

Legislative Assembly of Alberta

Title: **Monday, December 1, 2003**

1:30 p.m.

Date: 2003/12/01

[The Speaker in the chair]

head: **Prayers**

The Speaker: Good afternoon and welcome.

Let us pray. Our Father, keep us mindful of the special and unique opportunity we have to work for our constituents and our province, and in that work give us strength and wisdom. Amen.

Now would you please remain standing, hon. members, and join in the singing of our national anthem. We'll be led today by Mr. Paul Lorieau, and would all participate in the language of their 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.

head: **Statement by the Speaker**

Chamber Sound System

The Speaker: Before we commence, hon. members will know and were made aware of the difficulties we experienced on Thursday last with the sound system which resulted in no sound being available to our television broadcast on Access TV and the difficulty that we had with our Internet video and audio services and over the loudspeaker system throughout the Legislature Building and the Annex.

In light of the uncertainty as to the ability to repair the sound system before the start of the House business today, we've had officials from Alberta Infrastructure work diligently over the weekend with staff from the Alberta Legislative Assembly to implement a backup sound system for the balance of this sitting. Members will note that there are microphones on each desk and speakers at the corner of the Chamber. I would like to advise hon. members that there's no need to press the white button even though it's a natural response for everybody to want to press the white button. There's no need. We have a system that has been repaired. This is a backup system. If required, it would require about a five-minute recess, and that would only be declared if necessary, should the original system break down again.

I want to thank all the *Hansard* staff, who had the onerous task of producing the *Hansard*, and I also want to thank the officials from the Department of Alberta Infrastructure who spent the weekend assisting to work out this particular process.

So, once again, the microphone system on your desk is a backup system. The original system is in place. Hopefully it'll function. There's no need to press the white button. Thank you very much for your indulgence.

head: **Introduction of Visitors**

Mr. Jonson: Mr. Speaker, I am pleased to introduce to you and through you to members of the Assembly Mr. Hans-Michael Schwandt, consul general of the Republic of Germany who resides

in Vancouver. He is accompanied today by his wife, Dr. Heidi Schwandt-Boden, Mr. Fritz Koenig, honorary consul of the Republic of Germany in Edmonton, and Mrs. Barbara Koenig.

Mr. Speaker, almost \$750 million in bilateral trade flows back and forth between Alberta and Germany each year. In recognition of the level of trade, tourism, and investment between Alberta and Germany an Alberta office was opened in Munich two years ago, and Alberta and the German state of Saxony have forged a special relationship through a co-operation agreement. The government of Alberta appreciates the diligent work of the consular representatives and their contribution to ensuring Alberta continued success in the global marketplace.

I would ask that our honoured guests please rise and receive the traditional warm welcome of the Assembly.

head: **Introduction of Guests**

The Speaker: The hon. Minister of Municipal Affairs.

Mr. Boutilier: Thank you very much, Mr. Speaker. My constituency of Fort McMurray is considered the oil sands capital of the world or, as the Minister of Finance says, the jewel of the north. It's my pleasure today to introduce two proud Albertans. One of them happens to be the chairman of the Canadian Council of Chief Executives from all over Canada. Of course, his company, again, is part of the billions of dollars that are taking place in the regional municipality of Wood Buffalo. I'd like to ask the CEO of Suncor, Rick George, and his vice-president, Pat O'Reilly, to stand. They're here today visiting the Legislature, and I'm proud to say that they truly are a living example of the Alberta advantage.

The Speaker: The hon. Minister of Justice and Attorney General.

Mr. Hancock: Thank you, Mr. Speaker. When we speak of the City of Champions, of course everybody immediately thinks of Edmonton and immediately thinks sports. I'm pleased and proud to tell you today that we also have champions in the arts. One of those champions is with us today. I'd like to introduce to you and through you to all members of the Assembly a friend and a longtime good friend and associate of my wife, Janet. Mr. Glen Huser is an author having three published novels, including the book *Stitches*, for which on November 10 he received the Governor General's award for children's literature. My colleague from Edmonton-Meadowlark will bring a recognition later on in our agenda, but I'd like to ask award-winning author and Edmonton champion Glen Huser to rise in the members' gallery and receive the traditional warm welcome of the Assembly. Mr. Huser is accompanied by his mother, Mrs. Bea Huser.

The Speaker: The hon. Member for Edmonton-Castle Downs.

Mr. Lukaszuk: Thank you, Mr. Speaker. Well, Edmonton-Castle Downs has taken over the galleries today, so I will ask for your grace in allowing me a little bit more time. I have 60 visitors from Lorelei elementary school who are being accompanied by Mr. Mark George and Brad Gibson, teachers of the grade 6 classes over there. I had the pleasure of visiting those classes, and their knowledge on municipal, provincial, and federal politics was just astonishing, and that's coming from another teacher. So I would ask them to rise and accept the warm welcome of this Assembly today.

Also, Mr. Speaker, I have today in the building but perhaps not in the gallery at this point Lorelei playschool, a fabulous group of 36 visitors, 24 students and 12 adults, who have contributed to our

Christmas decorations in this Legislature and have decorated Christmas trees in the pedway. I would like to thank them for their attendance and ask them to accept the gracious warm welcome of this Assembly today.

Last but definitely not least, I have a very valuable constituent with us today, a gentleman who is literally a jack-of-all-trades, volunteering his time to many not-for-profit groups in Edmonton-Castle Downs, who definitely is one of my biggest assets with the Castle Downs PC Association, and who was a tremendous asset in my being able to appear over here before you, Mr. Speaker. His name is Mr. Colin Brown, a fine gentleman indeed. I would like to ask him to rise and accept your warm welcome as well.

Thank you.

The Speaker: The hon. Member for Edmonton-Glenora.

Mr. Hutton: Thank you, Mr. Speaker. It is, indeed, a pleasure for me today to introduce to you and through you to members of the Assembly 33 bright and active students from Coronation school. Accompanying them today is their teacher, Arlyn Belden, and parent helpers Mark Sulz, Dee Bochar, Karen Bielech, Cara Lee Stevenson. In addition, accompanying the class is an employee of visitor services, tour guide Mrs. Diane Thomas, who is a tireless volunteer in the community of Glenora. When a job is asked to be done in our community, everybody turns to Mrs. Thomas. So I would ask the group to please rise and receive the traditional warm welcome of the Assembly.

Thank you, Mr. Speaker.

The Speaker: The hon. Member for Red Deer-North.

Mrs. Jablonski: Thank you, Mr. Speaker. Today I'm very honoured to introduce to you and through you to members of this Assembly a very wonderful and important family from Red Deer-North. I know that most of you will recognize the president of the provincial PC Party, Mr. Chris Warren, who has worked exceptionally hard this year to keep the party in tune and on track with Albertans. And we know that behind every successful man there's an even greater woman. Chris is here today with his lovely wife, Sandy, to whom I would like to say: thank you very much for all the support and encouragement that you give to Chris, because that makes us better too. With Chris and Sandy today are their two children, Mitchell and Natalie. Mitchell is 11 years old, in grade 6 at Central middle school, and Natalie is seven years old, in grade 2 at Grandview elementary. They are here today on a family trip to observe how government operates, because Mitchell is in grade 6 and studying government. We wish you a very enjoyable visit, and we hope that Mitchell will be able to take a great report back to his classroom. They're in the members' gallery, and I would ask you all to rise and receive the warm welcome of this Assembly.

The Speaker: The hon. Member for St. Albert.

1:40

Mrs. O'Neill: Thank you, Mr. Speaker. It's my honour to introduce to you and through you to members of this Assembly 25 students who are situated in the members' gallery. They are participants in School at the Legislature. They are here today. They attend Keenooshayo school in St. Albert. They are seated with their teacher, Mrs. Barb Hubbard, and they are accompanied by the parent of one of the students, Mr. Darwin Switner. I would ask them all to please stand and receive the traditional warm welcome of the Assembly.

The Speaker: The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Speaker. Today it is my honour to introduce to you and to all members of the Assembly a man who is very well known and well respected in northern Alberta. We are joined today by Chief Archie Waquan from the Mikisew Cree First Nation from Fort Chipewyan. He's here in opposition to Bill 49 and to share his concerns. Please rise and receive the traditional warm welcome of this Assembly.

The Speaker: The hon. Member for Edmonton-Glengarry.

Mr. Bonner: Thank you very much, Mr. Speaker. It gives me a great deal of pleasure today to introduce to you and through you to all members of the Assembly Roberta Allen and Kevyn Cormack. They are here today to witness me table a letter on their behalf later in the proceedings. They are seated in the public gallery, and I would now ask that they rise and receive the traditional warm welcome of the Assembly.

Thank you.

The Speaker: The hon. Member for Edmonton-Highlands.

Mr. Mason: Thank you, Mr. Speaker. I'm pleased to introduce to you and through you to all members of the Assembly a gentleman who is visiting today from Grande Prairie, Mr. Art Macklin. Mr. Macklin operates a grain and beef farm with his wife and son at DeBolt in the Peace River area. This farm was created from a bush homestead in 1964. Mr. Macklin is a former president of the National Farmers' Union and was elected three times to four-year terms representing farmers on the Canadian Wheat Board Advisory Committee. He was re-elected last year to a second four-year term on the Canadian Wheat Board's board of directors on a strong single-desk platform, representing approximately 8,000 Alberta wheat and barley farmers in district 1 of the Canadian Wheat Board. I would ask Mr. Macklin to stand and receive the traditional warm welcome of this Assembly.

head: **Oral Question Period**

The Speaker: First Official Opposition main question. The hon. Member for Edmonton-Gold Bar.

Electricity Deregulation

Mr. MacDonald: Thank you, Mr. Speaker. Bad public policies on health care, on education, on soaring auto insurance costs, and on energy deregulation cannot be fixed with a trip to England. My first question is to the Premier. Given that the Alberta Association of Municipal Districts and Counties passed a resolution on November 20, part of which reads that

Alberta's farmers, businesses, industry, residents and not-for-profit groups have faced hardships through higher annual energy costs, inconsistent provincial rebate programs, unfair and inefficient billing procedures and uncertainty in market supplies and contracts, why is this government continuing to ignore this group of rural leaders who request that the government of Alberta abandon and reverse this process of energy deregulation?

Mr. Klein: Mr. Speaker, as is so typical of the Liberal opposition, they want to focus on what is wrong or what they perceive to be wrong or, as I say, the five Cs that make for good news stories, the five Cs of conflict, controversy, chaos, confusion, and confrontation. I choose to focus on what is good and what is right about this

province. Certainly, all the issues that the hon. member mentioned are issues. They are the day-to-day challenges that this government is required to meet, and we do the best we can in meeting them in terms of serving the needs of all Albertans or as many Albertans as we possibly can.

As I tell my own caucus and as I tell the public and I'll tell this Legislature today, we need to look at the bigger picture. People from all across Canada are choosing Alberta as their new home, and they're doing it in record numbers. Mr. Speaker, that's because they are not listening to the complaints of the opposition. They're coming here because Alberta has the lowest unemployment rate in the country. They're coming here because Alberta has the lowest tax regime in the country with no sales tax. They're coming here because Alberta has the highest average personal disposable income in the country. They're coming here because we have the highest GDP in the country. They're coming here because we have the highest spending per capita on education and health care in the country.

Mr. MacDonald: You are not listening to farmers.

Given that Enmax has listed in its last annual report long-term debt of \$183 million owed to the taxpayers, to the Alberta Municipal Financing Corporation, how can this government continue to say that there is no public debt as a result of electricity deregulation?

Mr. Klein: Mr. Speaker, relative to the specifics as it relates to financing of electricity, I'll have the hon. minister reply.

Relative to the assertion in the hon. member's prelude, that we don't pay attention to farmers is absolutely false and nonsense. I would remind the hon. member that the majority, I would say, of Members of the Legislative Assembly on the government side are from rural areas. I would remind the hon. member also that none of their members are from the rural areas, and this is because we pay attention to farm concerns and agricultural concerns.

I have to say at this point and publicly acknowledge the fine work done by our Deputy Premier and Minister of Agriculture, Food and Rural Development, especially on the BSE issue. It has been a tremendous challenge for her. Believe me; farmers did not look to the opposition for solutions to this serious problem. They looked to the government, and we responded.

Mr. MacDonald: Again, Mr. Speaker, to the Premier: given that the hon. Premier announced that during his trip to London he would be meeting with Centrica, the parent company of Direct Energy, whose application to buy an Alberta energy company is currently before the Alberta Energy and Utilities Board, does the Premier's meeting with Centrica in London interfere with the regulatory approval process here in Alberta?

Mr. Klein: I'm sorry, Mr. Speaker; I didn't meet with Centrica in London. I ran into a representative of the company and exchanged a few words with him, none of which were related to business other than to have that individual indicate to me that they're hopeful of having their issue vis-à-vis Direct Energy resolved before the Energy and Utilities Board very shortly. That was the beginning, the middle, and the end of the conversation.

The Speaker: Second Official Opposition main question. The hon. Member for Edmonton-Gold Bar.

1:50

Natural Gas Rebates

Mr. MacDonald: Thank you, Mr. Speaker. Last Thursday Alberta

Energy confirmed that there will be no consumer gas rebates in December because prices will not rise above the \$5.50 per gigajoule trigger level. My first question is to the Premier. Why, then, are there natural gas rebates for certain agricultural users who certainly, we all know, need this help, and there are none for seniors, there are none for institutions, there are none for nonprofit organizations, and no rebates for other hardworking Albertans?

Mr. Klein: Mr. Speaker, relative to the issue as it pertains to agricultural users, I'll have the hon. Minister of Agriculture, Food and Rural Development respond.

Relative to consumers generally, residential consumers, I believe he was talking about natural gas. If that is the case, the trigger price has not been reached, as far as I know, at least not this month.

Mrs. McClellan: Mr. Speaker, this way of dealing with certain agricultural producers is the same as it was in the last rebate program. It recognizes – and I hope the hon. member would understand this – that irrigators do not irrigate in the winter months, that dehydrators, grain dryers, and greenhouses tend to not have heavy usage in those months. They are treated exactly the same as all consumers, only they have a different five-month period, and it only triggers if it exceeds \$5.50 a gigajoule.

The Speaker: The hon. member.

Mr. MacDonald: Thank you. Again to the Premier: this government is again picking winners and losers.

An Hon. Member: No.

Mr. MacDonald: Yes. You bet.

The losers in this case are the seniors. How can you tell seniors living on a fixed income in this province who had to endure high gas prices last April that they are not eligible for the \$3.25 per gigajoule amount that is going to other select consumers in this province? How do you say no to seniors?

Mr. Klein: Mr. Speaker, as I understand it, once the trigger price is reached – and I believe it's \$5.50 a gigajoule – during the winter months seniors along with every other citizen will be eligible for rebates. The hon. minister explained full well why irrigators and dehydrators are being treated differently in that their high consumption rates are during the summer rather than the winter.

The Speaker: The hon. member.

Mr. MacDonald: Thank you, Mr. Speaker. Again to the Premier: given that the advice to most Alberta consumers last winter was to put on a sweater and we know that that is no longer good enough, when will this government allow all consumers the option of choosing the five months in 2003 that they receive their natural gas rebates as well as other select consumers?

Mr. Klein: Mr. Speaker, with all due respect, what the hon. member says doesn't make any sense whatsoever. You know, I can just imagine consumers in this province saying: I want to take the summer months. Well, of course, they won't get a rebate because very little gas is used during the summer months. So it just stands to reason that people want to take advantage of the rebate, and the government, being responsible and understanding when usage is the highest, has designated the winter months. That makes sense. It's beyond me why he would even consider such a thing.

Private/Public Partnerships for Hospital Construction

Dr. Taft: Mr. Speaker, the Alberta Liberal opposition has asked the following questions on behalf of Albertans and received no response from this government's ministers. Since the buck stops with the Premier, I'd like him to answer the questions his ministers can't or won't. To the Premier: what evidence can the Premier or his government produce to refute the credible and overwhelming evidence showing that P3 hospitals will cost Alberta taxpayers more and lead to a deterioration in health services?

Mr. Klein: Mr. Speaker, I don't think there is irrefutable evidence that shows that. Certainly, there have been some failures relative to P3s; there have been some successes relative to P3s. That's why we have put in place an adjudication committee to do thorough due diligence before a recommendation is made to the minister.

I can share with the opposition in this Legislature that while I was in London, I had the opportunity of traveling to Swindon, which is west of London, to see a P3 hospital.

Mr. MacDonald: Stonehenge.

Mr. Klein: Not quite Stonehenge. Unlike the hospital, Stonehenge, as I understand it, is off limits. The hospital is very much on limits.

Now, this is a 500-bed hospital that was constructed by the private sector. The private sector provides all the ancillary services; i.e. the maintenance and, I believe, laundry and food services and so on. The hospital staff confine themselves to medical treatment, Mr. Speaker. The cost is about even, but the fact is that they were able to get a badly needed hospital onstream immediately. In this case they had to shut down four hospitals, one of which was built in the '50s. The other three go right back to the Victorian era. So they needed the hospital very badly. They were able to get it onstream. The cost, amortization versus lease, is about the same, but at the end of the day, at the end of the lease period the hospital then reverts entirely to, I believe, the district health authority.

The Speaker: The hon. member.

Dr. Taft: Thank you. Well, this is very interesting.

When the Premier met with the officials at the Great Western hospital in Swindon, did they tell him that the cost of this P3 hospital soared from £45 million to £90 million and ultimately to £148 million? Did they tell him that?

Mr. Klein: No, nor were they that concerned, because the one thing that they did point out, Mr. Speaker . . . [interjection] Now, I don't know where the hon. member is getting his information, but maybe he should travel to Swindon and find out for himself. The hospital officials I met with said that the price that was quoted was the price that they paid. So if the builders went out of scope, if the project went out of scope and it cost more, then that fell on the shoulders of the contractors, not on the hospital.

Dr. Taft: When the Premier met with the U.K. officials about the Great Western hospital in Swindon, a P3 hospital, was he informed of the bed shortages and increases in staff and patient complaints?

Mr. Klein: Mr. Speaker, they replaced exactly the number of beds that they closed down, but Swindon is a growing community, so they are now adding to the facility. I believe they're adding about 120 beds to the facility. The project is now under construction. Again,

it's a P3 project. There was a quoted price, and that is the price that the health district is required to pay: no more, no less.

The Speaker: The hon. Member for Edmonton-Strathcona, followed by the hon. Member for Calgary-Currie.

Long-term Care Accommodation Rates

Dr. Pannu: Thank you, Mr. Speaker. This past summer the government chose to gouge long-term care residents with close to 50 percent hikes in fees, causing hardship among Alberta seniors and their families. The government defended itself by claiming in a news release that the increase was needed to improve the quality of care. Since then, Extencicare, an operator of 13 long-term care homes in Alberta, has posted a 75 percent increase in profits and credits much of its improved profit picture to long-term care fee hikes in Ontario and Alberta. My questions are to the Premier. If jacking up fees by 40 to 48 percent was supposed to improve the quality of care, why are the increased fees improving the profits of companies like Extencicare?

2:00

The Speaker: I'm not sure that that's a question that can be answered under administrative competence. We're dealing here with the profit margin of private-sector companies. I have no idea how a government can respond to that.

Dr. Pannu: My next question, Mr. Speaker: given that seniors' groups like FAIRE are asking for the Auditor General to do an audit, will the Premier show some leadership and ask the Auditor General on behalf of the government of Alberta to do an audit of how the increased fees are being used, and if not, why not?

Mr. Klein: Mr. Speaker, I think the Auditor General – I stand to be corrected – is an officer of the Legislature, and I have no authority to direct the Auditor General to do anything. If this Legislature wants to direct the Auditor General to investigate a certain aspect of government or an outside agency, I guess that's the prerogative of the Legislature.

I would have no problems – I'll say that publicly – with the Auditor General investigating anything, because I'm quite convinced, relative to long-term care fees, that they are, indeed, in line with the actual cost of providing the service, considering that we're still subsidizing, I think, long-term care, basic care to the tune of about – what? – \$70, \$80 a day.

I'll have the hon. minister respond, and perhaps he can provide the absolutely correct information.

Mr. Woloshyn: Mr. Speaker, I think it should be made quite clear first of all that of the 14,000 people that are in long-term care, some 10,000 of those are receiving support from Alberta Seniors to the point where very few, if any, had a negative impact. We've also implemented along with this new rate schedule the possibility for these people to appeal directly to the ministry after they've talked to their operators.

With respect to the rate specifically, the semiprivate rate of \$42 a day works out to about \$1,300 a month, which is very reasonable and barely covers the operational costs.

On some of the things that are alluded to by the hon. member across about what should or shouldn't have been done with the money, I don't know where he's getting his information from. I do know, however, quite clearly that in the Edmonton area, Mr. Speaker, there were some 500 beds that were facing closure if rate increases weren't implemented fairly quickly, and these were not by private operators.

It's also very important to point out that a significant number of the operators in this province are the public health people, so a good portion of this money for the increased rates goes right back into the health authorities' coffers.

So I feel that the rates are very fair. We've done everything possible to help people who are short on finances, and we've left the door open to look at special cases of any nature.

The Speaker: The hon. leader.

Dr. Pannu: Thank you, Mr. Speaker. My last question to the Premier: given that seniors and their families are complaining about a continuing and further decline in service quality since the rate increase, how can the Premier justify a rate increase as a means to improve care when the opposite seems to have occurred?

Mr. Klein: Mr. Speaker, I have received – well, I don't know, but I don't see it as noticeable or certainly prominent in my mail – complaints about the level of care being received by seniors in assisted living or long-term care centres. There might be the odd occasion when that happens, and those situations are investigated on the complaint basis.

Dr. Pannu: How many?

Mr. Klein: Mr. Speaker, as an aside, the opposition leader said: how many? As I say, I just don't see it as a great item relative to the cards and letters and mail and phone calls that we get. I would just say, you know, a handful over the course of maybe a month or two months or three months, but they are individual complaints.

Mr. Speaker, the increase in fees was put in place to reflect the realities of the situation and to bring us up to where we should have been some years ago relative to offsetting the costs of providing a tremendous service.

Drug Addiction Research

Mr. Lord: Because of its psychedelic side effects the drug Ibogaine was declared illegal in the U.S. back in 1970, and this classification has prevented it from getting any serious scientific studies since then, despite its underground reputation for being able to cure any drug addiction with as little as one single dose. Recently it has attracted the attention of a handful of top researchers who are reporting considerable success, and since it is not illegal elsewhere in the world, a controversial new clinic has just opened in Vancouver. The proponents of that clinic have offered to come to Alberta to treat a few drug addicts here for free. My questions are to the minister of health. Are there opportunities for us in Alberta to promote serious and credentialed research and development programs to look for potential medical cures for drug addiction?

Mr. Mar: Well, Mr. Speaker, the best advice that I have most recently is that the drug Ibogaine has not been approved by Health Canada for use in this country unless it's been approved specifically for investigational or research purposes. Researchers who do want to work with a drug that is not approved for use in Canada have to apply to Health Canada for permission to conduct clinical trials. The clinical trials that will be approved by Health Canada must meet scientific requirements of Health Canada, and the methods of study are included in a review by an ethics review board to ensure protection of the research participants.

Now, Mr. Speaker, if there are researchers who wish to investigate this particular drug and its use in breaking drug habits of individuals,

there are sources of funding in this province available to such researchers to investigate potential medical therapies. For example, the Alberta Heritage Foundation for Medical Research on behalf of the Department of Health and Wellness administers a health research fund. That health research fund provides opportunities for relevant, high-quality health research across the entire spectrum of research areas, sir.

The Speaker: The hon. member.

Mr. Lord: Thank you. Is there any work that your department is currently doing in regard to drug addiction research specifically as it pertains to such drugs as Ibogaine or 18-methoxyoronaridine?

Mr. Mar: Not to the best of my understanding, Mr. Speaker.

Mr. Lord: Does your department track or otherwise quantify what costs we are incurring in our health care system which might be avoided if we could reduce or eliminate substance abuse and drug addiction?

Mr. Mar: Mr. Speaker, the cost to the health care system would be difficult to estimate because the potential maladies associated with addictions are innumerable. I did, however, take the opportunity to review a report that was published on this subject by the Canadian Centre on Substance Abuse. It estimated that the cost to Canadian society for abuse as at 1992 was estimated at some 18 billion dollars a year.

Of course, here in the province of Alberta AADAC, the Alberta Alcohol and Drug Abuse Commission, offers a variety of prevention and cessation programs aimed at reducing addictions in Alberta, including methadone programs to help break addictions to opiates, and provides counseling. In Alberta we provide close to some 60 million dollars annually for AADAC's addiction prevention and support programs.

Access to Crown Land

Ms Carlson: Mr. Speaker, this spring the Premier announced that his government would contribute \$6 million to finding a solution to the conflict between First Nations and oil field contractors in the Slave Lake area, yet last week government ministers couldn't tell us what they did with the money and who they consulted. Now the chiefs of Treaty 8 are telling the Alberta Liberal opposition that they have not been consulted on this issue. To the Premier: why did the government fail to consult with the chiefs of Treaty 8 before Bill 49 hit the Legislature?

2:10

Mr. Klein: Mr. Speaker, I'm glad that Chief Waquan is in the gallery today, because we would like to express to Chief Waquan our apologies. It was a case of the legislation getting out ahead of the consultation process. The hon. Minister of Aboriginal Affairs and Northern Development is looking into the matter, and we'll be discussing this with the chiefs of Treaty 8 to sort it all out.

Ms Carlson: Mr. Speaker, how does the Premier respond now to the chiefs who are telling him that Bill 49 has to be withdrawn?

Mr. Klein: It's not a matter of withdrawing the bill, Mr. Speaker. It's a matter of perhaps delaying the bill until this consultation takes place.

Ms Carlson: Mr. Speaker, will the Premier be willing to put an

exclusion clause into this legislation for those First Nations who will be negotiating with oil field contractors?

Mr. Klein: I'm not about to get into that right now. It hasn't been discussed. But I'll have the hon. minister respond as to the action she plans to take from here on in relative to this situation.

Ms Calahasen: Well, Mr. Speaker, as I indicated last week, there are two processes we're talking about here. The first process has to do with the issue that she's talking about. As a matter of fact, I want to talk about the fact of the irresponsible action by the member in terms of inciting civil disobedience. I really feel strongly that we have to be able to look at the whole issue of what this is all about.

Number one, we have to be able to deal, especially when we're talking about trying to attempt an amicable solution to everything that's been occurring. There have been some concerns expressed by a number of people. There have been some concerns expressed by First Nations. What we have done is we hired a consultant who went out and talked to the various groups to see what needed to be done. These recommendations will be brought to the current specific areas that we need to deal with. Those ones are, number one, that we have to be able to ensure that we work with the First Nations, and that's very important. That's what we're attempting to do.

Secondly, Mr. Speaker, we're trying to make sure that we deal with the issue of the oil field contractors. I know my colleague from Sustainable Resource Development would like to talk on behalf of Bill 49.

However, on the consultation issue we've been working with the First Nations. I've met with the Treaty 8 First Nations. I've met with the all-chiefs summit. I've met with a number of First Nations who are willing to meet with us. My team has been sent to work with the various First Nations so that we can continue on the consultation process, but we have to be able to ensure that we also deal with other issues as they come up, because it was their leader who said that we have to deal with all these areas, and that's exactly what we're doing.

The Speaker: The hon. Member for Calgary-Buffalo, followed by the hon. Member for Edmonton-Mill Woods.

Postsecondary Education Funding

Mr. Cenaiko: Thank you, Mr. Speaker. Funding inequities between Calgary and Edmonton can cause major concern for residents in both cities. Recently a University of Calgary document provided financial data on inequities in funding between the University of Calgary and the University of Alberta of \$1,052 per student higher in Edmonton. My question is to the Minister of Learning. Is this the case?

The Speaker: The hon. minister.

Dr. Oberg: Well, thank you very much, Mr. Speaker. This is a question that has been asked and has been publicized for probably the past six or seven years. The hon. Member for Medicine Hat looked at this exact question in the year 2000, and I will report back what he said. I will also report back as to what the differences are as of today.

I will say that in their last funding year that we have the information for, which was '01-02, there was actually a \$1,500 difference between the University of Calgary and the University of Alberta on an FTE basis. Mr. Speaker, the reason for that is programs such as agriculture and forestry. An agricultural and forestry program accounts for 100 percent more than an undergraduate arts program.

At the University of Alberta there's 2.4 percent of their enrollment taken up in agriculture. In medicine and dentistry, for example, there's a difference of 2.3 percent. This program in itself is five times the cost of an arts program, and so on.

The actual difference ends up being 20.2 percent, which is, in essence, the difference in funding between the University of Calgary and the University of Alberta. There are also differences in masters' programs and PhD programs.

So, Mr. Speaker, in order to let the hon. member know, we look at this constantly, and the actual numbers are very similar when you take into account the program mix. This is something that the hon. Member for Medicine Hat found out in his review in the year 2000 as well as our figures here today.

The Speaker: The hon. member.

Mr. Cenaiko: Thank you, Mr. Speaker. My final question is again to the Minister of Learning. Would a third-party study of funding differences prove these inequities?

Dr. Oberg: Well, Mr. Speaker, we have looked at this recently. In the year 2000 we undertook a full review of the postsecondary funding system. This was done by the hon. Member for Medicine Hat – these are the reports that came in – and he actually made quite substantial changes, which were instituted. Right now we are looking at the Learning Commission, where one of the recommendations is that we undertake a review of the total postsecondary system. That is still under review and is yet to come back.

The Speaker: The hon. Member for Edmonton-Mill Woods, followed by the hon. Member for Edmonton-Castle Downs.

Postsecondary Education Tuition Fees

Dr. Massey: Thank you, Mr. Speaker. In 13 years tuition at the University of Calgary has gone up about 375 percent. If this trend continues, children in kindergarten today will be paying roughly \$16,400 a year in tuition. My question is to the Premier. Is the government satisfied that Calgary's parents should be looking at saving at least \$65,000 to cover the future tuition costs of their children's degree programs? Sixty-five thousand dollars, Mr. Premier, if the trend continues.

Mr. Klein: Mr. Speaker, it's hypothetical, to say the least, and highly speculative. As you know, we're going through the recommendations now of the Learning Commission. The hon. minister will be addressing the whole issue of postsecondary education. None of us can foresee what the circumstances will be 16 or 17 years down the road. We try to predict as best we can, but perhaps the hon. minister can shed some more light on it.

Dr. Oberg: Thank you very much, Mr. Speaker. The numbers that the hon. member had put forward are true when you go back. But the issue is that when you go ahead – the numbers at the University of Calgary, for example, are that their tuition increase is limited this year to \$276. Following this, it is limited to \$276 plus the cost of living, so do the math. There's no way that the numbers can be that high.

The Speaker: The hon. member.

Dr. Massey: Thank you. Again to the Premier: given that the latest government policy changes effectively remove any restraint on

tuition, how high will tuition rates have to go before the government takes some action?

Mr. Klein: Mr. Speaker, as I understand it, that statement is not accurate. That statement is not accurate at all. Bill 43, as I understand it, and we're talking about law as opposed to policy, includes a new tuition fee policy that replaces the current 30 percent tuition cap with other controls – with other controls – to ensure that tuition increases continue to be predictable and manageable.

Dr. Massey: Again to the Premier: given the importance that Albertans place on postsecondary education and the financial resources of our province, why isn't tuition here the lowest in the country?

Mr. Klein: Mr. Speaker, I don't know where we stack up in terms of other universities in other jurisdictions across the country. Perhaps the hon. minister can respond.

Dr. Oberg: Thank you very much, Mr. Speaker. The University of Lethbridge is roughly number 40 out of 50 universities when it comes to tuition. The University of Alberta and the University of Calgary are numbers 24 and 25 respectively out of roughly 50 or 53 institutions around the country.

There needs to be something corrected here, and that is that the tuition policy does in fact place limits on the amount of dollars that the tuition can be increased by. At the University of Calgary, which is the example that the hon. member has used, the amount is \$276 per year this year. Following this year, it is \$276 plus the CPI. So I really have an issue and a problem when the hon. member is out there fear mongering, saying things that are entirely not true.

The Speaker: The hon. Member for Edmonton-Castle Downs, followed by the hon. Member for Edmonton-Glenarry.

2:20

Police Services

Mr. Lukaszuk: Thank you, Mr. Speaker. Budget deliberations are going on in Edmonton and Calgary and other municipalities across the province, and police services have raised a concern about their financial ability to recruit and train officers so that they can put their resources onto the street and fight crime. To the Solicitor General: would the minister consider helping Alberta police services save money on recruiting and training costs by centralizing police training as recommended by her own policing review?

The Speaker: The hon. minister.

Mrs. Forsyth: Thank you, Mr. Speaker. The hon. member has brought to the floor a good question, and it's something that we're considering. We support the idea of centralized recruiting, think it's a good idea, and would be willing to move forward on that.

Mr. Lukaszuk: Mr. Speaker, my second and last supplementary: would the minister also consider helping police services save money through economies of scale and allowing them to bulk purchase equipment, weapons, and other supplies so that they can save more money and put more officers on the streets?

The Speaker: The hon. minister.

Mrs. Forsyth: Thanks, Mr. Speaker. Another good question. It wasn't one of the recommendations that came forward in the

policing review that was done some time ago; however, it's something that we are currently looking at and considering doing in First Nations. If there's somewhere we can help the police in this province with some cost savings for them, we'd be more than willing to look at it.

Private/Public Partnerships

Mr. Bonner: Mr. Speaker, since the Minister of Infrastructure refuses to seriously address questions on P3 projects in Alberta, my questions today are to the Premier. When will this government provide evidence that a P3 courthouse in Calgary will not cost Alberta taxpayers more and lead to a deterioration of judicial independence in Alberta?

Mr. Klein: Mr. Speaker, the question was answered generally, but I'll repeat my answer. First of all, before any P3 project is considered, it has to go through an adjudication process. These people are all people outside of government. They're experts in finance, developing, law and are much more qualified than any member of the opposition to make an appropriate evaluation as to whether a project should go ahead or not and whether there can be a savings to the taxpayer. Once that adjudication is made, a recommendation is then made to the minister. The minister follows a very lengthy and detailed process before a project is finally accepted.

I believe it's about four or five stages that the developers have to go through at their own expense. As a matter of fact, one of the complaints from the proponents is that on a project the size of the Calgary courthouse the proponents have had to spend literally millions of dollars to prepare their cases. That is their own expense and is not included in the cost of the project.

So after all is said and done, there has to be a proper adjudication and proper evidence presented to the minister that indeed this makes sense from the point of view of bringing needed capital works projects onstream as quickly as we possibly can and that at the end of the day there is a savings or, at worst, the taxpayer is on the hook for no more.

The Speaker: The hon. member.

Mr. Bonner: Thank you, Mr. Speaker. Given that again we have not got any provision for evidence to be provided, when will this government produce evidence to prove that P3 hospitals won't lead to a deterioration in health services? That question is to the Premier.

Mr. Klein: Mr. Speaker, the services in the hospitals have nothing to do with the construction of the hospitals. In the case of Swindon and, I believe, the case here as well, basic requirements are put forward relative to what is needed in the hospital. In other words, an MRI room, a diagnostic room, operating theatres, emergency: all of the components associated with a hospital are determined by the medical people. The contractor is simply there to build the building and to assume the risks relative to the costs of the building. In the case of Swindon, the contractor builds at a set price, and the hospital leases it back, but the hospital itself – the medical staff, the board, the policymakers, and the medical people – is entirely responsible for the way medical services are delivered in the hospital. That has nothing to do with the contract whatsoever.

Mr. Bonner: To the Premier: will the Premier, then, table these reports so that Albertans can see that they will not be paying more under a P3 model?

Mr. Klein: I'm sorry. There's only one active proposal right now that I know of. Maybe two. I think that Transportation has a P3 project for the east extension of the Anthony Henday. Of course, the Calgary courthouse proposal is the major one and the only active one, and I don't know the extent to which the information is available. But, certainly, as much of the information as we possibly can without violating proprietary rights will be made available. Perhaps the hon. minister can respond.

Mr. Lund: Mr. Speaker, as I indicated to the member last week, once this whole process has been completed and the final contract is signed so that we can reveal all of this information, we will reveal it. It will all be out in the open. I can hardly wait, if the hon. leader of the Liberal opposition is still in this Assembly, for him to jump up and fulfill the promise that he made to us last week, when he said that he would jump up and praise it once we have the contract signed, because we will show that, in fact, it is good for Albertans.

The Speaker: The hon. Member for Edmonton-Highlands, followed by the hon. Member for Drayton Valley-Calmar.

Grain Marketing

Mr. Mason: Thank you very much, Mr. Speaker. In the government's relentless attempts to undermine the Canadian Wheat Board, a bill was passed last fall that would set up a test market to let grain producers bypass the Wheat Board. We also had the spectacle last fall of the Premier grandstanding on the steps of the Lethbridge courthouse in support of a few farmers who chose to deliberately break custom laws. This government consistently ignores the interests of the majority of wheat and barley farmers of Alberta. My question is to the Premier. Why does the Premier support a tiny minority of grain producers who engage in civil disobedience and law-breaking while failing to support grain producers, who last fall elected pro Wheat Board directors in all three Alberta districts where those elections were held?

Mr. Klein: Mr. Speaker, I'm so glad that a representative of the Wheat Board is here, first of all, to listen to the absolutely ridiculous diatribe coming from the mouth of the opposition NDP member; secondly, to put on the record that we do not oppose the Wheat Board and never have. But what we do support is the fundamental democratic principle of choice.

Now, I know that the NDs just hate the thought of democracy. They like the thought of control. Our farmers in this province, not a handful of farmers, have voted 64 percent for choice to market their wheat, and I believe it's higher than that, 68 percent, for barley. Choice, Mr. Speaker.

2:30

If the Wheat Board is deemed to be the right vehicle through which these farmers should sell their wheat and barley, then so be it. Go ahead. The Wheat Board does a great job on the international stage selling wheat and barley, but if a barley or wheat farmer has next door to him a pasta manufacturer or a bread manufacturer or a cookie manufacturer and says, "Lookit; I just want to grow my wheat in accordance with the quality standards you set and sell it to you, just take it off and sell it to you; you grind it up and you make your cookies rather than going through the Wheat Board," that is choice. That's what the opposition opposes. They oppose choice. They oppose democracy.

Mr. Mason: Mr. Speaker, given that I consulted on my question with the director from the Wheat Board that's with us today, will the

Premier apologize to him and to Alberta wheat farmers for his denigrating remarks?

Mr. Klein: Mr. Speaker, the only person who has made denigrating remarks is the hon. Member for Edmonton-Highlands, who implied that he opposes democracy. I'll point out one more area in which he opposes democracy. He says that it's all right for Ontario farmers to market freely and have choice relative to their wheat and barley or in Quebec or in the Maritime provinces or in British Columbia but not in Alberta, not in Manitoba, not in Saskatchewan, not in a small corner of British Columbia, and not in a small corner of Ontario; the rest of the country can do as they wish.

Mr. Mason: Mr. Speaker, given that wheat and barley farmers in Alberta, when given a choice, consistently elect pro Wheat Board single-desk directors, will the Premier stop grandstanding on the courthouse steps of Lethbridge in favour of people who have broken the law and actually stand up for wheat farmers in this province?

Mr. Klein: Mr. Speaker, first of all, these are all small points. It wasn't on the courthouse steps. It was in Lethbridge. That part he has right. There were about a thousand farmers there along with our minister of agriculture. I don't know if the hon. leader of the Liberal opposition was there or not, but I think he was there supporting the farmers who had to go to such steps as to break the law, which we did not condone. They broke the law, yes. They paid the penalty; some of them went to jail.

Dr. Pannu: So civil disobedience is okay.

Mr. Klein: No. We did not support civil disobedience. We said that it's a bad law, and it is a bad law. It is a bad law. Any law that prohibits choice, any law that discriminates against provinces is a bad law, Mr. Speaker. The hon. member should understand that. You know, even the words New Democrats, democracy – it defies all the conventions of democracy, all the fundamentals of democracy, yet they support it. The New Democrats, they call themselves, support a monopoly. They do not support democracy. I find it so very, very strange.

Mr. Speaker, again I have to remind the hon. member that in a plebiscite 64 percent of Alberta farmers said that they wanted choice relative to the marketing of wheat; 68 percent said that they wanted choice relative to the marketing of barley. That's a majority.

head: **Recognitions**

The Speaker: Hon. members, 30 seconds from now I'm going to call upon the first of seven members to participate.

Duane Daines

Mr. Ouellette: Mr. Speaker, I rise to recognize the accomplishments of a great Alberta cowboy, Duane Daines. Duane Daines was one of the best cowboys this province has produced. He's competed in nine National Finals Rodeos, won three Canadian all-round championships, won the Canadian saddle bronc championship, and also took home the \$50,000 Calgary Stampede title.

But Duane's life changed instantly in 1995, when in his 17th year as a cowboy an accident in the bucking chute left him paralyzed. In 1995 Duane was leading the race for cowboy of the year. His accident occurred with eight events left, and his fellow cowboys didn't want to compete. They wanted to ensure that Duane would win the cowboy of the year title. Duane would have none of it. He told his competitors to keep fighting the title, and they did, but Duane still won. He was far ahead. He was that good.

Mr. Speaker, in November Duane Daines was awarded the Red Carpet award for outstanding ambassador by the Canadian Paraplegic Association for his efforts in helping the disabled lead active and independent lives following an injury. As well, Duane is also a 2003 inductee into the Alberta Sports Hall of Fame.

If this doesn't count as an inspirational, made-in-Alberta success story, I don't know what does. Mr. Speaker, I am proud of Duane's accomplishments, and above all I am proud that I can call this great man a constituent of Innisfail-Sylvan Lake. I call on the Assembly to give him the recognition and respect his efforts deserve.

Thank you, Mr. Speaker.

Glen Huser

Mr. Maskell: Mr. Speaker, I rise today to recognize an accomplished Alberta author who is using his talent to make a difference. Glen Huser of Edmonton won the 2003 Governor General's literary award in children's literature for his novel entitled *Stitches*. *Stitches* is a story about two resilient outcasts who struggle to survive being different in a small town. With themes of self-discovery and empowerment and an off-beat sense of humour Glen Huser makes it impossible for readers not to care about the struggles children face when confronted with vicious bullying.

A former teacher/librarian I am proud to have known for many years, Glen is the author of two other novels, *Grace Lake* and another children's novel called *Touch of the Clown*. He is also the founder of *Magpie*, a quarterly magazine that showcases student writing and graphics. He has served on the board of directors of both the Young Alberta Book Society and the Edmonton chapter of the Children's Literature Roundtable, and he is the long-standing children's book reviewer for the *Edmonton Journal*. Glen currently teaches in the department of elementary education at the University of Alberta.

Mr. Speaker, I would ask that all Members of the Legislative Assembly join me in congratulating Glen Huser on receiving the 2003 Governor General's award in children's literature.

The Speaker: The hon. Member for Edmonton-Centre.

World AIDS Day

Ms Blakeman: Thank you, Mr. Speaker. Today, December 1, is World AIDS Day, Red Ribbon Day. I'd like to recognize Bob Mills, HIV Edmonton, and all the others who worked so hard to keep this issue on the front lines.

This is a frightening time for those who contracted AIDS in the '80s and early '90s and were able to survive and even thrive using drug cocktails and other treatments. These same treatments are finally failing, and those who have been living positive are dying. For those of us who lost friends and family and went to too many funerals, that time is coming again. This was brought home to me when Bob Mills died this fall after a 14-year triumph over HIV/AIDS. He was an effective, persistent advocate.

2:40

I spoke at an HIV Edmonton event last week, and their theme was Stigma and Discrimination. As I looked around their office at the posters, the pamphlets, the books, I thought: this organization has worked hard to help us understand. That's not easy in Alberta, a province where it is okay, even encouraged by government leaders, to talk about building fences around various programs and legislation as though to extend rights to gays and lesbians takes them from others.

Human rights is not a finite bucket of rights. To allow a stigma to continue is to allow discrimination to continue. So HIV Edmonton and their partner agencies work on. In Alberta there is money, research capability, legislation, medicare. We can do better. We must do better.

The Speaker: The hon. Member for Edmonton-Norwood.

Edmonton Minor Hockey

Mr. Masyk: Thank you, Mr. Speaker. Today I rise a week and change after the Heritage Classic. A name comes to mind, and it's Red Hetchler. Mr. Hetchler has been helping Edmonton kids for over 40 years, volunteering in minor hockey. The Member for Edmonton-Glenarry knows all about Red.

Mr. Speaker, he's helped the Hawks and Whitemud West hockey clubs merge and watched over the years as they expanded from three teams to 15. As director of northwest zone midgets God only knows how many hours Red put into each of these teams in addition to watching over 100 hockey games each season.

I'd also like to recognize some coaches, Wayne Gelmich and Ken Neal of Paranych Wind. Mr. Speaker, they work tirelessly every practice night, and they've convinced me to give them a hand, so I've been putting on the skates also.

I'd like to name some of the players on the team starting with Ryer Alyn, Mark Arsenault, Arrol Bernard, Jamie Cavanagh, Scott Christensen, Kendal Da Costa, Ryan Griffiths, Barrett Jack, Logan Key, Frederick Kitts, Daniel Lefebvre, Gavin Masyk, Mitchell McKenzie, Stewart McNabb, Darrel Morin, David Palmer, Jacob Trudel, and Kyle Bernard.

Thank you, Mr. Speaker.

ISO Certification

Mr. Lord: Mr. Speaker, ISO 9000 is the world's most recognized business process re-engineering methodology. It is a road map to follow which is designed to create maximum consistency of quality and efficiency of process within any organization, and its results in terms of improving customer satisfaction and reducing complaints are truly remarkable. ISO 14000 adds the additional environmental benchmarks, making sure that the product or service being offered is being manufactured in the most environmentally responsible manner possible.

ISO certification is sweeping the world outside of North America and is rapidly becoming a prerequisite for doing any business internationally, although almost no governments at any level have discovered or tried to implement it yet. That's why I am proud to recognize the city of Calgary for their achievement in recently becoming the largest and virtually only city on planet Earth to have achieved independent ISO 14000 certification citywide.

Mr. Speaker, the ISO process truly creates a paradigm shift in governance within any organization, and while it wasn't easy to do, Calgary doesn't have to just claim to be one of the best run cities on the planet anymore; we can now prove it.

Thank you.

The Speaker: The hon. Member for Edmonton-Mill Woods.

Council of Alberta University Students and Alberta Colleges and Technical Institute Students' Executive Council

Dr. Massey: Thank you, Mr. Speaker. Today I congratulate the coalition of the Council of Alberta University Students and the

Alberta College and Technical Institute Students' Executive Council. Using a wide range of political action strategies including launching a web site, public demonstrations, personal lobbying, and formal presentations, they worked to make Bill 43 a bill that better reflects student interests.

The changes that the coalition effected with respect to student association government are important, and although they were unsuccessful in challenging those aspects of the bill that deal with tuition, they've been effective in raising and keeping this issue on the public agenda of this province.

Many student leaders were involved in the campaign. At the risk of making a serious omission, the efforts of ACTISEC's Stu Sherry, chair, and Brett Bergie, provincial director, as well as CAUS chair Shirley Barg, vice-chair Chris Samuel, and executive director Melanee Thomas along with Lee Skallerup, president, and Jennifer Pelley, vice-president external of the Graduate Students' Association need to be recognized. They are worthy of the confidence placed in them by over 180,000 postsecondary students in this province.

The Speaker: The hon. Member for Calgary-West.

Kelsey Armstrong

Ms Kryczka: Thank you, Mr. Speaker. I am very pleased to recognize in this Assembly a very capable young lady, Kelsey Armstrong, who also happens to be a constituent of mine in Calgary-West. Kelsey was recently granted a Rutherford scholar award, which is a \$1,500 scholarship awarded yearly to the top 10 Alexander Rutherford scholarship recipients in Alberta based on their diploma examination marks.

This year 16 awards were granted, with marks ranging from 97.6 percent to 99 percent. Kelsey's average was an amazing 99 percent, which makes her one of the top students in Alberta. Kelsey has attended public schools Olympic Heights elementary, Bishop Pinkham junior high, and Central Memorial high school. She is in business this year at the University of Calgary.

Congratulations, Kelsey. I'm absolutely sure that you and your family are very proud of your outstanding academic achievement.

Thank you.

The Speaker: And congratulations to the Member for Calgary-West for being the only member participating in Recognitions today to follow Standing Order 7(6).

Calendar of Special Events

The Speaker: I might add, hon. members, as we've now arrived at December, that there are also these other following recognitions that might be appropriate for members to recognize. November 25 to December 6 is White Ribbon Week. November 24 to December 24 is Christmas kettles appeal; this is by the Salvation Army. As already indicated, today is World AIDS Day. December 1 to 7 is National Safe Driving Week. December 2 is International Day for the Abolition of Slavery. December 3 is International Day of Disabled Persons. December 5 is International Volunteer Day for Economic and Social Development. December 6 is National Day of Remembrance and Action on Violence Against Women. On December 6 is the Santa Shuffle. December 7 is International Civil Aviation Day. December 10 is Human Rights Day. December 14 is the Festival of Carols; December 14 as well is International Children's Day of Broadcasting. December 15 to 31 is the holiday fire safety campaign. December 18 is International Migrants Day. Of course, December 20 to December 27 is Hannukah. December 25 is Christmas Day. December 26 is Boxing Day, and December 29 is International Day for Biological Diversity.

head: **Presenting Petitions**

The Speaker: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Speaker. I'm presenting a petition signed by 57 Edmontonians petitioning the Legislative Assembly to "urge the Government of Alberta to reinstate paying for repairs to privately owned equipment such as scooters and power wheelchairs."

Thank you, Mr. Speaker.

The Speaker: The hon. Member for Edmonton-Highlands.

Mr. Mason: Thank you very much, Mr. Speaker. I'm tabling a petition with 325 signatures calling on the government to "return to a regulated electricity system, reduce power bills, and develop a program to assist Albertans in improving energy efficiency."

head: **Introduction of Bills**

The Speaker: The hon. Member for Olds-Didsbury-Three Hills.

Bill 55

Farm Implement Amendment Act, 2003

Mr. Marz: Thank you, Mr. Speaker. I rise today to request leave to introduce Bill 55, the Farm Implement Amendment Act, 2003, for first reading.

This bill will make changes to the way farm implement dealers and their distributors indemnify their customers and will bring the legislation in line with today's financial realities.

[Motion carried; Bill 55 read a first time]

The Speaker: The hon. Deputy Government House Leader.

Mr. Zwodzesky: Thank you, Mr. Speaker. I would move that Bill 55, the Farm Implement Amendment Act, 2003, be moved under Government Bills and Orders.

[Motion carried]

head: **Tabling Returns and Reports**

The Speaker: The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Speaker. I have a number of tablings this afternoon. The first is a letter from the general manager of the Bar C Ranch Resort, located northwest of Cochrane. They're very concerned about a logging project that is expected to happen in the region, and they are in negotiations with the Minister of Sustainable Resource Development on this.

The other series of letters I have are all very much opposed to any more commercial development in the Evan-Thomas area, and these letters are from Carolyn Fisher, Steve Arthur, Jeanne Kimber, Colleen Campbell, Kathryn Milne, Stephen Mahaffey, and Peter and Barbara Sherrington. They live throughout Alberta and are very concerned.

Thank you, Mr. Speaker.

The Speaker: The hon. Member for Edmonton-Mill Woods.

2:50

Dr. Massey: Thank you, Mr. Speaker. With permission I would table letters from Denise Gitting, Alan Besecker, Pauline Worsfold in Edmonton-Glenora; Cheryl Mitschke, Candice Howrsh in

Calgary-Mountain View; and Katherine Woodcock in Calgary-Cross, all nurses who are distressed with the state of negotiations and are particularly disturbed about the provisions that would see them placed anywhere in the region.

Thank you.

The Speaker: The hon. Member for Edmonton-Glenarry.

Mr. Bonner: Thank you, Mr. Speaker. I have two tablings today. Earlier today I introduced Roberta and Kevyn, and they along with four other members of their group had met to perform a sacred pagan ceremony in front of the Legislature. They were interrupted by two security officers and asked to cease their behaviour immediately and leave the grounds or they'd be charged with trespassing. They were very concerned about that.

My second tabling is from Gail Pederson. Gail is a nurse and is very concerned over what is being asked of them in the current contract negotiations and the tactics that are being used by the employer in those negotiations.

Thank you.

The Speaker: The hon. Member for Edmonton-Riverview.

Dr. Taft: Thank you, Mr. Speaker. With permission I'm tabling four letters today, copied to me but written to the Member for Edmonton-Whitemud, from Lori Deverdenne, Alan Besecker, Linda Brockmann, and Dianne Vinet expressing grave concern over the negotiations between the health regions and registered nurses and especially the impact these may have on patient safety.

Speaker's Ruling Tabling Documents

The Speaker: Hon. members, I've raised this now on several occasions. To table letters written to other members, I have no idea what purpose that serves. I have no idea how that fulfills the criteria we have for tablings. I'm going to repeat what I said before. I'm going to ask the three House leaders to meet over the winter to try to get a handle on this.

The hon. Member for Edmonton-Centre.

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

Ms Blakeman: Thank you, Mr. Speaker. I do have a request from these individuals to table these letters, so I'm following through on that. These are written by Barb Heinz and Lisa Heinz to their MLA for Grande Prairie-Wapiti and Tanice Olson to her MLA for Calgary-Egmont expressing concerns about a lack of full negotiations between the nurses' union and the regional health authorities and concerned about safety for both Albertans and nurses.

Thank you.

The Speaker: The hon. Member for Calgary-Currie.

Mr. Lord: Thank you, Mr. Speaker. I rise today to table the requisite number of copies of three different reports. The first is an index of abstracts regarding research into 18-methoxycoronaridine. Of particular interest are the studies showing 18-MC's potential to eliminate nicotine addictions.

The second one is an index of lab extracts and publications on ibogaine, as is the third, which is an index of 112 abstracts and reports titled The Ibogaine Bibliography.

Thank you, Mr. Speaker.

The Speaker: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Speaker. I have two tablings today. First I'm tabling a letter from a senior, Miss Pauline Knittle of Edmonton, dated November 17, 2003. Miss Knittle is deeply concerned with the erosion of seniors' benefits, increasing poverty among seniors, and the overall continued neglect of seniors by this government. She is asking the government to treat seniors with dignity and respect and reverse those policies which are hurting seniors.

The second document, Mr. Speaker, is a document from Catherine Ripley, dated November 12, 2003. This document was prepared by the Whitemud Coalition of Schools and is asking the government of Alberta to accept the Learning Commission's recommendations and substantially increase education funding.

Thank you, Mr. Speaker.

The Speaker: The hon. Member for Edmonton-Highlands.

Mr. Mason: Thank you, Mr. Speaker. I have two tablings today. The first is a letter from Mr. Art Macklin, dated November 18, 2003. He is concerned with the Alberta government's attack on the Canadian Wheat Board and is requesting the Premier and the minister of agriculture to develop a positive proposal on grain marketing that adds value for Alberta producers.

The second tabling is a letter from a senior, Mr. Clarence Huibers. He is worried about the increasing cost of deregulation, resulting in serious financial hardship to seniors.

Thank you, Mr. Speaker.

head: **Orders of the Day**

head: **Written Questions**

The Speaker: The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you, Mr. Speaker. Proper notice having been given on Thursday, November 27, I would now move that written questions appearing on today's Order Paper do stand and retain their places.

[Motion carried]

head: **Motions for Returns**

The Speaker: The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you again, Mr. Speaker. Proper notice having been given on Thursday, November 27, I will now move that motions for returns appearing on today's Order Paper stand and retain their places.

[Motion carried]

The Speaker: Hon. Member for Edmonton-Highlands, did you want to rise on a point of order? I have some correspondence in my office suggesting that you do, but you have not given me any notice of that.

Mr. Mason: No, I did not give you notice, Mr. Speaker. I do however have a concern about a request for another private member's bill.

The Speaker: Well, why don't you make a very brief statement on a point of order?

Point of Order Private Members' Public Bills

Mr. Mason: Thank you very much, Mr. Speaker. I will then, and I appreciate your asking me to do that. I'm concerned about the request for early consideration for third reading of a bill that has not been dealt with, let alone passed, at committee stage. I guess the concern is twofold. First of all, that would make it very difficult for the private member's bill that I'm sponsoring to even be dealt with before the end of this session of the Legislature, but more importantly I think it sets a precedent which would make it more difficult in the future for all private members' bills to be given equal consideration. That's just the very essence of my point.

The Speaker: Hon. members, I'm going to just take a couple of minutes to deal with this matter because it only occurs in the perceived dying days of a session. It does not occur any other time, and it only applies to private members' days. So some time was spent over the weekend, in fact, looking at this and preparing a statement in anticipation of this.

In essence, the Member for Lac La Biche-St. Paul had requested early consideration of Bill 208 in Committee of the Whole in the memorandum to the Speaker tabled in the Assembly on November 19, 2003. On Wednesday, November 26, 2003, the chair tabled another memorandum from the same member requesting that Bill 208 be given early consideration at third reading stage if – and this is the key word: if – it passes Committee of the Whole.

The practice that has been followed is that a member may request early consideration of his or her bill by writing to the chair so that the letter can be tabled at least one sitting day before the bill in question is to be considered. The bill which is the subject of the request will be considered after debate is concluded on the bill then before the Assembly or the committee, assuming that no other bills have reached their due dates under Standing Order 8(5). This was the practice that the chair outlined on November 27, 2001, at pages 1284 and 1285 of *Alberta Hansard* for that day. In this case there are no other bills that must come up for consideration.

However, the member sponsoring Bill 209 is anxiously awaiting the opportunity to debate the principles of the bill at second reading. The chair would like to indicate that the only direction is found in Standing Order 9(1), which states that private members' public bills shall be taken up in order of precedence. In order to maintain some certainty, the chair finds that Bill 208 will proceed to committee and, if passed, then will proceed to third reading today.

In an effort to ensure that the system is fair and equitable to all members, the chair would welcome suggestions by members and their House leaders over the winter on this issue of early consideration of private members' public bills so that a procedural policy could be put in place for the spring 2004 session, one that would be very clear at the initiation of the session. The chair's view is that a member should not be able to request early consideration of his or her bill at the next stage until it has passed the previous stage. If that were the rule, then the Member for Lac La Biche-St. Paul would not have been able to request early consideration at Committee of the Whole until his bill had passed second reading.

In closing, the chair wants to note that the Legislative Assembly of Alberta has since 1993 been a leader among Legislatures in allowing for consideration of private members' business. The chair recognizes that improvements can be made and looks forward to receiving suggestions about changes to the process.

In a nutshell, today we will proceed with committee on Bill 208 and, if it's passed, then proceed to third reading of 208, and we'll review this in the future.

3:00head: Public Bills and Orders Other than Government Bills and Orders

head: Committee of the Whole

[Mr. Shariff in the chair]

The Deputy Chair: Hon. members, we'll call the committee to order. Before we proceed with the bill that is before is, may we briefly revert to Introduction of Guests?

[Unanimous consent granted]

head: **Introduction of Guests**

(reversion)

The Deputy Chair: The hon. Member for Lac La Biche-St. Paul.

Mr. Danyluk: Thank you very much, Mr. Chairman. It's an honour for me to introduce three constituents and one constituent from Vegreville-Viking. First of all, I'd like to introduce the constituent from Vegreville-Viking, Mr. Victor Chrapko, and from the constituency of Lac La Biche-St. Paul Mr. Len Kryszarneski, Tom Melnyk, and Mike Warholik. They're here for a meeting. If I could ask them to rise and receive the traditional warm welcome of this Assembly.

Thank you.

The Deputy Chair: Any other introductions?

Bill 208

Occupiers' Liability (Recreational Users) Amendment Act, 2003

The Deputy Chair: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Lac La Biche-St. Paul.

Mr. Danyluk: Thank you very much, Mr. Chairman. It gives me great pleasure to rise in the Assembly this afternoon to bring the discussion and debate during Committee of the Whole for Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003. Today's society is highly contentious and argumentative, with litigation seeming to be commonplace. Private landowners and occupiers must now more than ever concern themselves with the issue of liability. The fear of a potential lawsuit is enough to prevent landowners from permitting recreational users on their property.

As mentioned previously, the purpose of Bill 208 is to reduce the current level of liability that landowners and occupiers owe to visitors on their property. This bill reduces the burden for owners, and as a result recreational users would be treated the same as trespassers regarding legal liability.

Mr. Chairman, it is section 6.1(1) that states:

The liability of an occupier to a person who uses the premises described in subsection (2) or a portion of them for a recreational purpose shall be determined as if the person were a trespasser.

Therefore, owners and occupiers would not be held liable for anything that is common practice except the death or injury to recreational visitors due to the willful and reckless conduct of the landowner or land occupier. Bill 208 would reduce the liability owed to visitors and place the responsibility on recreational users for their actions. I believe that the landowner or occupier cannot assume the risk for visitors on their property, nor should they have to.

I want to point out that Bill 208 pertains to landowners and occupiers that grant permission without a cost or fee. Section 6.1(1)(a) states that if the landowner or occupier "receives payment for the entry or activity of the person" or, in (b), "is providing the

person with living accommodation on the premises," the liability will not be the same as that of a trespasser. The reduced liability would not apply if the landowner or occupier charges a fee.

Mr. Chairman, I believe that visitors and recreational users must incur the responsibility for the choices they make and the actions they pursue. They must also be mindful of the consequences that may arise from their choices and actions. For example, if my neighbour asks for his family to cross-country ski across my field and I decide to grant them permission, then I don't feel that I should be held accountable for any accidents. If one of the children or he himself for that matter should break their leg or sprain their ankle, they should not be able to sue or hold me accountable.

It seems logical to me that the choices that recreational users make are their own. The users should assume the risk and not be able to hold a landowner or occupier responsible.

I would like to further clarify that if Bill 208 were enacted, there would remain specific situations where the landowners or land occupiers could be liable. Bill 208 provides a safeguard to landowners where the safeguard is necessary. It is not a blanket measure that completely exempts or absolves individuals from liability. Bill 208 would not provide protection if a person is injured as a result of an occupier's or landowner's reckless or willful conduct. To add some clarification, willful or reckless intent may be inferred when a landowner has knowledge of a highly dangerous situation or intentionally creates a hazardous condition. It is when the landowner fails to remedy a situation or warn against danger, knowing there is potential for people to get hurt.

I want to assure all members of this Assembly that Bill 208 deals with recreational users and visitors. This bill does not protect an employer from liability for injuries suffered by workers in agriculture or in forestry. This legislation will not exempt farmers or ranchers from accidents that may involve a hired man and occur on their premises.

Mr. Chairman, the legislation proposed in Bill 208 is essential. This is not a new issue or a topic that hasn't been studied but, rather, a much-needed initiative. Many provinces have recognized the need to protect landowners and occupiers and have enacted legislation providing that safeguard. British Columbia, Ontario, Manitoba, Nova Scotia, Prince Edward Island, and Saskatchewan all have legislation in one form or another that pertains to recreational users and the liability that is owed to them. The provinces that do not currently have legislation are now reviewing and researching the best way to legislate and solve the problems of occupiers' liability. Although each province's legislation differs in form, these provinces have acknowledged and taken action to protect landowners and occupiers.

Mr. Chairman, this legislation is not unique to Canada. Every U.S. state has legislation on its books that addresses the issue of landowner liability, and most offer private landowner protection from liability. These laws are referred to as recreational use statutes. While the statute and the type of protection it offers varies from jurisdiction to jurisdiction, the protection is still provided, and limits are set to the liability that is owed. This type of liability protection is not a recent trend either. Many American states have had this legislation for over 10 years. In some cases the legislation has been in place since the early 1980s.

Mr. Chairman, Albertans, as do I, view this province as a leader, and we must continue to do so. In 1973 Alberta became the first province to codify an Occupiers' Liability Act. It is now time for Alberta to update its legislation. This bill is not about favouring one group of Albertans over another. It's not about giving preference to farmers and ranchers; rather, it's about updating our laws so they reflect the current situation and provide protection to landowners

and occupiers. Bill 208 will ease the threat of liability and aid in guarding against potential lawsuits.

3:10

Mr. Chairman, I look forward to the continued discussion and debate by my hon. colleagues on this legislation. I encourage all members of this House to carefully consider these much-needed initiatives and vote in favour of Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003.

Thank you very much, Mr. Chairman.

The Deputy Chair: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Chairman, for the opportunity to speak in Committee of the Whole to private member's Bill 208, Occupiers' Liability (Recreational Users) Amendment Act. I think this is the third version of occupiers' liability legislation that I've seen in the Assembly in my seven years. This is not my favourite version, I will admit. I felt that an earlier version that was brought forward by the Member for Livingstone-Macleod was, in fact, a better version, but it was hoisted by a government member at the time, and there went that. So this is what we now have in front of us.

On the one hand, the shift in perspective that is brought forward by this bill, I think, is what does not sit comfortably with me. The assumption that the person that can best gauge the difficulty or the lack of safety – the risk, the onus is now put entirely onto the recreational user. I think, in fact, that common sense would tell us that the person who's most likely to understand the risks of using any given piece of land is the owner/occupier. So there has been a shift in the perspective that this bill is taking, and that's what's not sitting as comfortably with me as I would like.

But we have a problem in this province. We have a number of recreational users who cannot get access to trail systems in which they can enjoy their chosen recreation. There are some large national and provincial organizations that have been trying for some time to organize long trail systems that people can hook into and use as recreational users, be they horseback riders or snowmobilers in the winter or hikers or cross-country skiers and, in some cases, motorized vehicles like quads or motocross bikes. We understand that it's a good idea for people to get out and get exercise and to be active and to use these trails recreationally.

Because of the way things have developed in this province and historically how unused land has been allocated, how unused railway lines were sold off when they were no longer needed by the rail companies, that has given us a slightly different approach to this problem than we see in some of the other provinces. Our problem is that we do need to be able to go through private owners' land, land that's privately owned, in order to hook together some of these other trail systems that are available to us. We need to get permission from landowners to do this. That has been very difficult because the law as it stands right now puts the onus almost 100 percent on the owner/occupier of the land, and they simply weren't willing to assume the risk because they had to take all of the risk.

I would have argued that there needed to be a sharing of this, but this bill is coming forward with a flipped perspective, which is that 100 percent of the risk is assumed by the recreational user. Is this risk worth it? Should we be supporting that in this Assembly? It's a tough call. I'm personally struggling with this because I'm on record repeatedly in this Assembly as being supportive of these multi-use trail systems. As a snowmobiler I've often talked about how I take my recreational tourism dollar out of the province

because there's not enough interesting, challenging riding on a trail system available in the province.

We do have some provincial organizations. The Alberta Snowmobile Association is one I'm thinking of that has started its own trail system and levies its own user fee on it, but frankly I find the user fee high, and therefore people tend not to engage with that particular association unless they're living right next door to or very close to or have very easy access onto one of the existing trail loops. Then it's worth the money for them. But for someone else that's further away – I mean, it was getting into the range of a couple of hundred dollars a machine for a trail system that didn't exist near you but might some day in the future, maybe, and this is where this bill comes in.

Could that trail system exist? Would we be able to ride at one point from one end of Alberta to another without breaking the law, which is what many people currently do by riding in the ditches of the highways? Can we get that trail system that went from one end of the province to the other? It's not going to be easy here, but I think it could be accomplished if we can do something to encourage owners of private land to come along with us and join in on this. That's why we need occupiers' liability, and that's why we need this act.

I think there's the larger issue of tourism and economic development in this province. We still haven't hit that right. Many of the snowmobilers that I know – my own family and I still load up our machines and go to B.C., where the government invests in the trail system, where they provide support and funding to the local snowmobile clubs. Those trails that I'm thinking of in McBride, in Valemout, in Clearwater, in Tête Jaune Cache, in Revelstoke are groomed. There's someone from the club. They have the grooming equipment. It's good equipment. It's large enough to handle the demand that's placed on it, and somebody is being paid some kind of an honorarium to groom those trails on a regular basis. They often have little chalets and things that are up on the mountain where you can stop and have lunch or warm up or whatever you need. So it makes it very attractive to go and ride there.

Of course, your money stays in town because you're renting a hotel room and you're eating your meals there. You're probably buying some tourism mementoes while you're in the town. So we have a lot of Alberta tourism dollars that are going into B.C. and into Montana and Wyoming that we could be keeping here in Alberta. People would be very happy to be here in Alberta if we had the infrastructure to support it, but we don't, and it's not on the horizon.

So I guess the first step is this bill. If we can get this bill, then we can start to get those negotiations, and I would rather see multi-use trails that are supported more publicly than to have the sort of this is my trail or my particular sport's trail, and you can't come on it. I think that's just going to cause us a whole other series of problems here. I would prefer to support the multi-use trail system that we have with the Canada trail system or with Alberta Trailnet, which is the provincial version of that.

As I say, this is not my favourite version of this. I think there is somewhat of a redeeming feature in it in that it does make clear that if there is a total failure of duty of care, the onus would be on the occupier to make it clear and to take steps to protect people coming onto the land from some known hazard. So if you've got, you know, a gravel pit or something that's not clearly marked, you're in trouble. You need to be doing something to let people know. Or if you've recently dug a pit for a reservoir, you need to mark it so people don't ride into it and have a nasty accident there.

3:20

I'll support this bill but very reluctantly. If this is the only way we're going to get it passed, then I guess this is what we have to do, but I sure would have preferred other means of doing it. As I say, I

think I've seen three versions of occupier liability come forward, and for whatever reason the government members are not willing to support the other versions. The first one, I think in '97, was hoisted. I can't remember what happened to the second one, that was brought forward by the Member for Medicine Hat, and now we've got the one from Lac La Biche-St. Paul. So if this is the only thing on offer and this will lead us to a multi-use trail system in Alberta, then I'll support it, but I wish it could have been done a bit differently. We've got to get those trail systems developed and put some support into the volunteer organizations that support it if we're going to have a thriving tourism industry and ecotourism industry here in this province. Got to take these steps or our money is just going to keep driving over the border, and that's not helping us at all here, and we've got the potential for it.

So thanks for the opportunity to offer my thoughts on this particular bill.

The Deputy Chair: The hon. Minister of Community Development.

Mr. Zwodzesky: Thank you, Mr. Chairman. It's a pleasure for me to rise this afternoon and speak to Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003. I want to indicate right at the beginning that I am prepared at this point, during Committee of the Whole, to support this bill, and that's because it addresses one of the major issues surrounding recreation corridors in our province, for which I have the responsibility.

The Alberta government was asked by numerous stakeholders to address, in fact, the needs, issues, and concerns related to about 17,000 kilometres of existing trails and future recreation corridors in the province, and those stakeholders and the issues that were brought forward represented concerns from adjacent landowners, from agriculturalists, farmers, forestry companies, the trail operators themselves, motorized and nonmotorized trail users, in some cases municipalities, and so on and so on. So, for that reason, I was pleased to initiate a recreation corridors legislative review back in August of 2001 and to appoint an MLA committee, that was chaired by the Member for Lac La Biche-St. Paul, from whom we've heard just recently in this House, along with other colleague members from Calgary-Currie and West Yellowhead, with respect to this review.

Now, the hon. member who chaired the review and who has just spoken and his committee, in my view, represented us very well during that entire legislative review process. That particular process took place over several months, in fact longer than a year, and the results have now come in, but during the entire process the chair indicated regular updates regarding concerns that stakeholders had about this very issue of liability and also some possible suggested solutions that were presented to him and the committee and which were subsequently discussed by that very committee. I know that this issue is also referenced in the committee's report – that is to say, in the report of the Recreation Corridors Legislative Review Committee – because they have now submitted that to me, and I am reviewing it as we speak.

Mr. Chairman, the committee has, as I said earlier, done a very, very thorough job in preparing that report, and I'm doing as thorough a job as I can with my staff now in reflecting on it. Those members worked very hard to involve the public in the process, and they consulted with a very wide range of stakeholders, and occupiers' liability related issues were certainly front and centre, so to speak, during many of those meetings. Last year, in fact, the committee proposed that a provincewide public consultation be held to examine the issues regarding recreation corridors and to ensure that Albertans had an opportunity to provide input through that process, including this very important issue of occupiers' liability.

I just want to report to the House during this stage of the debate on this particular bill that during the process of public consultation on this matter of recreation corridors, trail usage, and so on, we received more than 1,000 written responses to that committee using a workbook, and that was of course made available on-line and by mail-out and so on. We also had a number of workshops, other public meetings, a big provincial forum, and in conclusion it was an extremely thorough process.

The feedback, I should say, was also received from over 500 participants who attended various of those workshops and public meetings, and those meetings occurred, Mr. Chairman, throughout the province in places like Strathcona county, Drumheller, Stettler, Edson, Fairview, Slave Lake, Bragg Creek, Lethbridge, and St. Paul, and I think that virtually in every one of those locations and elsewhere, perhaps, the issue of occupiers' liability was raised. That all concluded with a very large provincial forum, and again at the provincial forum this matter of liability was raised, and I should say that over 70 representatives from provincial stakeholder organizations attended that particular forum.

The discussions throughout the public consultation focused on five areas, and the first of these was the issue of liability. The second was safety and policing. The third was operation, maintenance, and accountability, the fourth was privacy and access, and the fifth was environmental stewardship. In the report that the committee has now submitted to me they have provided some very, very insightful and valuable advice and recommendations regarding each of these five areas. I'm taking that report right now through the process, and I sincerely hope to be able to release it to the public once I'm finished that particular process, but we'll just have to wait and see until the process concludes.

However, with respect to the proposed amendments to the existing legislation that have come before the Legislature this year, such as the changes to the Petty Trespass Act, the Line Fence Act – or was it the Line Fence Amendment Act? – it would seem that we are very in tune with the input that the Recreation Corridors Legislative Review Committee also received from Albertans and with the matters that are also referenced here today in Bill 208. Therefore, I think it's very timely to consider the amendments before us to the Occupiers' Liability Act.

I should also point out, as I understand it, that Bill 16, the Agricultural Dispositions Statutes Amendment Act, 2003, will also address the issue of liability of landowners and occupiers at least in part and insofar as it relates to public land with agricultural disposition holders, and once proclaimed, Bill 16 should remove the common duty of care, as it's known, that is owed by owners and occupiers of agricultural dispositions to recreational users who use their lands for recreational purposes.

Now, with the introduction of Bill 208 the common duty of care owed by landowners or occupiers on other land used for recreational purposes will also be addressed and removed. So in the end, Mr. Chairman, under Bill 208 before us at the moment landowners or occupiers would only be held liable should they display any willful or reckless conduct toward a recreational user that results in injury or death. Bill 208 is in line with what the committee heard during the extensive consultation process that I outlined a little earlier and, more specifically, that the responsibility should be placed on the user. At least, that's what I believe they heard.

Alberta landowners and occupiers, however, remain very concerned about trails and about recreation corridors and about individuals entering and using their land for recreational purposes. I've met with numerous individuals and groups myself, and I understand what those concerns are. So if we can address and lessen the potential for serious injury liability concerns, perhaps we might

even see a reduction in some of the concerns that have been expressed by landowners and by adjacent landowners and by occupiers and so on and so on. I have indicated, however, that when this whole issue of recreation corridors and trails and so on crosses municipal land, it has to first receive the approval of the local municipality, and I know that they are concerned about this issue as well.

So if we are able to see Bill 208 pass and if it becomes proclaimed and so on, this may actually reduce the insurance requirements for municipalities and trail operators and perhaps encourage safe and responsible participation as part of the commitment that numerous people have to a recreation corridor development, to the operation and maintenance of those trails, and so on.

3:30

I do want to say, Mr. Chairman, that recreation trails and corridor development in our province are very important, and there are many benefits associated with responsible recreation corridor and recreation trail usage. In fact, in the 2000 Alberta recreation survey walking, hiking, backpacking, bicycling, and camping rated in the top 10 activities for individual Albertans who were surveyed. Moreover, in our province and elsewhere across the country physical activity on recreation corridors is seen as one way to encourage healthier lifestyles and to reduce health care expenses in the long run.

Recreation corridors also offer some very good potential for tourism and economic development, as the previous speaker just indicated, because they do draw visitors to an area and provide opportunities for small business. But, again, I would stress that it's a question of doing it in a responsible and caring manner that respects the rights and privileges of the landowners, the occupiers, and adjacent landowners and also provides for a safe and clean and healthy lifestyle.

Still, there are those benefits potentially available to local communities. Of a couple of the trails that I've been to and seen, one in particular is up in the Elk Point area, which I believe is represented by the hon. Member for Lac La Biche-St. Paul. It's called the Iron Horse Trail and is particularly symbolic of a very successful way to implement this particular issue of recreation trails. We drove, I think, the entire trail, or most of it, last year, and I've been to others as well.

In any case, I am pleased that through the consultation that has been done and by listening to Albertans, we have found some solutions already – one of them is provided for here in Bill 208 – to the complex issue of liability as it is impacted by recreation trails and corridors. That having been said, Mr. Chairman, Albertans are anxious, I think, for some resolution to some of these important issues. The Recreation Corridors Legislative Review Committee has done a very thorough and excellent job, and at this time I want to just say thank you to them for what they've done and to the chair for what he's done with respect to that review and with respect to what he's brought forward here for our consideration under Bill 208.

Of course, members of my staff and others within the department also were very strong contributing members to some of this review process, and I want to say thank you to them. We do recognize that for many, many Albertans who provided input during the legislative review, this is an important issue. Particularly to the committee for their hard work on Bill 208 and addressing what is a very complex and difficult issue that interrelates with so many issues I say thank you for the work that they have done.

With that, Mr. Chairman, I will take leave and allow others to speak after me. Thank you.

The Deputy Chair: The hon. Member for Edmonton-Meadowlark.

Mr. Maskell: Thank you, Mr. Chairman. I appreciate the opportunity today to join debate in Committee of the Whole in regard to Bill 208. In my discussions I'll be focusing on sections 5 and 6 of the act, and more specifically I'll attempt to explain why there's a growing need to amend section 6 of the act.

Alberta is a vast province blessed with natural wealth and beauty. As a result, every year thousands of tourists and outdoor enthusiasts come from all corners of Canada and the world to experience our province in her natural setting. They come here to explore, to see, to learn, to take advantage of all the outdoor activities that our province can offer them. Time and time again our landowners and occupiers have shared their land with those seeking adventures in the backcountry. However, as of late more and more landowners and occupiers have been hesitant to allow tourists and other recreational land users onto their properties. As the owner of 160 acres I, too, was one of those landowners.

An Hon. Member: That's at Sangudo; isn't it?

Mr. Maskell: Sangudo it is.

The reason behind this is that owners and occupiers fear that they will be held liable for any injuries incurred by those who use their lands for recreational purposes. The source of the problem, Mr. Chairman, is the Occupiers' Liability Act and the fact that while it protects the rights of recreational users, it does not protect the rights of owners and occupiers who allow these users onto their properties. Currently under the act recreational land users enjoy the same privileges as visitors.

Specifically, section 5 of the act maintains that a landowner owes his visitor a common duty of care, which means that the owner is responsible for providing the visitor with a reasonably safe environment pertaining to the purpose that he was invited for. At first glance this may sound fair until one realizes that the definition of a reasonably safe environment is so broad that it requires the owner to anticipate and be aware of all the possible ways which could result in an injury to the visitor. Not only that, Mr. Chairman, but the act also requires the owner to assess the magnitude of potential injuries and determine the effectiveness of the measures he has to take in order to minimize the risk to his visitors.

Well, Mr. Chairman, when you consider the fact that this definition of common duty of care also applies to recreational land users, you can clearly see why an owner or an occupier would be hesitant to allow these folks onto his or her property. To illustrate this, in many of the rural areas throughout the province ranchers allow their livestock to wander about their pastures in order to feed. These ranchers are also known to allow snowmobilers and other outdoor enthusiasts to use existing tracks and trails which happen to cross their land.

If for some reason a number of their animals happen to wander off toward a path used by snowmobilers and one of the sleds happens to collide with an animal, under the Occupiers' Liability Act the rancher would be responsible for any injuries incurred by the snowmobiler. Clearly, Mr. Chairman, we cannot expect the owners and occupiers to be liable for such injuries, and we cannot hold them accountable for accidents they cannot foresee.

What's even worse is that under the act the only way that they would not be liable for such accidents would be if they made snowmobilers sign a waiver or document which would absolve liability and specify that recreational users are entering the property at their own risk. However, we cannot expect our owners and occupiers to hold waiver forms in their hands at all times in case

someone wants to run a snowmobile across their property. This is simply absurd and impractical, and it is precisely why so many owners are tentative to let tourists or outdoor enthusiasts onto their properties. This is a real shame, Mr. Chairman, because there's no reason why responsible folks should not be allowed to enjoy the experience of Alberta's backcountry and all of the activities associated with it.

I know that our landowners and occupiers would be more than happy to let others onto their property because it is simply not the Alberta way to build fences and block others out. However, if their generosity is paid back in frivolous lawsuits, then I can't blame them for their current stance.

Fortunately, Mr. Chairman, with Bill 208 we can remedy this unfortunate situation. The bill proposes amending the Occupiers' Liability Act to ensure that the burden of liability placed on landowners and occupiers corresponds to the burden of responsibility placed on recreational land users. The bill would accomplish this by adding two new subsections to section 6 of the act, which, in turn, would place the definition of recreational users and visitors in the same category as trespassers. As a result, under the new amendment the owners and occupiers would owe recreational users and visitors the same level of liability as they would to ordinary trespassers.

In other words, while owners and occupiers would still be held accountable for willful or reckless conduct causing death or injury, they would not be liable for accidental injuries suffered by recreational users while present on their land. By placing a burden of responsibility on the recreational user, this amendment will not only add a degree of fairness to the whole liability process, but it will most importantly encourage owners to allow access to their lands for recreational use. This will in turn mean that Alberta's natural wonders can be enjoyed by all.

3:40

Furthermore, Bill 208 also serves to remedy a legislative issue that has been lingering for over four years. As you know, Mr. Chairman, in May of 1999 this House passed Bill 31, the Agricultural Dispositions Statutes Amendment Act, which addressed a wide range of concerns pertaining to ownership and land disposition issues. From the liability standpoint the act proposed that the Occupiers' Liability Act be amended so that owners or occupiers of agricultural dispositions would owe the same duty to recreational landowners as they would to trespassers. In other words, if a user were injured while present on land belonging to an agricultural disposition's owner or occupier, he would enjoy the same rights as a trespasser.

The importance of Bill 31 was that it not only reduced the burden of liability that was being placed on disposition owners and occupiers, but it also encouraged them to allow others to use their property without having to fear that they could potentially face frivolous lawsuits. Just as Bill 208 does, Bill 31 proposed to make recreational users more responsible for their actions. Unfortunately, Bill 31 was never proclaimed. However, a large number of its recommendations were brought forward by Bill 16, which was passed in May of this year. The bill's recommendations also included reducing the liability burden placed upon leaseholders and occupiers.

While bills 31 and 16 address the liability issues specific only to agricultural disposition owners and occupiers, Bill 208 takes a broader look at this problem and addresses it on behalf of all landowners and occupiers and users. I sincerely hope this Assembly will recognize the value of this important piece of legislation.

As I previously mentioned, Alberta is one of the best places in the world for outdoor recreation. I believe that enthusiasts from all parts of Alberta, Canada, and the world should have the opportunity to enjoy all that our province's backcountry has to offer. Our landown-

ers and occupiers have already indicated that they are willing to grant access if they are guaranteed protection from those who act irresponsibly and take advantage of the system. Bill 208 enables us to provide our landowners and occupiers with this security, and as a result, Mr. Chairman, I urge all of my colleagues here today to vote in favour of this legislation.

Thank you very much.

The Deputy Chair: The hon. Member for Olds-Didsbury-Three Hills.

Mr. Marz: Thank you, Mr. Chairman. It's a pleasure to join the debate on Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act. First of all, I'd like to thank and commend the Member for Lac La Biche-St. Paul for his work on this important issue.

I fully support Bill 208 for three main reasons. First, as a rural MLA I've heard many stories of accidents and injury on private property where people have taken legal action and been successful in doing so against landowners who have granted permission for people to go on. In some cases, where landowners even hadn't granted permission, they were still sued successfully for people not taking responsibility for their own actions. Second, I believe it will help to build and restore a core fundamental value of our beautiful province, and that is one of community spirit and co-operation. Third, I'm a strong believer in individual responsibility, and that's where I personally feel that Bill 208 strikes the strongest chord. Just like community spirit and co-operation, individual responsibility is a part of our cultural fabric that sets Alberta apart from many other parts of the country.

A quick look at Bill 208 may lead one to believe that it's an uncomplicated and simple bill to understand. However, a longer and deeper study reveals that this bill is much more than just about legal issues. It's about the intrinsic beliefs that founded this province and made it what it is today.

As a landowner and rural MLA I've heard stories of people asking for permission to access land and either damaging their equipment or being injured and threatening to press charges against the original landowner. Quite frankly, Mr. Chairman, these stories are very disheartening. Over the years I've regularly asked my neighbours to access their land when I'm snowmobiling or horseback riding or hiking and taking part in other outdoor activities, and for the vast majority of those requests I'm granted entrance to someone else's land. As a good neighbour and friend I feel compelled to do the same when asked by someone if they can use my land. I only ask that they use respect. However, I can just see one lawsuit close our open and shared communities.

This leads to my next point, that section 6.1 of the bill will take the fear and doubt out of landowners' and occupiers' minds and will restore our community spirit, openness, and co-operation. When Alberta was created in 1905, it was mainly a rural province. The new residents of the province were very community oriented, mainly because it was a matter of survival. Over the years these roots and values of co-operation, sharing, and openness have been instilled into the Alberta culture. It's only a very recent phenomenon that one would hear of a lawsuit by someone who was granted permission to use the land against his neighbour or the occupier of that land, all of this after the community-minded people grant entrance to their land and to the public.

Mr. Chairman, the scary part of this phenomenon is that it only takes a few high-profile cases to occur before they spread like wildfire through the countryside. In a matter of a decade or so we

could possibly transform this magnificent province from one of the most open and trusting to one of the most closed and fearful. As legislators we have a unique opportunity to head off the potential turn towards fear and distrust and put Alberta back to a place of co-operation and trust. That is the place that this province is accustomed to, a place of community openness and reciprocal trust.

Section 6.1 of Bill 208 has another important consequence for Albertans. It restores individual responsibility as a cornerstone of our province's ethical and cultural fabric. Mr. Chairman, our government has worked hard and long to place individual responsibility as an integral part of our philosophy. Albertans have accepted and embraced this responsibility to the point now where it's seen as a part of our Albertan philosophy and culture. Alberta is a province that endorses and supports actions of entrepreneurship, free-spiritedness, and risk-taking. However, when these actions are taken, our culture in Alberta reciprocally feels that the onus is on the individual to take full responsibility for his or her actions.

Many of our government's social programs are designed to help Albertans be less dependent and make individuals take responsibility for their lives. Our social programs have been developed to give a hand up, not a handout. The policies and philosophies of this government for a number of years have been that individuals are given the utmost freedom to develop their lives, and with that freedom a duty of responsibility must be taken. Even with all of the attempts made by this government to increase individual responsibility over the past decade, it can be easily argued that in the area of individual law we are losing the battle of creating a consciousness of individual responsibility.

It is for that reason that as elected officials we must move forward to pass Bill 208 as another tool to build a more respectful, independent, and responsible Alberta. Bill 208 is in sync with existing government policy and Alberta culture, and for that reason I encourage all members here today to support it.

I'd like to switch gears a little bit now, Mr. Chairman, and talk about Bill 208 and especially section 6.1 and how it relates to other provinces' legislation. I believe it's important to look at other jurisdictions to see what works and how we can adjust our own legislation. I find it interesting to note that British Columbia, Ontario, Manitoba, Nova Scotia, Prince Edward Island, and Saskatchewan all relieve landowners and occupiers of liability for damages incurred by recreational users who are granted permission to use land. All of these provinces still hold landowners responsible for not creating dangerous environments with the intent to do harm to the recreational user or damage to their property. This is a very important part of our own legislation, and I am pleased that it's remaining constant in Bill 208.

From the outside Bill 208, section 6.1, may look like a simple legal amendment. However, a deeper look into Bill 208 touches the very fundamentals of what Alberta was founded on and has now become. Community spirit, openness, and co-operation have been part of this province since it was born. The deep sense of personal responsibility that a majority of Albertans associate themselves with is being undermined by frivolous lawsuits in which people are passing responsibility from themselves to other citizens or to the government.

I'm not suggesting that Bill 208 will solve Alberta's personal responsibility problem. However, like any other problem it must be chipped away at piece by piece. This bill fixes a piece of a much bigger problem which with dedication and hard work will be solved. Therefore, I encourage all members here today to vote in favour of Bill 208 as part of that rebuilding process.

Thank you, Mr. Chairman.

3:50

The Deputy Chair: The hon. Member for Grande Prairie-Wapiti.

Mr. Graydon: Thank you, Mr. Chairman. It gives me pleasure to join in this debate on Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003. I have listened with great interest to the previous speakers and their remarks. While it is a bill that on the whole makes a lot of sense, I think it would not be out of place for me to raise a few cautionary flags at this point, specifically with regard to section 6.1 of the bill.

Mr. Chairman, we have heard a lot about how Bill 208 will have a variety of benefits for Albertans. If passed, the bill would lead to increased recreational activities among Albertans, which, it can be argued, is good for the body, good for the mind, and good for the soul. Moreover, we have heard that thanks to Bill 208 we might be able to at least partially stem the tide of frivolous legal action clogging up our courts. Those actions are preventing some serious litigation from having its day in court. Lastly, we've also heard about how Bill 208 would strike a blow against those who wish to abdicate personal responsibility and who, instead, are willing victims to whatever trivial or nuisance event that may befall them.

Mr. Chairman, all these are, of course, good and welcome results. There's no need to further expound on these points. I think previous speakers have spoken in both passionate and eloquent terms about these benefits. But I wonder: will all these presumed benefits outweigh any drawbacks that may result from passage of this bill?

This is not necessarily a contentious piece of legislation, I think, but I've grown somewhat concerned about its timing and its fairness. Allow me to elaborate on these two concerns for a few moments. Mr. Chairman, the matter that Bill 208 addresses has been the subject of both private members' bills and government legislation in years past. In 1999 Bill 31, the Agricultural Dispositions Statutes Amendment Act, 1999, received royal assent but remains as yet unproclaimed. Similarly and more recently, Bill 16, the Agricultural Dispositions Statutes Amendment Act, 2003, also made its way through this House and received royal assent on May 16 of this year.

Mr. Chairman, it's my understanding that in many ways this year's Bill 16 is an updated version of the erstwhile Bill 31, and while I realize that there's quite often a delay between the day a bill receives royal assent and the day it is proclaimed into force, I wonder if there is any reason why Bill 31 has yet to be proclaimed. Looking at Bill 31 and the bill before us, Bill 208, we see that the similarities as far as occupier liability is concerned are many. The main difference that I can discern is that whereas Bill 16 limits liability to the recreational user, this change applies to leased land only. Bill 208, on the other hand, extends liability protection to leased as well as private lands.

If we look at section 6.1 of the bill, we see that it extends the liability protection without making any distinction between leased or government land on the one hand and private property on the other. Instead, Mr. Chairman, the bill clearly extends protection from liability to rural premises whether they are used for agricultural purposes or not: wilderness areas, golf courses when not in use, rights of way, and recreation trails. This is quite the enlargement of the scope of the legislation, I think, and particularly so as we have yet to see liability protection extended to leased land as prescribed in Bill 16. One might be tempted to wonder if it wouldn't be prudent to see if the provisions of Bill 16 prove to be useful and helpful in the manner that the legislation intends before we go ahead and pass additional legislation with this bill.

I'm not suggesting that I oppose Bill 208; not at all. Rather, what I wonder is quite simply: if there already exists legislation which as of yet is not in force, perhaps this ought to be interpreted as a sign to not try to make what some may call an end run around the provisions

of Bill 16. If I'm not mistaken, Mr. Chairman, some ministries indicated their hesitation to support Bill 208 in part because the full effect of Bill 16 is not yet known.

Mr. Chairman, as indicated at the outset of my remarks today, my other concern with regard to Bill 208 has to do with fairness. At the present time the Occupiers' Liability Act prescribes that landowners are obliged

to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which [he] is invited or permitted . . . to be there.

If we look at the kinds of situations that this section encompasses, it is not difficult to see a lot of parallel situations wherein a private owner would be liable in the event that a visitor sustained injuries or damages to property. Various privately owned and operated buildings, such as hotels and restaurants, represent one such instance, private modes of transportation, such as commercial airlines, another.

In the event that a visitor were to sustain injuries, whether it was due to a fall or due to spilled hot coffee or even due to turbulence, we know that the private owner is not automatically exempt from liability. No matter how frivolous or outrageous the claim, there have been instances where legal action stemming from situations involving mishaps, such as those above, have been brought forward. Obviously, I don't find anything commendable about such litigation, but the fact is that the right to engage in frivolous litigation does exist.

If, however, Bill 208 were to pass, we could potentially exempt one group of Albertans from becoming the subject of litigation, whereas that same kind of protection would not be afforded to other groups. The restaurant owners and the hotel operators, for instance, would not enjoy the same kind of reduced or even zero liability that the occupiers may very well be granted under Bill 208.

Again, Mr. Chairman, I hasten to add that I do support a resurgence of personal responsibility in our society, and similarly I would also say that I favour initiatives that could contribute to reducing frivolous and vexatious legal action. What I fear, however, is that the way Bill 208 is structured could very well be seen as unfairly protecting some Albertans but not others. Extending or increasing legal protection to this group could very well be viewed as decreasing the protection other groups have.

Having said this, Mr. Chairman, I would conclude my remarks much like I began. Bill 208 makes a lot of sense. I do not disagree with its overall purposes and what the hon. Member for Lac La Biche-St. Paul would like to accomplish in bringing forth this bill. While I thought it important to make note of a few issues of concern, I do support the bill and will be voting in favour of it.

Thank you.

The Deputy Chair: The hon. Member for Cardston-Taber-Wamer.

Mr. Jacobs: Thank you, Mr. Chairman. It is an honour to rise today and join debate in Committee of the Whole on Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003, sponsored by the hon. Member for Lac La Biche-St. Paul. As we continue debating this piece of legislation and look back at what has been discussed during second reading, there is a predominant subject that continues to arise: liability scenarios. Many members, either by their own experience or by those of their constituents, have a specific scenario or example that supports the need for the legislation outlined in Bill 208. These stories and examples touch all aspects of the bill from liability issues to the types of land affected as well as the exclusion of specific individuals and circumstances.

Mr. Chairman, section 6.1(1) addresses the issue of liability and shifts it from occupiers and owners to recreational users who utilize the property. This results in the recreational user possessing the liability rights of a trespasser while using the type of land outlined in 6.1(2). Land covered in the legislation includes “golf courses when not open for playing,” “utility rights-of-way excluding structures located on them,” and “recreational trails reasonably marked as such.” From the examples and scenarios given in this Assembly by members who support Bill 208, section 6.1 would appear to provide a solution to the unfavourable results of these situations that have been expressed, both hypothetical and actual, along with the threat of the landowner losing their farm and livelihood.

However, Mr. Chairman, there is an aspect of Bill 208 that I believe needs to be discussed further: the exemptions outlined in section 6.1(1)(a) and (b). The proposed legislation states that recreational users shall have the same liability rights as that of a trespasser unless the landowner receives a payment or benefit from the individual or group utilizing his or her land. Landowners are therefore unable to profit from recreational users accessing their land. If landowners are receiving some sort of payment, then they would remain liable for the activities that take place on their property.

4:00

Mr. Chairman, an example of such a situation may be a landowner charging individuals to snowmobile on his or her land. Under Bill 208 the recreational user, after having paid to access the land, would no longer have the same liability as a trespasser and would therefore put liability back on the landowner because they accepted payment.

Payments from a government or government agency as well as nonprofit recreation clubs or associations would not be included in section 6.1 of the Occupiers' Liability (Recreational Users) Amendment Act, 2003. Therefore, Bill 208 would only apply to individuals or groups that make a payment for using the land and do not fall under any of the aforementioned categories.

Mr. Chairman, Bill 208 includes one other exception when reducing the liability owed to recreational users. Recreational visitors who are provided living accommodations on the premises of the landowner are also excluded from carrying the same liability as a trespasser. For instance, a family friend or relative is spending their vacation with said landowner, who is providing them with accommodation. At one point during their stay they decide to enjoy a snowmobile ride and some type of accident befalls them. Under the proposed legislation the recreational user who is being provided with accommodation by the landowner would not be owed the same liability as that of a trespasser.

Under this circumstance, liability would be the responsibility of the landowner. In this instance, the recreational user is no longer just a visitor or a neighbour using the land. The recreational user has become a guest of the occupier and falls under the care of the landowner because they have provided the guest with living accommodation.

Mr. Chairman, I find that these two examples emphasize the important subject areas of Bill 208. I feel that they should be discussed further as I'm certain that landowners may receive from time to time some type of benefit or payment from individuals using their land. This does not necessarily mean cash. This could be any type of payment or benefit. There is no specification in the legislation that dictates exactly what payment or benefit includes. Landowners, therefore, need to take proper precautions and ensure that they have not mistakenly accepted some form of payment or benefit that could cause the liability to be placed back on the landowner.

Mr. Chairman, this legislation is crucial for the protection of landowners. All-terrain vehicles are getting bigger, faster, and more dangerous. Albertans are becoming more active in the outdoors, looking for picturesque areas to partake in their recreational activities. Rural Alberta provides all of these amenities, and they should be able to be enjoyed by every Albertan. However, accidents are bound to happen, and it should not always be the landowners' or land occupiers' responsibility that the accident took place. Landowners should warn recreational users of situations that may be common practice for the landowner but have the potential to be dangerous for the user.

Furthermore, I believe owners and occupiers need to be responsible if they display willful or reckless conduct towards a recreational user, especially if the end result is injury or death. Having said that, Mr. Chairman, recreational users also need to take responsibility for their choices and their corresponding actions. Bill 208 ensures that. It shifts a greater amount of responsibility to recreational users and balances liability more fairly instead of concentrating liability solely on the owner of the land.

As I have mentioned, rural Alberta is a resource that is just beginning to be tapped by Albertans. As we all try to live healthier lives, we look for activities that provide enjoyment along with the benefits of an active lifestyle. Many of these activities are outdoor pursuits.

As our cities grow and become busier, the escape to rural areas becomes more attractive by every car horn or red light or emergency engine that Albertans hear. Rural Alberta is Alberta's last escape. Without the support of landowners and occupiers we could potentially shut in this great resource. We need these individuals to support the recreational use of their land. The threat of potential lawsuits and bankruptcy has resulted in prohibited land access to recreational visitors.

Mr. Chairman, in conclusion, I encourage all members of the Assembly to vote in favour of Bill 208, if not to give landowners and occupiers peace of mind, then to give Albertans a place to enjoy recreational pursuits and a healthy lifestyle. Thank you.

The Deputy Chair: The hon. Member for Redwater.

Mr. Broda: Thank you, Mr. Chairman. It is my pleasure to rise today to support Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003. I'm pleased to join the debate on Bill 208 and would like to commend the hon. Member for Lac La Biche-St. Paul on bringing it forward.

Mr. Chairman, the purpose of Bill 208 is to reduce the legal liability a landowner would face should a recreational user be injured or suffer a loss on his or her land. This would be accomplished by eliminating the common duty of care a landowner or occupier owes an individual under section 5 of the Occupiers' Liability Act when they are invited onto or are granted permission to use the land.

Predominantly we see rural landowners faced with mostly requests to grant access to their land. Simply put, most of the land that has recreational value is found in rural Alberta. Hunters like to use the land in the fall months. Snowmobilers and cross-country skiers like access in winter, while berry pickers, hikers, and off-road seekers seek permission during the summer. Alberta's lands can host a wide variety of different activities on a year-round basis, and rural landowners are constantly questioned for access. Unfortunately, that means that rural property owners also face most of the risk in terms of liability issues. However, I will point out later that Bill 208 is broad enough to protect all types of property owners.

Other provinces have adopted their own ways of dealing with landowner liability issues that surround recreational users. In British

Columbia entrants to land willingly accept the risks on their own behalf if they have paid no money or have not been offered accommodation while on the premises. In Ontario trespassers and recreational users are also assumed to willingly accept the risk associated with being on the lands in question. Saskatchewan and Manitoba have added provisions that make some recreational users responsible for their own actions when on someone else's land. These jurisdictions should be commended for taking steps in protecting their respective landowners and occupiers, and Alberta should follow suit.

Mr. Chairman, my remarks today will be based on two different subsections of Bill 208, which would add to the Occupiers' Liability Act. Subsection (1) outlines the responsibility of landowner and visitor when permission to access the land in question is granted while subsection (2) defines what types of land are to be included under the proposed changes. Both subsections are critical in providing clarity as to the responsibilities that occupiers and visitors would take when access is granted to land for recreation.

On my first point, Mr. Chairman, the addition of section 6.1(1) would treat recreational users more along the lines of a trespasser regarding liability. As the current law stands, trespassers assume the risk associated with entering on someone's land without permission. In addition, what Bill 208 proposes is not intended to legislate recreational users. Instead, it simply offers more protection to landowners. Recreational users would assume the risks involved with their respective activity while on the property of another.

It should be pointed out, Mr. Chairman, that this subsection does carry with it some restrictions. Landowners would have increased responsibility if they received "payment for the entry or activity of the person" or if they provided "the person with living accommodation on the premises."

4:10

Mr. Chairman, why in the world would a landlord want to let any person on their land for any reason if they could be held liable for a wide range of different incidents which they have no control over? Currently the Occupiers' Liability Act is vague and is open to interpretation. The act does not explain what steps may constitute reasonable care on the part of the occupier nor does it outline when a premise may be considered reasonably safe. When law is open to interpretation, expect to see an increase in litigation. Bill 208 clearly states that recreational users are responsible for their own actions. What could be simpler or make more sense than that?

The reason, Mr. Chairman, that the law was changed in British Columbia was because many private landowners were concerned about the development of the Trans Canada Trail and the liability implications involved when it crossed private lands. In 1998 an amendment was made to reduce the duty of care owed to nonpaying recreationalists on nondeveloped, rural private land. Recreational enthusiasts in British Columbia accept an increased level of responsibility for their own safety. The Trans Canada Trail cuts across Alberta the same as it does in British Columbia. Don't we owe it to our own landowners to protect them in the same way?

Once again, Mr. Chairman, I would like to state that this bill is not meant to take away the rights of the recreational user. I believe that the recreational user may find that this bill will help them in securing permission to use land. With removal of the axe that currently dangles over the necks of landowners that we are asking to share their land, recreational enthusiasts may find more access to private land.

In rural areas occupiers are often approached about granting access to their land for a variety of reasons. Because they are usually asked by members of their own community, they don't want to tell

them no. It just isn't neighbourly. But because of liability issues they are forced to tell everyone no. The result is that no one gets to enjoy the land. Mr. Chairman, section 6.1 strengthens the Occupiers' Liability Act by making it clear that recreational users are responsible for themselves while being on someone else's land.

In my eyes the issue of responsibility has gone through many societal changes, and sometimes it feels like nobody is responsible for themselves. We live in an age when parents sue fast-food outlets because their children are overweight and some smokers feel that they need to sue the tobacco companies because after 20 years of smoking, they have lung cancer. People are less willing to take responsibility for themselves, especially when things go wrong. But they should, Mr. Chairman. Bill 208 simply forces recreational users to be more responsible and protects the people that need to be protected in this debate.

I strongly consider Bill 208 to be a commonsense piece of legislation. It is important to remember that this bill is not absolving landowners of all responsibility. They, too, need to take some responsibility for their land. Even if Bill 208 is passed, landowners and occupiers would still be accountable for willful and reckless conduct. That would remain consistent. But when it comes to gopher holes, fallen trees, equipment left in the field, or barbed wire fences, landowners would face fewer risks than they do now.

While I'm on the subject of responsibility of landowners, I would quickly like to make this point: there have been very few incidents where landowners have been sued by recreational users in the past. To me this indicates that most landowners are already fairly responsible when it comes to their land. If someone asked me if they could use my land for recreational activities, I know that I would want to be aware of what activity they planned to undertake, how many people would be participating in it, and how long they would be on my land. I would also make the consideration as to who was asking for permission and what kind of reputation they have. I think most landowners already ask these important questions. I think they understand that they owe some responsibility surrounding the use of their land.

On my second point, Mr. Chairman, I would like to touch on subsection (2), which also would be added to the Occupiers' Liability Act. Subsection (2) lists the types of lands that are included under the change. Like subsection (1), which clearly clarifies the responsibility of the recreational user, subsection (2) clarifies the types of property included in the changes. Again, this is very important as it diminishes the amount of interpretation that can be made in regard to the act.

Under subsection (2) agricultural land, vacant or undeveloped premises, forested or wilderness premises, golf courses during the off-season, utility rights-of-way excluding the structures on them, and reasonably marked recreational trails are included in the provisions laid out in the first subsections. [Mr. Broda's speaking time expired]

Unanimous consent to continue, Mr. Chairman?

The Deputy Chair: The hon. Member for Redwater is seeking unanimous consent to be given 10 more minutes.

[Unanimous consent denied]

The Deputy Chair: The hon. Member for Whitecourt-Ste. Anne.

Mr. VanderBurg: I would be glad to give him a couple of minutes of my time. Thank you, Mr. Chairman. I'll go on to page 14 instead of page 1.

It's my pleasure to rise today and support this bill in Committee of the Whole. I think the bill relies on some very obvious principles

regarding personal responsibility as well as private property. I think these principles are solid enough and uncontested enough that this bill ought to pass. I believe that second reading debate revealed many solid arguments for Bill 208, but today I wanted to look at the bill itself and provide a few comments and insights relating to the legislation on the ordinary life of an average Albertan.

I think the first thing that strikes me about the bill is its simplicity. It takes a few basic principles and doesn't try to dress them up. Instead, it basically says that unless a person is profiting from a recreational use of their property or unless a person is providing living accommodations to the recreational user, it is a recreational user's responsibility to exercise care and caution when using the land. In most cases it will not be the landowner's fault should the recreational user injure himself.

Section 2 of Bill 208 underscores the difference between the operation of a business and simply being approached for the use of one's land for recreational pursuits. If it's a business, then the user is paying for the use of the land, and the user can and should expect a certain degree of safety when using the land. This seems to be a matter of fair business transaction.

Further, section 2 of Bill 208 speaks to situations in which a landowner is housing a guest or an employee. If the landowner is housing someone or providing accommodation, then it is incumbent upon the landowner to provide safe living arrangements. This doesn't mean that the landowner must bubble wrap everything. What it means, however, is that he must take precautions and provide fair warning to guests if there are any dangerous areas on the property, especially if it's likely that the guest will find himself near or in those areas. In cases where the owner can remedy a hazardous situation or clean up a dangerous area to protect those living on the property, he should do so.

In addition to all this, section 2 of Bill 208 also states something else, something very important. If somebody wants to use an owner's property and that owner simply grants permission, then it's up to the user to take proper precautions regarding using the land. This should, at the very least, involve asking questions about the land, about what to stay away from, and about the appropriateness of certain activities on the land.

Most Alberta landowners are like everyone else. They will do their best to ensure that recreational users have a safe and enjoyable experience on their property. But those Alberta landowners should not be required to take every possible precaution in the expectation that someone might want to use their land. If that's where we want to go, then let's think about what the best precaution is. It's to not let people on the land in the first place, and I don't think we want that.

Mr. Chairman, in relation to that point, section 2 also speaks to the greater use of personal responsibilities within the context of being good neighbours. If a landowner owns a large section of land, chances are that he is going to enjoy recreational pursuits on his own, such as ATVing, hiking, or maybe other things such as horseback riding. Chances are likely that he will not want to deny others the opportunity to enjoy that land as he does.

However, as the current legislation stands, it encourages landowners to say no when they are asked if someone else can use their land for recreational purposes. After all, the landowner is not going to want a recreational user to wreck his ATV or, worse, injure themselves while on his land. Mr. Chairman, you never know how, when, or why someone will end up hurting themselves. It could be a freak accident or a moment of inattention. In most cases where an injury occurs, the landowner isn't sought out by the injured party for some sort of compensation. Most Albertans are honest, hardworking people who will recognize when something is their own fault or when something is an accident.

Most Albertans won't go looking for scapegoats, but some people out there go looking for someone to blame, and there are enough of those people out there too. Remember, it only takes one, and there are many examples to scare others away from letting recreational users on their land. It only takes one case of a landowner unjustly accused of causing a recreational user's injury. This is why Bill 208 is so important.

4:20

Section 2 of Bill 208 to a great deal satisfies the concerns of landowners on the following types of land:

- (a) rural premises that are
 - (i) used for agricultural purposes . . .
 - (ii) vacant or undeveloped premises, and
 - (iii) forested or wilderness premises;
- (b) golf courses [during closed seasons]
- (c) utility rights-of-way . . . and
- (d) recreational trails.

This list is fairly comprehensive and thus protects landowners and occupiers of all sorts in the event that the recreational user injures himself for damages his equipment while on a landowner's property.

So we see in section 2 a significant shift from the Occupiers' Liability Act, where it assigns responsibility to the recreational user, in most instances, instead of the owner. Mr. Chairman, this change to the Occupiers' Liability Act certainly rights what looks like a particular wrong in the act.

As I said earlier, the changes held within Bill 208 are changes that are in sync with the general disposition of Albertans when it comes to the issue of personal responsibility and the risk associated with using another person's land for recreational purposes, and I want to emphasize that most Albertans are the sort of people that own up to their actions. This applies to landowners and recreational users, and for the most part Albertans are the sort to help each other out and solve these problems fairly. So this bill corrects what is usually a minor problem but one that can escalate and incorrectly put the blame on landowners and occupiers.

So with that, Mr. Chairman, I'll conclude my comments and ask the members to continue to support Bill 208 through committee and, time willing, third reading debate as well. Thank you.

The Deputy Chair: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

Mr. Horner: Thank you, Mr. Chairman. It is my pleasure to rise today and continue debate in committee on Bill 208. I've been very interested in many of the comments that have been made so far, and I look forward to adding my thoughts.

Bill 208 is very solid, and this is being shown today by no amendments being brought forward. In second reading there were very few concerns, if any, that were brought forward in regard to this bill and its effects on liability. The proposed change is something that is definitely needed, and we should very seriously consider endorsing it so that we can offer landowners some protection from unnecessary lawsuits. Of course, we have heard many different stories of how landowners and occupiers can be and have been victimized by lawsuits because the laws in Alberta just do not go far enough to protect these individuals.

Mr. Chairman, landowners are at a bit of a disadvantage when it comes to the recreational use of their land. Under our current laws a person can ask permission, for example, to ride a dirt bike on the land of person X. If permission is granted, that individual is now considered a recreational user, and if the user crashes the dirt bike into a tree, he could sue person X. This scenario has been explained

many times in second reading and in many of the comments here in Committee of the Whole.

Now, Bill 208 tries to alleviate this inequity between users and landowners and occupiers by having someone using land for recreational purposes liable, similar to that of a trespasser, as stated in section 2 of the bill, if that user should meet with some disaster while using land for recreational purposes. Treating the user as a trespasser when dealing with liability not only relieves the landowner from being met with frivolous and unnecessary lawsuits, but it also puts some responsibility onto the user of the land, where I think it belongs. I hope this bill will eliminate lawsuits where landowners and occupiers are sued for the stupidity of others.

Of course, in second reading debate we heard all sorts of instances where this bill could have come in handy for many rural Albertans in the past. Unfortunately, the passage of Bill 208 does not do too much for those people now, but at least it will provide some guidelines for recreational users, landowners, and occupiers in the future.

Mr. Chairman, Bill 208 outlines what lands are specifically applied in such cases and who is responsible for the duty of care. The bill lists rural lands, golf courses when not open for playing, utility rights-of-way, and recreational trails reasonably marked as such. These are very specific lands that are specified in the bill. One may ask why golf course lands are included. Well, the reason for this is that there are cases where somebody is out on a leisurely walk through a rural area, which happens a lot out there. On this walk a person decides to cut through a golf course to return to a main path which returns the person to their home, a shortcut, if you will.

Now, before I continue the analogy, let us assume that the leisurely stroll is done after hours and the course doesn't post signs saying that one cannot trespass. They do not have a problem with people walking the course after hours. It's a walk-through, and permission is rarely withheld. Many rural courses give this privilege to their neighbouring community. It's the Alberta way. So we have our walker moving along quite nicely until he begins to cut across the 15th fairway. As he cuts across the fairway, he steps into a sand trap, falls, and subsequently breaks his leg.

Under the current legislation this person could sue the golf course. They can sue because landowners owe a duty of care to all recreational users. Bill 208 reduces the duty of care so that sand trap follies don't happen too often. The golf course is to blame for the blindness of our leisurely walker: is that fair? Golf courses have sand traps. They are there for a reason. They are called hazards. Yet this person can legally sue for his inability to recognize a deep pit of sand. This is why Bill 208 is such a good bill to at least give proper and thoughtful consideration to. If this bill were legislated, our leisurely walker would be owed the same level of liability as a trespasser under our Trespass to Premises Act or our Petty Trespass Act. Mr. Chairman, what this means is that our clumsy leisurely walker would not be able to sue.

Of course, the landowner or land occupier is not allowed to unduly cause harm to the leisurely walker. For instance, the golf course couldn't cover that sand trap with branches and leaves and then not take responsibility for a broken leg if our leisurely walker fell into that covered sandpit. The landowner in that case definitely could be sued. He or she could be sued because he or she had not advised the user that there was an unmarked hazard on the fairway. Of course, you may be thinking that this is silly and that it would never happen. Well, if this were the case, then Bill 208 would not be needed.

Bill 208 tries to level the duty of care owed to visitors and recreational users so that it resembles that of trespassers. What this means according to the Petty Trespass Act and the Trespass to

Premises Act is that unless the landowner deliberately creates a danger, i.e. the covered sand trap, then the recreational user is responsible for his own injuries.

Mr. Chairman, it's as easy as that. This is a bill whose time has come. Of course, this may be the point where we say that Alberta will be leading the country in bringing forth this kind of legislation. We were the first province to codify the Occupiers' Liability Act, but sadly we are behind in including recreational users. There are other provinces who have recognized that this issue needed to be addressed, and they promptly stepped up to the plate. Case in point: British Columbia in their legislation clearly makes it so that a person who is using the land for rec purposes will be assuming any risks that are encountered when it is being used.

You see, Mr. Chairman, this bill is the next step in protecting landowners' rights. It is something that we need to seriously think about passing. We should follow the lead of the other provinces across Canada who have taken similar action in protecting landowners and occupiers. We need this bill so that not only landowners will know what their responsibilities are, but as well recreational users of land will know what will happen to them and the responsibility they should hold for their actions if they should fall into a sand trap or crash their dirt bike into a tree.

I urge all members to vote in favour of Bill 208 in committee today and further support this bill throughout the process. Thank you, Mr. Chairman.

The Deputy Chair: You want to close debate, hon. member? The hon. Member for Lac La Biche-St. Paul.

4:30

Mr. Danyluk: Thank you very much, Mr. Chairman. I believe that the intent and the purpose of this bill have been adequately addressed in Committee of the Whole, and I would like to thank all members for their participation in the debate in the Assembly this afternoon and, once again, everyone for their involvement in the debate and the discussion on Bill 208, Occupiers' Liability (Recreational Users) Amendment Act.

Mr. Chairman, I would like to call the question.

[The clauses of Bill 208 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: Thanks, Mr. Chairman. I move that we rise and report Bill 208.

[Motion carried]

[Mr. Shariff in the chair]

The Acting Speaker: The hon. Member for Clover Bar-Fort Saskatchewan.

Mr. Lougheed: Mr. Speaker, the Committee of the Whole has had under consideration and reports Bill 208.

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

head: Third Reading

Bill 208
Occupiers' Liability (Recreational Users)
Amendment Act, 2003

The Acting Speaker: The hon. Member for Lac La Biche-St. Paul.

Mr. Danyluk: Thank you very much, Mr. Speaker. It gives me great pleasure to rise in this Assembly this afternoon to move third reading of Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003.

Mr. Speaker, before I begin my speech, I would like to start by thanking all the hon. members again for their comments and support for this legislation. I understand that this is a subject that affects many members of this Assembly and is a much-needed initiative for Albertans across this province.

As I mentioned at the previous stages of the bill, this legislation would reduce the amount of legal liability that is owed by landowners and occupiers to recreational visitors on their property. Bill 208 will dispel the fear of landowners and ease the burden of allowing recreation users on their premises.

The most common reason given by landowners and land occupiers for denying public access to private property is the issue of liability. This issue of liability may not be an explanation given to the neighbour at the door but undeniably is the reason for reticence in the minds of owners. Unfortunately, litigation is becoming more apparent in our society, and some hold the view that blame should be placed just about anywhere except on the individual or individuals who are truly responsible. Mr. Speaker, I ask: what happened to personal responsibility? Why do people believe they can and should blame others for the choices they make and the actions they take? I believe that the lifestyles and activities Albertans enjoy are being threatened by the increase in litigation and the view that lawsuits are the answer to our problems.

Our province's landscapes have many open spaces and open lands. These lands provide an opportunity for recreation as well as scenic beauty. The lands and the activities contribute to the quality of life of individual Albertans in our communities. In this province there is a surging demand for outdoor recreational activities. The province's vast landscapes allow Albertans to enjoy the great outdoors. However, the opportunities for outdoor recreation are jeopardized by the prohibiting of access to private and public lands by owners and occupiers.

This is not to say that I blame the landowner for not allowing entry to his or her properties. We must keep in mind that the term "recreational user" has a very broad scope. We are not just talking about ATV and snowmobile operators. The definition of a recreational visitor may include anything from walkers, skiers, equestrians, hunters, and fishermen to berry pickers and photographers. Now, one might think: what is the harm in allowing someone access to land if they're only going to pick berries or take pictures? What danger can occur? To some extent, I do believe the chances of something dangerous happening are very remote. However, the problems arise because anyone can sue if they get hurt. A photographer may step on uneven ground and sprain his or her ankle.

Landowners and occupiers do not want to take the risk and, therefore, are hesitant to grant permission even if it is only to allow people to walk across their field.

Mr. Speaker, I would like to shift my focus slightly and address this issue from another perspective. Across the province there are many traditional family farms, ranches, and properties that have been passed down from generation to generation. Neighbours not only have a close relationship with each other, but the families also have a long history. Individuals using land for recreational pursuits and a duty of care that is owing to them have created a challenge to a community's cohesiveness. These lands are no longer an open space where neighbours and friends are granted automatic permission. This has now become a sensitive issue, where landowners contemplate allowing or prohibiting land access.

Mr. Speaker, the liability risk has resulted in a retreat in admitting land entry. This is not because these owners do not want visitors on the property. I know from experience that landowners find it difficult to say no to neighbours and friends. However, it would be even more difficult for these same individuals to watch their friends or neighbours down the road almost lose his or her livelihood because of a lawsuit. The situation leaves the landowner or occupier in a difficult position. Communities no longer have the same closeness or joint policy regarding land entry as they did once before. Recreational opportunities have diminished because landowners and land occupiers want to steer clear of any possible liability threats.

Bill 208 will give individuals the choice or the ability to say yes or no to recreational users pursuing activities on their land. This legislation will provide a safeguard to owners and occupiers, supplying them with the option, without potential risk, of allowing recreational users on their property to enjoy the land and engage in outdoor activities. Bill 208 will not force landowners to open up their land to visitors; instead, it gives them the choice to do so. If given the opportunity without the risk, I believe more owners and occupiers will permit recreational users on the land. I know that I would be more inclined to give my consent to neighbours wanting to enter my property.

With the passage of this legislation more recreational users would be welcome, and landowners and occupiers would have choice without threat to provide outdoor recreational spaces. I urge all my colleagues to once again strongly support this initiative, and I would encourage you to vote in favour of third reading of Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003.

Thank you.

The Acting Speaker: The hon. Member for Innisfail-Sylvan Lake.

Mr. Ouellette: Thank you, Mr. Speaker. It is my pleasure to rise today and join debate on Bill 208. I cannot stress to the House how important this bill is to rural Alberta landowners and occupiers. We should seriously consider passing this bill. I am a strong supporter of it, and I hope that those in the House today will do likewise.

As I speak to this bill, a lot of the points that I bring up will have been mentioned already, but I feel they are extremely important and should be reiterated. This bill is important to me because I've had experiences with recreational users of land and the Occupiers' Liability Act. The experiences that I have taken away from those instances have not been positive. The proposed amendments to the act through Bill 208 should have been taken care of a long time ago.

Mr. Speaker, Bill 208 affects mostly rural landowners and occupiers. The Occupiers' Liability Act as it currently stands does not let landowners and occupiers allow access to their lands for recreational use without the landowner or occupier assuming a large

amount of risk. The risk that landowners and occupiers assume is one that they really have no control of. It seems that in today's era of "Oh, I am hurt" or "It's not my fault; who can I sue?" many people in our society are left vulnerable to the silly lawsuits that this kind of attitude brings.

4:40

One of the groups that has been left vulnerable to silly lawsuits is landowners and occupiers. I realize that it may be difficult for nonrural members to truly understand how this bill will alter recreational use of land in rural Alberta. In every rural area around the province there are people who enjoy quadding, snowmobiling, even walking across lands that are owned by others. In the past rural Alberta landowners and occupiers have given recreational users free rein over their land as long as they are respectful of that property. Landowners and occupiers used to be extremely generous in allowing recreational users to access their lands, always doing so with a friendly attitude and good intentions. But recently this trend has begun to change. Many landowners and occupiers are slightly worried about giving permission for people to use their land.

There are many reasons for this, but I would like to give the House a personal example of why the attitude in rural Alberta is changing. Throughout the province rural communities are known to hold all kinds of spectacular events. A popular one that used to be done often was poker rallies. In my constituency I was once co-chair of a poker rally that took place at Pine Lake. The rally consisted of snowmobiles that would follow a clearly marked trail across many different fields in a bit of a race to gather playing cards to make a poker hand.

For those of you who are not familiar with snowmobile poker rallies, they are meant for groups of people to get together, ride their snowmobiles, and have fun and enjoyment. Usually there are a couple of different groups or teams, and there are different directions to a secret location or a finishing spot where you can collect prizes or have a party or whatever is at the finish line. Sometimes these rallies are used to raise money for charities, and other times they are for members of clubs to get together to just have fun. Either way, these rallies are great community-building events which entire communities take part in.

As the trail for the rally is designed, organizers have to approach landowners to get permission to have a trail go across their property. In the past landowners or occupiers would not even blink an eye and would grant permission without hesitation. This is what would normally happen for the Pine Lake poker rally. However, one year a participant who was involved in the Pine Lake event decided to leave the clearly marked trail. When he left the trail, he went further into the land of one of the landowners who gave permission for his property to be used for a trail. During this time off the trail, the snowmobiler had a fatal accident, an extremely unfortunate event.

As it turned out, the landowner who had given permission for recreational use of the land was sued for the unfortunate death of the snowmobiler. This landowner had no involvement in the rally other than the fact that he gave permission to use his land, yet he was the one that got sued through no fault of his own. I ask the House: how is that fair? I think that it is completely unacceptable. With the amendment to the Occupiers' Liability Act that is proposed in Bill 208, the duty of care is reduced, and therefore the landowner could deal with the snowmobiler like a trespasser instead of a recreational user. This would have saved the landowner a lot of hardship; instead, an innocent landowner was sued because of his generosity.

So do you think future rallies had an easy time trying to convince landowners to let trails go across their land? Nope. Never again. Why would anyone even think of allowing passage on the land if

they felt that they were going to be liable for somebody's misfortune? This is happening across Alberta in many rural areas because of the many frivolous lawsuits that are brought to court as of late. Landowners and occupiers in Alberta are no longer letting people come onto their premises for recreational purposes. This is not because they are unfriendly but because they cannot afford to accept the risk that is involved.

As I mentioned just a few moments ago, Bill 208 lowers the common duty of care of a recreational user to that of a trespasser. I think that this is acceptable because some landowners and occupiers presently allow recreational users onto their property yet advise the user not to tell them when they are there. Sort of like: you can come play, but don't tell me about it. This is in case something happens to the user, and then the landlord will be able to say that the user was trespassing, and therefore they can treat the user as such and avoid costly problems if an accident occurs.

This is what our current Occupiers' Liability Act has reduced rural Albertans to doing, and I don't think that that is proper. The act has allowed people to bring lawsuits forward which should not be coming close to a courtroom. This is why I am in favour of this bill. It is my hope that this amendment to the act will stop people from bringing frivolous lawsuits forward.

But then there may be those of you who think that it is the right of the person who gets injured to be able to sue whoever they please for whatever they want. Well, that may be the case, but I think that this bill takes the onus off the landowner or occupier to prove that it is their negligence that caused the injury. Bill 208 puts the responsibility onto the injured party to prove that it is the user's own fault that caused an accident by reducing the duty of care, as I just alluded to. So the landowner and occupier can still be sued for injuries, but it will be much more difficult for weak arguments to win in court. I think that this will eliminate those lawsuits that are held together by a small piece of thread.

There has been an argument made at one point that this bill might favour one group of Albertans over another, that being landowners and occupiers over normal recreational users. I think this bill brings recreational users and landowners or occupiers onto an even playing field. A recreational user who gets injured under the current legislation really just has to show up in court with a neck brace and will have a good chance of winning because it is up to the landowner to prove that he is not liable. By putting landowners or occupiers and recreational users on an even playing field, I think we will be able to rid our courts of unnecessary lawsuits, which waste a lot of Alberta taxpayers' money.

So on that note I would urge all hon. members to vote in favour of this bill so that rural Alberta can return to the way it once was. Thank you, Mr. Speaker.

The Acting Speaker: The hon. Member for Calgary-Currie.

Mr. Lord: Well, thank you, Mr. Speaker. It is with a great deal of pleasure that I rise today to speak to Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003, a bill that affords Alberta landowners some badly needed protection when it comes to liability issues if they have allowed their land to be used for recreational purposes. The hon. Member for Lac La Biche-St. Paul is to be commended for his attempt to implement change on this very important issue. As a member of the MLA recreational corridor review committee myself I'm also very well aware of the need for legislation such as this and of how concerned many Alberta farmers are about this issue. We certainly heard that message loud and clear as we traveled about the province.

First off, I would like to point out that Alberta's lands, whether owned by individuals, corporations, municipalities, or the provincial

or federal government, are varied and vast and are well suited for literally hundreds of recreational uses. When seasons change, new activities are undertaken by many Albertans. Whether it's sledding down a farmer's coulee in the wintertime or picking berries on pastureland in the summer, we are all very fortunate as Albertans to be able to enjoy such a diverse and bountiful landscape.

But there are problems. In our increasingly litigious society the fear of lawyers is dramatically increasing amongst landowners' minds. Access to use their land is therefore being threatened for all. Bill 208 would afford landowners an added level of protection against potential lawsuits dealing with injury or loss that could occur after they granted permission to recreational enthusiasts to use his or her land. Mr. Speaker, this would be achieved by lowering the level of legal redressability to the same level which is afforded to a trespasser. It takes the legal risk off the landowner and puts it onto the user, where it belongs.

Currently under the act trespassers are not afforded the common duty of care that invited visitors are, which is why farmers are so reluctant to give permission to strangers to use their land. They aren't trespassers anymore if they have been given permission first, and people are reluctant to say no, because it isn't neighbourly. People do want to be nice, but if they are nice, then they risk a lawsuit, and this should not be happening. Visitors would become more responsible for risks involved with using another's land for their recreation. Bill 208 removes the liability factor of the occupier except or unless it is really a case of gross willful or reckless conduct.

4:50

Mr. Speaker, by adding a new section to the Occupiers' Liability Act, Bill 208 would close the door on unnecessary lawsuits property owners and leaseholders might face when allowing access to their land for recreational purposes. As it currently stands, landowners must afford permitted visitors with a common duty of care. The problem is that the current act does a poor job of defining how this reasonable care is to be achieved. This lack of clarity makes the act open to interpretation and, consequently, open to litigation.

Also, Mr. Speaker, it is unreasonable to hold occupiers, especially in rural areas, absolutely accountable for every hazard that might be on their land. Items such as barbed wire fences, dugouts, and farm equipment are necessary items found on farms and ranches, but they could be considered hazards for snowmobilers or hikers. How much control should individuals be expected to have over items like rocks, fallen trees, and livestock? It is easy to see that the risks are out there when it comes to enjoying recreation in a rural area.

Those who make decisions about their own recreation activities should also be aware and responsible about the risks involved. Unrealistic expectations are currently placed on landowners and occupiers who allow recreational activities on their land. We are asking them to be held accountable for every stone, branch, and gopher hole that someone might trip over on their property, and these are not fair expectations.

Mr. Speaker, this bill implements common sense into the Occupiers' Liability Act. As a recreational user if I approach a landowner about my desire to access his or her land to perform my activity of choice, then why should I expect someone else to be responsible for my decisions if they go awry or result in my hurting myself? There are too many variables that landowners have no control over to hold them responsible for every possibility that could occur on their land. We have heard several hypothetical and some real examples that show why the current act does not work properly and that property owners are being left open to, in my view, unnecessary and unfair liability risks.

One of the main reasons I am supporting Bill 208 is because it brings clarity to the Occupiers' Liability Act. Recreational users and landowners alike will know exactly who is responsible for injury or loss should incidents occur. This clarity will not only eliminate many problems of assigning fault should incidents occur, but relationships between current land occupiers and recreationalists will be strengthened. Mr. Speaker, I believe occupiers would be more apt to allow for recreation to occur on their lands if they were not constantly worried and in fear that they will be held responsible should something unfortunate happen.

Currently banning access to property is the only surefire method occupiers have to make sure that they don't end up being sued for another's mishap. I know several instances, especially in rural Alberta, where occupiers have taken this action to protect themselves. Many farmers and ranchers won't allow anyone on their land. To be fair to all, they have isolated their land because they don't want to deal with the consequences of another's recklessness. It's hard to fault an individual for making a choice based on protecting oneself. Should Bill 208 pass, I believe occupiers will be more likely to allow greater access to their land, and Albertans will be allowed to use more of Alberta's private land for recreational purposes.

Now, Mr. Speaker, there are those who will argue that under the current act an occupier may not face legal action if a visitor is willing to accept the risk associated with their visit. I know that this all sounds very good in theory. I would like to point out that it would be very difficult for a rancher or farmer to prove that an individual willingly accepted all the possible risks associated with their visit. In addition to that, I don't know many farmers or ranchers who have the time or the resources to draw up waivers for every person that would like to visit their land, and many would be embarrassed to make a relative or a friend or a neighbour enter into a legal signed agreement on a request that seems very innocent at the time.

The right way to solve this problem is to implement legislation that is consistent for all situations. Let's not put the onus on every farmer and rancher to make visitors absolve their common duty of care. Bill 208 puts everyone in the same boat and alleviates occupiers from enduring processes like these to protect themselves just to make their land available.

Mr. Speaker, when dealing with such issues, it is important to look at the big picture. I will attempt to do that now.

Contained in the Alberta government's business plan of 2003 to 2006 are some words I would like to share today. In describing what makes Alberta the best place to live, work, and visit is this passage.

It means maintaining strong and viable rural and urban communities, protecting wildlife and parks, and promoting the diversity and excitement of Alberta's cultural, arts and recreational opportunities.

It means promoting safety and ensuring Albertans' security.

Mr. Speaker, I would like to expand on two points made in that dialogue. First, in regard to maintaining recreational opportunities by reducing the liability risk landowners face when allowing others onto their land, we are promoting and expanding these recreational opportunities for Albertans. We are improving on the vision we have outlined as a government in our business plan and improving on our goal of promoting recreational opportunities in Alberta. Second, in regard to promoting safety and ensuring Albertans' security, we are creating an atmosphere where our citizens are more responsible for their own regard, and we are providing security to occupiers and landowners who share their land with others.

Mr. Speaker, I believe the idealistic words written in this year's government business plan talk directly to the Alberta advantage, and I believe Bill 208 is an opportunity to provide action toward the promises we have made to Albertans.

Mr. Speaker, making individuals more responsible for themselves while on land that is not their own is not a foreign concept. With respect to Crown grazing leases similar changes have already been approved through the Agricultural Dispositions Statutes Amendment Act, 2003. By passing Bill 208, we would end up treating all land in a similar fashion. Why should we differentiate between Crown leases and private land?

Also, many other jurisdictions have recognized that this type of legislation is important as well. British Columbia, Saskatchewan, Manitoba, Ontario, and Prince Edward Island for a variety of different reasons have all taken steps to give occupiers greater protection from liability issues where recreation is concerned. Mr. Speaker, it is time to afford that same protection to Alberta landowners. There is no reason in my mind why we can't be as progressive as these other provinces have been on this issue.

In conclusion, Mr. Speaker, I'd like to point out once again that Bill 208 will provide some clarity to the current Occupiers' Liability Act. It fairly assesses responsibility associated with recreation on other people's land. This clarity will prevent incidents from heading to court as there is less room for interpretation to occur within the act. With expectations clearly laid out in the Occupiers' Liability Act, all parties will have a better understanding of what the liability implications are in case of an incident. This, I believe, will eliminate future litigation processes.

Mr. Speaker, as I have already stated, I believe much good can come from this bill if landowners are further protected. I urge all colleagues to vote for this bill.

The Acting Speaker: The hon. Member for Drayton Valley-Calmar.

Rev. Abbott: Well, thank you, Mr. Speaker. It is a pleasure to rise and share my views as well as my support for Bill 208.

A few years ago in the news headlines from the United States we learned of a New Mexico woman and her cup of coffee. After scalding herself with hot coffee that she had purchased from a McDonald's Restaurant, she proceeded with a lawsuit that held the fast-food giant liable for her burning herself. The case proceeded to court, and the woman won substantial recompense for damages.

What does this case have to do with Bill 208? A sentiment that I heard several times about this case was amusement with a hint of disbelief that this could be happening. One of the most popular comments that I heard about this case was: surely this would not happen in Canada. Well, Mr. Speaker, recently an Alberta lady was awarded more than \$70,000 for slipping in some doggie doo. Yes, she stepped in it. She wasn't pushed or forced.

So I'm afraid that I have to disagree. These types of lawsuits do happen in Canada on a very regular basis. An individual is hurt and in some cases starts looking for someone to blame, someone to hold responsible for his or her misfortune. This doesn't happen all the time, of course, but it does happen often enough so as to be a general risk for people who may be held responsible. Canada is becoming a litigious society, and lawsuits for damages are becoming an ever more common event.

As the Occupiers' Liability Act stands today, landowners and land occupiers open themselves up to enormous risk if they allow visitors to come onto their property. Under the Occupiers' Liability Act the common duty of care that landowners owe to persons they allow to be on their property places a very large obligation on the landowner. Common duty of care is open to much interpretation, and this leads to some uneasiness on the part of landowners and land occupiers. If a person is injured while on private property and decides to file a lawsuit against the landowner, it will be left to the courts to decide whether the landowner is at fault. This, Mr. Speaker, is perhaps at

the core of the purpose of Bill 208. The fact that the court has the power to decide whether or not a landowner was in the wrong may very well make landowners nervous and unwilling to allow visitors onto their properties.

5:00

If a visitor is on private property and is injured, he or she has the right to file a lawsuit against the landowner. The individual can claim bodily damages, damages to equipment, and lost wages among other items. These claims may be very substantial and could cause enormous financial burden for the landowner, possibly causing the landowner to lose the very property on which the accident took place.

So, Mr. Speaker, Bill 208 is not proposing to eliminate the responsibility of landowners or land occupiers. However, what this legislation does propose is to reduce the liability owed to recreational users to the same level that is owed to trespassers. This means that recreational users would have to accept the risks that are present when engaging in recreational activities on private property. Landowners and land occupiers would still owe trespassers the level of care for anyone on their properties. Presently, if willful or negligent acts on behalf of the landowner cause an accident to befall a trespasser, the landowner is still responsible for these actions. This same level of responsibility would be applicable to recreational users if the changes proposed by Bill 208 are passed.

The recent passage of Bill 16, the Agricultural Dispositions Statutes Amendment Act, 2003, will change the legislation with regard to leased lands. The passage of Bill 16 shows just how necessary it is for us to pass Bill 208. Bill 208 would amend the current Occupiers' Liability Act to cover a broader spectrum of private property. These properties would include not only agricultural lands but also golf courses that are not open for playing, utility rights-of-way, and recreational trails. Private landowners feel that they need to protect themselves from a possible lawsuit, and this is often why they do not allow visitors on their property. The number of injury lawsuits in Canada and Alberta is on the rise, and landowners see this as a threat to themselves.

Mr. Speaker, in preparing to speak here today, research was conducted into civil lawsuits that concerned occupiers' liability acts across the country. There is an increasing number of cases that are being brought to trial under the umbrella of the occupiers' liability acts in Canada. One that caught my particular attention was a case in British Columbia.

On a June night in 1993 a man climbed a barbed-wire fence and began crossing a pasture. The bull that was grazing in the pasture charged the man, knocked him down, and broke the man's hip. Now, this gentleman lay in the pasture for five days until an employee of the farm found and rescued him. The man who was crossing the pasture laid charges against the farm under the Occupiers' Liability Act of British Columbia . . .

Mr. Lukaszuk: How was the bull?

Rev. Abbott: I think the bull was fine.

. . . stating that it was the fault of the landowner that the bull was not kept under control and that there was no warning of the fierce nature of the bull. Can you believe that, Mr. Speaker? He expected to have a warning sign that this bull may be dangerous. However, in this case, thankfully, the judge ruled that the man was a trespasser, and therefore the landowner was found not to be at fault. Now, that was a good one, and that's no bull.

But there are two points about this case that concern me greatly. First of all, the fact that the man who willingly decides to walk

across a pasture that is not his own without the consent of the landowner feels that he has a right to bring charges against the landowner. That's ridiculous. This man is not even a visitor; he's a trespasser. Yet he felt that he was justified in suing the landowner for damages for an action that he freely chose to take. Freely chose.

My second concern with this case is the fact that this issue was decided by the Supreme Court of British Columbia. That's right, Mr. Speaker. As I said, the man trespassed, he was charged by a bull, and under the Occupiers Liability Act of British Columbia they felt that he was justified in suing the owners of the farm. Now, it concerns me greatly that this issue had to be decided in a provincial Supreme Court when this man was clearly a trespasser.

While this example is from British Columbia, a case like this could easily have taken place in Alberta, perhaps even in Drayton Valley, under the current Occupiers' Liability Act. If the judge had decided in favour of the plaintiff and awarded this man damages, the effects on that farm could have been disastrous, devastating. It is possible that the landowners would have been forced to sell their land in order to pay this trespasser the damages. Cases like this are becoming commonplace within Canada's judicial system, and it is time that we enacted legislation to protect landowners and occupiers from lawsuits.

There is one other case that I would like to briefly discuss – you guys will be interested in this – just to show how possible it is that a private landowner could have legal action brought against him. Picture a beautiful day in June 1996. A woman and her friends stop at a provincial park campsite in British Columbia to have a picnic. The lady is walking to the picnic table from her car. She trips over a rock, and she falls and fractures her left hip and elbow.

Now, that's an unfortunate accident – no one will argue that – and it's too bad that she sustained such an injury from such a simple fall. However, this woman did not accept the fact that an accident had happened and that she was responsible for her own actions. She proceeded to file a lawsuit against the government of British Columbia for damages, claiming that the government did not fulfill its duty under the Occupiers Liability Act of B.C.

This woman tripped over a rock, felt that it was anybody's fault but her own, and guess what? This case was decided by the Supreme Court of British Columbia in 1999. Fortunately, the courts found that the government of British Columbia was not at fault, but once again we have a case of a person that is unwilling to accept responsibility for their own actions.

Now, I've chosen these two cases from B.C. because of how amazing they are. However, cases just like these are in the archives of the Alberta Provincial Court as well. Mr. Speaker, there's a growing trend in our society to not accept responsibility for one's own actions. In the two court cases I've highlighted here, the plaintiffs sought to blame anyone but themselves. A person trips and falls. It has to be somebody else's fault; right?

I am not saying that every Albertan is like this. In fact, I would say that there are relatively few people who would act this way in Alberta. However, it is possible that there are some. It's impossible for a private landowner to know who thinks this way and who doesn't. So in this climate a landowner would not be acting responsibly to allow visitors onto their property. The potential for loss is enormous.

This is why Bill 208 must be supported. It will give private landowners and occupiers the protection that they need to allow other people to enjoy the beautiful vistas located on privately owned land in Alberta.

Please support this. Thank you, Mr. Speaker.

The Acting Speaker: The hon. Member for Calgary-Buffalo.

Mr. Cenaiko: Thank you very much, Mr. Speaker. I appreciate the opportunity to rise today and offer some of my thoughts and comments on Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003, brought forward by my friend and colleague the hon. Member for Lac La Biche-St. Paul. In my remarks today I would like to present a balanced view of Bill 208, focusing on some of the very positive aspects of this piece of legislation while at the same time drawing your attention to some of the concerns that this bill raises.

Bill 208 undoubtedly addresses some of the major liability concerns raised by Alberta's landowners and occupiers and is, in my opinion, a step in the right direction. Over the past several years there have been a number of landowners and occupiers who have raised concerns with regard to the Occupiers' Liability Act. They feel that the act places the burden of responsibility squarely upon their shoulders in instances where recreational users and visitors injure themselves while using their land for recreational purposes. These same owners and occupiers feel that the act forces them to undertake unrealistic and unreasonable measures in order to ensure that the risk of injury to an individual is kept to a minimum.

Mr. Speaker, in essence, what the bill does is remove the common duty of care aspect from the act so that the liability owed to recreational users and visitors is exactly the same as the liability owed to trespassers or those entering lands without permission. With this, the bill hopes to balance the burden of responsibility between owners and occupiers and recreational users and visitors.

Upon reading it for the first time, Mr. Speaker, I had nothing but unqualified support for Bill 208 and the goals it sets out to accomplish. However, after reading it a few more times and getting a grasp of the issue at hand, I have come across a few concerns which I would like to raise. While I completely agree with the premise of this bill, which aims to reduce the burden of liability that the landowners and occupiers owe to recreational users and visitors, I'm not thoroughly convinced that it would be most appropriate to lower this burden of liability to the same level that is owed to ordinary trespassers. My main concerns with regards to this issue are twofold.

5:10

Now I realize that under the amendments proposed by Bill 208, users and visitors can still sue landowners for willful or reckless conduct. However, I am concerned that we could be sending a wrong message to landowners by removing the common duty of care from the Occupiers' Liability Act. My fear is that owners may interpret this the wrong way and assume that they no longer owe any liability to those who have asked permission to access their property and could in turn act in a negligent manner. Mr. Speaker, a positive alternative to its removal is to amend the common duty of care clause in order to reduce the burden of liability placed upon the owners and occupiers and keep it in balance with the burden placed upon the recreational users and visitors. This would permit a balanced and fair approach to the issues at hand.

My last concern, Mr. Speaker, with regard to Bill 208 has to do with one of the premises that the bill is based upon. It argues that by shifting the burden of responsibility, the bill would eliminate the potential for landowners and occupiers to be held liable for actions committed by irresponsible and reckless recreational land users. However, after consulting the Alberta Law Reform Institute's report on issues of recreational liability, which was released in the year 2000, I was surprised to see that in court cases dealing with recreational-use injuries in Alberta, occupiers were generally not being found liable for those injuries. This tends to suggest that the problem at hand is not as bad as some may tend to believe.

However, I can still understand the fact that even having to go to a trial in the first place tends to leave a bad taste in one's mouth. I

cannot blame the honest and responsible landowners and occupiers for being hesitant to allow others onto their properties after such an ordeal.

As a result, Mr. Speaker, despite some of my concerns, I am willing to support Bill 208 because it is currently the best alternative to solving the land accessibility problems affecting rural Alberta. I'm a firm believer that access should be available for all of those individuals seeking adventure within our province's backcountry, and it's my hope that this bill will ease some of the fears and pressures placed upon our landowners and occupiers.

Mr. Speaker, I would now on behalf of the hon. Member for Lac La Biche-St. Paul move third reading of Bill 208 and call the question.

The Acting Speaker: The hon. Member for Calgary-Buffalo has moved on behalf of the hon. Member for Lac La Biche-St. Paul third reading of Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003. Is there anybody else who wishes to speak on this bill?

Mr. Danyluk: I'd just like to close.

The Acting Speaker: Thank you. The hon. Member for Lac La Biche-St. Paul to close debate. I'm concerned that the hon. Member for Calgary-Buffalo made a statement that he was closing this bill on your behalf, but you may proceed.

Mr. Danyluk: Thank you very much, Mr. Speaker. I feel that the intentions and the values of this bill have been adequately addressed. While some valid concerns have been raised, I would like to extend my gratitude and thanks to all of the hon. members for their comments and support this afternoon.

As we have all heard this afternoon and during second reading and Committee of the Whole, the purpose of Bill 208 is to reduce the amount of liability landowners and occupiers owe to recreational users. I believe this legislation will ease the fear that many owners and occupiers currently hold and will allow them the comfort of welcoming recreational visitors on their property.

Mr. Speaker, I believe very strongly in the objectives of Bill 208 and the benefits it will bring to Albertans. Landowners and occupiers will now have the option without the immense risks of granting entrance to their property for visitors who are engaged in recreational pursuits.

Mr. Speaker, I don't know if I have to move it again or it has been moved. What are you accepting?

At this time I would like to move third reading of Bill 208, the Occupiers' Liability (Recreational Users) Amendment Act, 2003. Thank you.

[Motion carried; Bill 208 read a third time]

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

head: Second Reading

Bill 209

School (Fees Elimination) Amendment Act, 2003

The Acting Speaker: The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Speaker. On behalf of the Member for Edmonton-Highlands I move second reading of Bill 209, School (Fees Elimination) Amendment Act, 2003.

Now, Mr. Speaker, speaking to the bill, the bill addresses two important issues. The first, of course, and the most important is the

whole notion of school fees, and the second is the concern about parent fund-raising. I think that part of the problem goes back to 1995, when local school boards could levy taxes to fund schools and to supplement government grants. We're all aware that there were some problems with that because the amount of money that a board could raise was related to the wealth of the community that they served. So we had jurisdictions like Strathcona county, with a rich machinery and equipment tax because of the refineries there, able to raise a great deal with respect to school levies while other jurisdictions, some in the far north, were very limited in the kind of tax base that they could draw upon and the manner in which they could finance their schools. As a consequence, school funding across the province varied very widely. I think it was a problem that at the time was labeled the \$30 million problem. Thirty million dollars would have equalized the payments across the province.

Trustees dealt with the problem for years and never were able to resolve it, and the government of the day decided that they would resolve it, and that was by taking taxing authority away from school boards, gathering all the money in and redistributing it on a per pupil basis. The principle behind that was that all the children in the province are of equal value when it comes to spending from the public purse. I think that's a principle that all of us can endorse, Mr. Speaker.

5:20

Unfortunately, the equity move was not followed up with an adequacy move, so although we now had students across the province all making the same draw on the public purse without respect to their geography, they were just about all equally poor. Some boards had surpluses that they were able to draw upon for a number of years, others had other provisions that they were able to make for a while, and some under the funding formula had more money than they ever had before. But for the most part they were left cash strapped, particularly the large urban boards.

I think you can trace back the history about the concern for fees and the concern for parent fund-raising to that government policy in 1994. Schools and school boards with no other source of income other than the provincial allocations in the budget were really left cash strapped, so they started looking for ways to supplement the moneys that were being spent in schools. They turned, of course, to school fees, and as any MLA can attest to, each September there are a spate of parent complaints about the number of dollars that they're being asked to contribute in the form of fees to their youngsters' education.

I had a mother call me in September indicating that it was costing her about \$600 a student to enroll her students in schools. True enough; some of that was for things that I think can be a legitimate charge on a parent's purse. Much of it was concerned with instruction. Her complaint was not only the amount of money that was being spent but that with the levying of some course fees, students were now being excluded from some courses. Some students wouldn't admit that their parents didn't have the money to pay the fees, and others were just deterred from taking courses because of the fees for a variety of reasons. Fees started to loom as a problem.

One of the things that's changed over that period of time since 1994 is the expectation now that there will be fees, and that's a huge change, Mr. Speaker, from the history of this province not that many years ago. I can remember the point of time when the Edmonton public schools not only did not charge fees but provided, for the primary grades, student supplies. The scribblers and the pens and the paper that students used were provided by the school district. Those were in the days when those boards didn't have a lot of resources. So even in those times when the boards were scrimping,

they saw fit to make sure that students were adequately equipped and didn't lose out because of the fees that were going to be charged and the fees that we charge today.

So as I indicated, fees now have become the norm. What this bill does is to ask us to look back at that and revisit the whole notion of fees and what's happened and where we're going with respect to a public education system that's predicated on youngsters being able to attend regardless of the socioeconomic power of their parents. I think that what this bill gets at is that it asks us to revisit our commitment to a publicly funded education system that's open to all regardless of the ability of parents to pay the fees.

The second part of the bill, Mr. Speaker, talks about parent fund-raising. It's been a concern. The government, virtually for years in this Assembly, has had a minister stand up and say: parents are not fund-raising for basics. I think the Learning Commission put a lie to that assertion because they heard from parents that they are in fact fund-raising for basics. In some cases there's a bit of a shell game played in schools so that they can claim that the fund-raising money isn't being used for basics, but in fact parents are being very creative in finding ways of funneling money into schools so that basics can be covered.

The issue that it has raised is the whole issue of: what is basic? The Learning Commission, in one of the latter recommendations, I think a recommendation in the late 90s, near the end of the report, asks that this be rectified and that there be a list of what is considered basic provided for parents to try to bring to an end once and for all the debate about what is basic and what isn't. I think it's going to be a very difficult task for someone to undertake just trying to decide what is basic in what situation, and is it basic in another? Nevertheless, the Learning Commission report has charged us with that.

Mr. Speaker, with that, I'd adjourn debate on Bill 209.

[Motion to adjourn debate carried]

The Acting Speaker: The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you, Mr. Speaker. I would move that we call it 5:30 p.m. and reconvene at 8 this evening.

[Motion carried; the Assembly adjourned at 5:29 p.m.]

