

Legislative Assembly of Alberta

Title: **Monday, March 18, 2002**

1:30 p.m.

Date: 02/03/18

[The Speaker in the chair]

head: **Prayers**

THE SPEAKER: Good afternoon.

Let us pray. As Canadians and as Albertans we give thanks for the precious gifts of freedom and peace which we enjoy. As Members of this Legislative Assembly we rededicate ourselves to the valued traditions of parliamentary democracy as a means of serving our province and our country. Amen.

Hon. members, would you please remain standing for the singing of our national anthem. Please join with Mr. Paul Lorieau in the language of your choice.

HON. MEMBERS:

O Canada, our home and native land!
True patriot love in all thy sons command.
With glowing hearts we see thee rise,
The True North strong and free!
From far and wide, O Canada,
We stand on guard for thee.
God keep our land glorious and free!
O Canada, we stand on guard for thee.
O Canada, we stand on guard for thee.

THE SPEAKER: Please be seated.

Sergeant-at-Arms, please attend upon our royal visitor.

[The Sergeant-at-Arms left the Chamber to attend His Royal Highness Prince Michael of Kent]

[The Sergeant-at-Arms knocked on the main doors of the Chamber three times. The Assistant Sergeant-at-Arms opened the doors, and the Sergeant-at-Arms entered]

THE SERGEANT-AT-ARMS: Mr. Speaker, His Royal Highness Prince Michael of Kent awaits.

THE SPEAKER: Sergeant-at-Arms, admit His Royal Highness Prince Michael of Kent.

THE SERGEANT-AT-ARMS: All rise, please.

[Preceded by the Sergeant-at-Arms, His Royal Highness Prince Michael of Kent and his party entered the Chamber. His Royal Highness took his place upon the throne]

THE SPEAKER: Hon. members, please be seated.

Your Royal Highness, we are both pleased and honoured to have you address this Assembly in Her Majesty's golden jubilee year. Would you please convey to Her Majesty on behalf of the members here assembled and of all Albertans our congratulations on the occasion of her 50 years of selfless service as Queen of Canada and head of the Commonwealth.

Sir, I would now invite you to give your remarks.

His Royal Highness Prince Michael of Kent, KCVO

Address to the Assembly

HIS ROYAL HIGHNESS: Mr. Speaker, I'd like to thank you and the Members of the Legislative Assembly of Alberta for your kind

invitation to address you today. I can assure you, Mr. Speaker, that I will convey to Her Majesty the loyal message of good wishes which you've expressed on behalf of the Assembly.

I have the fondest memories of my last visit to this province nearly 10 years ago, when I came to Edmonton for the Canadian Finals Rodeo and subsequently visited Calgary. I'm delighted to tell you that I was presented with my black hat before my white one. This time my stay will be brief, but I'm happy to be meeting such a variety of Albertans. Yesterday in Calgary I reviewed a joint services jubilee parade of hundreds of cadets. They, along with youth leaders from Edmonton area high schools whom I met at lunch today, promise a future for Alberta no less impressive than its past.

First thing this morning I visited the Salvation Army headquarters and then spent time with volunteers and veterans at the Colonel Mewburn Pavilion, and later on I will be fortunate to join your Lieutenant Governor in honouring bravery and dedication at a Lifesaving Canada awards ceremony.

The common element of each of these stops on my tour is service. Standing here at the heart of democratic institutions within Alberta, a province named after Princess Louise Caroline Alberta, the fourth daughter of the Mother of Confederation, Queen Victoria, I am especially pleased to be addressing you in the year when a second Queen of Canada celebrates her golden jubilee. Her Majesty the Queen is herself a great exemplar of service to others, and one of the themes of jubilee celebration throughout the Commonwealth this year centres on honouring our Sovereign. The unnumbered acts of kindness of the gift of volunteer hours may not be the stuff of headlines, but they're surely the basis of civil society and of the peace of mind and heart that so characterizes this Maple Kingdom.

By happy coincidence Canadians also celebrate this year the 50th anniversary of the appointment of Canadian Governors General. The first such representative of Her Majesty, The Rt. Hon. Vincent Massey, wrote that it is to the Crown we look "to encourage the spirit of nationhood and to warn against its neglect." The distinct evolution of the Canadian Crown points to the capacity of the constitutional monarchy to be a system of government that is infinitely adaptable.

In this federal system the Crown is actually an 11-fold diadem, assuring the provinces that they are as fully sovereign in their areas of jurisdiction as is the national government in its own compass of responsibility. The golden jubilee is not only a time to pay tribute to the Queen, to whom you and I are proud to give our allegiance; it also offers an opportunity for everyone to learn more about the way nation and province are governed and so to bolster patriotic sentiment with a grounded knowledge of the basis of Canadian parliamentary democracy, institutions, and symbols.

With identity rooted in knowledge and heartened by the beauty of mountains, prairies, and lakes, Fortis et Liber, strong and free, as the Alberta motto reads, will surely continue to be the proud and true boast of this energetic and loyal province.

Thank you, Mr. Speaker. [applause]

1:40

THE SPEAKER: Your Royal Highness, on behalf of all Members of this Legislative Assembly I thank you for your kind and thoughtful words. We wish you well on your tour of Canada.

THE SERGEANT-AT-ARMS: All rise, please.

THE SPEAKER: Hon. members, would you please join in the singing of *God Save The Queen*, led by Mr. Paul Lorieau.

HON. MEMBERS:

God save our gracious Queen,
long live our noble Queen,
God save The Queen!
Send her victorious,
happy and glorious,
long to reign over us:
God save The Queen!

THE SERGEANT-AT-ARMS: Order!

[Preceded by the Sergeant-at-Arms, His Royal Highness and his party left the Chamber]

THE SPEAKER: Hon. members, please be seated.

head: **Introduction of Visitors**

THE SPEAKER: The hon. Member for Grande Prairie-Wapiti.

MR. GRAYDON: Thank you, Mr. Speaker. It's my pleasure to rise today and introduce to you and through you Diana Knight. Diana is the wife of the MLA for Grande Prairie-Smoky. She joins us today because of her deep respect and love for the monarchy and the special anniversary that we are celebrating today. So I would ask you to recognize Diana Knight, please.

THE SPEAKER: The hon. Member for Whitecourt-Ste. Anne.

MR. VANDERBURG: Thank you, Mr. Speaker. It's my pleasure this afternoon to introduce Mr. Bob Jackson, chair of the Aspen regional health authority; Mr. Bob Cable, chief executive officer; and Ms Debbie Pall with the Aspen regional health authority. Aspen health reaches into the constituencies of Whitecourt-Ste. Anne, Redwater, Athabasca-Wabasca, Spruce Grove-Sturgeon-St. Albert, and of course your constituency, sir, Barrhead-Westlock. Aspen is one of the most progressive rural health authorities in Alberta. They are seated in your gallery this afternoon, and I'd ask them to rise and receive the traditional warm welcome of this Assembly.

Thank you, sir.

head: **Introduction of Guests**

THE SPEAKER: The hon. Minister of Finance.

MRS. NELSON: Thank you very much, Mr. Speaker. I'm very pleased to introduce a young lady from Calgary who is visiting the Legislature for her first time today. She works part-time in the constituency office of Calgary-Foothills and attends the University of Calgary to become a teacher. I'd ask Michelle McCann to rise and receive the warm welcome of this Assembly.

MRS. McCLELLAN: Mr. Speaker, I'm very pleased to introduce to you and through you to members of the Assembly four special guests today. First is Joanne McDonald of St. Albert and her son and daughter, Brett and Jillian. They're accompanied by Joanne's mother, Brett and Jillian's grandmother and, incidentally, my aunt, Esther McDonald. I would ask that they all rise and receive the very warm welcome of this Assembly.

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

MR. HANCOCK: Thank you, Mr. Speaker. It's my pleasure to rise today to introduce to you and through you to members of the

Assembly employees from Alberta Justice and from the Alberta Solicitor General's strategic management services. These individuals are here on the public service orientation tour, which I understand is being promoted and carried out by the Leg. Assembly Office and by your good office. These four people who are with us today should have not only the thanks but the sympathy of the House because they have to provide strategic management services not only to one department, the Department of Justice, but also to the Department of the Solicitor General, and to deal with two departments requires that much extra effort and perseverance. I'd ask Ms Leslie Noel, Mr. Walter Garcia, Mr. Steve Sinclair, and Mrs. Bobbi Lynn Schmidt to rise and receive the traditional warm welcome and the sincere thanks of this House.

THE SPEAKER: The hon. Member for Bonnyville-Cold Lake.

MR. DUCHARME: Thank you, Mr. Speaker. Today I have the pleasure of introducing four special guests, who are seated in the members' gallery. They are executive members of the French Canadian Association of Alberta: the president of the association, Mr. Ernest Chauvet, and the vice-presidents, Mr. Denis Lord and Mr. Ernest LeFebvre. The fourth person is the president of the Franco-Albertan Seniors Federation, Mme Therese Conway. These people are my guests today as a follow-up to the special celebration that was held this morning in the rotunda to mark the fourth edition of les Rendez-vous de la Francophonie, an International Francophone Day coming up on the 20th of March. Also seated with these guests is Mr. Denis Tardif, the director of the Francophone Secretariat. As I mentioned earlier, they are seated in the members' gallery, and I'd ask them to please rise and receive the traditional warm welcome of this Assembly.

THE SPEAKER: The hon. Member for St. Albert.

MRS. O'NEILL: Thank you, Mr. Speaker. On this day after the glorious 17th it gives me great pleasure to stand here and introduce to you and to all members of this House 25 students who are visiting the Legislature from St. Albert. They attend Leo Nickerson school, and they are accompanied by their teacher, Mr. David Power, and a parent, Mrs. Cheuk Ng. They are seated in one of the galleries because they're going to be seated in the other gallery tomorrow, and I would like them to please rise and receive the warm welcome of this Assembly.

THE SPEAKER: The hon. Member for Dunvegan.

MR. GOUDREAU: Thank you, Mr. Speaker. It's my pleasure today to introduce to you and through you to the members of this Assembly two very special ladies. The first one is Edna St. Andre. Edna used to reside in my constituency in Dunvegan. She's from Girouxville. Edna has been a very, very strong advocate of people with developmental disabilities and has worked on that for well over 20 years. The second lady is my right-hand lady. She is my wife of over 28 years. They are in the public gallery, and I'd ask them to rise and receive the traditional warm welcome of this Assembly.

1:50

THE SPEAKER: The hon. Minister of Children's Services.

MS EVANS: Thank you, Mr. Speaker. I rise today to introduce to you and through you to the rest of the Assembly 80 students and their teachers and chaperones that are with them. They represent Mills Haven school, a wonderful elementary school in Sherwood

Park. They are accompanied by Thelma Beatch, Irene Kolomijchuk, Colleen Alpern, Sigrid Brodeur, and Amanda Lechelt as teachers. Parent helpers are Brad Garneau, Jane Ternes, Chris Foster, Susan Hutton, Mrs. Gravel, Mrs. Elsey, Mrs. Townsend, and Mrs. Sinn. I would ask now that our delegation from Mills Haven school and those that are accompanying them please rise for the warm applause of our Assembly. They are seated, I believe, in both galleries.

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

MR. BONNER: Thank you very much, Mr. Speaker. It gives me a great deal of pleasure to introduce to you and through you to all members of the Assembly a constituent of Edmonton-Glengarry, Jimmy Ragsdale. Jimmy has a keen interest in politics, and he is here to visit us once again. So with your permission I'd ask Jimmy to rise and receive the traditional warm reception of the Assembly. Thank you.

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

DR. PANNU: Thank you, Mr. Speaker. I have two introductions today. First, I'm pleased to introduce to you and through you to all members of the House Lawrence Rockton, the founder and director of AISH & CPP in Action, a nonprofit group. Many of the members of that group and Mr. Rockton have been on the steps of the Legislature this morning to express their concerns to all of us. With the AISH rates being extremely low, they are experiencing poverty, loss of dignity and independence. Lawrence and many of his members are asking the government to increase their AISH benefits and index their benefits to the annual cost-of-living increases. I'll ask Mr. Rockton to please rise and receive the warm welcome of the Assembly.

Mr. Speaker, my second introduction. I'm very pleased to introduce to you and through you to all members of the House a teacher who's been educating our children for the last 23 years. Michael O'Neill teaches in Elk Point. Like thousands of other teachers in Alberta this teacher feels betrayed by Bill 12. He has taken a personal day off without pay today to register his protest with the government policies. I'll now ask Michael O'Neill to please rise and receive the warm welcome of the Assembly.

head: Oral Question Period

THE SPEAKER: The first Official Opposition main question. The hon. Leader of the Official Opposition.

Public Safety

DR. NICOL: Thank you, Mr. Speaker. On Friday, March 15, the Solicitor General insisted that all sex offenders should be classified as high risk and that if this was not the case, then probation officers were to blame, but a 1997 memo from Alberta's correctional services division clearly lays out conditions under which a sex offender could be classified as medium risk. In fact, an offender, now on probation, who committed several sex offences against young boys is rated as medium risk. My questions are to the Premier. Is this soft-on-crime policy driven by public safety needs or budget restraint?

MR. KLEIN: Mr. Speaker, the details of the question I'll take under advisement and under notice and discuss the question with the hon. minister, but in no way, shape, or form is this government's program intended to be soft on crime.

Basically, what we're trying to do and what the Solicitor General is trying to do is find ways to ease pressure on senior probation

officers who deal with high-risk offenders and put some of the less serious cases – and I mean far less serious cases – to so-called caseworkers. Mr. Speaker, I understand that that will be the subject of two pilot projects, one in Stony Plain and one here in Edmonton, I believe. I would ask the hon. leader of the Liberal opposition to wait and see how these pilot projects work out.

THE SPEAKER: The hon. leader.

DR. NICOL: Thank you, Mr. Speaker. To the Premier: has this soft-on-crime policy, allowing sex offenders out with minimum supervision, been approved by the Premier and cabinet?

MR. KLEIN: Mr. Speaker, there is no such thing as a soft-on-crime policy. You have to keep in mind that this Legislature and the laws of this Legislature deal with matters of summary conviction only and do not deal with matters of indictable offences, which are under the Criminal Code. So if the hon. member is talking about crimes as serious as murder or robbery or rape or other serious crimes of fraud, and so on, he's talking about an entirely other jurisdiction, namely the federal government.

THE SPEAKER: The hon. leader.

DR. NICOL: Thank you, Mr. Speaker. Again to the Premier: is it acceptable for the Premier's minister to blame probation officers when her policy is questioned?

MR. KLEIN: Mr. Speaker, the hon. Solicitor General is not blaming probation officers. As a matter of fact, she's trying to assist probation officers in the performance of their duties, and that's why she has established two pilot projects: to see if there are, indeed, more effective and more efficient ways of delivering programs and at the same time provide an adequate level of service for both serious offenders and those who are considered to be not so serious.

THE SPEAKER: Second Official Opposition main question. The hon. Leader of the Official Opposition.

Ministerial Responsibility

DR. NICOL: Thank you, Mr. Speaker. When the Premier added four new ministries to his government a year ago, he assured us that quality control would be improved, yet last week the Solicitor General repeatedly gave the Legislature and Albertans inaccurate and contradictory information while blaming her staff for policy decisions. My question is to the Premier. Is this an acceptable level of performance under this mandate of improved quality control?

MR. KLEIN: Mr. Speaker, that question is subjective in nature. The hon. leader of the Liberal opposition has made a statement which I find not to be true. As I understand it, the question relates to a matter which, I further understand, is a matter of privilege in this House raised by another member of the Liberal opposition, and I would wait to hear the Speaker's adjudication on that particular application.

THE SPEAKER: The hon. leader.

DR. NICOL: Thank you, Mr. Speaker. Again to the Premier: will the Premier confirm that ministers of his cabinet hold ultimate responsibility for policy decisions?

MR. KLEIN: Mr. Speaker, ministers of this cabinet hold responsibility for undertaking and delivering the policies, but policy develop-

ment is far more complex than the ministers simply bringing forward a ministerial order. We have a system that is very democratic in our caucus, where things are first vetted through agenda and priorities, then to the standing policy committees, then on to cabinet, and then to caucus for a full discussion. Once the policy has been developed, it's up to the minister to make sure that that policy is carried through.

THE SPEAKER: The hon. leader.

DR. NICOL: Thank you, Mr. Speaker. Again to the Premier: what is the Premier going to do about this minister that's out of control and blaming her staff?

2:00

MR. KLEIN: Mr. Speaker, she's not out of control, not by any stretch of the imagination. The minister, with all due respect, is a wonderful individual, deeply concerned about matters of community safety. I would remind the hon. member, the leader of the Liberal opposition, that it was this minister who, I know, firsthand took it upon herself to travel with the Calgary Police Service, perhaps with the Edmonton Police Service as well, long before she was the Solicitor General, to get a firsthand look at criminal activity in both major urban centres. It was this minister who had the compassion to see the plight of young children who were being used – and I mean used and abused – by pimps and johns and to bring in very meaningful legislation, the Protection of Children Involved in Prostitution Act, Mr. Speaker. So he's talking about a minister who has tremendous compassion and, I would suggest, a great deal of respect and admiration for the principles and the letter of the law.

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

Bill 12 Protest

DR. MASSEY: Thank you, Mr. Speaker. The Premier took comfort last week in noting that no one was protesting the passage of Bill 12. Last night 3,000 citizens held a vigil for the bill on the steps of this Legislature, and today teachers have withdrawn all voluntary services. My questions are to the Premier. Has the Premier taken any action to address parent concerns with Bill 12?

MR. KLEIN: Yes, Mr. Speaker, as a matter of fact we have. But to address the preamble, I'm not saying that there haven't been protests. Indeed, I get hundreds of letters, primarily from teachers, complaining mostly about teachers' salaries and, more recently, about classroom conditions and other matters associated with education. What are we doing about it? Well, relative to the salary issue, certainly some school boards have negotiated salaries that are deemed to be satisfactory to the teachers and the teachers' union, because settlements have been reached. Relative to those where it seems that there's an impossible impasse, those matters have been sent to arbitration. It's an arbitration that was agreed to by the ATA and agreed to by the Alberta School Boards Association.

Relative to the other issues, Mr. Speaker, the issues that are fundamental to the questions of education delivery, that will be considered by a blue-ribbon panel or commission or a summit or a combination of the two, but what we will do is give this whole matter a thorough and complete examination.

THE SPEAKER: The hon. member.

DR. MASSEY: Thank you. Again to the Premier, Mr. Speaker. Parents are concerned with the punitive sections of Bill 12. Have you taken any action to address those concerns?

MR. KLEIN: Mr. Speaker, there are no punitive sections to Bill 12. There are sections in virtually every bill that we pass, because when we pass a bill, it becomes the law – the law – of the province. When you break the law, there are consequences, so the bill speaks to what may happen if you break the law. If you live within the law, there is absolutely nothing punitive about the legislation.

THE SPEAKER: The hon. member.

DR. MASSEY: Thank you. Again to the Premier, Mr. Speaker: how many citizens must demonstrate and how many classrooms in this province have to be disrupted before the government abandons those clauses in Bill 12?

MR. KLEIN: Well, first of all, "before the government abandons those clauses in Bill 12?" What clauses? We have no intention of abandoning any clause in Bill 12, Mr. Speaker, because the law is quite good in its intentions, very good in its intentions, and really achieves, in my mind and in the minds of most who had the opportunity of meeting with Mr. Booi and meeting with the president of the Alberta School Boards Association, precisely what they wanted it to achieve.

THE SPEAKER: The hon. leader of the third party, followed by the hon. Member for Calgary-Bow.

Education Services Settlement Act

DR. PANNU: Thank you, Mr. Speaker. The chickens are coming home to roost on the government's decision to give teachers the legislative shaft through Bill 12. Earlier today the ATA announced that it is asking teachers to withdraw all services provided to the Ministry of Learning, including the marking of diploma and achievement exams. Students will suffer, and it's the government's fault. To the Premier: why did the government expand the definition of an illegal strike in section 1 of Bill 12 if not to punish teachers who withdraw voluntary services?

MR. KLEIN: Mr. Speaker, there is nothing in the bill that prevents teachers from so-called working to rule or withdrawing voluntary services. Absolutely nothing in the bill. There is nothing in the bill, by the way – and it's absolutely astounding how these things are picked up and are printed and broadcast as fact: it's a statement of fact that teachers no longer have the right to assemble. You know, I have read this with absolute amazement, and I'm astounded. Quite frankly, you know, I wonder if I did that when I was a journalist. Well, I found that very, very strange. When I arrived at High River the other night to speak at a constituency function, there were about 20 teachers outside who stampeded after me with placards waving and all kinds of nasty things written on them. That seemed to me to be a bit of an assembly. I said: you know, it's your right to protest.

The hon. leader of the Liberal opposition, or maybe it was the leader of the third party, alluded to 3,000 people, many of whom were teachers, assembling in front of the Legislature. Well, that was obviously an assembly. So it astounds me. Where are these people who say in one breath that it's against the law or that the government is prohibiting us from assembling, yet they take pictures of these assemblies? You know, go figure.

THE SPEAKER: The hon. member.

DR. PANNU: Thank you, Mr. Speaker. Why did the government put an extremely punitive provision in Bill 12 which empowers the

Labour Relations Board to override the ATA's authority to collect dues from its members if not to punish teachers who withdraw or threaten to withdraw nothing but voluntary services?

MR. KLEIN: I'm sorry, Mr. Speaker. I don't have the legislation in front of me, and I don't know to what section the hon. member alludes. Perhaps the hon. minister can shed some light on it.

DR. OBERG: Sure. Thank you very much, Mr. Speaker. Included in this legislation are some penalty clauses, but I will say at the outset that these penalty clauses have been directly lifted from the Labour Relations Code, which the Alberta teachers do operate under as well. So they are identical to what is in the Labour Relations Code.

THE SPEAKER: The hon. member.

DR. PANNU: Thank you, Mr. Speaker. Even at this very late hour why doesn't the Premier choose the path of labour peace by putting his punitive Bill 12 on hold and instead sit down with teachers to establish a fair and impartial arbitration process?

MR. KLEIN: Mr. Speaker, the arbitration process is fair. It is fair. I would remind the hon. leader of the third party that this is precisely what the union president asked for. This is precisely what the president of the Alberta School Boards Association asked for. The fundamentals are precisely what they asked for, and that is the truth. It amazes me that the hon. leader of the third party can't get that through his head.

2:10

THE SPEAKER: The hon. Member for Calgary-Bow, followed by the hon. Member for Edmonton-Centre.

MS DeLONG: Thank you, Mr. Speaker. I have received calls from some of my constituents regarding the Education Services Settlement Act. They're concerned that this legislation infringes on their teachers' basic right to strike. My question is to the Minister of Human Resources and Employment. Can you please clarify this?

MR. DUNFORD: Well, Mr. Speaker, the Education Services Settlement Act doesn't infringe on the teachers' right to strike. What is contemplated here under agreement by the parties is that there would be a binding arbitration process put into place. Anyone that has any experience, of course, with the Labour Relations Code would know and understand that when there's a binding arbitration in place, then it removes, for the instance that we're dealing with here, that particular right to strike. So job action cannot take place, then, while this binding arbitration is in place. The binding arbitration is going to lead to a collective agreement, and of course strikes are illegal when there's a collective agreement in force. So the basic right to strike is still there. A binding arbitration was asked for. A binding arbitration is in place. You can't have the ability to strike and a binding arbitration at one and the same time.

MS DeLONG: To the Minister of Human Resources and Employment: is it true that teachers cannot speak to each other about their current labour situation without risking a possible fine?

MR. DUNFORD: Well, as we've just heard recently, nothing could be further from the truth. There is nothing in the legislation that prevents the teachers' ability to assemble, and the Premier talked about some occasions where it's already occurring. Let me assure

the member and all the members here in the House and the Alberta public that's watching that teachers are free to talk about their current labour situation or any other topic.

MS DeLONG: To the same minister: whose responsibility is it to determine whether strike activity is occurring?

MR. DUNFORD: Well, in the unlikely event that job action might be taken, it would really be up to the school board as the employer to determine if they felt that concerted job action was taking place. They would then, of course, have to make an application to the Labour Relations Board, again, indicating that they believe that an illegal strike is taking place. It would be up to the Labour Relations Board to make that determination, and of course that's part of their responsibilities. It's traditional within this province. It's part of something the Labour Relations Board does on a continuing and traditional basis. So there's really nothing new here despite the attempts of the opposition parties and others to try to make it so.

THE SPEAKER: The hon. Member for Edmonton-Centre, followed by the hon. Member for Wetaskiwin-Camrose.

Teachers' Labour Dispute

MS BLAKEMAN: Thanks very much, Mr. Speaker. Teachers have no confidence in the Learning minister and will no longer support his ministry in any way, including marking achievement tests or diploma exams, preparing those exams, conducting field testing for exams, serving on any Alberta Learning committee, distributing any Alberta Learning material, piloting new curricula, and a whole multitude of other services. My questions are all to the Minister of Learning. Where is the minister going to go for help to complete these tasks?

THE SPEAKER: The hon. minister.

DR. OBERG: Thank you very much, Mr. Speaker. Today we received formal notification from the ATA that services such as marking achievement tests, marking diploma exams, piloting new curriculums, field testing, these types of things, will be withdrawn by the Alberta Teachers' Association. I'd like to say at the outset that that's extremely unfortunate. I do believe that this will be to the detriment of students, and that is extremely unfortunate.

Mr. Speaker, when it comes to the actual question that the hon. member asked about marking diploma exams and marking achievement tests, we do have a considerable number of contingency plans under way. For example, where mechanical correcting can be done, that will be done. We are also looking at utilizing our existing staff and possibly some other staff in order to do it. I can assure Albertans that the diploma exams will be completed, that they will be marked on time, and that the students will achieve their final marks.

THE SPEAKER: The hon. member.

MS BLAKEMAN: Thank you. What plans does the minister have to regain the confidence of teachers?

DR. OBERG: Mr. Speaker, the one thing that I will say as well – and I do believe that this needs to be said – is that the whole marking thing is not a voluntary process. The teachers are paid to come in and mark, but they have withdrawn that.

When it comes to winning the trust of the teachers, I think that's something that is extremely important. It's very detrimental when

the Minister of Learning and the Ministry of Learning lose that trust, but we will do whatever we can to bring that trust back, to move on with the learning system, to move in the direction that will make it a better learning system than it already is. Mr. Speaker, I must remind the Assembly yet again that this is the best public education system in the world bar none.

THE SPEAKER: The hon. member.

MS BLAKEMAN: Thanks, Mr. Speaker. Does the minister believe that a policy of poisoning the teaching atmosphere will help students learn?

DR. OBERG: Well, Mr. Speaker, I don't believe that a policy of poisoning the teaching environment will help students learn. Absolutely not. What happened, as the Premier has alluded to already, is that the Alberta Teachers' Association through the president, Mr. Larry Booi, came in and met with the Premier. As a matter of fact, I have the *ATA News* right here, which says, "ATA proposes arbitration to resolve bargaining impasse." It's on the front page of the *ATA News*. We have attempted to resolve the salary dispute that has been out there. We have put forward a blue-ribbon panel to discuss some of the larger issues around the learning system such as pupil/teacher ratios, such as class size, such as hours of instruction. These very important issues will be looked at, and we have given the Legislative Assembly the go-ahead on that.

Mr. Speaker, the other thing I will say is that we are looking at starting this on June 1 of this year. We're looking at having it completed by Christmas, or shortly before, of this year as well.

THE SPEAKER: The hon. Member for Wetaskiwin-Camrose, followed by the hon. Member for Edmonton-Riverview.

Education System Review

MR. JOHNSON: Thank you, Mr. Speaker. The consequence of the teachers' labour dispute is a heightened awareness of the many complex issues that are part of the learning system. More and more my constituents are seeking information on our learning system. Most recently I was asked questions concerning the role of school boards and their powers to collect taxes and what types of issues will be included as part of the broad review of the learning system as per the Education Services Settlement Act, Bill 12. My questions are to the Minister of Learning. Will the role of school boards be a part of this upcoming review?

DR. OBERG: Mr. Speaker, we are anticipating having an extremely broad review of the learning system. We're presently in discussion with many of the parties involved as to what exactly this review should entail. But in direct response to the hon. member, I would anticipate that it will include roles of the school boards, which may or may not include taxation as well.

MR. JOHNSON: Will taxation powers of school boards then be a part of this review?

DR. OBERG: Again this is something that we do need to look at. I will say that I am definitely not in favour of going back to the situation that we had before about 1995, where we had a situation that if the constituency had pipelines going under it, had a power plant in its boundaries, it would receive more assessment and therefore have more money for education. We had some situations where school boards were spending \$3,000 per student, while other

ones right across the line, right across the border, were spending \$18,000 per student. Through to the hon. member, Mr. Speaker, I don't believe that that's a situation we can allow to have happen again. However, the school boards presently have the ability to tax every three years. At the time of a municipal election they have the ability to put forward a plebiscite. Whether or not that is changed could certainly be an element of the review that we are looking at.

MR. JOHNSON: Finally, to the same minister: will supports for students with special needs be a part of this review?

DR. OBERG: Well, Mr. Speaker, we've done a lot with special-needs students over the past two years. We put in a full review with all the stakeholders, and they subsequently brought back 66 recommendations which we have accepted and will be implementing.

Mr. Speaker, I continue to hear stories from teachers and from parents about issues with special-needs students in the classroom. So I think that I can confidently say today to the hon. member that that will be one of the things we are looking at, because it is an issue that is being brought forward by teachers and is being brought forward by parents, and we need to take a look at it. It's a very important issue. There are definitely two or three or four different sides to this issue, and we do need to take a look at it.

THE SPEAKER: The hon. Member for Edmonton-Riverview, followed by the hon. Member for Calgary-Buffalo.

2:20

Closure of Acute Care Beds

DR. TAFT: Thank you, Mr. Speaker. On January 12 this year the Minister of Health and Wellness said unequivocally – and I quote – that Alberta's public hospitals are not for sale to private interests. [interjections] I can see that many of his caucus agree. Yet last Thursday this same minister left the door wide open to the sale of public health care facilities in rural Alberta to for-profit corporations. To the Minister of Health and Wellness: does this minister deny to this House that he is aware of plans now being considered to close acute care beds in rural Alberta?

MR. MAR: Mr. Speaker, regional health authorities throughout the province are charged with the responsibility of running facilities, some of which are hospitals and others of which are long-term care centres and so on. What I indicated in this House last week – and it's been consistent throughout – is that we have in fact allowed the sale of hospitals to private interests in the past. I'm not denying that we've done that in the past. So for the hon. member to suggest that I've somehow denied that that's ever happened, I confess that that has been in fact the case. But what is clear from our legislation and has been from the outset is that there will be no operation of private, for-profit hospitals in the province of Alberta.

Now, Mr. Speaker, there may be reasons to dispose of an existing facility if it no longer meets the needs of a community and it may be sold, but it cannot be sold to a private interest and then operated as a private hospital, to be clear.

DR. TAFT: I think I need to repeat the question, Mr. Speaker. Does this minister deny to this House that he is aware of plans now being considered to close acute care beds in rural Alberta?

MR. MAR: Mr. Speaker, I'll be happy to entertain his question. However, I should note that regional health authorities are charged with this responsibility. The budget will be of course tabled by our

Finance minister tomorrow. I'm certain that regional health authorities will look at the dollars which are allocated to them. They will do the best job possible for the people that they serve in their respective authorities. That may involve the changing of facilities. It may include the disposal of facilities. It may include the conversion of facilities. This is all hypothetical. We know not now of such plans, but following the budget, things can change and things should always change. We have to have a stable health care system, but it should never stand still. Our health care system should always seek to make the best use of the money we allocate to it so that it reflects the needs of communities and cities and towns and rural areas throughout the province. That is what regional health authorities are charged with doing, and this government will do everything necessary to help RHAs achieve that mission.

DR. TAFT: Well, given the minister's sidestep, I'll get more specific. Will the minister guarantee that no public health facilities in Provost, Coronation, Castor, Hardisty, Killam, Daysland, Wainwright, or Galahad will be sold?

MR. MAR: I cannot give such a guarantee, Mr. Speaker. I've already indicated to him that there are facilities that . . . [interjections]

THE SPEAKER: The hon. minister has the floor.

MR. MAR: I've already indicated to him, Mr. Speaker, that there are facilities throughout this province under the responsibility of regional health authorities. Those regional health authorities make decisions. Some of those decisions are tough; no doubt about it. But the fact of the matter is that there are facilities that may be outdated and no longer have the ability to meet current medical practice. There may be examples where the needs of the community are more focused on long-term care as opposed to acute care. So I'll give no such guarantee. Regional health authorities do have that ability. They will however bring any such plans to the Minister of Health and Wellness for approval.

THE SPEAKER: The hon. Member for Calgary-Buffalo, followed by the hon. Member for Edmonton-Gold Bar.

Budget Briefings

MR. CENAIKO: Thank you, Mr. Speaker. With regard to tomorrow's budget presentation it's my understanding that government provides budget briefings for various people on budget day. My question is to the Minister of Finance. Could the minister advise me of what groups receive these briefings?

THE SPEAKER: The hon. minister.

MRS. NELSON: Thank you, Mr. Speaker. The hon. member is correct; we do provide budget briefings. It's been a tradition in our Legislature, as it is in a number of others. We provide a very technical briefing for our media, and they're in lockup, in embargo, until such time as we stand and give the budget speech within this very Assembly. There are other briefings that are given to stakeholder groups. Some of the opposition receive technical briefings and knowledge of the budget but again embargoed. Quite frankly, they've been very successful over the years. I can't think of a breach that has occurred from the embargoes and the lockups that have taken place.

MR. CENAIKO: Mr. Speaker, my first supplemental question to the same minister: can the Minister of Finance explain why her ministry provides a special briefing for its stakeholders?

MRS. NELSON: Well, I think, Mr. Speaker, it's important that people who are reliant upon the budget process to operate within the province – groups such as municipalities, universities, and hospital groups – have the opportunity to have detailed technical briefings as to what is in the budget document ahead of time so that they can in fact follow through on it, because the very next day or even that evening they are bombarded with requests as to details on the budget information.

Once again I will say that these people are embargoed. They are in lockup, and we have not had breaches of information before that budget document is released through this Assembly.

MR. CENAIKO: Mr. Speaker, my final question to the same minister: do other provincial governments in Canada provide similar briefings?

MRS. NELSON: Yes, they do, Mr. Speaker. In fact, it's the norm to go through lockup on confidential documents, and I think it's been successful. I did try to look back to see if there had been difficulties. With all the speculation that does surround a budget document coming forward, there's quite often lots of speculation, but actual budget briefings usually are very straightforward and very secure.

THE SPEAKER: The hon. Member for Edmonton-Gold Bar, followed by the hon. Member for Edmonton-Highlands.

Low-income Support Programs

MR. MacDONALD: Thank you, Mr. Speaker. Albertans eagerly await the results of the low-income review that began in June of last year. Some programs, like assured income for the severely handicapped and supports for independence, desperately need increased funding for individual payments to some of Alberta's most vulnerable citizens. My questions this afternoon are to the Minister of Human Resources and Employment. Is the minister planning on combining AISH and SFI into one program and one payment?

THE SPEAKER: The hon. minister.

MR. DUNFORD: Well, thank you very much. In fact, we did have a low-income review. We had an excellent group of MLAs that went throughout the province. They have not only sent in a report indicating what was heard from people throughout Alberta, but also, of course, they've made some recommendations. As far as the actual question, the response is still under consideration by the government, and when we do provide that response, of course the question would be answered then, at that particular time.

THE SPEAKER: The hon. member.

MR. MacDONALD: Thank you, Mr. Speaker. Again to the same minister: how much will the minister be increasing the individual benefits for those who are clients of AISH and/or SFI?

Thank you.

MR. DUNFORD: Well, again the MLA committee that went out there – I don't know that they went to every corner of this particular province – did in fact hear quite a bit of information and tried to

provide it as best they could in terms of what they heard. One of the things they did hear, of course, was that in the levels of support, especially in the area of shelter rates, there is quite a difference throughout this province, Mr. Speaker, as you're no doubt aware. So, again, in terms of crafting and drafting the government response, we'll have to deal with that, then, at the proper time.

2:30

THE SPEAKER: The hon. member.

MR. MacDONALD: Thank you, Mr. Speaker. Again to the same minister: will the minister, then, guarantee these Albertans at a minimum that supports will not go down for any of the existing clients and that there will not be any change in eligibility requirements which would exempt any existing clients from receiving support?

Thank you.

MR. DUNFORD: Well, let me deal with it this way. One of the things that makes Alberta extremely attractive to other provinces and to people in other jurisdictions is that we're not shy about performance measurements. One of the things that this government does that's unlike other jurisdictions here in Canada is that we do have measuring up documents where we say to the people of Alberta, we say to opposition members such as yourself: here is how we are willing to be measured. One of those measurements, Mr. Speaker, is the fact that Albertans who need assistance will receive our help, and they'll get it in the sense of a hand up rather than a handout, because we believe that's the proper philosophy.

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

Assured Income for the Severely Handicapped

MR. MASON: Thank you very much, Mr. Speaker. Any time someone rises in the Assembly to question or criticize the assured income for the severely handicapped program, the government retreats into its message box mantra that we in Alberta look after the people better than they do in other parts of the country. Now, whether that's true or not, it completely ignores the real issue facing those Albertans with serious disabilities; namely, that they are falling farther and farther behind the cost of living. It has been three years since the last increase in AISH rates. An increase is long overdue. To the Minister of Human Resources and Employment: will tomorrow's budget include increases of monthly benefit levels for AISH to help Alberta's severely disabled citizens catch up on the rising cost of living, and if not, why not?

MR. DUNFORD: Tomorrow the budget will come down, and he'll see his answer at that point in time.

MR. MASON: It was worth a try, Mr. Speaker.

How can the minister justify adjusting AISH benefits levels only twice in the last dozen years when benefits levels for federal CPP disability pensions are adjusted for inflation every year?

MR. DUNFORD: The AISH program was designed after quite an extensive public review, and I'm surprised at the tone of the member's questions, because most people would acknowledge, in fact including, I would say, many of the AISH recipients themselves, that we have a very good program in Alberta. It looks after the basic needs of most of the particular individuals, and when we do have an individual case where the current level of AISH support payments

won't provide for that particular need, then our staff works with that particular individual and we move them to another program where, then, we can get that assistance to them.

It's an excellent program, I think, by most measurements. Most people would agree – and I think you would yourself, too, perhaps away from this House – that it's a very, very good program and one worth supporting.

MR. MASON: Mr. Speaker, if that is indeed the case, then why doesn't this government establish a benchmark for monthly benefit levels to AISH recipients similar to the average weekly earnings index used to adjust MLAs' salaries so that severely disabled Albertans don't fall farther behind in their living standards? Why are we better than they are, Mr. Premier?

MR. DUNFORD: If I could answer that, although I'm not exactly sure if it was directed, I think that part of the low-income review is to look at all aspects of the AISH program. We have to look at benefit levels. We have to look at asset levels. We've taken some steps in terms of those AISH clients that actually want to work and can go out and work in a meaningful way. We've provided an opportunity for them, again, to do that, and we've reduced any sort of deduction we would make on that.

The member does bring up a particular situation that we have currently facing us that we're going to have to deal with, and that is: what happens to the eligibility of an AISH client when the Canada pension plan disability payment takes them beyond the \$855? Then it's not the income level that's of particular concern, but it's the loss of that medical card. I do agree with the member. We need to have a look at that, and that would be part of what the low-income review would contemplate doing.

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

Foreign Animal Disease Control

MR. HORNER: Thank you, Mr. Speaker. Last week there was a rumour brought to my attention about a possible outbreak of foot-and-mouth disease in Kansas. I've since heard that the quarantine was lifted as results came back negative, but this does raise the alarming spectre of a possible foot-and-mouth outbreak in Alberta. My question is to the Minister of Agriculture, Food and Rural Development. Can the minister advise us on the current status of foot-and-mouth prevention in our livestock in Alberta?

MRS. McCLELLAN: Mr. Speaker, it is true that there was a quarantine in Kansas, and I think that raised the spectre of the devastation that could be caused by that disease if there were an outbreak. The United States and Canada have been free of that. What it does tell us is that the system works. The place was quarantined. The suspect came back confirmation negative, and that's good. However, we do have to continue to keep up our vigilance and our surveillance, and we're continuing to work with the federal government, the Canadian Food Inspection Agency, with municipalities, with our producer organizations to make sure that we are prepared in the event of an outbreak or, most importantly, on prevention.

We very recently had a foreign animal diseases emergency preparedness workshop, Mr. Speaker, and I'm pleased to say that as we speak, a detector dog and its trainer are working together in preparation to come to Alberta. They would be stationed at the Calgary airport. We are assured that this detector dog and its trainer

will be here before the G-8 summit and will be there to help ensure that we don't have any wrong products coming into our country that could pose a threat.

THE SPEAKER: The hon. member.

MR. HORNER: Thank you, Mr. Speaker. My supplemental is to the same minister. This is all good news, the things that she has brought up. However, could the minister tell us exactly what precautions will take place with foreign military coming into the province to train this summer?

MRS. McCLELLAN: Mr. Speaker, the federal government is currently working with the British military on new procedures for military coming in that will cover the disinfection of supplies, equipment, and clothing. Canadian officials will continue to inspect vehicles, and we'll continue to have disinfectant mats in place at our airports, particularly during the G-8.

THE SPEAKER: The hon. member.

MR. HORNER: Thank you, Mr. Speaker. The minister mentioned the foreign animal disease emergency workshops, and I understand that a plan has developed from there. Will Alberta stakeholders be given the opportunity to work with the government departments on this support plan?

MRS. McCLELLAN: Absolutely, Mr. Speaker. It was important that we have producer and industry groups take part when we had our workshop. It will be very important to us that they continue to work with us as we move forward on this. If we did have an incident of any foreign disease coming in, it would be the producers and the industry organizations that would be on the front lines, and it's incredibly important that they are a part of that work.

THE SPEAKER: The hon. Member for Edmonton-Glengarry, followed by the hon. Member for Drayton Valley-Calmar.

2:40

Infrastructure Funding

MR. BONNER: Thank you, Mr. Speaker. Alberta's road construction industry has been told: sorry; there's no more money. Despite record spending on infrastructure last year, now the government is canceling and delaying projects because they are poor fiscal managers. Some of the construction companies have written to all members of this Assembly detailing the staff they are laying off because of this government's fiscal policies. My questions are to the Minister of Finance. Will you please explain your government's roller-coaster funding for infrastructure projects to Alberta companies that are forced to lay people off?

MRS. NELSON: Mr. Speaker, I think we've all had meetings with the association and have heard the concerns expressed by the association. Clearly, the association recognizes that we were in a position where we had to take corrective action last year, and one of the places where we did look at correction was in the Transportation and Infrastructure ministries. They were able to help us through some difficult times as the economy turned downward rather quickly. We have a budget coming forward tomorrow, and as I say, I'm sure that most members in this Assembly have met with the association, and the opposition will just have to stay tuned.

THE SPEAKER: The hon. member.

MR. BONNER: Thank you very much, Mr. Speaker. To the same minister: why do you continue to reject calls from industry and the Official Opposition to provide stable funding for infrastructure projects?

MRS. NELSON: You know, Mr. Speaker, I've heard members opposite talk about putting in place different types of funds and fashioning them after this fund or that fund, but I would remind hon. members that these last three years in the province of Alberta we have experienced the highest revenue levels in the history of our province. If we had adopted the theory from the members opposite, instead of having dollars going into health and education and some of our infrastructure and transportation programs, we would have been in a position where we would have been pulling dollars out and putting them off into a fund for later on. Naturally, you contribute to these funds when you have additional record revenues; you don't do it when you don't have those revenues.

So, clearly, planning is very important. Our goal has been to free up what I have called the dead expense, which is interest expense on our outstanding debt. By taking a billion dollars out of interest expense, we have freed those dollars up forever so that they can be used in core programs and core priorities throughout the government's responsibilities.

THE SPEAKER: The hon. member.

MR. BONNER: Thank you, Mr. Speaker. To the same minister. The government's fiscal policies are costing Albertans jobs and causing cuts to essential services. Is it not time to change policy and implement a fiscal stability fund that will level out infrastructure investment and support small business and our essential services?

MRS. NELSON: Well, I don't know what page this hon. member is on, Mr. Speaker, but Alberta has just come out of a year where we've experienced – our Minister of Economic Development may want to supplement on this – the biggest growth in the economy of any place in Canada. We've had the highest consumer spending confidence in Canada. We have had the lowest unemployment in all of Canada. We have had the highest capital investment per capita in all of Canada. We've had the largest migration per capita in all of Canada of people coming to this province. It doesn't really get any better than what we have in the province of Alberta.

So we have to face some realities as a government. The support, Mr. Speaker, of Albertans and people outside of Alberta, as evidenced by their continual migration to this province, is that they support the framework that this government has put in place, the fiscal framework that provides for stability and a future and a government that does not intrude into the marketplace but in fact deals with the realities that are dealt to them. That's what Albertans want, that's what the people of Canada want, and that's why this province is still the envy of every jurisdiction not only in Canada but in North America. So stay tuned.

head: **Recognitions**

THE SPEAKER: The hon. Member for Bonnyville-Cold Lake.

Les Rendez-vous de la Francophonie 2002

MR. DUCHARME: Merci, M. le Président. Du 11 au 24 mars 2002 on célèbre au Canada entier les Rendez-vous de la Francophonie. Durant cette période de 15 jours on célèbre les communautés Francophones afin de promouvoir la langue et la culture françaises, tant par ses activités sociales et ses célébrations que par sa dimen-

sion humaine et communautaire. Les Rendez-vous contribuent à renforcer les liens entre les Anglophones et les Francophones du Canada et favorisent un plus grand respect entre ces deux communautés.

De plus en plus nos municipalités Albertaines se joignent aux Rendez-vous en tenant des cérémonies pour reconnaître leur communauté francophone. Parmi ces municipalités cette année on compte Edmonton, Lethbridge, St. Paul, Calgary. Félicitations à ces municipalités.

En guise de conclusion, M. le Président, vous me permettez un mot sur l'Association canadienne-française de l'Alberta. L'association a été fondée en 1926, et depuis son établissement l'association maintient un membership imposant, qui se chiffre aujourd'hui à plus de 7,000 membres. L'association a toujours encouragé le développement d'un réseau de bénévoles d'un bout à l'autre de la province, comprenant 10 régionales, un regroupement jeunesse fort et actif, une fédération des aînés, une fédération de parents, et de nombreux autres organismes et groupes.

Merci, M. le Président.

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

W.R. Myers Rebels Boys' Basketball Team

MR. JACOBS: Thank you, Mr. Speaker. I rise to recognize and congratulate the W.R. Myers high school in Taber. This is the same school that a few years ago experienced a tragic event. But this is a happy story. On Saturday, March 16, the W.R. Myers Rebels won the 2002 4A boys' provincial basketball title. They defeated Lester B. Pearson high school 65-58 in a close, hard-fought game. Their head coach is Allen Matthews. The assistant coaches are Rob Rodgers, B.J. Bajowa, and Cory Matthews. The team is as follows: Brant Hansen, Justin Steed, Nelson Porter, Dustin Francis, Paul Garner, Mac Clements, Devin Bennett, Jon Harding, Jayson Barrows, Brandon Bullock, Henry Bekkering, and Brian Steed. The school and the community are extremely proud of the talent and commitment of these players. Also, we are grateful to the coaches, who have volunteered many hours to assist this team to attain this goal.

Again, congratulations to the players, coaches, and parents of these young men. Thank you.

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

Randy Ferby Rink Men's National Curling Champions

MR. MacDONALD: Thank you, Mr. Speaker. I would like to congratulate yet another championship team from the Ottewell Curling Club in Edmonton-Gold Bar. Skip Randy Ferby along with Scott Pfeifer, Marcel Rocque, and the sharp-shooting Dave Nedohin repeated as Canada's men's curling champions yesterday before a crowd of over 15,000 in Calgary at the Nokia Brier. The Ferby rink joins a long, distinguished list of curlers from the Ottewell club who have excelled at the provincial, national, world, and Olympic levels. Credit should also be given to the alternates from all these teams, for we all know that curling is made up of a team of five. I wish the Ferby rink on behalf of all members of this Assembly good luck at the world championships, April 6 through 14, at Bismarck, North Dakota.

Thank you.

THE SPEAKER: The hon. Member for Edmonton-Castle Downs.

U of A Golden Bears Basketball Team

MR. LUKASZUK: Thank you, Mr. Speaker. Yesterday in Halifax the University of Alberta's Golden Bears defeated the top-seeded Western Ontario Mustangs to win their third Canadian inter-university men's basketball championship. The Golden Bears, led by this year's coach of the year, Mr. Don Horwood, made their seventh trip to the nationals over the last nine years and their fifth trip to the finals.

The Golden Bears' success in men's basketball in Canada over the past decade is a result of hard work and a strong team commitment. Mr. Speaker, these players have shown that great achievement is usually borne out of great sacrifice and is never a result of selfishness. I would like to congratulate the U of A Golden Bears, their coach, and all students at the University of Alberta and wish them all much success in their endeavours.

Thank you.

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

2:50

Randy Ferby Rink Men's National Curling Champions

MR. McCLELLAND: Thank you, Mr. Speaker. I join my colleague the hon. Member for Edmonton-Gold Bar as, once again, an Edmonton member of the Legislature rising with the privilege of recognizing the championship achievement of an Edmonton-based team, this time representing Alberta. The Randy Ferby rink, curling out of the Ottewell Curling Club, claimed the national men's curling title, winning the Brier yesterday in Calgary. Edmonton, Alberta, and all Canadians join me in congratulating the skip, Randy Ferby, and his rink: Dave Nedohin, Scott Pfeifer, and Marcel Rocque. Members of the championship rink were quick to point out that it was a team win, with every member contributing, every member supporting the others. It was their combined abilities that resulted in the championship.

Representing the people of Alberta, it is my pleasure and privilege to formally recognize the individual and team achievements of this remarkable rink. Well done. Thank you.

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

U of A Sports Teams

DR. TAFT: Thank you, Mr. Speaker. In a theme today, if Edmonton is the City of Champions, the University of Alberta is the university of champions. The U of A Golden Bears and Pandas teams dominate the Canadian university sports scene like Wayne Gretzky once dominated the ice surface, except that the Golden Bears and the Pandas don't just dominate in one sport. They dominate in almost all. In recent years the Bears and Pandas have won more national championships than I can list here in the time available. In recent weeks the Pandas ice hockey team won their second national title in three years and the Bears won the national volleyball title, and on the weekend just past the Bears won the national basketball title. Next week the Bears hockey team has a good chance of winning yet another national title.

I'm sure all of us join together in congratulating the U of A for being the university of champions and helping make Edmonton-Riverview, where the university resides, the constituency of champions.

Thank you.

head: **Notices of Motions**

THE SPEAKER: Hon. Member for Edmonton-Highlands, you have conveyed to the chair a document. Do you want to just give the members a brief notice of this? We'll deal with it at the end, before Orders of the Day. Just to advise that you want to rise on a point of privilege later in the afternoon.

MR. MASON: Yes. I do, Mr. Speaker.

THE SPEAKER: Hon. Member for Edmonton-Ellerslie, in the same way, you've conveyed to the chair certain written information at the appropriate time this morning.

MS CARLSON: Yes, Mr. Speaker. We will postpone our privilege motion until tomorrow.

THE SPEAKER: Okay. Thank you.

head: **Introduction of Bills**

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

Bill 211
Marriage (Preparation Course)
Amendment Act, 2002

MR. YANKOWSKY: Thank you, Mr. Speaker. I request leave to introduce a bill being the Marriage (Preparation Course) Amendment Act, 2002.

[Motion carried; Bill 211 read a first time]

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

Bill 212
Traffic Safety (Seizure of Vehicles in
Prostitution Related Offences) Amendment Act, 2002

MR. CENAIKO: Thank you, Mr. Speaker. I beg leave to introduce Bill 212, the Traffic Safety (Seizure of Vehicles in Prostitution Related Offences) Amendment Act, 2002.

Bill 212 will contribute to the overriding goal of decreasing the dangers of street prostitution and the victimization of young women by providing another tool for law enforcement agencies to improve the health and safety of Alberta's communities.

Thank you.

[Motion carried; Bill 212 read a first time]

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

Bill 214
Environmental Protection and Enhancement
(Residential Land Disclosure) Amendment Act, 2002

MR. CAO: Thank you, Mr. Speaker. I request leave to introduce a bill being the Environmental Protection and Enhancement (Residential Land Disclosure) Amendment Act, 2002.

Mr. Speaker, Bill 214 addresses and protects the health and wealth of Albertans in their residential property transactions.

[Motion carried; Bill 214 read a first time]

THE SPEAKER: The hon. Member for Drayton Valley-Calmar.

Bill 215

Fair Trading (Cost of Credit) Amendment Act, 2002

REV. ABBOTT: Thank you, Mr. Speaker. I request leave to introduce a bill being Fair Trading (Cost of Credit) Amendment Act, 2002.

Mr. Speaker, the intent of Bill 215 is to reduce the incidence of consumers assuming unsound loans by clearly identifying the APR and by encouraging the minister to establish consumer education programs regarding the cost of credit.

Thank you.

[Motion carried; Bill 215 read a first time]

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

Bill 216
False Claims Act

MR. LORD: Thank you, Mr. Speaker. I'm honoured to rise today to request leave to introduce a bill being the False Claims Act, otherwise known as Bill 216, for first reading.

[Motion carried; Bill 216 read a first time]

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

Bill 220

Water (Transfer Prohibition) Amendment Act, 2002

MS CARLSON: Thank you, Mr. Speaker. I request leave to introduce a bill being Water (Transfer Prohibition) Amendment Act, 2002.

The intent of this bill is to eliminate a line from the current act which would allow for transferring water from the province outside of Canada.

Thank you.

[Motion carried; Bill 220 read a first time]

head: **Tabling Returns and Reports**

THE CLERK: Mr. Speaker, pursuant to Standing Order 37.1(2) I wish to advise the House that the following document was deposited today with the office of the Clerk: return to the order of the Assembly MR2, asked for by Ms Blakeman on behalf of Mr. MacDonald on May 9, 2001, Hon. Mr. Smith, Minister of Energy.

THE SPEAKER: Hon. Member for Edmonton-Highlands, anything further?

MR. MASON: Yes. Mr. Speaker, I'm tabling five copies of postcards signed by 180 Albertans. These Albertans are asking the Premier and his cabinet to increase AISH benefits from \$855 per month to \$1,464 per month while "keeping intact a medical benefits package."

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

MR. MacDONALD: Thank you very much, Mr. Speaker. I have one tabling this afternoon, and that is a letter that I received at the constituency office. It is encouraging citizens to be quite aware of what supports there are for persons with disabilities in this province and what cutbacks have occurred.

Thank you.

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

DR. MASSEY: Thank you, Mr. Speaker. With permission, I'd like to table the required number of copies of a letter from Hull Child and Family Services to a parent of a handicapped child. The letter states that due to the ministry's cost containment strategy, this child will no longer receive service.

THE SPEAKER: The hon. Minister of Health and Wellness.

MR. MAR: Thank you, Mr. Speaker. Sir, I beg leave to table the requisite number of copies of a letter I sent to the hon. Member for Edmonton-Highlands in response to Written Question 5.

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

MS BLAKEMAN: Thanks very much, Mr. Speaker. I'd like to table copies of a letter from Brian Hardy, who's the general manager of Brandt Tractor of Calgary. Mr. Hardy would like the government to reconsider its cuts to the Transportation budget so that businesses can sustain long-term growth.

Thank you.

3:00

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

DR. TAFT: Thank you, Mr. Speaker. I rise today to table five copies of a letter from Mr. Alex Lockton, president of Top Notch Construction of Calgary. Mr. Lockton has written to all MLAs about the 78 Albertans he may have to lay off because of the government's roller-coaster funding of infrastructure projects.

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

MR. BONNER: Thank you very much, Mr. Speaker. With your permission I would like to table the appropriate number of copies of a letter from Mr. Mervyn Pidherney. Mr. Pidherney operates a road construction company and will not be recalling 87 people for this summer's construction season because of cuts to the Transportation budget.

Thank you.

THE SPEAKER: Additional members?

Then before proceeding to Orders of the Day, we have a question of notice provided to the chair under Standing Order 15(2) that arrived in the Speaker's office this morning at 11:15.

The hon. Member for Edmonton-Highlands.

Privilege

Appointments to Electoral Boundaries Commission

MR. MASON: Thank you, Mr. Speaker. Last Thursday I rose pursuant to Standing Order 15(2) on a question of privilege. At that time I indicated that contrary to the Electoral Boundaries Commission Act, section 2(1)(b), which says,

2 persons, who are not members of the Legislative Assembly, appointed by the Speaker of the Legislative Assembly on the nomination of the Leader of Her Majesty's loyal opposition in consultation with the leaders of the other opposition parties represented in the Legislative Assembly,

in fact the consultation with respect to the members, announced by you on that same day, had not occurred between the Leader of the Official Opposition and the leader of the New Democrat opposition. You indicated at that time that we ought to consult with the Leader of the Official Opposition and confirm if in fact that was the case,

and if it was, that we ought to deal today with the question of privilege. We have done so.

The leader of the New Democrat opposition spoke with the Leader of the Official Opposition on Friday, and the Leader of the Official Opposition indicated that in fact we were correct, that no consultation had occurred, in contravention of the act.

The leader of the third party and I also met with the Leader of the Official Opposition and the Official Opposition House Leader this morning. Mr. Speaker, I have to say that in both his conversation with the leader of the New Democrat opposition on Friday and our meeting this morning, we appreciated the forthrightness of the Leader of the Official Opposition, who took responsibility for the situation. Yet the question remains: what is to be done to rectify the failure to consult? The advice received by the New Democrat opposition suggests that a very strong case exists that the privileges of our party in this Assembly have been violated. Section 2(1)(b) of the Electoral Boundaries Commission Act states that there is a clear duty on the part of the Leader of the Official Opposition to consult with other opposition parties in the Assembly.

The purpose of the Electoral Boundaries Commission Act is a very important one with significant implications for all members of this Assembly. What can be more fundamental than the drawing of boundaries for electoral divisions that we as members represent? Electoral boundaries are redrawn at most every 10 years. In other words, the boundaries that are established by the commission that was just appointed last week will be in place for the next two or three provincial elections. Therefore, an Electoral Boundaries Commission plays an important role in the electoral process in Alberta and impacts on the representation of Alberta voters. With this responsibility comes the corresponding obligation to ensure that minority interests are considered and taken into account. This is one of the reasons for requiring that the Leader of the Official Opposition is to consult with leaders of other opposition parties represented in the Legislature before making nominations to the commission.

Maingot in his book *Parliamentary Privilege in Canada* says on page 13 that to constitute privilege, there must be an important obstruction to the member in performing his parliamentary work in either a direct or constructive way. Clearly, a failure to consult constitutes such an obstruction and interference. On page 14 Maingot says that the failure to obey the lawful commands of parliament can constitute a question of privilege. On page 15 Maingot notes that the parliament has the power to punish for these types of contempts.

Mr. Speaker, the House certainly has charge of its own affairs, but members should be aware that significant case law exists on what constitutes the duty to consult. In particular, a 1997 decision by the Alberta Court of Appeal in the case of Lakeland College Faculty Association versus Lakeland College points to the same conclusion. This case law concludes that consultation must be more than a mere formality. It includes a duty to seriously take into account the interest of the party being consulted. It imposes a duty to fully inform the party being consulted of its own position as well as to be fully informed of the position of the party being consulted.

The result, Mr. Speaker, is clear. The Leader of the Official Opposition is required by the act to act in a nonpartisan fashion and to make a nomination in consultation with the leader of other parties. In other words, the nominations themselves must represent the interests of all opposition parties, not just the party of the Leader of the Official Opposition.

Now, Mr. Speaker, in the letter to you this morning I had first suggested that as per 114(2) of *Beauchesne*, if a prima facie breach of privilege had occurred, that matter be referred to a standing committee of the Legislature. I've had the opportunity since to

discuss that matter further with the leader of the New Democrat opposition, and I would suggest, instead of referral to a standing committee, that you as Speaker, in recognition of the fact that requirements of the Electoral Boundaries Commission Act have not been met, rescind the appointments of the two persons nominated by the Leader of the Official Opposition and that a reasonable period of time, perhaps one week, be provided, during which real and meaningful consultation can take place between the Leader of the Official Opposition and the leader of the New Democrat opposition and that after this consultation takes place, the Leader of the Official Opposition resubmit the list of nominations to be appointed to the Electoral Boundaries Commission.

Mr. Speaker, in conclusion, I just want to say that we consider this to be a very, very serious matter. We do not wish to seek any sort of punishment in respect to the matter, but we want to see that our rights are in fact taken into account in the process. That is clearly envisaged in the legislation. The duty to consult is not in fact a mere formality.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Leader of the Official Opposition.

DR. NICOL: Thank you, Mr. Speaker. In response I would just like to kind of give a little background in terms of the process that I followed in making those nominations. This process started in the fall last year when we were in the process of negotiating the incorporation of the changes in the Electoral Boundaries Commission Act into the Miscellaneous Statutes Amendment Act. We were trying to set up a process that would allow for some open discussion, and at that point in time I had written a letter to the Government House Leader and Attorney General, who was sponsoring that piece of legislation, and asked basically for two things. The first one has nothing to do with this, so I'll deal with the second issue, on which I asked for clarification in the letter.

That dealt with the issue of the nomination of individuals to your office with respect to the act. This letter was sent over on September 14, and we were asking for what constituted the options available to deal with that appointment. The clarification that we got back basically stated: I think there is little room for an interpretation other than that you and your caucus name those two persons. Mr. Speaker, I proceeded then, because part of the discussion that brought this up was: what constitutes an official party within the context of the Legislature? That was the discussion behind the request to the Government House Leader and Attorney General about how we interpret the act.

3:10

In effect, then, I responded to your office with the nominations, using the process that was kind of implied in that message back from the Government House Leader and Attorney General, which basically said that, in his interpretation, I would be the one who would on behalf of the caucus name those two persons. I guess the approach that I took was to follow that, and no consultation was undertaken with any other political parties about the process. I ended up, then, this week, in response to a conversation we had on the phone and your subsequent letter, forwarding my letter to you with the two nominees on it, asking that you consider them for appointment.

Mr. Speaker, I undertook that process in the spirit of trying to expedite the movement in the last week or so as we were ending up with some deadlines. The process has to be finished within the time frame of 18 months underlined in the act. So, basically, I was acting under those two premises: that I had the authority to make those

nominations, and based on the clarification of the definition of responsibilities, I made those appointments to your office.

Thank you, Mr. Speaker.

MR. STEVENS: Mr. Speaker, we take no position with respect to the application per se other than to say that the membership of this particular commission has been established, that they have a time frame that must be met, that it's important that they get on with the business at hand, and that whatever transpires, it would be our preference to see the committee as struck continue with the work that they have before them.

THE SPEAKER: The chair would like to thank members for their contributions on this issue.

To review the matter. Last Thursday, March 14, the chair issued a news release appointing four individuals to the Electoral Boundaries Commission. Section 2(1) of the Electoral Boundaries Commission Act stipulates that a commission is to consist of "a chair appointed by the Lieutenant Governor in Council," two persons "appointed by the Speaker . . . on the nomination of the President of the Executive Council," and in clause (b),

2 persons, who are not members of the Legislative Assembly, appointed by the Speaker of the Legislative Assembly on the nomination of the Leader of Her Majesty's loyal opposition in consultation with the leaders of the other opposition parties represented in the Legislative Assembly.

Mr. Robert C. Clark was appointed chair by Order in Council 99/2002, issued March 12, 2002. The chair wrote the Leader of the Official Opposition and the Premier on March 13, 2002, asking for the nominees and reciting the appropriate sections of the act. The names of the nominees were received, and those individuals were appointed on March 14. It should be pointed out that the chair assumes that members are aware of their responsibilities and does not want to start a practice of cross-examining members on whether they have met the necessary preconditions on this or any other matter.

On the same day as the appointments were announced, the Member for Edmonton-Highlands stood in this Assembly and raised his purported question of privilege, based on his understanding that the ND opposition was not consulted about the nominees to the commission, as required by section 2(1)(b) of the act. As recorded at page 374 of *Hansard* for that day, the chair invited the member and his leader to have certain discussions about whether there was any consultation and, if not, to provide the appropriate notice two hours before the opening of the Assembly today, as required by Standing Order 15(2), which he did.

The chair must first consider whether the objection falls within the scope of parliamentary privilege. This is a very, very difficult question, on which long articles will surely and can be written. The question focuses on whether the Leader of the Official Opposition's statutory duty to consult before nominating individuals to the Speaker falls within the accepted categories of privilege or whether it constitutes a contempt. Let there be no doubt that in the chair's mind this is a very serious matter, whether it is technically a *prima facie* question of privilege or not.

During the debate on this purported matter few relevant citations were provided as to how this matter would breach a member's individual privilege or the collective privileges of the Assembly. In fact, the Assembly is not involved in the appointment process. The Assembly through the act has delegated that responsibility to the Speaker, who appoints people on the recommendation of the Premier and the Leader of the Official Opposition. A condition precedent for the nominations of the Leader of the Official Opposition is that they

must be done “in consultation” with the opposition parties represented in the Assembly. This, as has been identified today by the Leader of Her Majesty’s Official Opposition, was not done.

Well, the Assembly itself is not involved in the appointment process. Actors in the Assembly are definitely involved by virtue of their offices. Accordingly, while it is difficult to see how this would constitute a prima facie question of privilege, it is something that is appropriate to be brought to the attention of the Speaker, and there is no better place to do this than in the Assembly itself. In fact, the chair welcomes the opportunity for these matters to be brought forward in an open and in a transparent manner. Furthermore, if the chair did not address this issue, then it might invite the courts to become involved in the matter and in matters that seem more appropriate for the Assembly to consider.

On this specific issue the chair is not convinced that the omission by the Leader of the Official Opposition constitutes a prima facie case of privilege, but this does not end the matter. As the statutory requirement for the Leader of the Official Opposition to nominate individuals in consultation with the leader of the other official parties was by his own admission not met, the chair will today rescind the appointments of Mrs. Bauni MacKay and Mr. Ernie Patterson made last Thursday. These appointments are therefore a nullity.

The chair sincerely regrets any inconvenience or embarrassment to those individuals and to the chair and other members of the commission. However, in the interest of fairness and compliance with the legislation the chair must do so. In the interest of ensuring that the commission can commence its work on a timely basis, the chair invites the Leader of the Official Opposition to follow the statutorily required process and nominate two individuals at the earliest possible opportunity and to advise the Speaker as soon as convenient.

head: **Orders of the Day**

THE SPEAKER: Hon. members, the items of business that would normally be conducted this afternoon entitled Written Questions and Motions for Returns cannot be dealt with today as these items of business have not met the notice of requirement of Standing Order 38.

head: **Public Bills and Orders Other than Government Bills and Orders Committee of the Whole**

[Mr. Shariff in the chair]

THE DEPUTY CHAIR: We’ll call the committee to order.

3:20

Bill 202 Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act, 2002

THE DEPUTY CHAIR: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Red Deer-North.

MRS. JABLONSKI: Thank you, Mr. Chairman, for allowing me to begin Committee of the Whole debate on Bill 202. I was very surprised and honoured that this bill passed second reading unanimously. I would like to thank all of the members of the Assembly for their support and ask for their continued support at this stage as well.

I believe that this bill is important for Alberta. It’s not a massive

change to our legislation, but it’s a small one that is sure to help our employees in the Department of Environment. Today I would like to talk about how the subsections of Bill 202 work on the ground level and in the field.

The support that Bill 202 received in second reading was of two sorts. On one hand, some members supported the bill as it stood. On the other hand, others wanted the word “must” in section 112.1(1) changed to “may.” The support of the latter group was conditional on this change. Mr. Chairman, I’ve considered the rationale behind this change, especially as it was explained by the hon. Minister of Environment and the Member for Airdrie-Rocky View, and I now beg leave to introduce the following amendment, that section 112.1(1) now read:

When the release of a substance has been reported under section 110, the Director may issue instructions immediately to the person responsible for the substance to restore the area affected by the release to a condition satisfactory to the Director.

There are several reasons why I’ve proposed this change. First, in second reading the hon. Minister of Environment expressed concern that the word “must” would create a make-work project for our Department of Environment. The minister noted a small situation where, in all common sense, no cleanup instructions would need to be delivered and asked a reasonable question: why should the department have to issue a letter in this situation, especially considering everything else they have to do in one day?

The Member for Airdrie-Rocky View raised an equally serious concern. She talked about her previous career in the biomedical waste industry and how companies were encouraged not to report spills because of the regulation and red tape tied up in dealing with a spill.

The implication was clear. Bill 202 as it stood was going to cause excessive red tape. This alongside the primary complaint from the Minister of Environment raises a concern. It is definitely not my intent to create legislation that would provide department officials with the incentive to shirk their duties, and I would certainly hope that this is not going on because of any laws that we have now. Red tape poses a tricky issue for any government but especially for a Conservative government committed to the maxim that small government is best.

Obviously, even Conservatives have to admit that some red tape is necessary. With regards to environmental concerns, a government cannot do its job without having a mechanism by which to hold those who have caused damage accountable for their actions. Whether we like it or not, that mechanism is red tape. The key here is whether we are tying people up in it or using it sparingly to guide their way. As a conservative individual I prefer to use it sparingly and only when it is necessary.

I introduced Bill 202 because I was made aware of too many cases where red tape became necessary. I have introduced this amendment because I see that the bill was targeting responsible Albertans that didn’t need to be targeted along with those who ignored the harm their actions are doing to the environment. Frankly, I have no problem with lassoing environmentally irresponsible people with red tape, but let’s also work with responsible Albertans who want to keep this province as pristine as possible. They don’t need our red tape.

I also would like to state that I agree with the minister that we have to be mindful of the employees’ position when coming up with legislation. We don’t want to force our employees to do things that they simply are not capable of doing because of time constraints. When we do this, we encourage shortcuts and run the potential of causing even more damage to our environment. The point is we have to worry about the workload that we put on our employees to

ensure that they can do the job we ask and that the job we ask them to do is the right job for them to do. Their job, in my view, isn't to check out spills from oil trucks that were cleaned up half an hour before they arrived on the scene, and having them waste their time on that paperwork is counterproductive. This is why I've introduced the amendment.

The point is to focus on the spills that need to be cleaned up, and I do believe that this bill with the amendment retains the power to do that. I suggest that it does because of section 112.1(2). I think that there has been a bit of confusion about what the "must" actually refers to. For example, the Member for Edmonton-Strathcona stated that he would like to see the "must" remain because "in far too many instances voluntary compliance just doesn't work."

I brought forward Bill 202 because, as the member stated, in far too many instances voluntary compliance just doesn't work. I raised it because in fact a constituent of my own found himself in just one of those instances. While we're not taking as strong a step by amending the bill, we are still taking a step. I would like to call all members' attention to the wording in subsection (2).

When instructions are issued under subsection (1) and the person to whom the instructions are issued fails to comply, the Director shall issue an environmental protection order to the person responsible for the substance.

There's no ambivalence here. If you are told to do something, you've got to do it. No ifs, ands, or buts. The amendment does two things. First, it says that if you are cleaning things up, we'll leave you alone. Second, it says that if you are not, we'll take you to task.

Much is still left up to the discretion of the Department of Environment. In order for section 112.1 to become active, the department has to issue a letter, and I have faith in our department to properly issue letters to polluters. More importantly, I have a lot of faith in Albertan property owners. Nobody cares about a piece of property more than its owner, and that's just human nature. If we pass Bill 202, we can point out to them that we have a section in our Environmental Protection and Enhancement Act that will work for them if a letter is issued to anyone who pollutes their land.

Now, I'm not Albert Einstein, but I am a property owner, and if my property were polluted and nothing was done about it, I'd sure ask the Department of Environment: "If section 112.1 becomes operable once you issue a letter, why haven't you issued a letter? Let's get things on the go here." I'd keep bugging the department until my problem was solved. I'd have faith in our department, but if they were not rewarding my faith with solid action, I'd be on the responsible director like gangbusters to get things done.

So while I've proposed the amendment, the crux of Bill 202 still remains. The bill still requires polluters to follow the instructions of any letter issued under section 112. If they do not, they are subject to an environmental protection order and the penalties that are associated with that. The meat of the law is therefore still in place.

In conclusion, Mr. Chairman, I would like to thank all members for their support in second reading. It's rare that we ever see such agreement in this Assembly, and I am humbled to be at the centre of it. I do hope that it remains through the committee stage. I would like to thank those who expressed concerns with the bill in second reading and sincerely do hope that the amendment has strengthened your resolve to vote in favour of Bill 202. To those who express worry over this amendment, I certainly look forward to hearing your thoughts on this amendment, both for and against. However, as I said to conclude the second reading debate two weeks ago, this isn't a giant step, but it is a concerted effort to repair what I see as a hole in our legislation. It's a conservative step but one that I hope members on all sides of our Assembly can see the logic of.

Thank you, Mr. Chairman.

THE DEPUTY CHAIR: Hon. members, the hon. Member for Red

Deer-North has introduced an amendment, and we shall refer to that amendment as amendment A1.

The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. On the amendment as before us there are a few points I'd like to address about the amendment. The Member for Red Deer-North said that this was a conservative step forward, and I would agree with her. We liked it a little bit better when it was a liberal step forward and stated "must" rather than "may," but it isn't that watered down that we can't support it.

AN HON. MEMBER: It's not polluted either.

MS CARLSON: Well, what we want is polluters to stop polluting. There's no doubt about that, and we've been advocating very strongly in that regard for any number of years.

The Member for Red Deer-North stated that she had faith in the department to properly issue letters to polluters, and so do we, Mr. Chairman. It's actually quite a good department overall. However, the biggest problem with enforcement in this province has not been the regulations and the goodwill and the letters going out. It has been the actual follow-up, and that's due to a lack of staffing, not due to a lack of intent in terms of what the department wants to do. So that continues to be a concern. I don't see that addressed here. Hopefully we will see that there is adequate follow-up in these instances, but that doesn't always happen.

3:30

The Member for Red-Deer North has been here now for just over a year, so she hasn't had an opportunity to see that most of the time the Official Opposition in this province does actually support what the government is doing. If we look at it statistically, I have to say that we vote 75 to 80 percent of the time with the government on issues of the day. When we step up to the plate and state that we see that there's something missing or wrong or that could be improved, certainly we're happy to very aggressively pursue that particular agenda. Sometimes the government actually listens and sometimes will adapt or adopt the changes that we recommend.

In this case, though, we've been quite supportive of this bill. As it has gone through, as I said, I'm a little disappointed that they changed "must" to "may," but when the minister stands up and says, "We've changed 'must' to 'may' or there'll be no 'must' in terms of supporting this bill," then the member did the right thing, because it's a step in the right direction.

So with that, Mr. Chairman, I will conclude my remarks and be happy to support this amendment.

THE DEPUTY CHAIR: The hon. Member for Calgary-Cross.

MRS. FRITZ: Thank you, Mr. Chairman. I'm pleased as well to debate the proposed amendment to Bill 202 that's before us here in committee. I really think that this amendment as put forward by the author of the bill, my hon. colleague from Red Deer-North, is a thoughtful, insightful amendment. My colleague wants to change Bill 202 so it is workable not only in the best interests of our constituents but also in the best interests in our employees, and I strongly support my colleague with this intent.

Mr. Chairman, like the sponsor of the bill I believe that we have to look at the current abilities of the Environmental Protection and Enhancement Act to effect positive change and build upon effectiveness rather than detract from it. I believe that leaving in the word

“must” builds in a bureaucratic inefficiency that could in fact harm the environment in the long run. I really think that we have to look at the hard realities of the bottom line as well as a degree of reasonableness in how our staff members, who already, as was said earlier, work very hard in our best interests, function.

Our goal isn't to make the legislation so cumbersome that it requires unnecessary paperwork. People, I think, really should be allowed to do their jobs with the best interests of all Albertans in mind, and that's what my colleague is doing with this amendment, Mr. Chairman. She's permitting that to happen and allowing that to happen or working toward that intent.

To leave the word “must” would serve only, I think, to overutilize valuable manpower resources. In many cases that's not a required measure. It's not practical. This amendment gives the department the necessary flexibility to decide for themselves in any circumstances if further action is warranted. What a luxury to give to an employee, hon. colleague across the way, who said that there isn't follow-up, to allow the employee to actually follow through with what further action they see is warranted, and that's what this amendment does do.

The assertion that this would somehow limit the effectiveness of Bill 202 I find very questionable. The more legislation we have that micromanages the department, which is not what our employees are looking for, the more we're limiting their ability to prioritize department resources, to use good judgment, and to respect good faith arrangements with our public.

We have to recognize, Mr. Chairman, that our departments are trying to do the best job they can, and if we confine them to what they must do, we limit their ability to problem solve creatively, to save time, and to save ultimately taxpayers' dollars. But if we provide flexibility in the legislation, which is what my hon. colleague is doing with this amendment, then we can trust, I believe, that the spirit of the legislation will be followed.

The alternative is not trusting our employees to follow the spirit of the law, and that, I think, is just a formula for waste. We'd have to hire officers to ensure that other officers are following the letter of the law if it had stayed in, and you can see, Mr. Chairman, that taking, as my colleague said, the first step, saying that something must be done, leads to tacking on more and more staffing and monitoring requirements.

While we'd all agree that our environment deserves the best protection we can provide, we ultimately have to also expect voluntary compliance. Governments cannot be everywhere and do absolutely everything. We can only provide a framework to encourage compliance, and in my opinion that should not include an arduous process and a never-ending paper trail. By including the word “must,” we may be pushing levels of voluntary compliance and co-operation down while increasing the workload and reducing the productivity of our environmental officers, Mr. Chairman.

I'd like to give you an example of some of the other laws that use the word “may,” and I think that they're still very fair and evenly applied. If we look at the powers of officers under the Highway Traffic Act, nowhere in the text does it prescribe what the officer must do in the event of an infraction. In this case, the use of the word “may” allows the officer to use discretion, observe the situation, and then make an informed and rational decision about issuing a ticket, warning, or citation or arresting the violator. I hope I have that correct. We heard from our hon. colleague at a meeting that we were at here at the Legislature. Last week my colleague from Calgary-Buffalo said that in the previous occupation he had, that's what the officers do.

It really is ultimately an issue about trusting the officer to perform his duty in the best way he sees fit. The same is true, I think, Mr.

Chairman, for officers in our government departments. We need to provide the same kind of flexibility that would allow officers to perform their duties in the most efficient and reasonable way that they see fit. Rigid legislation would imply that extra staff is required to cross every t and dot every i, and I don't think that's reasonable. It would prove to be highly impractical, the very reason why I think that legislation should remain flexible.

Effectively, by saying what an officer of the government must or must not do, the legislation would be taking away, I think, the power of an officer's better judgment. Our departments are doing the very best they can to manage their time, to provide excellent service for taxpayers' dollars, and I know that we all believe that. Enabling them to use better judgment does not amount to a “loophole that you could drive a Mack truck through,” as the Member for Edmonton-Highlands so eloquently put it in earlier debate. There is no loophole, because the very capable staff in our departments are there to ensure compliance with the spirit of the legislation.

Mr. Chairman, the employees of the Department of Environment do work very hard to protect the air, water, and lands of our beautiful province, and implying that they require legislation that tells them exactly how to do their job I don't think is really appropriate. There are situations where legislative language has to be very firm, but I don't think this is one of them. This amendment to Bill 202 would allow the department to function with efficiency and discretion, and by telling the department what they must do, we are creating a situation where employees simply act without that discretion.

Mr. Chairman, the Environmental Protection and Enhancement Act has done so much to add to the Alberta advantage. One of the principles of the legislation when it was introduced was that it would offer substantial ease by combining four acts into one concise, targeted act, and this single act provides environmental protection to our province's land, air, and water, as I said earlier, and, importantly, one set of rules to govern them all. It's important that the rules in the act remain flexible to allow the department to respond to situations as necessity and good sense dictate and not as stringent or inflexible legislation would dictate. That is the point of the amendment to Bill 202, and changing the word “must” to “may” will not dull the edge of the proposed legislation.

As I said earlier, the changing of the word will serve to make the bill even more effective and not waste valuable departmental resources. I believe that it's very much a matter of philosophy, Mr. Chairman. The government has set a standard of less is more, and that is to say, as we hear many times in the Legislature, that less government is better. Albertans do want specific, targeted services. I think Albertans have come to realize that the government is here to assist, not to interfere where they're not wanted. If complaints come to a department, employees do their very best to investigate and resolve any problems as quickly and as efficiently as possible. Each and every government department is doing all it can to achieve this kind of efficiency, and it's important that legislation not block these efforts.

3:40

Mr. Chairman, this is a discussion about what the core businesses of government are and should be. Should we be a safety net to ensure that Alberta's environment remains pristine and beautiful? Absolutely we should. So while the goal remains the same, to protect our environment, we must approach the matter with some finesse and flexibility, and this is the difference between “may” and “must.”

I strongly encourage all members of the Assembly to support the amendment that my hon. colleague has put forward, and more importantly please support the overall bill, Bill 202.

Thank you, Mr. Chairman.

THE CHAIR: The hon. Member for St. Albert.

MRS. O'NEILL: Thank you very much, Mr. Chairman. Not to sound redundant, but I would like to rise today and speak in support of the amendment to the Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act, 2002. The amendment that the sponsor of the bill has proposed here this afternoon speaks to the issue of flexibility, determining the wisdom of how staff should act in the face of a circumstance, and it also identifies the confidence that we should have in those who attend to a spill and are able to make the assessment as to whether it is or isn't being attended to and how it should be looked after.

The benefit, as I see it, of this amendment is that it will allow on-site staff that flexibility that I just mentioned. They will be able to see whether a cleanup process is under way. They will be able to then determine if that is adequate and is being addressed properly, and if it isn't, then they have the ability to call into force all of those resources that need to be done. The amendment also suggests that the department can allow that to continue, the inspectors, if you will, or the staff to continue with their work without having to be interrupted by the formality of filling out forms, of administration, of dealing with a process that perhaps would delay the immediate cleanup rather than having to look, respond, make a judgment, and encourage the cleanup as it would take place.

We all know that in looking at this amendment that is proposed, if a cleanup of a spill has not progressed to the satisfaction of the inspector, a letter can be issued that would ask the offender to do any one of a number of things. For instance, the letter could include that the request for cleanup and action immediately "measure the rate of release . . . of the substance" so that we would know what are the circumstances that are there. This letter could "minimize or remedy the effects of the substance on the environment" so you do get a proper assessment as well.

This letter could request the restoration of "the area affected by the release to a condition satisfactory to the Director," and in addition to that – again I'm pointing out that there are a number of recommendations that could be made – that letter could request that the site "monitor, measure, contain, remove, store, destroy or otherwise dispose of the substance," that all of those measures be looked at, to "lessen or prevent further releases of or control the rate of release of the substance into the environment." What I'm pointing to is that I believe the inspector who arrives on site and the team there can take a look at the particular site, again adjudicate what would be the most proper means to identify what is happening, and take action, if it isn't happening, to remediate the site.

The letter could also request the individual or the company responsible for the spill to "install, replace, or alter any equipment . . . in order to control or eliminate on an immediate and temporary basis the release of the substance into the environment." So, again, a proper understanding of what is happening on-site.

The whole purpose of this amendment is, quite simply, to suggest that the wisdom of those who are working on-site can be applied directly, immediately, and appropriately to the circumstances that they find as they observe the site, looking at the responsible protection of our environment that we all want so dearly for all of our sites, whether they be owned privately or whether they be part of another common usage, if you will, or rental.

Without saying much more, Mr. Chairman, I'd like to again highlight the fact that this amendment allows for flexibility of the staff who come on-site to recommend or to request or to encourage or to approve the process that is already in place, and if it isn't, then to take some action as it should appropriately be done. So I would encourage everyone in this Assembly to support this amendment to

the Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act, 2002.

THE DEPUTY CHAIR: The hon. Member for Edmonton-Gold Bar is rising on a point of order?

MR. MacDONALD: Yes, please, Mr. Chairman.

THE DEPUTY CHAIR: Go ahead.

Point of Order
Distribution of Private Members' Bills

MR. MacDONALD: Thank you very much. I rise for a point of order under Standing Order 72, printing of bills: "every Bill shall be printed and distributed to all members before second reading." Also for your convenience, Mr. Chairman, I would like to refer to *Beauchesne* 644(3): "no bill may be introduced either in blank or in an imperfect shape." It is my view that both Bill 212, the Traffic Safety (Seizure of Vehicles in Prostitution Related Offences) Amendment Act, 2002, that was introduced earlier this afternoon by the hon. Member for Calgary-Buffalo, and Bill 211, the Marriage (Preparation Course) Amendment Act, 2002, by the hon. Member for Edmonton-Beverly-Clareview – now, the title page is Bill 211, but if you look in the inside, you have the amendment to the Traffic Safety Act, Bill 212, and I don't consider that to be suitable. It certainly is imperfect, as is Bill 211.

Now, we've had incidences here in the past, Mr. Chairman, where there was legislation introduced that obviously had not been read thoroughly by many hon. members of this Assembly, and I refer to the last term, with Bill 11. At this time I would seek direction from the chair, but in my view these documents certainly are not perfect.

Thank you.

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

MR. STEVENS: Well, this appears to be one of those cases where the point that the hon. member is making is self-evident from the documents he's referring to. The only comment I'd make is that we're in committee on some other matter, and I wonder whether this is the appropriate time to be raising this matter for your consideration, in Committee of the Whole. But certainly it does appear that the front page of those two particular acts is not in accordance with the body of them.

3:50

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

MR. MacDONALD: Yes. In response to the hon. Minister of Gaming and Deputy Government House Leader, I would like to say that it is my obligation to bring this to the attention of the Assembly as soon as possible. After question period today I thought I would read the legislation that was introduced by private members who are also members of the government caucus. It's my first opportunity to see this, and I think it's imperative that this be brought before the Assembly at this time.

Thank you.

MS CARLSON: Mr. Chairman, I would like to speak in support of my colleague from Edmonton-Gold Bar's point of order. There is no doubt that there are many precedents in this Assembly where we are expected to call to account members or positions taken or papers put forward by members at the earliest possible opportunity where

we see an oversight. Here we have not one but two bills which have been mixed up in the printing schedule and have escaped somebody's eyes when they were reviewing them. So I do believe that there is a valid point here, and it needs to be addressed immediately.

MR. STEVENS: The only other comment I would like to make, Mr. Chairman, is simply this, that this is highly unusual. The Queen's Printer is responsible for the printing of these documents. As you are well aware, we don't see them until they hit the floor of the House. It seems to me that, upon reflection, the wisdom of the chair and the Speaker's office will come to some equitable solution which will maintain the standing of these good bills.

THE DEPUTY CHAIR: The hon. Member for Calgary-Currie, followed by the hon. Member for Edmonton-Highlands.

MR. LORD: Thank you, Mr. Chairman. I just rise to make note that I've already sent notice to you that the bills have been mixed up inside. So maybe to settle this point of order, I can assure the members opposite that this has been drawn to the attention of the chair, and I am sure that it will be rectified as soon as possible.

Thank you.

MR. MASON: The only thing I can add, Mr. Chairman, is that we think that in some way this must be related to government cutbacks in some fashion or another.

THE DEPUTY CHAIR: Hon. members, the chair would like to advise everyone on a couple of matters here. First, the appropriate timing for bringing forward a point of order would have been in Assembly and not in committee. However, having said that, the chair was made aware of the issue by the Member for Calgary-Currie. Upon reviewing both the bills that were tabled, bills 211 and 212, they were tabled with the Clerk in their appropriate format. However, the copy that was sent and circulated does have the misprint that has been identified. The appropriate people involved in the printing process have been advised, and the chair has been informed that a reprinted copy with the correction will be circulated in due course. However, for the record the official copies of bills 211 and 212 have been tabled as required.

Debate Continued

THE DEPUTY CHAIR: We shall proceed with the debate. The hon. Member for Calgary-Fort.

MR. CAO: Thank you, Mr. Chairman. It is my pleasure to rise again and speak in this committee on Bill 202, the Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act, 2002. I support the proposed amendment to this act brought forward by the hon. Member for Red Deer-North that would have the perpetrators of environmentally harmful substances be forced to remediate the spill according to the directions set out by the Ministry of Environment. I also support Bill 202 because it would help speed up actions to be taken to contain and control the source and the movement of contamination.

Since the second reading of Bill 202 the member has amended this bill to reflect the current need for some flexibility when dealing with environmental cleanups. In second reading of Bill 202 it was stated in section 112.1(1) that "the Director must issue instructions immediately to the person responsible for the substance to restore the area affected by the release to a condition satisfactory to the

Director." The amendment to Bill 202 is that the director "may" issue the instructions immediately.

I agree with this amendment. I understand there is the need, when dealing with environmental spills and conditions, to ensure that they are appropriately cleaned up. However, the hon. Minister of Environment made an important point, that the words we use to legislate and regulate things in Alberta should be carefully considered so that they are not misinterpreted and are properly translated to regulate the way we mean it.

I agree, Mr. Chairman, that there is sometimes a need to be flexible. Though I agree with the amendment we are discussing within this committee, I have one small concern with it. I am concerned that this flexibility may be misused to allow people to delay their responsibility in cleaning up costly spills, allowing those who should have been reported to go unreported and slip between the cracks.

I continue to support Bill 202 because although it will be a small change, I believe it is a change that will make a difference. I believe if we work together as a government and as an Assembly to protect our environment, we can preserve the province for the health and enjoyment of our future generations.

No positive change is too small. I say this because I will be introducing a private member's bill that is complementary to this bill during this session – in fact, I have just introduced it this afternoon – which also proposes to make a positive change to the Environmental Protection and Enhancement Act. Though I would like there to be greater environmental protection developed in Alberta, I know that it should not impede Albertans' economic prosperity and that changes, especially ones that we can work with, cannot take place just overnight. Steps in strengthening the acts which protect our environment, such as Bill 202 and the bill which I have sponsored in this House, will help serve to create more responsible guidelines, strike appropriate balances, and enhance environmental stewardship.

As elected representatives I believe it is our responsibility to design the most effective legislation we can to protect the quality of life for Albertans. The health of our constituents is at risk when harmful substances are not remediated properly or with not enough efficiency to control the damage. We all know that environmental accidents happen. When spills occur, the contaminants released could travel to a number of places which could pose serious risks to Albertans.

I support Bill 202 because I believe it will help expedite the remediation process and cut back on the amount of time that spills are left to continue contaminating the environment. Spills that are left too long could make their way into the groundwater we drink, contaminate the soil our children play with, and pollute the air we breathe. Albertans face greater problems when spills are left for longer periods, threatening our health and creating health conditions that are developed over long-time periods of exposure. The longer that hazards and spills are left, the more contaminants will be inevitably spread, steadily becoming a more serious problem to the health of Albertans and our environment. Serious health problems may occur due to the long- and short-term exposure to harmful, hazardous substances.

4:00

Bill 202 provides greater protection against harm to the health of Albertans by placing greater assurance on quick remediation efforts to clean up any environmental hazards that could be in their communities. It is often difficult to assess all the subsequent effects which will take place after a spill occurs or if the spill is left for too long before the area is remediated. It is important to know that. Some hazards leak into the environment, whether they be on the

land, in the water, or in the air, and are not easy to detect without conducting many different tests. This is why I support the purpose of Bill 202. It will not allow spills which should have been remediated quickly to spread the other elements into the environment and cause greater damage to our land, water, and air.

The residential area of Lynnwood in my riding, Mr. Chairman, was contaminated through poor assessment and cleanup of oil refinery storage tanks. I have seen firsthand the effect of environmental carelessness on Albertans. Health concerns are always the number one issue that must be considered when discussing environmental accidents, because the health of Albertans is an important government priority.

Another consideration to be made is that remediation of spills is costly. It is most likely that the cost to properly remediate the land could increase exponentially if they are not reacted to within the appropriate time frame. Allowing spills to settle into the groundwater or to spread throughout the soil could easily turn into a greater expense and a much bigger problem with great responsible economic spin-offs through the greater environmental damage than the spill was in the first place. These increased costs usually do fall on persons or companies responsible for the spills, though there may be involvement by a resident or an Albertan that has been adversely affected by the irresponsible action to clean up the spills, because contaminants spread and can be ingested through contaminated groundwater, as could happen with petroleum tank leakage or spills, the inhalation of petroleum vapours from old oil storage and gas tanks. The monetary burden and time necessary to properly remediate the environment will become far greater than if it was addressed at the soonest possible moment.

Residents' lives may also be disrupted by remediation efforts. Everyone wants to see the accident fixed and the environment they live in restored as quickly as possible, but in order for some spills to be remediated properly, sometimes lengthy processes are necessary. The remediation processes are often extended, affecting the lives of the residents for longer periods, in some cases moving from their homes or having to cope for years with work crews. It's very inconvenient.

Thank you.

THE DEPUTY CHAIR: The hon. Member for Calgary-West.

MS KRYCZKA: Thank you, Mr. Chairman. It is my pleasure to speak in favour of Bill 202 in Committee of the Whole today and to address the small but important amendment that is being proposed by the Member for Red Deer-North. Before I begin, I would like to commend the Member for Red Deer-North on her dedication to this issue. I think it is marvelous that she has been taking a stand on behalf of our environment with this bill. Bill 202 is a very good, solid bill that will serve this province well.

I would first like to address section 257. Section 257 is very important because it legislates a review of the Environmental Protection and Enhancement Act every 10 years. I feel that this is a great step in the government ensuring that environmental law is kept current and updated. I believe that this section shows the commitment of this government to the environment and to keep up with our rapidly changing technology. It is a very valuable part of Bill 202, and I agree with the Minister of Environment when he said that all legislation should have a clause similar to this; that way we can be sure that all legislation is current.

I would also like to make a few comments in regards to the amendment proposed by the Member for Red Deer-North. The amendment is very simple but has far-reaching effects. By changing the word "must" to "may," we are giving directors the opportunity

to use their discretion when dealing with contamination. Mr. Chairman, let me give the committee an example. Let us imagine, if you will, the tanker truck carrying gas which is to be pumped into a tank buried underground. The gas is being delivered into the underground storage unit, and no problems arise until the gas line is extracted from the storage tank, where it breaks and a little gas gets spilled around the area. This is where the amendment can be seen as justified. This spill is inconsequential and takes only a couple of hours to clean up through the use of some rags and some dirt. The mess is cleaned up, very little damage is done, and the company moves on after they notify the Department of Environment of the situation.

Under section 112.1 as it currently reads in Bill 202, without the amendment a director would have no choice but to issue instructions immediately to the party responsible for the spill. By now, though, the spill is already cleaned up, and the director is wasting a lot of his and the company's responsible time. By having the word "may" instead of "must," the director can use his or her discretion in whether or not to issue instructions. In the scenario given, the director would simply note that there had been a contamination and then make sure that the company had cleaned up the site. They do the required work and be done with it: no fuss, no muss. There would be no need to issue instructions to clean up a spill if the contamination had already been dealt with. The word change in today's amendment enables the director to use discretion. The environmental directors are trained to use proper judgment, and they have the knowledge of the hazards and nonhazards that spills cause to make the correct decisions.

Mr. Chairman, the amendment to change the word "must" to "may" can be looked at as a resource saver as well. With the word "must" in the legislation that would mean that directors would be dealing with every single spill that happens regardless of size or consequence, therefore causing more bureaucratic red tape. Companies have a tough enough time as it is dealing with red tape, so I don't feel that we should be adding any more for them to have to put up with.

As the Member for Vermilion-Lloydminster mentioned in his debate in second reading, paperwork does not solve any environmental problem. The member was correct when he stated that the biggest problem that government has is that "we generate so much [paperwork] that we probably create more problems than we solve." This is probably what would happen if we did not accept the amendment that is being proposed today for Bill 202. Excessive paperwork leads to turmoil.

Mr. Chairman, the word "must" has to be changed so that the full extent of the bill can be realized. I do not feel that the bill is weakened because of this change; in fact, I believe it benefits all stakeholders. The word "may" will bring flexibility to the legislation. As was noted in second reading, there is no one solution that will fix all our problems with environmental contamination.

In second reading it was also addressed that we have to treat each spill differently. For instance, you treat contamination that happened last month differently than you treat contamination that happened 40 years ago. I believe that the amendment supports this. The word "may" will give a director the flexibility and authority to deal with each spill and contamination as he or she best sees fit.

As members of this government we should look for ways to make dealings with our departments and agencies as painless but as effective and efficient as possible. The Minister of Environment implied that the word "must" would complicate matters in the department by adding to the volume of paperwork. The last thing we need is a department confused and annoyed under the stress of more paperwork.

It is true that in most cases when a spill occurs, the perpetrators of the spill usually clean up the mess before any director from the Department of Environment can get to the site to check on the damage. If the word "must" was left in, then the director or inspector would have to go to the site more than once and also have to issue huge amounts of paperwork that will slow down the process and will not end up benefiting the environment at all.

4:10

Bill 202 is necessary, Mr. Chairman. Its objective is to strengthen existing legislation protecting our environment. Bill 202 reinforces the authority and the mandate of Alberta Environment by making those who pollute clean up after themselves. This should not even have to be debated. Companies should take and will take the onus to deal with the problems that they create. Bill 202 provides reinforcements to the legal framework of the legislation. The amendment to section 112.1(1) will go a long way in ensuring that companies do clean up their own messes and not have to dig their way out of a mountain of paperwork.

Passing the amendment to Bill 202 is imperative. It will allow the Department of Environment to act swiftly and decisively whenever a situation arises that requires the department to take action against polluters. It will enable the department to do this in a manner specific to each situation. The amendment will not tie the hands of the department; rather, it will give weight to the department's environmental regulations.

Mr. Chairman, I believe that this amendment will help this government further protect the environment without enacting unreasonable demands on the responsible corporate citizen. This amendment ensures that the companies that are law abiding will not be punished for their compliance with the current legislation. The amendment to Bill 202 would give directors the chance to issue instructions to those who cannot comply with the current regulations. The word "may" allows for discretion on behalf of the department, resulting in swift action by all involved.

The amendment to Bill 202 provides stakeholders in the industry an opportunity to work with each other to achieve the same goal; that is, to protect the environment while still developing the industry. Companies within the industry have shown us that they are responsible and that they will take care of their commitments to the environment. I hope that the Department of Environment, and Energy for that matter, will be able to work with the amendments proposed to the Environmental Protection and Enhancement Act.

Mr. Chairman, polluters do have a responsibility to clean up the messes they make. I believe for the most part that most companies, in fact the majority of companies, do clean up their messes quickly and without any funny business. However, there are the select few that do need to be watched. I believe that the amendment to Bill 202 will allow directors to keep an eye on those who offend and not allow those who don't clean up after themselves to get away with it. I urge all members of the House to vote favourably for the amendment and for Bill 202.

Thank you.

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

MR. MASON: Thank you very much, Mr. Chairman. I will be very brief on this, but it's clear, having proposed what was a progressive environmental bill, that something has happened in order to gut the bill and make it largely ineffective, and that is the substitution of "may" for "must," which of course turns it into almost a nonstarter as far as we're concerned. We thought that this bill had merit, and it showed that there were considerable signs of life on the back-

benches of the Tory caucus. I think that there must still be life there, but somebody is trying to turn off the life-support machine here, and I think it's a shame. Obviously, some members on the backbenches of the other side have some good ideas, but they're being squelched. Here we see an example where a member put forward a good bill that had positive things. It was going to actually get tough on polluters. Instead of getting tough on polluters, now we "may" be getting tough on polluters, but it all depends on what side of the bed we got up that day, I suppose, or what the current political mood is with the government. Obviously this renders the bill almost without significant value, and I think it's a real shame. We were prepared to support the bill on the basis of its current wording, but with this particular amendment I don't think we'll be in a position to support the private member's bill, and I think that's too bad. We wanted to support the bill and swing our full weight behind it, and we would have done so.

Thank you.

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

MR. YANKOWSKY: Thank you, Mr. Chairman. It is my pleasure to rise today in Committee of the Whole and speak in support of the Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act. I would like to start by commending the sponsor for taking the initiative to propose these thoughtful and innovative reforms to an act that certainly affects the everyday lives of people in Alberta. I also would like to thank the members of the Assembly for their thoughtful discussion and input regarding Bill 202 in second reading.

Using the success and innovation that has taken place in our resource-based industries as an example, it is easy to see that the people of Alberta are willing to put in the time, thought, and money to ensure that the environment is protected to the best of our ability. Through their efforts our citizens have sought to strike some kind of a balance between success in industry and practicality. Bill 202 reflects Albertans' desire for balance between economic advancement and pristine environment. This bill provides this by enhancing the Department of Environment's ability to ensure that the cleanup of toxic substance spills is initiated in a timely fashion.

The proposed amendment that we are discussing today will lend a sensibility to the bill by allowing the department to use its discretion when issuing an environmental protection order. In addition, the proposed amendments to the Environmental Protection and Enhancement Act in Bill 202 will include a mandatory review of the act every 10 years. With continuous improvements and advancements in science and technology as well as changes in thinking that come about from the environmental community, a review such as this is a valuable inclusion in the act. If we can ensure that the latest ideas are reflected through our legislation, I think that would benefit all Albertans by maintaining our healthy environment while enhancing government accountability in environmental policy.

Mr. Chairman, the environment is something that we all must share. As a result, the responsibility is on all of us to share in protecting it. The Environmental Protection and Enhancement Act is the law that gives our government the power to manage and protect the environment. I believe that anytime we turn our attention towards improving this act as a Legislature, it is time well spent. In second reading members of this Assembly had an opportunity to put forward their ideas for improving this proposed legislation. The suggestions put forward by the members of the Assembly for Bill 202 displayed concern but reflected a general interest in this

proposed legislation. I believe that the amendment will give the Department of Environment the chance to employ a flexible, practical approach in the implementation of this proposed legislation. When the sponsoring member introduced the amendment, it conveyed her willingness to listen so that her idea could work well for Albertans and for government. I think that the flexibility of the word “may” as opposed to the more stringent application that would be applied with the word “must” provides a recognizable benefit.

4:20

Mr. Chairman, Bill 202 would essentially give the Environmental Protection and Enhancement Act sharper teeth. It would empower the government to better manage those polluters across the province who may not have caused damage that poses an immediate danger to the ecosystem but damage that may have the potential to cause significant environmental damage over time. Currently there is nothing in the act to force or enable the department to issue an environmental protection order upon report of a less-threatening spill. The director can only issue the order after the accused has demonstrated an inability or unwillingness to clean up the site. Therefore, the only way the enforceable time line for cleanup can be handed out by the department is through the issuance of an environmental protection order. Unfortunately, the only way a protection order can be issued is if negligence and ignorance have been practised by the polluter and they have not initiated the cleanup process. By giving the director the ability and discretion to take immediate action, Bill 202 will help to eliminate the wait-and-see policy currently applied to those polluters who feel that they can take their time with the environment.

Mr. Chairman, when Bill 202 was read a second time and debated, there were members on all sides who spoke on this bill and indicated to this House that they saw merit in the idea or felt that legislation of this type was necessary and, in fact, overdue. However, there were concerns expressed by many, including the hon. Minister of Environment, regarding the wording in section 112(1). Section 112 of the bill states that “the Director must issue instructions immediately to the person responsible for the [pollution] to restore the area affected.” What this means is that action on behalf of the Department of Environment must be initiated each time a spill of any magnitude is reported.

Mr. Chairman, if the word “must” is to remain in section 112, then every time an Albertan spills some diesel on a gravel road and reports it, Alberta Environment must present themselves at the scene and complete a report. Small spills occur in Alberta daily, and more often than not the person responsible has the ability and initiative to clean the site himself or herself without the help or guidance of the department. If the word “must” as currently included in the bill would require department officials to respond to all small and latent acts of pollution when such incidents are currently being taken care of and their presence is not required, then I would support its removal.

Additionally, it is the Minister of Environment who pointed out that the inclusion of the word “must,” which would require that action be taken every time a spill is reported, is overkill, which would create unnecessary paperwork and place a cumbersome burden on not only the officers in the field but also on the department office. Through his comments and the comments of others it became quite obvious that forcing the hand of the department to act on every spill would not be practical nor financially viable. This was reinforced by the minister’s comment about thousands of calls per year to the department to report rather benign toxic spills.

If by substituting the word “may” instead of “must” we can ensure that the spirit of this bill as intended by its sponsor is carried forth,

then I will gladly support the proposed amendment. I’m certain that the sponsoring member had no intention of creating a mountain of unnecessary paperwork for the department but only sought to protect the environment in a manner that makes sense to all parties involved. However, if the insertion of the word “may” will render the bill ineffective, then I am hesitant to support it. If by amending Bill 202 to include “may” and not “must” we ignore the problem that this bill was drafted to address, then I question the necessity and practicality of its inclusion. If the word “may” simply gives the director the freedom to implement the policy idea, driving this bill in a sensible way, then I support the amendment. If, then, the department is able to acknowledge when industry or individuals have actually undertaken efforts to clean up spills or pollution and this will save the department the hassle, then I think I am also satisfied.

With the proposed amendment Bill 202 takes a step to protect the integrity of the environment in a reasoned and intelligent fashion, and I urge members of this Assembly to accept it.

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

DR. TAFT: Thank you, Mr. Chairman. In addressing Bill 202, the Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act, I’ve taken some time to go through the Environmental Protection and Enhancement Act itself, and I have listened, actually, with interest to some of the comments from a number of people in the Assembly and have appreciated those comments. I might as well begin with what appears to be the most contentious aspect of this bill, which is the amendment which strikes out the word “must” and replaces it with the word “may,” a move that clearly illustrates the power of language. We’re taking a four-letter word and replacing it with a three-letter word and fundamentally altering the power and impact of this bill in the process.

I’ve listened to the concerns raised by some members of the Assembly that by leaving the word “must” in there in a sentence that would read, “The Director must issue instructions immediately to the person responsible for the substance to restore the area affected by the release to a condition satisfactory to the Director” – the word “must” in there is crucial in that it does place an unequivocal requirement on the director to take action, to take a stand. While there are concerns raised – and I’ve listened to them here – that this is simply an increase in the burden of paper on the civil service, I think that’s a problem that’s probably quite manageable. Common sense will ultimately prevail. If a couple of litres of diesel oil are spilled in an area where there’s some soil and the soil is cleaned up, I have no doubt that the director would be able to issue a standard set of instructions, probably on a single sheet of paper, and be done with it. So I don’t foresee an unmanageable increase in the burden of paper as a result of having the word “must” in there. If I contrast the drawback of having any extra paper required with the drawback of amending the word “must” to “may,” I see much greater concerns with the latter, with bringing in the word “may.”

What that does, to me, is raise questions about the fundamental integrity, almost, of the position of the director, the fundamental obligation on the person in that position to protect the environment. It puts the person in a position where they may be open to the reality of the perception of pressure to make certain decisions, so whether it’s fair or not, it’s easy to imagine a situation in which a spill occurs and the director decides, under this amended version, not to issue instructions and, as a result, appears to be favouring a particular company.

4:30

I think that there are times – and protecting the environment is one of them – when we want to be clear and we want to be forceful and we want to be unequivocal, and bringing the word “may” into this

bill contradicts all those possibilities. I think the bill was workable and was strong and was desirable, and I think it is now no more workable and in fact may well be less workable. I can easily imagine directors now having to spend their time justifying to any groups why they didn't issue a report. So I don't think there's any benefit to the amendment, and it makes the bill weaker.

There are still some remaining strengths to Bill 202. I do like the fact that under the proposal to amend section 112 of the Environmental Protection and Enhancement Act, putting in subsection 112.1(2), if a director does choose to issue instructions to clean up the area and if the instructions are disobeyed, "the Director shall issue an environmental protection order." So that does give the director legal authority for following up with people who do not obey his instructions and in fact ties his hands to do so. I can see that being useful to the director as well as to the general public, so that's a step in the right direction in this bill.

I also like the notion that this bill will require a comprehensive review of the Environmental Protection and Enhancement Act within 10 years of it coming into force. Our concerns and our knowledge of the environment are changing year by year, and certainly 10 years is ample time for us to find out how the legislation is working and what its weaknesses are. Undoubtedly there will be extensive new knowledge on environmental problems and potentially environmental solutions, so I do think that a mandatory 10-year review of the act is a good idea.

So there are two good points that remain in Bill 202, but sadly perhaps the most important single point which would have required the director to act has been watered down to the point of it being entirely discretionary and, as a result, potentially useless. It presents a genuine dilemma of whether to support a bill that does a little bit good or to not support it at all and hope that a better bill might come forward. I guess in the end I probably will support it because one step forward is better than none, even though I'd rather have three steps forward. It's with a bit of disappointment, but I probably will support the bill, Mr. Chairman.

Thank you.

THE DEPUTY CHAIR: The hon. Member for Olds-Didsbury-Three Hills.

MR. MARZ: Thank you, Mr. Chairman. It's a pleasure to stand today and speak to the Committee of the Whole in favour of Bill 202, the Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act, 2002. I'd like to begin by joining my colleagues in expressing my gratitude to and complimenting the hon. Member for Red Deer-North for her vision and insight in introducing Bill 202. This is a bill that will serve Alberta and Albertans well, not just today but also tomorrow. Bill 202 is a shining example of sound legislation, and with its proposed amendment it will also be practical and practicable legislation.

No matter how sound a piece of legislation might be, it will quite frankly be lip service at best and useless at worst if it cannot be implemented. The same thing if implementation becomes so cumbersome that it generates more paperwork, requires more overhead, or inadvertently creates an incentive not to adhere to the provisions of the law as it's written at all. Bill 202 with the proposed amendment will not fall into the category of lip service oriented legislation. It will not be excessively cumbersome to implement and will not provide a loophole through which violators sneak and disappear out of sight, and it will not give rise to excessive red tape. Bill 202, Mr. Chairman, will avoid causing all this while remaining true to its original intent: strengthening the existing body of law dedicated to safeguarding our environment.

Mr. Chairman, I don't think there's anyone among us here today who would actively support any form of environmental degradation. In fact, I know there's no one in this House today who wants to see our environment worsen. Common sense dictates that when a toxic substance is spilled on the ground or otherwise ends up somewhere it's not supposed to be, you clean it up. Most of us – and by that I mean most Albertans, indeed most people in general – know this and do this.

For whatever reasons some folks don't take the time or recognize that they have the responsibility to clean up after such accidents. Why they don't is beyond me. Perhaps they don't know the harm that can come from not cleaning up, perhaps they don't care, or perhaps they think in most cases that it's too expensive or just too much trouble. Who really knows just how expensive it is or how expensive it will be for the rest of us? For whatever reason, it's precisely because of such lack of responsibility and care that we have environmental legislation in place today, some of the best environmental legislation in the country I might add.

Perhaps if everyone took responsibility for their actions and cleaned up their spills, there'd be no need for environmental legislation at all. In a perfect world we wouldn't be here discussing this matter today. Alas, Mr. Chairman, ours is not a perfect world. We do what we can to get closer to it. I think Bill 202 is a good step, not just a little step, as my colleague the hon. Member for Red Deer-North keeps saying, but a good and solid step forward.

During second reading we were treated to a wide range of opinions on Bill 202. It seems to me that while all of us are here in support of the goals of the bill, concerns were raised by some about the manageability of the bill. In particular the hon. Minister of Environment and the hon. Member for Airdrie-Rocky View drew our attention to some very practical implications of passing Bill 202 without first amending it.

Mr. Chairman, the more I've thought about it, the more I've come to see and understand the wisdom of their comments. I believe that if we invest in the common sense of Albertans and have faith in their ability to know right from wrong, they'll pay us back by doing the right thing. We don't need to spell out every single little detail of what must be done. Albertans know what to do. There's not always going to be a need for the Department of Environment to supervise, let alone be present.

There are also practical reasons for why changing the word "must" to "may" makes so much common sense. As both the Minister of Environment and the hon. Member for Airdrie-Rocky View pointed out, you put the word "must" in there, and one of two things will happen. In the first scenario we end up with a situation where personnel from the Department of Environment must travel to each and every site where a spill has occurred. That's a huge cost, Mr. Chairman. After the spill occurs – that is, after the liquid or powder or whatever it is has spilled – it will have to be reported. After it's reported, someone will have to be dispatched to the site of the incident. Depending on where the site is, this may take some time. Then when they get there, they check it out, and they either have to clean it up or oversee the cleanup process, which we may infer here cannot commence until they actually arrive on-site and then head back to write up the incident report.

Presumably, Mr. Chairman, those who made the mess could have cleaned it up all by themselves much more quickly and in many if not most cases probably do without involving officials from the Department of Environment. I might add that for every call that requires department officials to make a trek to the scene of such an accident that really doesn't require their presence, well, there goes a few more tax dollars that we could have spent on something more important.

The other scenario I have in mind, Mr. Chairman, is one that I thought of after listening to the experiences of the hon. Member for Airdrie-Rocky View when she spoke about the life of the biomedical waste industry and how what constituted biomedical waste ranged all the way from body parts to finger paint. Well, that's quite a range, if you ask me. I have no difficulty imagining how mandating that every single spill from finger paint to whatever, something in between, that would have to be reported could quite easily lead to a situation in which companies where spills may occur with some frequency will be actually discouraging many people from reporting incidents of such spills. Why? Because of the red tape. The bureaucracy of such an endeavour will be staggering. If every single instance where a little spill occurs must be reported and documented, we'll have a situation on our hands that will provide incentive not to report it and as a likely consequence perhaps lead to an increase in the number of spills that aren't cleaned up at all.

4:40

Now, Mr. Chairman, this doesn't mean that the Department of Environment won't ever enforce regulations. Of course it will, and it has shown that it has in the past. However, using the word "must" can, as the hon. Member for Airdrie-Rocky View cautioned us, lead to situations where spills, whether serious or not, simply aren't reported. Conversely, use of the word "must" can in my mind quite easily lead to overkill and in the long term a depletion of departmental resources for that one incident that requires the department's maximum personnel, resources, and know-how. If we change "must" to "may," we bestow upon the Department of Environment the flexibility and discretion to apply the law on a case-by-case basis. Not all situations where a spill is a factor require the full force of the department.

Mr. Chairman, I'm in favour of protecting the environment and all in favour of doing everything we can to protect it. It's important not just for us but for our children and for our children's children that we establish safeguards and enshrine them in law to protect the environment. We have but one environment. It's not ours to do with as we please. At best we borrow it for the duration of our lifetimes, and it's our duty to leave it in at least as good shape as we first received it, so to speak. By changing the little word "must" in section 112.1(1) to "may," Bill 202 will become a very effective instrument in dealing with spills and the attendant cleanup efforts.

Furthermore, section 257 calls for a "review . . . within 10 years" and "every 10 years after that." Mechanisms like that are imperative to make sure that the legislation stays useful and valid and does what it is supposed to do.

Mr. Chairman, I'll conclude my remarks by urging all members of this Assembly to support the amendment substituting the word "may" for "must," and I also would like to urge everyone to also vote in favour of passing Bill 202. Thank you.

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

MR. MacDONALD: Thank you very much, Mr. Chairman. I have a few comments at this stage of debate on the amendment as proposed to Bill 202. I will be brief, Mr. Chairman, but I would like to caution all hon. members of this Assembly about voluntary compliance. I'm afraid by striking out "must" and substituting "may" – well, this is another way of giving voluntary compliance a second or third or perhaps even a fourth chance.

With the protection of our environment I am a firm believer that the law has to be upheld; the law has to be spelled out. There are too many examples in this province, whether it be the Swan Hills waste treatment plant or whether it be Hub Oil and the consequent fire and

explosion in Calgary. Unfortunately, the city of Calgary grew at such a fast rate that it sort of grew up around this facility, which had been in place since before the Second World War, Mr. Chairman. There was no doubt in the documents that I received on that facility through FOIP that over the years there was soil contamination, there was groundwater contamination, and on occasion there certainly was atmospheric pollution by that facility. I'm afraid that now that the plant is gone, the site is still being used, as I understand it, for oil filter recycling. But this gets back as to what the Department of Environment can and should do. You know, we can all look at a five-gallon spill of diesel fuel as an example, but there are others that are very, very important, and that's why I would use the Hub Oil fire and explosion as an example of another facility that could have used very diligent enforcement by the Department of Environment.

The hon. member's original section 2 and the proposed section 112.1 I think is sufficient. At this time, because of what I have read about previous spills and vents to the atmosphere by industrial facilities, we should be very cautious, and we must give the director the authority to investigate.

With those comments, Mr. Chairman . . .

AN HON. MEMBER: Can you speak up, please? We can't hear a word you're saying.

MR. MacDONALD: If hon. members of this Assembly cannot hear me, perhaps they could have their conversations outside.

Thank you.

THE DEPUTY CHAIR: The hon. Member for Calgary-Bow.

MS DeLONG: Thank you, Mr. Chairman. It's an honour to join the debate in Committee of the Whole for Bill 202, the Environmental Protection and Enhancement (Clean-up Instructions) Amendment Act, 2002. The objective of the bill, brought forward by the hon. Member for Red Deer-North, is to strengthen existing legislation protecting Alberta's land, water, and air from hazardous spills. Bill 202 reinforces the authority and the mandate of the Environmental Protection and Enhancement Act by making those who pollute clean up after themselves not at some arbitrarily determined date but according to a time line established by the department.

Mr. Chairman, we all know that the environment is vulnerable, delicate, and not ours to do with as we please. At best we are only borrowing it from our children, and what we decide to do with it, either ensuring its beauty and health or allowing it to deteriorate, will affect future generations. Therefore, the laws and regulations established today, such as Bill 202, will go a long way to giving our children and grandchildren access to a clean, healthy, and inviting environment.

As legislators we cannot allow violators of Alberta's rigid yet fair environmental protection legislation to stall and procrastinate from their duty as good corporate citizens to clean up any messes that they have made to Alberta's environment. Any company doing business in this province must also be aware that Albertans care a great deal about their environment. This government is committed to ensuring that it continues to have some of the most stringent standards for environmental protection in Canada and in North America. I believe that Bill 202 reinforces this government's environmental mandate. As members of this Assembly we all know that any environmental issue is also a very emotional and volatile topic. Therefore, we must be extremely careful to create laws that preserve the environment and do not bog down the Environmental Protection and Enhancement Act with redundant paperwork.

Mr. Chairman, the amendment proposed today to Bill 202 would

help prevent the corresponding dangers associated with doing things too swiftly and too decisively. I strongly support the amendment which changes the word “must” to “may.” The word “must” obligates people working in the department to issue an order even if it isn’t necessary. During second reading the Minister of Environment explained that by the time people from the department check out a spill and assess the damage, the cleanup has already been completed. Under Bill 202 as it currently stands, they would have to go back, issue an order, and outline cleaning instructions, even though the work is already done.

There’s no real way of predicting the full impact of this bill until it has been passed and used by the department and affected industries. I’m worried that two very bad things could happen if this bill were passed without the proposed amendment. First of all, the department and this government could face a bureaucratic logjam. I worry about the additional administrative workload that would be placed on a department that already covers a wide range of issues and industries involving Alberta’s environment. The members in this House should not decide what constitutes a nonhazardous spill as well as the time line for cleaning the spill. These decisions should rest on the wisdom and experience of the hardworking employees in the Department of Environment. Those same experts, specifically the director, will be the ones responsible for carrying out the rules decided upon in this Assembly. We should be careful not to introduce procedures that result in more work. Substituting the word “must” for “may” alleviates this danger.

4:50

The other concern I had with Bill 202 in its current form is the challenges with enforceability. During second reading the hon. Member for Vermilion-Lloydminster explained how the desired result from this bill would be to give a person or a company the opportunity to take responsibility and action to clean up their spill. This way they can work with the department and hammer out a method and time line for cleaning up the spill. But, Mr. Chairman, if this desirable scenario fails, then the director can force the hand of the polluter. If the polluter does not achieve the objectives set out by the director, it is then the director’s duty to issue an environmental protection order under section 113 of the Environmental Protection and Enhancement Act. So if a spill occurs, the guilty party has two choices. First of all, they can clean up the spill immediately and be seen as good corporate citizens who care about the well-being of the environment and the health of the people living in the surrounding area, or they can delay efforts to clean up their mess, hide from their responsibility, and be forced by the department to be treated like children who refuse to pick up after themselves.

Mr. Chairman, effective enforcement of Bill 202 is only possible if the department is able to work within their budget and manpower resources. In other words, people must be able to do their jobs without being forced to swim through a sea of needless paperwork. To me the word “must” connotes a demand. It’s like saying that you must register your firearms regardless of how you store and handle your weapons. The word excludes any sort of negotiation and demands action, and as we know, you can’t shake hands with a closed fist. I believe the word “may” would preserve the effectiveness of Bill 202 while at the same time allowing people within the department to do their jobs.

Let’s remember two things while we debate Bill 202. First of all, the sponsor of this bill is not proposing overwhelming changes to the current Environmental Protection and Enhancement Act because, quite frankly, drastic changes are not necessary. This bill is simply tweaking the system to give people in the department the ability to move more swiftly and decisively on delayed cleanups. We must

also remember that this bill deals with nonhazardous spills. I agree that nonhazardous spills have an adverse effect on the environment, and I know that this government is serious about preserving the environment. I’m not trying to belittle the importance of a clean environment, but we must keep these two points in perspective before we go too far and pass legislation that has a detrimental effect on the Ministry of Environment and the Environmental Protection and Enhancement Act. Sometimes good intentions do not always result in the best solutions.

If passed, Bill 202 will go a long way to prevent delinquent spills and to hold irresponsible companies accountable for their actions. If the amendments were implemented to Bill 202, it would be a reasonably enforceable bill and one that I would support. Thank you, Mr. Chairman.

[Motion on amendment A1 carried]

THE DEPUTY CHAIR: The hon. Member for Calgary-Cross.

MRS. FRITZ: Thank you, Mr. Chairman. I’m rising to propose a second small housekeeping amendment to Bill 202, and I’m making this amendment in consultation with my friend and hon. colleague from Red Deer-North. It’s hopefully going to be brief, I think.

You’ll note in this bill that if a polluter fails to comply with the directives that are issued by the Department of Environment, the department may issue an environmental protection order, but the overall act directs that environmental protection orders generally occur under section 113. In this act that we have, Bill 202, what’s referred to here are ones that would normally see environmental protection orders issued under that section 113, but when you look at the act overall and you read the legislation, you’ll see that Bill 202 doesn’t make any reference at all to section 113. So that’s why I think it would be helpful to state that the environmental protection orders would be issued under section 113 if polluters failed to comply with 112.1.

Therefore, Mr. Chairman – I know the amendment is being distributed here – I’ll read into the record exactly what it says when I get one.

THE DEPUTY CHAIR: The amendment that is being moved by the hon. Member for Calgary-Cross will be referred to as amendment A2.

MRS. FRITZ: Thank you, Mr. Chairman. So I’m moving, then, that section 2 is amended in the proposed section 112.1(2) by adding “under section 113” after “environmental protection order.”

As I said, this amendment is, I think, in the best interest of the bill overall. It’s in the interest of clarity, and I think that it would help people to understand where the bill fits into the Environment Protection and Enhancement Act. It also would assist our environmental directors with the administration of section 112.1 when Bill 202 is proclaimed.

Thank you, Mr. Chairman.

[Motion on amendment A2 carried]

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

MR. MASON: On the bill as amended, Mr. Chairman, I want to compliment the Member for Red Deer-North on a good effort in bringing forward this bill, and I regret the amendment that essentially weakened her admirable piece of legislation. The hon. Member for Red Deer-North is a big improvement for that constituency.

[The clauses of Bill 202 as amended agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE DEPUTY CHAIR: Opposed? Carried.

The hon. Deputy Government House Leader.

MR. STEVENS: Yes. Mr. Chairman, I move that we rise and report.

[Motion carried]

5:00

[Mr. Shariff in the chair]

THE ACTING SPEAKER: The hon. Member for Olds-Didsbury-Three Hills.

MR. MARZ: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration and reports with some amendments Bill 202. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE ACTING SPEAKER: Does the Assembly concur in the report?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? So ordered.

head: **Public Bills and Orders Other than
Government Bills and Orders
Second Reading**

**Bill 204
Traffic Safety (Cellular Phone)
Amendment Act, 2002**

[Adjourned debate March 11: Mr. Herard]

THE ACTING SPEAKER: The hon. Member for Redwater.

MR. BRODA: Thank you, Mr. Speaker. It's my pleasure to rise today in response to Bill 204, the Traffic Safety (Cellular Phone) Amendment Act, presented by my colleague from Lacombe-Stettler. I think the intent is noble. However, I am opposed to this bill.

For one, Mr. Speaker, the bill says that it's to ban the use of handheld cellular phones during the operation of the motor vehicle; however, hands-free phones would be permitted. Even looking at Bill 204, which is a proactive measure that says that it may decrease casualty collisions on Alberta roadways, the word "may" does not convince me that it will. It's not that I'm opposed to any traffic safety. I certainly am not. I did introduce the bill that allows red-light cameras in this province, and that has gone over as a good measure because it's for the safety of our motorists, but I believe that Bill 204 may be interpreted as an intrusive and unnecessary infringement on Albertans' freedoms.

Mr. Speaker, we look at distractions of the cellular phone. I must say that I've had a car phone in my car probably since they first came out, and it goes back to the Aurora-400, which is close to 30 years that I've had it in my car. I'll tell you that that phone is no longer in use; new technology has come out. We've had new cells

introduced, and of course we move along with new technology. I think that's great to see in this country, that there is technology movement.

We look at other communities, other countries. This province, when we look at the population that we have, is very small. The only state right now that has banned cell phones is the state of New York, but the population of New York is probably tenfold – I don't know what it is – tenfold of what Alberta has. I had the opportunity of being in Europe, in Italy, which has a population of 60 million people. The country of Italy is about the size of Newfoundland. Just about every individual has a cell phone, and the number of cars that are on the road, the autostradas themselves, where the speed limit posted is 130 but people are going at 160, 170, 180 kilometres per hour – the thing is that they don't have that law in Italy, and they have 10 times as many people, or double the population of all of Canada.

So, Mr. Speaker, I am certainly opposed to this bill simply because we already have laws in place that would allow a police officer to charge anybody under the traffic act with undue care and attention of a motor vehicle. I think that introducing this bill is a noble way of addressing some of the issues, bringing them to the forefront. However, I look at it as a cash cow, because all a police officer has to do is look and see if you've got a cell phone in your hand, pressed to your ear. He could stop you and charge you. I don't agree that we need to be that vigilant on every individual, because that's exactly what would happen.

When we look at if any accidents occur – and they could occur – is it a direct result of a cell phone? Just the other day I was driving and noticed next to me a driver driving his vehicle with a poodle on his lap, and the poodle was licking his face. Maybe we should look at banning that as well. How about coffee drinkers? How about smokers? All of a sudden a cigarette happens to fall in his lap, and he's looking down to see where that cigarette disappeared.

AN HON. MEMBER: How about coffee from McDonald's?

MR. BRODA: How about coffee from McDonald's – right on – or Tim Hortons or something that's really hot and it drops on your lap and causes an accident?

Mr. Speaker, when you look at some statistics here, just to read you an article that I've received, it says:

"From 1993 to now we went from 1.8 million cellphones in this country to 10 million cellphones and the number of collisions, traffic fatalities and injuries are down 10 percent in [the same] time frame," said council president Emile Therien in February following an accident [that happened] in Baltimore . . . an accident caused by a young driver using a cellphone.

Therien suggested that accident was probably due [more] to the driver's inexperience . . . [than it was to the use] of a cellphone.

So, Mr. Speaker, I certainly would encourage my colleagues in the House here to really think hard and look at the presentation of this bill and vote against it, not because I don't think that it has merit, but I still honestly do believe that it would be a cash cow. I think that right now we have too many infringements on our rights and that it only leads to more as we go along.

AN HON. MEMBER: What about farmers?

MR. BRODA: Next the farmers are going to be stopped on tractors because they're asking somebody to come and pick up a load of grain. The fellow is on his way already and has a phone to his ear, and they're beating the weather. He's driving along, and all of a sudden an officer is on the road and sees the fellow with a cell phone, stops him, gives a ticket. There was no cause for it. However, the bill would allow that to happen.

So, again, I would encourage my colleagues to not vote for the bill. With that, I will close and sit down and let somebody else speak, but certainly I would encourage everybody to not vote for the bill. Thank you, Mr. Speaker.

THE ACTING SPEAKER: The hon. Member for St. Albert.

MRS. O'NEILL: Thank you, Mr. Speaker. I rise in support of this bill. I want to speak very specifically to the fact that this bill will allow us to be better drivers. It will encourage us to be better drivers, and it will make provisions so that we will live according to the law and drive according to the law, which is a safer, more expedient way of driving.

I'm a person who has used cell phones in the car. For years in my previous occupation, which was selling real estate, we relied heavily on them, and the Member for Redwater knows that very well. I, too, had one of those apparatuses that was so big they literally took up the other front seat in the car. Through my previous business I relied on using it, and certainly I rely on the use of it as an MLA. I can tell you that a cell phone in the car is a great way to be able to contact people as you move from A to B, from meeting to meeting. It's an opportunity for us to use the time in conversation and to cover business requirements.

5:10

I would say that this bill, in saying that it is legislating against the use of handheld cell phones in the car, is a very wise move. I can tell you that I am perhaps one of the biggest offenders. I don't use the head clamp or apparatus, and I sit there and I try driving with one hand and dialing with the other hand and try to read the number, and if I had some legislation, I would obey it. I was not a person who used seat belts before, but now I do. I am a person who does use a handheld phone, and if this piece of legislation passes, I won't use it. I will make sure that I use the hands-free one.

I don't mean to make this just a personal reflection, but I want to speak to the safety features that this bill points to. When driving in my urban community, certainly we do need to have both hands on the wheel. We do have to be alert. But if we were to suggest that we are going to be drivers who do not hold any conversation with anybody, then I think we are not being realistic. With this bill we can still speak to someone who is not just virtually sitting beside us, but we can speak with those whom we wanted to contact and make the best use of our time. We can do it with the hands-free apparatus.

As I would just wish to continue to speak on the telephone under other circumstances, again I want to mention the fact that a few other members have addressed other behaviours of hands-free or, if you will, activities with their hands when they are driving, and I would say that they are equally as dangerous. However, I would also say that since the hands-free and the mechanisms that the phone companies can provide us with in order to drive safely and at the same time return calls, speak to family members, identify what we need to do in preparation for perhaps the next meeting that we are about to attend – hands-free attachments to our telephone allow us that opportunity to communicate and to continue to communicate while we are driving. It is a great opportunity to do two things at once. However, if we are going to hold the receiver and dial up or

take our messages off and drive at the same time, then I think we as individuals need to have a piece of legislation that will give us guidance on this issue.

Having said that, Mr. Speaker, I feel that I would like to close debate on this issue, but in the meantime I would like to encourage everybody to vote in favour of this private member's bill.

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

MR. MASON: How much time do we have on this bill, Mr. Speaker?

THE ACTING SPEAKER: Well, the bill was moved by the hon. Member for Lacombe-Stettler, and she has to close debate.

MS HALEY: I think to adjourn as opposed to close, Mr. Speaker, because I, too, want to speak to this bill.

THE ACTING SPEAKER: I hesitate to interrupt, but under Standing Order 19(1)(c) I must now put the question on the motion for consideration of Her Honour the Honourable the Lieutenant Governor's speech.

head: **Consideration of Her Honour the Lieutenant Governor's Speech**

Mr. Horner moved, seconded by Mr. Cenaiko, that an humble address be presented to Her Honour the Honourable the Lieutenant Governor as follows.

To Her Honour the Honourable Lois E. Hole, CM, Lieutenant Governor of the province of Alberta:

We, Her Majesty's most dutiful and loyal subjects, the Legislative Assembly, now assembled, beg leave to thank you, Your Honour, for the gracious speech Your Honour has been pleased to address to us at the opening of the present session.

[Motion carried]

head: **Government Motions**

Address in Reply to Speech from the Throne

19. Mr. Stevens moved on behalf of Mr. Klein:
Be it resolved that the address in reply to the Speech from the Throne be engrossed and presented to Her Honour the Honourable the Lieutenant Governor by such members of the Assembly as are members of Executive Council.

[Government Motion 19 carried]

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

MR. STEVENS: Yes, Mr. Speaker. I move that we call it 5:30 and reconvene this evening at 8 o'clock.

[Motion carried; the Assembly adjourned at 5:17 p.m.]