adult told the 14-year-old child that he would say that he was seduced if the child reported the assault, and here's the sad irony. A mature adult can legally claim that he or she could not defend himself or herself against the advances of a 14-year-old person, yet a 14-year-old-person is expected to effectively defend themselves against adult sexual assault or prove it was not a situation of consent but one of forced violation. Further, a 14- or 15-year-old child must be the one to press charges against the offender, yet at the same time it is the parents of the child who must apply for that child's victim compensation to cover the considerable expenses of therapy for the victims of abuse.

The victim's boundaries have been crossed, their ability to exert control over their life is questioned, and their ability to make decisions that are respected by others is denied. The ability to trust another person after such an experience is often irretrievably lost, and the loss of their personal space and the loss of confidence in themselves and the society they live in disable children.

However, the child is not the only victim in this sort of crime. We can't forget that these are children with parents, siblings, and extended families who must somehow struggle to repair broken minds, bodies, and hearts. Families are shattered by the sexual violation of a child and in the aftermath are themselves victimized by the actions of predatory adults. The family feels the helplessness, anger, and loss of innocence of their loved one, and the family loses trust in themselves, in their ability to protect their children from others, and in the moral fibre of the same society they live in. The family must struggle to rebuild shattered lives and dreams, and the inappropriate sexual actions of adults against children make victims of us all.

We as a society must send a clear message to children, to

families, and to offenders that these situations will not be tolerated. Parents can only protect their children to a certain extent without removing them from society altogether. The state absolutely has a responsibility to protect children. Individuals under the age of 16 certainly qualify as children, even more so when sexual activity is involved. Critics that might argue the state is attempting to micromanage families are missing the point. This motion does not seek to have the state directly involved in family affairs unless a crime has been committed. It simply seeks to protect children under the age of 16 from sexual predators by making predatory sexual offenders subject to stiffer penalties and by denying that the consent of a 14 or 15 year old is a valid defence.

THE DEPUTY SPEAKER: I hesitate to interrupt the hon. Member for Calgary-North Hill, but the time limit for consideration of this item of business has concluded for this afternoon.

head:

## Government Bills and Orders

head:

### Second Reading

4:30

### Bill 19

### Protection against Family Violence Act

[Adjourned debate March 9: Mr. Dickson]

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

MS CARLSON: Thank you, Mr. Speaker. I'm very pleased to be able to finally, after several years in this House, rise and speak to Bill 19, Protection against Family Violence Act. First of all, I'd like to thank Alice Hanson, who was a member of this Legislature in 1996 and who introduced the first version of this bill as Bill 214, Victims of Domestic Violence Act, here in the Assembly. That bill was the culmination of many, many years of work in the community by Alice addressing the kinds of needs and concerns that women have who have lived in violent situations.

Unfortunately, when it was brought into the Legislature, I was the next person to speak when debate was adjourned by one of the current members here through a motion requiring the chairman to leave the chair, so I never got to speak to that bill. It was a really good start on the kind of legislation . . . [interjections] Oh, you guys think that's too bad, eh? You know what? It was a very important bill, and there were some very important things left to be said on that bill, which subsequently got incorporated into occasional drafts that were made of that bill. [interjection] You have very interesting comments, and I wish you would stand up here in the Legislature and make them instead of sitting there and squeaking in your chair.

THE DEPUTY SPEAKER: Hon. member, if you could address your comments to the chair and not to the hon. members, who know better.

MS CARLSON: Thank you, Mr. Speaker.

This bill has undergone a number of changes now, Mr. Speaker, and I think this latest draft is certainly an improvement from where we started. There are some issues I would like to see addressed in this bill that haven't been so far, but for the purposes of discussion at this reading I will talk about some of these issues in principle.

The perspective that I will speak to this bill from is very much a personal perspective, Mr. Speaker. I certainly was in an

abusive marriage for a number of years, have been out of that marriage for 10 years come this spring, and legislation like this at that time would have been very, very helpful to myself and my very young children at the time.

I'll speak first to section 2. [interjection] If you're tired, you can leave, you know, and have a nap in your own lounge. You don't have to make those smart aleck comments in here.

THE DEPUTY SPEAKER: Order. Hon. ministers down yonder, if you could please cut out your comments and let the hon. member make her comments on this particular bill, that would be helpful.

The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Speaker. Speaking to section 2, the emergency protection order is definitely needed in a community. There's no doubt about it. It certainly would have helped me. What it would have prevented me from, in my circumstance, was going into a weekend where I had no safe place to stay. In fact, because of the nature of my marriage I was unable to use a credit card. I didn't have any money, I didn't have a car, and I had two young children, one still in diapers, and no place to go to stay safe. In fact, it was the police who told me to leave the house that I was staying in and go someplace else because they couldn't protect me. They couldn't keep me or the children safe from my husband because of his nature and because of the limited resources they had. Certainly an emergency protection order that could have been accessed immediately would have been very, very beneficial in these circumstances. Subsequently, working with abused women over the years, I have seen many, many instances where this also would have been beneficial. So there's no doubt that I fully support this section of the bill.

In section 5 you have a Queen's Bench protection order. We have a number of provisions here that are laid out which are also very beneficial, Mr. Speaker, and they're excellent provisions to have in here. When you talk about a provision requiring the respondent to reimburse the claimant for monetary losses that were a direct result of family violence, those can be substantial and those can have immediate and drastic effects on the individuals who are the claimants in this situation. Certainly, I know that I borrowed money from everybody I knew – from every friend I had, from every family member I had – just to keep my children safe. There was no recourse after the fact in this instance. I ate those losses, got a job, and eventually paid all those loans back.

There's no doubt that the "provision granting either party temporary possession of specified personal property" is very important. My kids didn't have their toys, and we had no way to access them at that time. Now, what can be more disruptive to young children than to have their father come chasing after them in a very threatening manner, literally threatening their lives, threatening their mother, kicking in doors, yelling and screaming at people, and also not have access to any of their personal possessions? They didn't have their favourite clothes, their favourite blankets, their favourite toys, nothing. So that puts them in a very precarious situation. This provision is excellent from that perspective.

The provision preventing either party from taking, giving away, selling, or damaging property that the other person might have an interest in is also very important, Mr. Speaker. When you leave a marriage and then you lose joint assets in that marriage and have to start over, sometimes in debt as a result, it's a substantial handicap to people who have to start over in these kinds of

circumstances and sometimes is enough of a handicap to force that person back into an untenable situation. So I certainly applaud this provision being in the bill.

No doubt the provision preventing "the respondent from making any communication likely to cause annoyance or alarm to the claimant" with "family members or their employers, employees, co-workers" of the claimant "or other specified persons" is also very important. My ex-husband went around and threatened the clients I had at that time and some of my friends. If they continued to have a friendship with me or supported me in any manner, they would be answering to him. Well, in fact, to have your family members threatened creates a huge amount of problem in your life. Both of my parents were at risk during this time period in our lives, and those are not circumstances you want to have existing.

When finally I figured out that there were safe houses to go to and I made the phone call, Mr. Speaker, to go to them, I was told at that time that the safe house was full. There was no room at the inn that night for us, and with no place else to go, I asked them what to do. They said: "Well, go hang out in a shopping mall in a large public area. Take a friend or family member with you so that if he comes after you, you have somebody there to run for help. Do that. Call back in five or six hours, and we'll see if we can find some space for you somewhere." In fact, it was hard to find somebody to come with me. Everybody was scared of my husband at that time. They didn't want to be in a public place. They didn't want to be anywhere alone with us because they were at risk by doing so. So certainly having this kind of a provision is very important in that case.

The provision requiring the respondent to post a bond is important in this case. It gives some teeth to what's going on here and starts to introduce the respondent to the severity of the situation they have themselves in.

The provision requiring the respondent or another family member to receive counseling or therapy is of absolute paramount concern and is one of the primary issues I'm happy to see addressed in this bill. You can treat the symptoms all you want, Mr. Speaker. You can open up a lot more safe houses. You can provide places for people to stay in their own homes. You can provide all the types of security you want, but until you start to solve the systemic problem, you're never going to solve this condition that many, many people find themselves living in year after year. Therapy and counseling is absolutely what's required for abusers, and definitely even that doesn't work most of the time, but it is a good start. If people know that counseling and therapy are going to be a required part of the program, then they can start to address the kinds of problems they have in their relationships perhaps before they get to this stage. Certainly it helps to address them on an ongoing basis, and it'll help those women who have a hard time leaving abusive relationships.

We've heard in the documentation that's gone on here and most of us have heard many, many times before that sometimes women leave several times before they leave for good, so they're subject to those kinds of abuses for a longer period of time. The cycle is hard to break and get away from. If you introduce counseling and therapy at an earlier stage, then the chances of breaking the cycle at an earlier stage are quite possible to happen. Those are very important issues to be dealt with.

For the time being I will limit my comments and speak to more specific parts of this bill when it comes up for future debate in committee. Because of the time left, I'm sure that the ministers

who were previously so mouthy, Mr. Speaker, have lots to say on this bill.

Thank you.

4:40

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

MR. WHITE: Thank you, Mr. Speaker. By the peculiar silence on the other side I gather that this bill is to their liking and that they've had all of their input prior to this time and need not communicate any further on it. They certainly do voice a lot of opinion when some hon. member is speaking on a matter that's very near and dear to her heart.

Mr. Speaker, the history of this bill is a strange one, and I shall dwell just a moment or two on it. In February of '96 this member happened to be in the Legislature, along with the Speaker and a number of members that are still here, and viewed the introduction of Bill 214. Now, Bill 214 was sponsored by the Member for Edmonton-Highlands-Beverly at that time, Ms Alice Hanson, a member very dedicated in a lifelong pursuit of the betterment of those that are put upon in society. This is a natural fallout from that, and the provisions in that bill were clearly outlined to break the cycle of violence that occurs in many families, which she was well aware of because of her many, many years of dedicated service in the inner city of this particular city. She pursued that bill. In fact, many members on both sides of the House spoke in favour of the bill, and it progressed as a bill would. It got to the point where certainly it needed some amendments, and there were some disconcerting statements from outside the House. Perhaps there could have been a hiatus in the bill of, say, six months or to the next session or something to allow that bill to percolate in society and be able to have some kind of feedback. That wasn't done. The bill was killed.

[Mr. Speaker in the chair]

The bill was then brought back by Mr. Terry Kirkland, an MLA at the time, as the Domestic Abuse Act, and it similarly met that death of just being laid over and not dealt with.

The Liberal Member for Edmonton-Centre, Ms Laurie Blakeman, brought forward Bill 218 this time in order to further this cause, and it was superseded by Bill 19, which we're happy to see. We thank the member opposite, MLA Mrs. Burgener from Calgary, for having the persistence to bring this forward and get her caucus to agree that this should meet the priority that it obviously has today.

The difficulty I have – and I can't possibly question the member's motives. Her earlier debate on this bill clearly shows that she's interested. She understands what does occur in violence in families and understands something has to be done. But the method we've got to this point – I mean, here we are more than two years later dealing with this act. Violence has been perpetrated upon many women and children and some men too, I'm sure, in that period of time, when something could have been done had this act been fully debated and proclaimed. It's unfortunate that violence was tolerated all that time and that the police services of our province were not allowed to enforce this kind of provision to stem that tide.

I happened to have the opportunity in a previous life to serve on the Edmonton Police Commission and had to go on many ride-alongs. The one the police service dreaded the most was what they called a domestic, because they knew that when they arrived

– and I've experienced this many times – they suddenly became the bad guy. You were the authority figure. The difficulty is that when one arrives on the scene, there is abuse going on. You can see it. It's in the air. There are broken bits around. There are children crying. Sometimes there's blood. The scene is not a happy scene. Oftentimes there's alcohol involved, sometimes drugs. Sometimes it's gambling, and sometimes the dispute is over money that was misappropriated. It's a terrible, terrible, terrible situation.

In some senses you can't do an awful lot about it as a police officer. What you do have is a number of tools at your disposal. One is bringing along a social worker to be able to work with that situation. Oftentimes these are repeat calls to the same residence. Oftentimes you know the situation. But one thing you could never do and still can't today is you cannot say to one or the other of the combatants: you must leave. You can suggest that one be taken away for some period of time. Charges can be laid.

Later on, about halfway through my career as a Police Commission member, the police service was instructed to not try to make a judgment at the time but to lay the charges, stem the tide of the violence that is occurring right there, and move on as best one could. It was a very, very difficult thing for a police officer to do, to make that judgment right there and then of what was to occur in this family. To go through this two or three times a week is very, very hard on a police officer and all of those people in society that are concerned. If you can stop that violence, if you can put an end to it just once and have some counseling take over or whatever other interventions can occur, it may stem the tide and may have the effect of this occurrence not being repeated time and time again, as it was.

All you have to do is to arrive at one of these scenes, if anybody has the opportunity, to see the agony that the police officer goes through, either before arriving on the scene, knowing what they're getting into, and then afterwards, having to write a report as to what to do. "Did I do the right thing? Should I have taken the children? Should I have somehow protected them?" The worst of all situations – fortunately, I didn't happen to be on a ride-along when it occurred – is when they get a call in their district, they know the address, and they arrive to find someone really very, very hurt. They say to themselves: could I have prevented this? It's a natural question, and it happens all the time. The police officers are counseled time and time again not to question their former judgment, because that just leads to all the kinds of things you don't want to have a police officer doing when they're out enforcing the law, but as a human being you can't help it. To see a child nervous – every time someone goes to touch their head, the child ducks. No matter what adult does it, the child is cowering. There is no safe place where that child can move and not feel that there is this ever present male, generally, that is about to put upon them.

Now, that's simply not fair in a society. This act, while not solving the problem – we know that – will go that one little step, put that little tool in the kit bag of the law enforcement officer right on the front line there to be able to do something, to be able to call a timeout and to move one of the combatants out of the communal residence to cool off, to slow down, to think about their actions. Sometimes, in the odd situation, it may catch that person enough to realize that they are wrong and that counseling is required, and perhaps, just perhaps, it'll save a repeat offence. If that occurs but just once, that would satisfy me in passing this bill. But I believe it will occur many, many more times, and I would think that those who are involved in acts of violence would



realize that somebody else is actually watching too. Those that call and report these acts of violence will be able to have some kind of solace in knowing that there are others out there, notably those in this Legislature, that understand at least part of the situation and are willing to do something about it by enacting this piece of legislation.

4:50

The tragedies that occur in society cannot be solved totally and completely by legislation. We understand that, and we understand that there have to be a number of judgment calls made all the way down the line by the recipient of some of this aggression on how fast they are able to get to a telephone or get to a neighbour. As to what the consequences will be, the last thing you want to do as the abused, generally a spouse in this case, is to report the violence and have absolutely nothing occur. The effect of that is that the perpetrator says: "Hey, see what happened? You screamed and nobody showed up." Or they did show up, but they couldn't do anything. "They didn't even bother slapping my wrist. They just went away. So there. That's where you belong." Maybe the hand isn't raised for another six months or so, but the threat is ever, ever present. The threat is there all the time; there's no question about it. When that person walks into the house, they can never be sure whether the violence is going to be then or later, but it'll be coming.

At least this piece of legislation allows another action, another affirmative action, to say that that is wrong. Society declares that there is no excuse for this kind of violence, and this officer standing in that place at that time can say, "This is how this is going to be conducted; this is my judgment in this case, and I feel good about it" and move the perpetrator along. I can't see many more things that a democratic society could do other than to pass legislation that can be enforced by all police services in order to even the scales, to take the bully out of the situation.

You can cite virtually every continent other than - well, this one too perhaps, Central America. This occurs time and time and time again in what we call second and third worlds. Well, if it occurs there and they try to do something about it, it's exceedingly difficult. In a democracy such as this, the one that some would say is most progressed in the world, this kind of thing is a long time in coming: to set the bullies aside and say, "Look; this is not conduct that's going to be accepted and tolerated by this society, and you must, must stop it."

If we get through many pieces of this legislation and early education and breaking this cycle of violence, if we get that knowledge to our children, this piece of legislation could be redundant. Nothing would be nicer in this society if we could say that we simply don't need all this legislation any longer; we just don't require it because we have solved the problem by recognizing that we can solve our problems on a one-to-one basis, by talking about our problems or by having a third party intercede and not having to raise a hand to one another. I would like to think that will occur at some time in the future, and perhaps when my children's children have children, we'll get to that state. In the meantime, this is a good piece of legislation. I understand from the lawyers and those that deal specifically in these areas that there are some amendments that may be made and in practical application some funds put together to make sure that the act is applied properly. But, in fact, it is a good piece of legislation, and I want to thank once again the sponsor for bringing it forward and look forward to further debate and amendment in subsequent readings.

Thank you, Mr. Speaker.

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

DR. MASSEY: Thank you, Mr. Speaker. I appreciate the opportunity to make a few comments in support of the Protection against Family Violence Act, Bill 19. I'd like to use as the basis for my remarks questions that were raised by a group called PROP, the protection and restraining order project. It's an Edmonton organization which has been in operation since March of 1997. It was set up to bring together individuals and organizations who were aware of some of the gaps in the provision of legal services to victims of domestic violence. I think a number of speakers have spoken to the significance of the problem and the urgency in terms of trying to come up with some solutions for those that find themselves in this kind of a situation.

I would like to, if I could, just go through very quickly some of the questions that they've raised. Now, I realize that some of these have been taken care of in the bill, but I think it's good to remind ourselves that the criteria they established are important. One of the questions they raise, of course, is how long the emergency protection orders last and the onus on the claimants to be continually going back for the continuation of orders. The suggestion they had was that they remain in force until they are successfully challenged. Does the act as it is now written make it possible for a claimant not to have to go back time and time again to prove his or her entitlement? Getting to court for many victims of course is difficult. Getting access to a lawyer, getting time off work, getting care for children, and just ordinary scheduling is very difficult for some victims. So there's a concern that the bill doesn't put that kind of a burden on people who are already severely stressed out. The notion that orders would stay in place until they were set aside is one that they suggested would be important for the bill.

Are the resources of the province in place to help the claimants? It's considered extremely important that claimants not be forced to go to court and appear in front of the abuser. One other suggestion: does it make it possible for a claimant to use an affidavit in terms of making a case before the court and again be relieved of having to enter a situation that's already fraught with all kinds of dangers for claimants?

They also wanted to know whether the bill would be broadened to include financial and emotional abuse. I think they made a case that financial and emotional abuse may not involve the threat of safety, but they are extremely important in terms of abuse. If there's a pattern of behaviour on the part of the abuser to undermine the mental or the emotional well-being of an individual, that is abuse. Or if there's a pattern of behaviour on the part of an abuser which would ensure that the claimant remains financially dependent on the abuser, that should be included in the act. They asked: was the bill broad enough?

They also questioned who would be entitled to protection under the bill. They suggested dating relationships and stalking situations, that children and elders and same-sex couples should be included. The bill does, of course, include some of these. It doesn't make reference to same-sex couples. Again, it was their concern and I think our concern that the bill be expanded to include those relationships.

They had questions about the possession of the home. For the claimant, someone who's being abused, the right to remain at home, the right to have access to that home without being further threatened are extremely important. There has to be assurance that the bill takes care of those fears as well.

5:00

There was some concern about communications and how the

abuser or the respondent was going to communicate with those who have been abused and making sure that the notion that just by having contact with someone that they've abused, the respondent doesn't again add to the kind of threat and continue the violation of that individual. There have been cases, for instance, where investigators have contacted those victims of violence, those investigators having been retained by the abusers. Again, it's a form of the violence continuing.

They raised questions about contact with children, contact with children often being an entry for the abuser to continue a relationship, and they request that the no-contact provision be a feature of a bill of this nature.

Confidentiality, of course, is a major concern. The PROP group believes that it should be a matter of course and that the claimant shouldn't have to, as is now the case, actually ask that things be kept confidential. At the hearings the details around the case should automatically be kept confidential.

They asked about the appeals procedures in the bill. Are those appeal procedures sufficient so that harassment of victims cannot be continued by an appeal process that leaves them vulnerable to continued forays into their world by the abuser?

They raise a concern that I think has been a concern of a number of people who have been involved in drafting this bill. I remember that the Member for Edmonton-Highlands in the last Legislature was extremely concerned about enforcement and the ability of victims of violence to have court orders to have the relief that they had sought actually enforced. I think it has to be, again, one of the criteria that we measure the bill against.

One last criteria that they would have us judge the bill by I think is important. That's the understanding of the judicial system and particularly judges in terms of how abuse works. Their plea is that there be resources put in place to make sure that the judges are aware of how complicated abusive situations are, the dynamics of domestic abuse.

With those comments I think the criteria that they have supplied and the questions that they asked were raised in an effort to make this bill the very best that it possibly can be. I know that that's been the goal of members on both sides of the House. I'm pleased that the bill is here and would be pleased to support it.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Calgary-Currie to close the debate.

MRS. BURGNER: Thank you, Mr. Speaker. I'm pleased to do so this afternoon. I first of all want to acknowledge the contributions of every colleague who spoke over the last couple of days. We have made note of the various comments, recommendations, issues for further amendments that people wanted to look at. Those will be duly considered as we move into the committee stage. I do want to thank everyone for their commitment to this important concern.

I would now call the question.

[Motion carried; Bill 19 read a second time]

### Bill 23 Railway Act

[Adjourned debate March 3: Mrs. Soetaert]

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

MS BLAKEMAN: Okay. Thank you. I'm pleased – well, actually I'm concerned, and that's why I'm rising this afternoon to speak in second reading of Bill 23, the Railway Act. There's one section in particular that causes me a great amount of concern, and I've spoken about this in the House before. It is the propensity that I see from this government as they put forward legislation to leave a lot out of the legislation. In other words, a lot of it is indicated that it will be put forward under regulations. I note that the legislative Committee on Law and Regulations does not meet, and it does not review any regulations that are put forward, so the public, in effect, has no way of reviewing what happens.

There is a section in this bill, section 56 – I understand that I'm speaking to the intent of the bill in second reading, but to me what is going on here overshadows the intent of everything else in the bill. It again is talking about regulations that are being made, and it's also indicating that the minister “may make regulations” on anything “the Minister considers is not provided for” or is not sufficient in the act, which is pretty much leaving it wide open that it doesn't come back into this Chamber to be debated, and the minister seems to be able to operate on his own.

I'm hoping that the sponsor of the bill can answer some of these concerns, because I would certainly like to be reassured about this. I think it is an outrageous undermining of the powers of the Legislative Assembly. It's certainly not open and accountable by anybody's meaning of that definition. Although I wasn't in the Legislature at the time that Bill 57, the Delegated Administration Act, was introduced, certainly in my reading and understanding of that, that was allowing ministers to essentially create legislation without legislative approval. That again is what I'm seeing happening here, and I think it negates everything else that is happening in the proposed bill and all of the other good things that are trying to be put forward here. You know, this could go away from this Legislature, and a minister could change everything in it essentially.

So I have a few things that I would like to have clarified. What sections in particular does the minister feel maybe missing or inadequate? Certainly what the legislation allows them to do is to make or change legislation or regulation that they feel is missing or inadequate. So what is it that is foreseen there?

I'm also interested in why there is such a reluctance to bring changes or regulations in front of this Legislative Assembly? Is there some feeling of incompetence from this Chamber? I would hope not. Certainly that's what we're here for: to examine this legislation on behalf of the people of Alberta. It's an arrogance that seems to be putting a minister above the democratic process, and it brings to mind to me the state of hubris, which some of you might be familiar with. It's a Greek term, often turns up in Greek tragedy, in which a mortal puts himself above the gods and believes himself to be powerful and better than or equal to a god. For anyone familiar with the Greek tragedies, the humans usually die a pretty awful death as a result of that.

In all seriousness, I do find what is happening in this legislation and in some of the others that I've seen – it is hubris. It is hubris to put forward that a minister could be all-seeing and all-knowing and all-powerful and totally without answerability to the democratic process that is represented in this House. To be fair, I think that also takes away some of the input that is available from the hon. members opposite to this one. I'm certain there are also valuable things that they have to say to legislation, and surely they would like to be involved in this as well.

So although the three objectives of the bill are to create safety

regulations to cover industrial railroads and amusement railroads under the provincial jurisdiction and allow for more relaxed rules of the short-run, short-rail – I'm not using the right words here.

5:10

DR. MASSEY: Short-term.

MS BLAKEMAN: Oh, no. It's the short-rail operations. I know that's being used by some tourist operators to great effect in Alberta, and it is a growth industry. I guess we could put it that way. Many people enjoy it, and it's contributing to our tourism. That's all very good, but to me all of that is totally overshadowed by what is possible in section 56, and I fundamentally disagree with what is going on here.

I have to say that in my conversations with the constituents in Edmonton-Centre, they have agreed with me on this. They are very much opposed to lawmaking going on behind closed doors. If it's really for the betterment of all Albertans, then they should be able to see it and participate in it and, through their representative, question what is going on and question the process.

So those are the few comments that I have on this bill. As I say, it's unfortunate that I have a habit of reading things from the back to the front, because this is the first thing that caught my attention and rather took away from any positive effect of the rest of the bill.

Thank you very much, Mr. Speaker. I will pass the torch to someone else.

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

MR. BONNER: Thank you, Mr. Speaker. It's a pleasure to rise today to speak to Bill 23, the Railway Act. I think it is a progressive piece of legislation in a number of ways, and my colleague from Edmonton-Centre has certainly discussed section 56, where we have many reservations. But at a time in this province when our major railways are being forced to give up short lines, to give up unproductive lines, we are going to see certainly the development of many shorter lines and the development of many more railroads in this province, so this is a good piece of legislation in that it does address this particular problem.

This act will replace the old Railway Act as well as the Central Western Railway Corporation Act. This new act will address the gaps that do exist in the old act, and they exist because of the role played by the federal government regarding the administration of railways.

Now, there are three main objectives to this new bill. One that I would like to focus in on this afternoon is that it does give the ability to the minister of transportation to create safety regulations. Extremely important. Anybody that's had any experience working on the railway will certainly realize that one of the main features that any new railroader is taught is safety first. What is now in place across Canada, which is used by our two major railways, is the uniform code of operating rules, and every imaginable safety feature is already being used in there. I would think that when this minister is about to put out safety regulations, he would certainly consult these and adopt many of the rules that exist in a uniform code of operating rules.

Now then, as well, with our new railways and our industrial railways that are developing in this province, these are used by private companies. The major reason for having these industrial

railways is it allows them to do much of the switching. If we look particularly at the Fort Saskatchewan area, where there are so many products not only being shipped out of the plants but products being brought in that are required in the minting and whatever, then of course it is much more efficient for these people to do their own switching in the yards, but it does create problems. These problems exist when these industrial railways happen to cross public lands, use public crossings, whatever, so there is definitely the possibility of public safety being in jeopardy at this particular point.

Again, when we have the transfer yards – and these are places, Mr. Speaker, where the products and the empty cars from these plants are put back on the main line. They do create another problem. When these cars do get out of the yards and onto the main line, it is with drastic results. Extremely bad accidents happen. I'm sure the Member for West Yellowhead could tell us many stories of what occurred when 30 cars escaped from the yards at Edson last year and traveled east at a great speed. Therefore, I love this section in here that does give the ability to the minister of transportation to create these safety regulations.

A second objective of this bill is that industrial railroads and amusement railroads will now be covered under this piece of legislation. Again, a very, very good point. At this particular point as well, we do have to focus in on the safety issues because when we get railcars and engines that weigh so much, you usually only have one opportunity at a mistake, and the result is either serious injury or death. As one old railroader once put it to me: it's better to be a little late in this life than early for the next. So we do have to pay particular attention to safety.

A third objective of this bill is that there are more relaxed rules for the development of short-rail operations. The new act, for example, will again not allow each new operator to have to make up their own act. So this will be comprehensive. It'll certainly be much more efficient, and from that standpoint I think it will be very good. In developing these rules, I certainly would hope that the minister would draw on the wealth of experience established over time by the railway communities here in the city and in the province. These have proven very effective and will be very good.

When it comes to section 56, as I said, the Member for Edmonton-Centre certainly has done a very, very good job there, so I will leave that alone at this time. I thank you for the opportunity to address this particular bill at this time.

Thank you.

[Motion carried; Bill 23 read a second time]

MRS. BLACK: Mr. Speaker, I move that we call it 5:30 and adjourn the House until 8 o'clock this evening, when we'll reconvene in Committee of Supply.

THE SPEAKER: Does the Assembly agree with the motion as moved by the hon. Deputy Government House Leader?

HON. MEMBERS: Agreed.

THE SPEAKER: Opposed? Carried.

[The Assembly adjourned at 5:20 p.m.]

