

Legislative Assembly of Alberta

Title: **Tuesday, April 18, 2000** **8:00 p.m.**
 Date: **00/04/18**
 [Mrs. Gordon in the chair]

THE DEPUTY CHAIRMAN: I'd like to call the committee to order, please.

Before we proceed, I have been asked whether we can have unanimous consent to revert to Introduction of Guests.

[Unanimous consent granted]

head: Introduction of Guests

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

MR. SAPERS: Thank you very much, Madam Chairman. It is my pleasure to introduce to members of the Assembly tonight a number of guests of mine and my Liberal colleagues who are in the galleries. Some of them I just met this evening for the first time while they were waiting in line to go through the security doors to get a pass to come in. Many other guests are still waiting outside and for some reason have been denied access. At this time I would like to call upon all of my guests who are here to show their anger about Bill 11 to please rise and receive the warm welcome of the Chamber. [disturbance in the galleries]

THE SERGEANT-AT-ARMS: Order in the galleries. Order in the galleries. Order.

head: Government Bills and Orders
 head: Committee of the Whole

Bill 11 Health Care Protection Act

THE DEPUTY CHAIRMAN: We are dealing with subamendment SA1. The hon. Member for Edmonton-Meadowlark was the last to speak and is on her feet.

Before I begin, I should tell the guests in the gallery that Committee of the Whole is a stage within the bill where we deal with amendments, and we go clause by clause through the bill. It's more of an informal stage. The members can move about, and they can take off their suit jackets and be more comfortable. We do allow people to move about the Chamber and have coffee or juice.

With that, hon. member, go ahead.

MS LEBOVICI: Thank you, and I'd also like to thank everyone who's come to watch the proceedings this evening and to participate in the democratic process.

I'd also like to let you know that the score, as of about five minutes ago, was 2-2 in the Oilers game. I know we have a lot of Oilers fans in the balconies tonight.

I'd also like to thank the security guards and the others who are manning the doors on behalf of the individuals within this Assembly. They do not have an easy task. I know that their position is one we all wish they were not in, but I do want to thank those individuals for being there to protect us if required.

What I would also like to say at the outset is that I resent the position this government has put us all in. It's a position where we are in lockdown, where in fact the democratic rights of individuals who usually have the freedom to roam this Legislative Assembly at

will are no longer able to do so. It is their building. I resent the government who has put us and them in the position of not being allowed to enter their own building.

I would also, on the other hand, like to thank them for the awakening of democracy that is occurring not only in this city but across the province everywhere. From the e-mails, the faxes, the letters, the number of people that have come into all of our offices in the last few days and in fact over the past few months, we know that this is an issue that is not going to die and that will continue and continue and continue to grow until this government recognizes the mistake they have made and the underestimation they have made of people's ability to understand exactly what Bill 11 is about.

I would also like to remind the government and ask them if they think this is what it felt like during the French revolution, when Louis XVI and Marie Antoinette were holed up in their castle as well, and the people were at the front door waiting and pushing to get in. Marie Antoinette said: let them eat cake. What this government is saying is that . . .

THE DEPUTY CHAIRMAN: Edmonton-Meadowlark, we are dealing with a subamendment that you introduced. Could we please proceed with the subamendment?

MS LEBOVICI: Absolutely.

Those who can afford private health care will get it, and those who don't will get the underfunded, understaffed public health care system. [interjection] It is true, member.

The subamendment that we have in front of us this evening is an amendment that will attempt to make a god-awful bill maybe a tiny bit better. What the amendment does is split out the insured and uninsured services so that only insured services can be provided. What it also says is that surgical facilities will not have overnight stays. We know that that is a major concern individuals have, that this legislation sets up the ability for overnight facilities, private, for-profit hospitals, to set up in this province, to do so with the blessing of this government, of the Minister of Health and Wellness, and that in effect what we are setting up is a two-tiered system. Everybody knows that, yet this government denies it.

I was in a coffee shop the other day, and I said that I was getting a coffee because I had to go back to work at 8 o'clock at night. The young lady behind the counter said: well, what do you do that you have to go back to work at 8 o'clock at night? I said: I'm one of the MLAs. She said: oh, are you a Liberal MLA? And I said proudly: yes, I am. And she said: "Thank you. Thank you so much for standing up to protect our public health care system." I didn't have to twist her arm. She was no member of a union. She was not a left-wing nut. She was an educated, informed Albertan who knew exactly what the dangers of this bill present. And she thanked us for what we are doing.

I just came back from one of the schools in my constituency. It was a heritage fair there. It was a wonderful exhibit of what the students have put together to celebrate our heritage. As I was walking around the room, people talked to me about Bill 11. They said: "Go and fight for us. Make sure that Bill 11 does not pass, make sure that this government withdraws the bill, and make sure that you tell Ralph," which I wish I could, "that he needs to pull the bill." And that's what we are doing right here and right now.

For those individuals who weren't here the other night, I will put into the record exactly what the amendment tries to do. It says: "no physician shall provide an insured surgical service" in Alberta and no dentist shall provide an insured surgical service in Alberta except in a public hospital or an approved surgical facility "that requires a stay by the patient of under 12 hours." No overnight stays and

splitting apart the insured from the uninsured services so that nobody can make a buck off someone's illnesses. That's what the amendment says, and that's what we have put forward and will speak to tonight.

I listened very carefully to the speeches, and I know I will get an opportunity, because I do not have a lot of time left, to rise again. I have indicated that I will do so, and I will very carefully continue to look at the speeches that the government members made last night with regards to their defence of a bill that is indefensible. I must admit that in listening to those speeches, for the first time I heard the government members admit that they have a number of constituents, more than five or 10, that are phoning them to complain about this bill. That, I think, is an important first step. We now have government members admitting in fact that they are hearing from their constituents about this bill. So I thank all the constituents who are phoning their government members, and I hope they will continue to do so to bring that message home.

The second step that I found encouraging was that the Premier today it seems indicated that closure would not be brought in this week. That is a move from what he said last week, when he indicated that in fact closure might be brought at the end of this week before the spring break. So at least now he is saying very clearly, unless I misunderstood his comments that were on the radio at 6 o'clock, that closure will not be brought in at this stage and, I am assuming, at the next stage of the bill. In fact, we will be able to go to spring break. People will have the opportunity to meet with their MLAs yet one more time to explain what the problems are with the bill. In fact, what it does is allow us to bring forward amendments like the one that I have on the table tonight. The amendment is a very important amendment, that we need to keep talking about.

8:10

The third step that I think needs to still occur is for the facts now to be heard, to be listened to, and to be understood by the government members. As part of the bringing forward of those facts, the amendments are very, very important because they allow us to indicate to the government members what the facts are with regards to private, for-profit health care.

Now, the government members that spoke last night were very passionate in their defence of the public health care system. They indicated that they would do nothing to harm our public health care system, but somehow I fear that they are – and I'm perhaps a bit bold in saying this – misguided in their reading of what this bill is. So I find it necessary to talk and explain the amendment so that they can understand exactly why we need to pull the requirement for overnight stays, why we need to clarify that in fact an approved surgical facility as outlined in section 2(1) of the bill, as defined in the definitions in the back portion of the bill, is nothing but code for private, for-profit hospitals.

In fact, what needs to be understood by the government members is that there is not one shred of evidence that either the department or any of them or any of their researchers have been able to produce since November – I believe that was when the policy statement was brought forward. Since November 400-odd employees of the Department of Health and Wellness and millions of dollars spent have been unable to prove one shred of evidence that this providing for overnight stays at private, for-profit hospitals in this province is going to be more cost-efficient, is going to be more cost-effective, will reduce waiting lists, and anything else they've dreamed up in the last five months to try and sell this bill.

If the passionate appeals of the government members in preserving and maintaining our public health care system are to be believed, what needs to be recognized is that that belief does not mesh with

the facts, and dissonance amongst the members themselves I think must be pretty amazing. To be able to sit and justify a position that is not based on fact is one that I find very difficult to understand. There have been countless studies that we in the Official Opposition have put forward. In fact, as promised to the Minister of Community Development and the Minister of Infrastructure, I am sending over some of those studies, and you will probably be receiving them in your mailboxes within the next couple of days. I indicated in the speech I gave a few days ago that I would be doing that because the ministers were asking for that information.

Obviously, we are for this amendment. If in fact the government members are to vote against this amendment, they must do so with full knowledge of what they're voting against. They are voting against public health care when they vote against this amendment. They're voting against preserving our publicly funded health care system. They're voting against the principles of the Canada Health Act. They may shake their heads as much as they wish and say that it's not true, but there are too many opinions out there, too many research studies that are out there that indicate that it is true. As I indicated earlier, with the strength and might of the Department of Health and Wellness the minister has been unable to prove otherwise. We have sat here day after day and have listened carefully, and other than a Fraser Institute report based on old studies, that were not relevant and that were quickly discredited, in fact there is nothing else that the government can put forward.

I think it is established here that what we are voting for is a very important principle, that this amendment addresses that very important principle, that as long as overnight stays remain part of this bill, as long as surgical facilities are defined to be hospitals, and as long as approved surgical facilities can do both insured and uninsured services at the same time and charge for enhanced services as well, and later on – I don't think today, not sure if tomorrow, but at some point in time we will be dealing with the enhanced services part of the amendments that the government has put forward.

As long as those elements remain in the bill, this government is doing something that no other government across Canada has done. In fact, what this government is doing is opening up the doors to private, for-profit businesses that thrive on making a profit on people who are vulnerable, people who are sick, and people who are ill. I don't think that is something the government members want to see occur, yet they stare the facts in the face and deny them. They deny the reality that is in front of them. Based on what? If you could at least tell the people of Alberta what it is based on other than a whim, a wish, ideology, then maybe they might start to think that there's some substance in this, and they might understand what in fact you are trying to do. But that's not what this is. Bill 11 is not that. Bill 11 is just the opposite, and I know that each one of you in your heart must know that as well.

This is important. This is something we will stick with for a long time because it is important. It is the essence of the bill, and until it is taken out or the bill withdrawn, which is definitely preferable, there doesn't seem to be a lot of reason to move from this particular amendment. Hopefully I will get a sign of hope from the House leader, from the Minister of Health and Wellness that can tell me differently, but I don't think that that will be the case. I don't think so at all.

I know that I'm drawing near to the end of my time and I know that there are others anxious to get up as well, and I thank you.

THE DEPUTY CHAIRMAN: The hon. Associate Minister of Health and Wellness.

MR. ZWOZDESKY: Thank you, Madam Chairman. I'm delighted

to rise and enter this debate between second and third readings on an amendment to an amendment. Before I go ahead, I just want to say hello to the people in the galleries and welcome them to this part of the democratic process. It's very good to see you all here. Thank you for coming.

8:20

I also want to comment specifically on some of the statements that were just made by the hon. Member for Edmonton-Meadowlark, whose opinions I respect and whose viewpoints I also respect. However, there were a couple of points that she mentioned which in relation to this subamendment certainly need some clarification. One of the comments she made was that people are voting against or that the government is somehow moving against the spirit, the principles, and the concept of the Canada Health Act. Now, that is absolutely false. Madam Chairman, the people in this House and the people in the galleries know full well that this bill, the Health Care Protection Act, goes a long way to strengthening some areas that were weak in the system, and that's very true. I'm going to give you a couple of examples of where and why that is the case.

I hear the fire alarm bell ringing, and I'm not sure – do we just keep going? Okay.

First of all, Madam Chairman, as many people perhaps know and perhaps many others do not know, there is currently no legislation in the province of Alberta to prohibit private, for-profit hospitals, but Bill 11 will in fact do that. Now, I understand the comments with respect to defining the difference between a full-fledged, full-functioning, acute care, emergency care hospital versus the definition of a surgical facility or a private clinic or a clinic of any kind. There are ample examples of this in our system today not only in Alberta but elsewhere. I would tell you that the fundamental difference is similar to the definitions that must have been used 10 or 12 years ago when clinics first started up in this province.

Madam Chairman, the fact was that 12 years ago or thereabouts there were a number of pressures on the health care system, and private providers were brought into that equation in a stronger way than ever before to look at where they could help out so that the spiraling costs in health care could be maintained in order to protect one publicly funded health care system.

Now, today we're at a similar point. We know that the federal Minister of Health, the Hon. Allan Rock, and the Prime Minister of this great country, Jean Chretien, have written to us, put in writing, that they want us to look at creative and innovative ways of addressing the future demands of our health care system because, in their words, the status quo is not an option. Now, having said that, I was expecting that they might provide some kind of clear comment, some kind of clear direction on what they meant by an innovative, creative approach to health care, given the increasing costs.

Unfortunately, up until now they have not provided any of that, so each province is kind of left on their own to try and come up with some ways of dealing with these advancements that have been made in medical technology, the advancements that have been made in surgical procedures, the advancements and the tremendous amount of advancements specifically in information technology, all of which are very, very good, solid things. I think we all have to keep in mind that as a result of these tremendous advancements the expectations that we all have of the health care system have changed dramatically.

Madam Chairman, what was laser surgery eight, nine years ago? Virtually unheard of. What was orthoscopic surgery? A similar amount of time . . .

THE DEPUTY CHAIRMAN: The chair does have to remind you that we are dealing with an amendment to an amendment, as you

indicated when you first stood up. I would ask if we could move back to that amendment, please.

MR. ZWOZDESKY: I appreciate the reminder, which I know you've given to all members here, because we do tend to get wrapped up a little bit.

I just want to make the point as we're looking at the amendment to the amendment, that in fact what would happen if the subamendment that was brought in were to be enacted is that it would take away the right for us to look at and to have regional health authorities consider as an option what is central to this whole issue of redefining and re-examining overnight stays.

Overnight stays, for the information of everyone listening, are simply a stay that is longer than 12 hours in length. It doesn't matter what time of day it happens. Technically, if you're in a facility longer than 12 hours, you are deemed to be in an overnight stay situation. The fact is that with the improved amount of technology now, we know that recovery times have changed. This subamendment is unacceptable for that reason, because it fails to acknowledge that. I acknowledge and I respect what they are trying to do here, but the fact is that they are wrong in some of the explanations. So I needed to clarify that.

In fact what the amendments do, Madam Chairman, as you well know, is talk about not only strengthening the many things that Albertans have asked us to do, but they also provide a tighter package of guidelines and restrictions that govern our clinics that are out there today. Without them we may have . . . I'm sorry. Are you signaling the fire alarm again? No? Okay.

Without those stricter guidelines in place, we would be accused of not having a uniform system across the province. What is important with these amendments is that we are trying hard to make things uniform so that the level of care and the level of service you would receive in northern Alberta or southern Alberta or Edmonton or Calgary or Sangudo or Okotoks is standard for everybody, and that is a good thing.

These amendments are necessary for some of those very obvious reasons, but I would also tell you that in the process of these amendments, Madam Chairman, we are also strengthening the prohibition against things like queue-jumping. We know that there are concerns about that. It's important for the individuals listening and for people participating in the debate to understand that we're not trying to do something here that would harm that. We're trying to improve the prohibition against it. That's a critical part of the bill, because Albertans asked for that to be done, and we're intending to do that.

There are a number of other things that these amendments speak to that the subamendment, if brought in, would curtail. But the essence of the first amendment, Madam Chairman, has only to do with adding in a particular definition to include dentists. That's really what the first amendment is all about, but the subamendment as worded would not only take away that particular necessary change, which we've been asked to put in, but it would also defeat a lot of the other points that are trying to be advanced.

Now, another comment that the hon. member made was saying that someone is denying the reality of what the health care pressures are today. In fact, Madam Chairman, the exact opposite is the case. We are acknowledging the reality. The reality is all of the advancements I mentioned before. The reality is that we have a very fast-growing population, which is a great thing, and we have an aging population, which is also a great thing. What we're trying to do here is to simply say that those growing pressures have to be addressed somehow. Yes, money is part of the issue. Of course it is, and that's why we're pressing Ottawa so hard to restore its funding back to

1994-95 levels. But this subamendment would take away some of that thrust, and that's why the subamendment is unacceptable.

We know that when medicare was first brought in – this will come as no surprise to some of our listeners. Do you know, Madam Chairman, that circa 1960 when Tom Douglas brought in the idea of a medicare program in Saskatchewan, there was tremendous opposition to that. That's why this amendment, which speaks to change, which speaks to progress has to be looked at in that context. Yes, of course there are some people who are opposed to this. I understand that. But so, too, were 90 percent of the doctors opposed to what Tommy Douglas was trying to do back when he was trying to bring in medicare. Who would argue that he was wrong? Who would argue that Tom Douglas was wrong with his dream for a medicare program? Obviously he was right in spite of the fact that there was a lot of opposition to it.

Now, what we're talking about here and what this amendment and consequently the subamendments are talking about is simply bringing us up to speed in a very progressive way to allow us to have regional health authorities consider as an option one set of very narrow, very low-risk, minor surgeries that could possibly be done in a private setting that is safe, that is fully accredited. That's what the amendment is all about, Madam Chairman. This amendment that simply reads "no physician shall provide a surgical service" and substitutes "no physician shall provide an insured surgical service" and so on speaks against the spirit of that necessary change.

8:30

THE DEPUTY CHAIRMAN: Hon. member, there's a point of order.

Point of Order Questioning a Member

MS LEIBOVICI: *Beauchesne* 333, if he'd entertain a question as to when HRG became a regional health authority so that they could ask for overnight stays.

THE DEPUTY CHAIRMAN: We first ask the hon. member whether or not in fact he will entertain a question.

MR. ZWOZDESKY: Madam Chairman, the hon. member has been here for seven years, and she knows full well that there is a point for questions in question period. She's welcome to ask that question. If she has a question about the amendment or the specific subamendment, that's a different issue. This has nothing to do with HRG, so it's totally irrelevant.

THE DEPUTY CHAIRMAN: Continue the debate, hon. member.

Debate Continued

MR. ZWOZDESKY: What I also want to refute here are some comments and some references that were made earlier in the debate in reference to this amendment and subamendment, the fact that there are no more beds being opened up, which is obviously not true. In our Capital health region alone over the last several months we have opened up literally hundreds of more beds. Literally hundreds. Right now we are in the process of opening a further set of beds, about 63 right now. We're also in the process of hiring 90 more doctors and 2,400 more nurses to help staff and look after those beds. [interjections] That's all part of what was offered earlier in the debate, and if it was allowed earlier in the debate and questions asked, then they need to be answered. I heard the hon. Member for Calgary-Buffalo say this afternoon that questions were being asked in relation to this amendment and this bill that were not being

answered, so I'm trying to answer some of those questions. He offered them in good faith, and I'm responding in good faith.

Now, I just want to go on with this subamendment and some of the comments that were made there by previous speakers. The fact is that we have to look at this amendment and subamendment in the context of the bigger picture of health care delivery right across Canada, not just what's going on in Alberta but particularly what's going on in Alberta and also with reference to the national context. It may surprise you to know that we will be, I think, the only province that will ban private, for-profit hospitals, and we will be the only province that comes out and openly says that there is a problem in that regard, that there's a loophole in that regard, and once this amendment is dealt with and brought in, we will see a much stronger piece of legislation. And do you know what, Madam Chairman? Nothing will happen in the end. We'll have a lot more people accessing faster service, better service with high quality being provided the way it has traditionally been provided. That's the truth. That is precisely why we need to look at health care through the eyes of the broader picture.

With this amendment, Madam Chairman, we are making a very sincere effort to honestly address some very stark and harsh realities with respect to not only today but the future. We're all concerned about health care. We all use it. We all need it, and we all will. So for members opposite to suggest that somehow there's a self-serving element in this is absolutely false. It would not benefit anyone to take away or to destroy something that is very, very solidly enshrined as one of our Canadian values. We strongly believe that, and we're doing what we can to help improve it and help protect it.

Now, as I look at this amendment, which we're supposed to be discussing, regarding section 2, we are simply saying – and I'll read this into the record, because a lot of people may have just joined us for this debate – that section 2 is struck out and the following is substituted:

- 2(1) No physician shall provide a surgical service in Alberta, and no dentist shall provide an insured surgical service in Alberta, except in
- (a) a public hospital, or
 - (b) an approved surgical facility.

What the subamendment says is to strike out "no physician shall provide a surgical service" and substitute "no physician shall provide an insured surgical service." Then it goes on to talk about the issue of the 12-hour stay, which I talked about earlier.

Since they've referenced 12-hour stays, I want to just comment briefly on what that means here, Madam Chairman, and because it's part of the subamendment. At the moment we all know that a full-fledged public hospital is the only place you can go for major surgery and for minor insured surgery that requires a stay of longer than 12 hours. But we have advanced beyond that now. We have surgeries that can be performed much more safely in surgical settings, and that's what this discussion is all about.

Madam Chairman, as you look at this and you consider the 12-hour stay, think of it in terms of some of the orthoscopic surgery. What was a hip surgery 12 to 15 years ago? It was virtually unheard of 15 years ago – virtually unheard of – because of the technology not having existed at the time. Today we have enormous advancements that have been made in that regard. I'm not for a moment saying that hip surgeries for everybody is a minor surgical procedure, because for some it's a major surgical procedure. If the doctors deem that it's a major surgical procedure or if the patient is somehow in need of the full backup of a full service, an acute care emergency centre, then I can tell you for sure that doctor would undoubtedly be recommending that that particular person's case be dealt with in a full-fledged public hospital. It might have to do with

the patient's age. It might have to do with the patient's heart condition. It might have to do with the patient's blood pressure. I mean, come on. What you have to look at here and trust is the doctors making the right decisions on behalf of their patients. To suggest that we have no trust in the doctors, as some members opposite are inferring, is simply absolutely wrong.

The fact is that under the 12-hour stay rule we do have people that are being in some cases rushed in and rushed out because they don't want to violate the 12-hour rule. Well, what happens if a particular surgery requires a 13-hour stay or a 14-hour stay? What happens in those cases, where we're sort of borderlining it? Can't we take a look at taking some of the minor surgeries that are currently only allowed to be done in a full-fledged public hospital and move them over here into a different setting where that is safe to be done, that is fully accredited by the college, where the minor surgery has been defined as being okay to be done, but for some reason, Madam Chairman, it takes longer than 12 hours of stay?

Now, hernias are a popular example of the 12-hour stay rule. I've had constituents and other people calling me saying: you know, I've had a hernia operation, and I was in and out in four or five hours. I think that's terrific that they have. I've also had others phone me up and say: no, no, no; I had to stay longer than 12 hours. As the subamendment talks about 12-hour stays, Madam Chairman, it's important to realize that there is a difference of condition that we all have with respect to our own medical health and with respect to the medical health of others. So let's not be blindfolded into thinking that one size fits all here. Patient concern will remain the number one priority of our doctors and of our health authorities.

Even having said that, the guidelines, which we are toughening up through our amendments, by the way, are very, very strict. We need to put in some kinds of restrictions and stronger guidelines surrounding the operation of these clinics. Madam Chairman, these clinics that are out there, be they privately owned or else how owned, are not going to go away. They are here. They are all across Canada. It's part of the evolution of health care. They were allowed and – you know what? – medicare never fell apart, and it's not going to fall apart now either.

The fact is that those clinics provide a very valuable service. They provide an efficient service or they wouldn't be there. It's simply impossible for some members to suggest under this amendment or some other amendment that we should cancel all our associations with some of the privately provided services. All we're doing is contracting for the service only. The doctors get paid the same amount of money on a fee schedule if that surgery is done in a hospital or if it's done in a clinic for insured services, and members opposite know that. We are outlawing facility fees. We have now for some time, but this bill strengthens that resolve, and that's what's important.

AN HON. MEMBER: Read the bill.

MR. ZWOZDESKY: Read the bill is exactly right, hon. member. It's in the bill, and facility fees are prohibited. Don't confuse facility fees with facility services. Those are two different things. Facility fees, okay? Facility services are just a definition of what's provided, everything from nursing care to food to whatever.

My 20 minutes are up for now. I'll come back later. Thank you, Madam Chairman.

8:40

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

MR. SAPERS: Thank you, Madam Chairman. So that's what our health care system has come to, I suppose, four-hour posthernia stays. Well, that will be news to the college.

You know, context is very important. Context helps us understand the meaning of so many things, so in the context of debating this subamendment, I would like to comment on the circumstances that we find ourselves in here this evening. As a member of this Legislature, who is being called upon to pass judgment on the subamendment from my colleague, I find that I am now being treated as somewhat of a second-class legislator. I was told earlier this evening that if I wanted to enter the Chamber, a Chamber which I'm very proud to enter every day, being elected and then re-elected to represent my constituents, very proud to walk through the front doors and walk up those steps into this Chamber . . .

Privilege

MLA Access to the Chamber

MR. DICKSON: A point of order, a question of privilege, Madam Chairman. I've just been advised that two of my colleagues are unable to get access to the building. The Member for Edmonton-Gold Bar and the Member for Edmonton-Glenarry are outside the east entrance and unable to get access to the building. I understand that the Member for Edmonton-Strathcona is out there as well. Now, there's no more basic right than the right of members to be present in this Chamber to be able to participate. I'm raising that at the earliest opportunity. I'd be raising it under Standing Order 15.

AN HON. MEMBER: Did they have their security card?

MR. DICKSON: Well, my understanding is that they have used their security card. It does not work. They're not able to get access. Three MLAs are down there at the entrance, and I regard this as a serious matter.

THE DEPUTY CHAIRMAN: Hon. members, leave it with us for a minute. We will check on this. I'm sure that we will ensure that they are indeed welcomed into the building, and we do want them in the Chamber.

Go ahead, hon. Member for Edmonton-Glenora.

Debate Continued

MR. SAPERS: Thank you very much. Of course, that information just furthers the point that I was making, Madam Chairman, that when I was told that at 6 o'clock this evening that I wouldn't be able to walk up those front steps and walk through the doors that I normally access this Chamber through so I can do the job I was elected to do, I felt that this government was trying to not just intimidate so many citizens but also intimidate this member of the Assembly.

While we're talking about context, of course, we're talking about the context in which we were told one thing up until 4:30 this afternoon about the accessibility of the Chamber and then something else entirely different when it was too late to do anything about it, and I don't appreciate that kind of duplicity either, Madam Chairman.

Now, when we take a look at the amendment that's before us and the argument we just heard – I suppose the associate minister was speaking for the government – the one thing that certainly struck home to me is that this government is trying to have it both ways. They're trying to defend their move to privatize health care in the province of Alberta by using the example of some existing freestanding day surgery clinics where a very limited number of very low-

intensity surgeries are performed right now. They're trying to use that experience and then extrapolate that, jack that up into an experience that would call for much more complex and major surgeries.

Nowhere in the associate minister's talk did he actually give us that distinction between major and minor. Nowhere did he tell us what kinds of surgical procedures there would be. He gave us some hyperbole about the miracles of modern science and the fact that there may be some new surgeries, but the fact is that this government first tried to sell its private health care initiative by using the example of hip surgery until the College of Physicians and Surgeons quite rightly pointed out that that was far too complicated a surgery to be done in a day surgery setting or in a freestanding clinic setting.

Then this government used the example of the Shouldice hospital in Ontario, which of course bears no resemblance at all to what this government is trying to do. The example was hernia surgery, and there is no appreciable waiting list for general surgery or hernia surgery in this province right now. The fact is that in the Shouldice hospital in Ontario patients stay for as long as three or three-and-a-half days after their surgery.

So it seems to me that this government is trying desperately to find examples to trot out when in fact there are no examples in this country of what this government wants to do, because this government is going into uncharted territory. They are pushing well beyond any reasonable limits that any other jurisdiction has put around private involvement in the provision of surgeries, and they are embarking on this quest now to serve some corporate interests instead of the public interests. I think that the associate minister's remarks themselves speak directly to the fact that this government has abandoned the public good when it comes to health care. It is instead catering to the selfish interests of a few who may profit from private health care.

Now, I have some questions that were provided to me. They come in the form of a copy of a letter that was sent to the Premier from Mr. Cetinski of 160th Avenue in Edmonton. He asked me if I would make sure that these questions were asked. In his letter he talks about a "Big Business culture," and he wants to know whether or not this big business culture is somehow running roughshod over the government of Alberta. He says in his letter:

Economic efficiency as it pertains to commodities is very measurable and can be attained in the free-market concept, but truly how can this efficiency be transposed to the treatment of illness in mankind which cannot be measured by scientific rationality?

A very good question. He has not received a very good answer from the Premier.

He asked a second question as well that he wanted me to raise in debate today. He says:

The second thought that comes to mind, should a competitive relation between private and public health care culminate (as your proposal does not take this in account) how will resources of professionals in this industry be attained to satisfy both the public and private health care systems?

Again, an excellent question.

This government talks about its policy being one that will alleviate pain and suffering. Somehow, they say, without offering evidence, it will shorten waiting lists. This would of course be based on the simplistic notion that if you have surgery available in two centres, you'll somehow diminish the waiting time. But it's not the surgical centres that create the problem, Madam Chairman. It's the number of surgeons available to do the surgery that creates the problem. So if you have, as this bill would call for, the same number of surgeons working in different settings, you're doing nothing but splitting resources. So, again, Mr. Cetinski asks a very good question.

His third question has to do with this point directly.

Thirdly will this two tier system of health care greatly reduce the waiting list for needed treatment (keeping in mind question #2) and has the projected cost figures, keeping in mind the demographics and escalating cost runs to year 2016 when baby boomers will all become senior citizens, accomplish any savings?

Now, in response to these very thoughtful questions from an individual whom I'm assuming the Premier may have been thinking of when he dismissed critics of his policy as left-wing nuts, for these very thoughtful questions, Mr. Cetinski received not a response from the Premier but a form letter response that did not address his questions at all from the Minister of Health and Wellness. I can tell you that he's not the only Albertan that has brought this to my attention. They took the Premier at his word when he invited comment from Albertans. He asked them to respond. He invited them to visit their web site. He asked them to read their brochure, and he asked them for their feedback. When they provide their feedback and their thoughtful questions, they get back form letters. I think that is very unbecoming of the government, Madam Chairman.

Chairman's Ruling Relevance

THE DEPUTY CHAIRMAN: Hon. Member for Edmonton-Glenora, the chair would be amiss if she didn't mention that we are dealing with a subamendment here. Can we please discuss that?

MR. SAPERS: Thank you. I was of course dealing with the subamendment in the same way as the associate minister of health was. I think he said: the rather wide-ranging and international aspects of the issue. I will try to constrain myself to comments much as he did, Madam Chairman.

8:50

Debate Continued

MR. SAPERS: Now, when I took a look at the government's web site – and I was anticipating debate on this subamendment which would limit stays to 12 hours – I wanted to see what the government had to say about the difference between a private hospital and a surgical facility. The government web site gives us the following explanation.

A surgical facility, as referred to in Bill 11, would only provide limited minor surgical services based on contracts with regional health authorities. These surgical facilities would not charge patients for medically necessary services.

What we have heard from the associate minister again is this reference to only minor surgical services. Well, my question to the government which I would dearly love an answer to is: would they provide us with this list of minor surgeries which require contracting out? Could we please see this list that could not be done within the existing legislative and regulatory framework?

We already have guidelines established by the College of Physicians and Surgeons. We already have bylaws under the Medical Profession Act. We already have sections of the Alberta Hospitals Act that allow for the contracting out of some services. We already have regional health authority guidelines and Auditor General guidelines for the contracting out of services. We already have a well-established protocol within the AMA for dealing with fee-guide issues. The government has already admitted that there are, I believe, 170 minor surgical services which don't require any kind of intensive, invasive procedures that are being done on a day-surgery or outpatient basis right now.

So if that's the case and this regulatory framework currently exists, what possible thing could Bill 11 add unless it is that you have to read between the lines? And reading between the lines, what

we're hearing is: well, we need Bill 11 because we have to allow for greater than 12-hour stays; we have to generate a new regulatory framework so that Albertans, instead of going to hospitals for complicated surgery, will go to private health care centres or private surgical facilities or whatever the language of the day is from this government.

So my challenge to the government is: provide us with the list of surgeries. Let Albertans know exactly what it is you have in mind for them. Let Albertans know if in fact, contrary to the wishes of the College of Physicians and Surgeons, Albertans will be sent to private hospitals for a hip replacement or a knee replacement. Let Albertans know if that's the way Albertans are going to receive orthopedic surgery. Let Albertans know if that's the way Albertans are going to be receiving other kinds of general surgery or ENT or cancer-related surgeries. Let Albertans know if in fact that's your plan, that you want to set up this array of for-profit, private surgical facilities that have to do much more invasive and much more complicated surgeries, and that's really why you need Bill 11, because we all know that it's those more complicated surgeries that generate more income for those people who are responsible for providing them.

Is that really the pressure that's on this government? To provide those income opportunities for those people who benefit directly from the ownership and the operation of these private surgical facilities? Is that why you want to extend the 12-hour rule, and not this nonsense that somebody might run into a complication and they're being kicked out of the clinic sooner than the 12 hours would allow for? If you could name one example where that's happened, then I would like to see that reported to the College of Physicians and Surgeons for follow up. That was a very insulting argument that we heard from the associate minister.

I'd also like to refer the Assembly once again to the government of Alberta's web site on Bill 11, where they answer the question, "How would contracts between regional health authorities and surgical facilities be approved?" What we learn when we read this information from the government of Alberta's web site is that this is going to be done on a piecemeal basis. There is not going to be one protocol or one set of guidelines. This is going to be done on a very situational basis. It means that depending on who you know and who you talk to and how soon you talk to them and how fast you get into the line, you will get an answer on whether your contract is approved or not.

After the College of Physicians and Surgeons decides that the facility can be approved, which is a fairly narrow process in terms of the guidelines that the college has, then it will be up to each regional health authority. So the people of Edmonton may have to go to a private clinic for knee surgery, and the people of Calgary may have to go to private clinics for ophthalmology, and the people in Grande Prairie might have to go for general surgery to a private centre. So what we're dealing with is not two-tier medicine. We're dealing with 17-tier medicine. We're dealing with a situation where Albertans won't know from region to region what kind of services they can be entitled to. Not only that, but we won't know in terms of the quality.

Can you imagine the audit costs and the control costs and the downside if one of these private businesses should fail? Then where are the residents going to go in that particular jurisdiction when the regional health authorities put all of its surgical eggs into that one private basket? Then what's going to happen to the quality of patient care and accessibility and cost control? Who knows whether or not that regional health authority will have the ability to negotiate a contract that's in the best interests of Albertans? How will we know that it's in the best interests of all Albertans and not just those few who are going to directly benefit?

When I see this answer on the government's own web site, it generates so many more questions. For example, it says that the contract would provide a benefit to the public system by improving access to publicly funded services or increasing cost effectiveness or efficiency in the delivery of services.

Well, those are some mighty big ors, and I would ask the minister how exactly he is going to determine that. What are the criteria? What are the performance measures? How are you going to determine whether it's more efficient or less efficient? On what basis of cost-effectiveness?

You haven't done the studies, Mr. Minister, and in correspondence you've sent to me, you've told me that you haven't even done a capacity study of the 17 health regions now. You don't even know what capacity there is in terms of surgeries and facilities right now, and that's in correspondence with your signature on top of it. So if you don't know that basic information now, how can you possibly make a judgment on whether or not it'll provide a benefit or greater access?

You've said in your amendments that what you're going to do is ensure that the capacity in the public system is used first, but you haven't even measured that capacity. You don't have audit information on all the existing public hospitals now, and that's according to the Auditor General. It's going to be a matter of three blind mice or eeneey, meeneey, mineey, mo. It certainly is not going to be based on fact. It's going to be entirely based on fiction, and what we're left with is a government that has nothing more to back up its private health care policy than saying: trust me.

Privilege

MLA Access to Chamber

MR. SAPERS: Now, Madam Chairman, you had said that in leaving my colleague from Calgary-Buffalo's motion on privilege to you, you would deal with it. I've just been informed that there are three more members – the Member for Edmonton-Ellerslie, the Member for Edmonton-Norwood, and the Member for Edmonton-Gold Bar – who at this very minute are being denied access, including the Leader of the Official Opposition, the Member for Edmonton-McClung. I would like to know before we continue what it is you're going to do to ensure that these elected members of the Assembly can take their seats in this Chamber and participate in the debate?

THE DEPUTY CHAIRMAN: Hon. Member, please have your seat a moment. A few minutes ago the hon. Member for Calgary-Buffalo rose. We talked to the Sergeant-at-Arms. He has gone out, if you'll notice, to see what the situation is. He is not back yet to report to me. I do notice that the hon. Member for Edmonton-Glengarry made it into the Assembly, and we are trying to see where the rest of the people are. I will report to you and the rest of the committee when I've heard back. Okay?

MR. SAPERS: Thank you. I understand that he was escorted in by six policemen, and I would like to request that perhaps we should ask him.

Madam Chairman, I'm just wondering whether or not you might consider an adjournment until we can get all members into their places so they can participate, because it is a breach of their privilege that they are being denied access to this debate at this time.

THE DEPUTY CHAIRMAN: Hon. member, I'm going to wait until the Sergeant-at-Arms comes back to report to me. I'm going to have you continue the debate until I have a report back. We have sent someone out. Two members have now entered the Chamber.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Madam Chairman, I apologize. I just entered the Chamber, and I didn't hear your full comment.

We've managed to find one member who with some difficulty managed to access the east entrance. We still have a number of other members who have been attempting to get access to the building but have not been able to make their way to the east door.

I think it is appropriate. There is no more fundamental right than the right of every member of this Assembly to be here for all of the debate, not part of it. Madam Chairman, I'm going to respectfully urge you to declare a recess until every member of this Assembly who wishes to be part of this is in fact present in the Assembly. To do anything else is effectively denying members the right to speak and to participate, and I don't think you would want to be complicit in that sort of travesty.

9:00

THE DEPUTY CHAIRMAN: The hon. Member for Innisfail-Sylvan Lake.

MR. SEVERTSON: Madam Chairman, I too came from the Annex, and the east doors were blocked. It's easy to go back to the Annex, enter, and come through the pedway using your security card. I was out there, and two members were outside at the same time I was. I had no trouble accessing the building. You can go to the Annex, go through the tunnel with your security card, up to the Legislature, and into the Chamber with no problem.

THE DEPUTY CHAIRMAN: Hon. member, I'm going to take all this under advisement.

A few minutes ago, Calgary-Buffalo, I asked the Sergeant-at-Arms to go out and see what the situation was and report back. He will be coming back, and then we can deal further with this.

I would ask that we continue the debate on the subamendment. The hon. Member for Edmonton-Glenora still has some time remaining.

MR. SAPERS: It's very difficult to continue the debate, Madam Chairman, while I know that some of my colleagues are feeling denied their ability to do the same. You and I seem to have a history of getting into this kind of situation. I would simply say that I still believe the most appropriate course of action would be to recess until this is resolved. I don't know why some members can get in and some members can't, but the very fact that some can and some can't is disturbing to me.

THE DEPUTY CHAIRMAN: Hon. Member for Edmonton-Glenora, on the subamendment.

Debate Continued

MR. SAPERS: Yes, well, on the subamendment. The subamendment of course is only as relevant as the democratic process in which it will be voted on, Madam Chairman, and of course that's what I'm commenting on.

The amendment is one that I believe my colleague from Edmonton-Meadowlark started off this evening by saying that it may help save this bill in part. I don't believe that this bill is entirely salvageable, but the one issue that seems to really crystalize the debate is this question of minor and major surgeries, and part of that debate, of course, is the over-12-hour stay. So if there is one way that this government can demonstrate that it's putting Albertans' money where the government's mouth is, it's to accept this amendment. At least then we would know that this government is sincere that they don't want to contract out major surgeries. We'd know that

they are sincere that they don't want to erode the role of public, full-service hospitals in the province of Alberta. I would ask all members of this Assembly to give this subamendment their full consideration.

Madam Chairman, before I take my chair, let me just register again my disappointment in the circumstances in which we find ourselves this evening. It seems to me that the much more honourable thing for the government to have done is to welcome Albertans into this Chamber, particularly after inviting them to participate in the debate.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Rutherford.

MR. WICKMAN: Thank you, Madam Chairman. I'm going to keep my comments relatively short because I spoke on this subamendment last night, but I have some further thoughts.

Let me say, first of all, that in everything we can find something positive. The one thing positive about the subamendment, about the amendment, about the issue we're dealing with, Bill 11, is that it's demonstrated the passion, the appreciation that Albertans have of the public health care system that we have, and it shows, Madam Chairman, by the number of people that were here last night, the number of people here tonight, the hundreds of people I expect are outside right now trying to get in because they want to demonstrate their passion, their appreciation, their commitment to the system that we have, a system that unfortunately this government is intent on destroying, a passion and an appreciation that was demonstrated Sunday at the rally at the AgriCom attended by 6,000 people, probably another 4,000 turned away because they couldn't get into the parking lot. It took me an hour to get in; it took me one hour to get off the Capilano into the parking lot. In Calgary, thousands of people showed up.

It doesn't matter where I go, Madam Chairman; I am stopped. I am stopped and people say to me: why is Ralph Klein determined to destroy the health care system that was built here in Alberta? I have friends, I have relatives, I have an MPP from Ontario phoning me saying: you guys have to get Ralph Klein back on track, because if he destroys the health care system in Alberta, you're going to see that contagious disease spread to Ontario by the Premier down there, Mike Harris, possibly by that new Conservative Premier that was elected in Prince Edward Island. Fortunately, up north there at least we have a Liberal Premier that has enough sense not to follow the lead of this particular government.

Clearly, Madam Chairman, whether you're the Member for Edmonton-Meadowlark and you go into a store or a cafe and somebody says to you, "Oh, you're an MLA," right away what do they want to talk about? They want to talk about what's happening here, what was happening yesterday, what's happening today, and what will continue to happen. The people here have to be thanked and they've got to be welcomed and they've got to be appreciated. How often do we see the galleries the way they are tonight? How often do we see the type of demonstration we saw last night? In my 11 years here I've never seen that.

Madam Chairman, this is the first time that security has had to – and I don't blame security for what they're doing. They've got a tough job. They've got to protect us. Mind you, when you're on the side of the angels, you probably don't need the same degree of protection that you would otherwise. They're doing their job, but it's the first time in 11 years that I have seen Members of the Legislative Assembly, members of the public denied access to their building. It's not the government's building. It's not our building. It's the taxpayers' building, and let's remember that. It's like you

going home and being told that you can't enter your own home, even though you paid for that home. [disturbance in the galleries]

THE SERGEANT-AT-ARMS: Order in the galleries. You will not participate. You are there to watch only.

THE DEPUTY CHAIRMAN: Hon. member, would you get back on the subamendment, please.

MR. WICKMAN: Madam Chairman, what is this subamendment all about? This subamendment is an attempt to at least modify somewhat the amendment, the concept of Bill 11, what's behind it. Ideally, if we respected the wishes of the people, we would simply kill the bill. We would set up some type of mechanism where we could work as partners with Albertans, with the people that elected us, with the taxpayers. We would work as a partnership, and we would come to some type of an agreement. We would come to respect the public health care system, and we would look at other mechanisms such as opening the three floors of beds that have been converted at the Misericordia in the west end, the beds that have been shut down at the Grey Nuns – you can't rebuild the hospitals that have been blown down in Calgary – building additional facilities rather than farming it out to the private sector.

The question of 12 hours came up last night, and there were references made to it again tonight by the Member for Edmonton-Mill Creek as he spoke about the subamendment. It was implied that there would be dangers if you restricted it to 12 hours. What would happen if somebody needed 13 hours? Well, first of all, if the surgery was of that nature that there was that type of risk, then you would go to a proper facility to have it done, and a proper facility to have it done of course would be a hospital, not a clinic. The government is not proposing clinics. The government is proposing surgical facilities. The same argument could be used for any surgical facilities that have an unlimited stay in terms of overnight – and we're not talking 24 hours; we're talking unlimited, but we're talking in terms of hospitals not properly equipped. A person could go in for some type of surgical procedure, and there could be complications. Then what happens? Is that person rushed out then to a public hospital? Is that what happens to that individual because they're in a facility that is not properly equipped to deal with emergencies that may arise as a result of that surgical procedure that's being carried out?

Now, one thing that has been accomplished – and I listened to the radio tonight. The expression that the Member for Calgary-Bufferlo likes to use is that his spirits soared to the sky. They're lifted because of something positive happening. Well, I listened to the news earlier on today, and I heard the Premier of this province being quoted as saying that the original plan for closure or to end this bill by the conclusion of this week because of the Easter break has been derailed.

9:10

We will come back after the Easter break, and we will deal with Bill 11. We'll continue to deal with it. Why? Because the people that have come out here have shown their distaste for the way the government was trying to ram the bill through, force the bill through. We saw that indication at second reading of the bill when the Deputy Government House Leader brought forward the previous question limiting the amount of debate that could occur. So again something positive has happened, but it didn't happen on a voluntary basis by the members of the government. It happened because the people of Alberta have spoken out.

Madam Chairman, there's a member standing.

MR. HLADY: Madam Chairman, a point of order.

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

Point of Order Relevance

MR. HLADY: Madam Chairman, thank you very much. *Beauchesne* 459, relevance to the subamendment. He's not even anywhere near it.

MR. WICKMAN: Madam Chairman, let's talk about the subamendment for a minute. When I talk about the subamendment . . .

THE DEPUTY CHAIRMAN: Hon. Member for Edmonton-Rutherford.

On the point of order, Calgary-Bufferlo.

MR. DICKSON: Just a couple of points I'd like to make quickly. If our friend from Calgary-Mountain View refers to *Beauchesne* 459, I'll quote it for him:

Relevance is not easy to define. In borderline cases the Member should be given the benefit of the doubt, although the Speaker has frequently admonished Members who have strayed in debate.

I reference the latitude given the Associate Minister of Health and Wellness, who led us on a tour of things that the federal Minister of Health had neglected to do or failed to do. Madam Chairman, I'd say that if you were to intervene now and limit the debate of Edmonton-Rutherford, having allowed the Associate Minister of Health and Wellness to take us on his meandering path around the health care issues of the nation, then we'd be having a very uneven application of the rules. I know that that has never been your custom, and I'd ask you to use your usual even hand and make sure that the same rules apply equally on both sides.

Thank you, Madam Chairman.

MS CARLSON: On the point of order, Madam Chairman.

THE DEPUTY CHAIRMAN: On the point of order, Edmonton-Ellerslie.

MS CARLSON: I would like to reference *Erskine May*: Rules Governing the Contents of Speeches, Relevance in Debate on page 378. This is an often used book that we refer to when members are called on relevance, Madam Chairman. In the past you yourself have so designed to take relevance in debate as it is outlined in this particular book, where it says:

A Member must direct his speech to the question under discussion or to the motion or amendment he intends to move, or to a point of order. The precise relevance of an argument may not always be perceptible.

In fact, that is the particular line that has been used a number of times in this Assembly to support items under discussion.

Sometimes it takes some time to get to the exact essence of the point that you are making, particularly when it comes to amendments, Madam Chairman. So we would ask you, in reviewing this particular part of *Erskine May*, to take that into account in your ruling.

Thank you.

THE DEPUTY CHAIRMAN: Okay. We tonight are in Committee of the Whole. We are dealing with an amendment to an amendment, a subamendment introduced by the hon. Member for Edmonton-Meadowlark. Since we've started tonight, the chair has allowed

each and every committee member speaking a lot of latitude – each and every member.

Now, I would ask that we do try, please, to look at the subamendment which you have before you and try to reference your remarks to that subamendment. This particular stage that we go through in Committee of the Whole is supposed to go through each and every section within the bill, and we look at that. It is not second reading debate. It is not third reading debate. However, it allows us to look very, very closely at the bill and to bring forward, if necessary, amendments. This is what we are doing here tonight.

I've allowed each and every one of you latitude, so I don't think we need to point fingers at anyone. The chair has allowed some latitude, and I will continue to do so. But I also want to remind you that we are dealing with the subamendment, and I want to hear some discussion as to the contents of this subamendment and how it interacts and relates to the amendment.

The hon. Member for Edmonton-Rutherford.

MR. WICKMAN: Thank you, Madam Chairman. We all appreciate that latitude that's shown. This is an issue of deep, deep concern, and it's an issue that at times we do get emotionally wrapped up in.

Debate Continued

MR. WICKMAN: I just have a few more comments. I am going to relate it in terms of the subamendment. When we talk about the subamendment, one of the terminologies that's used is "surgical facility." That same expression, surgical facility, that same term, that same definition, name, whatever you want to call it, is also used, of course, in the government's amendment, and it's also used in Bill 11 itself: "surgical facility."

Now, let's remember that for a second, surgical facility, because I want to draw a parallel. The poll that the government boasted about earlier this week that showed 54 percent of Albertans agreeing with Bill 11, which is down, incidentally, five points from their previous government controlled or sponsored poll, shows a decline in support even though the poll may be somewhat questionable.

I'm going to read the question that Albertans had to answer. Listen carefully just to see if you can even find any reference to "surgical facility." This is rather clever. This is rather good.

The stated goal of the Health Care Protection Act is to reduce waiting lists and increase overall efficiency. Under this plan, Alberta Health will pay for all insured services performed at private institutions and these private institutions will not be able to charge fees to Albertans who receive these services. Based on this, would you say you strongly support its position, somewhat support its position, somewhat oppose its position, or strongly oppose its position?

Now, we're talking in terms of private institutions. Suddenly the government is afraid to use their own terminology, "surgical facility," because they know that Albertans will not be deceived. They will not be fooled. Albertans know a surgical facility is simply another name for a hospital, so they use the term private institution. A private institution could be a dental clinic. A private institution could be a school. A private institution could be whatever. It could be Hallmark, Wal-Mart, whatever. If I was asked this question, I would say yes, but had the question been properly phrased and included the term surgical facility rather than private institution, I would of course have said no. But despite all that, there were still 36 percent of Albertans who said no even to this question, because 36 percent of those polled instantly saw through what the government was doing. Instantly saw through it. That is marvelous that Albertans can be so perceptive when government makes a manoeuvre to try and cleverly disguise some terminology.

As I conclude, I am reminded of a movie, and you have to wait for the conclusion of my remarks on this as to how it draws into the subamendment. Just like yourself, Madam Chairman, a person who enjoys reading books, so do I, and I know there are members in this House – the Member for Sherwood Park, for example, enjoys going to a good movie once in a while. I see her there quite often. Quite frankly, I'm a movie buff myself. Some of the movies I really, really enjoy are the old black and white classics.

Now, there's one that reminds me of the situation that we're dealing with at the present time, and that movie to the best of my recollection was called *All the King's Men*. It was about this man. He was the editor of a small newspaper, not a reporter. He attacked the politicians in Washington, the powerful politicians who catered to the select few to retain their power. He did his editorials, and pretty soon he became very popular, and people urged him to run as the people's choice. The grass roots wanted this guy to be their voice in government. He went to Washington being the voice of that grass roots, those people.

After he was there for a while, he got a taste of this power. He surrounded himself with these influential friends and suddenly he forgot his roots. He forgot about the people who put him there. Pretty soon he started to ignore the wishes of the people, and he chose instead to listen to those select few, to those very, very select few. It's very similar to what we see happening here.

9:20

We have a Premier in the province who was elected on a grass-roots movement. He was very popular with the grass roots, because there was the perception that he listened to the people, that he listened to the little guy. But is that happening now? Is the little guy being heard?

THE DEPUTY CHAIRMAN: Edmonton-Rutherford, excuse me. Does Edmonton-Ellerslie have a point of order?

MS CARLSON: No, I don't. I'm sorry. I'm just organizing my desk. Thank you.

THE DEPUTY CHAIRMAN: Okay. Go ahead, Edmonton-Rutherford.

MR. WICKMAN: My colleague from Edmonton-Ellerslie is not going to rise on a point of order against one of her own colleagues. I would hope not.

THE DEPUTY CHAIRMAN: Edmonton-Rutherford, the chair never knows.

MR. WICKMAN: Do you see what has happened here, Madam Chairman? We're in a similar situation, where government has forgotten the people that have put them in power and has allowed itself to be swayed by a small number of influential people that stand to gain, that stand to profit, who have interest, motivation to have this bill passed even with these minor amendments, because the minor amendments are not going to affect the potential that they see as a result of this bill.

I read a column recently in the *Calgary Sun* written by – well, he goes by the name Dinger – Rick Bell, in other words, who used to cover the Legislative Assembly at one time, a very popular writer, by the way, a columnist who ran for mayor of the city of Edmonton and fashioned a campaign very similar to the campaign the Premier had when he ran for mayor of Calgary. We all know that this columnist, Rick Bell, has had a very close and still may have a close

association with the Premier of the province. That's obvious by talking to him, by reading his columns.

He made a plea in his column there. He made a plea: Mr. Premier, don't forget who put you there; don't forget the people you once used to defend; don't forget the people you spoke out for; in other words, return to your roots. There are thousands of Albertans that are asking the Premier of the province to return to his roots, to again listen to the people of Alberta, to respect their wishes and do what they're asking him to do. In this case, Madam Chairman, without any question, without any doubt, they are asking the Premier, they're asking this government to kill this bill.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Minister of Health and Wellness.

MR. JONSON: Madam Chairman, I would like to first of all indicate that the amendment to which the opposition has made a further amendment was a section whereby we were just clarifying that in terms of the standards, in terms of the approval process that had to take place with respect to surgical clinics, we were including dentists and the whole area of dental surgery in addition to that provided by physicians. So in terms of the issue before the House at this particular point in time, that is the issue. This particular amendment I think is very straightforward. It could have been approved by the committee, and we could have gone on to more relevant debate.

Since the debate has ranged perhaps somewhat further, there are two points I would like to make at this particular time. In keeping with the commitment of the government to use the best information sources available in terms of making decisions about what might be approved for a day-surgery clinic, of which there are 52 in the province, Madam Chairman, and well over a hundred, about 170, different procedures that can be performed therein and extending that to the provision of overnight stays, the important thing here is that the legislation provides that the College of Physicians and Surgeons will make the judgment as to what setting a particular surgical procedure will be provided in. That's very clear in the legislation.

There was the challenge that was brought forward with respect to some examples of what procedures could be provided in a surgical clinic, and there's quite a list actually. As I said, there are some 152 listed in the blue-ribbon panel report as to those things that can be done in surgical clinics. But I would just like to perhaps mention about half a dozen or so that would fall into that category: drainage of a pilonidal abscess; a colonoscopy; hernia repair; evacuation of incomplete abortions; bone tumours; a radical resection with respect to bone tumours; carpal tunnel release; surgical excision, removal, of malignancies; and orthoscopic surgeries of different types. So those are just a few examples of what is on the list.

But the important thing here is that the amount of time, the setting, and the standards in which such a procedure would be provided is the decision of the College of Physicians and Surgeons. They have established lists in these different categories, Madam Chairman. The legislation is very respectful of that role the college has, and that is referenced and dealt with in the legislation. So it is not a matter that people who are not qualified will be making decisions as to what can be provided on a day-surgery basis or on an overnight-stay basis within the overall health care system.

The thing that is very, very certain in the legislation is that surgical clinics will deal with a specific area of surgery which is approved by the college and satisfies the criteria that are listed in the bill. Further to that, there is a whole set of criteria in the legislation which makes sure that before the regional health authorities issue any kind of a contract or get into any type of agreement, they have

to consider such things as the existing capacity within the health care system, the regional health authority in which they're considering a contract, the overall benefit that will be gained in their view by entering into such a contract, and the amount or the volume of work that needs to be done in this specialized area, Madam Chairman. These things are all referenced.

Finally, I think the important thing is that we're dealing here initially with an amendment proposed by the government to add to the criteria, to add to the legislation the reference to dentists and dental surgery.

The second point here is with respect to surgical clinics. This particular section of the legislation deals with, as I've said, a process where the college deals with the judgments that have to be made on a medical basis, in the interests of the patient, in the interests of safety, and the criteria for such a contract reflect that plus a number of other considerations, such as the whole area of dealing with any possible conflict of interest, dealing with the whole area of overall benefit in terms of balancing financial savings over the existence of additional capacity within the health care region. All of those criteria are built into this overall bill, Madam Chairman.

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

DR. MASSEY: Thank you, Madam Chairman. Part of your difficulty this evening, I suspect, in trying to call for relevance is that this subamendment and the amendment that the government put forward is the first time in Bill 11 that the term "an approved surgical facility" appears. So I think it's that term that has us bogged down, and it's that term that has led to the wide-ranging debate, and it's of course that term that is at the root of the dissatisfaction and the outrage across the province by citizens who see approved surgical facilities as code for private hospitals. We are stuck on a subamendment and have been for a number of hours, and I suspect we're going to be here for a number of hours more until it becomes abundantly clear that Albertans, our constituents, do not want private hospitals.

9:30

If you look at the subamendment as put forward by the Member for Edmonton-Meadowlark, the subamendment attaches to (b) an approved surgical facility "that requires a stay by the patient of under 12 hours," and by that subamendment the Member for Edmonton-Meadowlark is making sure that these are not private hospitals but that they remain as clinics. I think that's crucial and that's what Albertans want.

It's been very, very difficult, sitting on this side of the House, trying to understand why the bill is going ahead. The evidence, the correspondence, the pleas, the research are all anti what this bill is all about, yet the government plods ahead with it and tries to convince us that this is going to be a good thing.

I looked at the stack of reports on my desk that have to do with it and picked out a couple of those reports because I knew I'd have a few words to say this evening. I looked at the Alberta Medical Association's position statement on RHA contracting with private surgical facilities. I'd like to read into the record one of the underlined principles and statements that they have in that document on page 5. This is the Alberta Medical Association. This is what our doctors are saying about Bill 11.

In our view therefore, Alberta's plans to privatize the delivery of surgical health care services threaten the integrity of Canada's public health care system in a manner that has far-reaching and adverse implications both for Alberta, and for the rest of Canada. That's our doctors, and they're telling us: look, this movement to privatization is going to be bad for us; it's going to work against that

very strong health care system we have tried for so long to put in place. This amendment would take away that criticism that the AMA has levied against the system.

Another report, one of the two that I picked out, Madam Chairman, is an analysis of Bill 11 done by the law firm of Arvey and Rankin. Their analysis concludes with this statement: "When Quality and Speed of Service Varies with Ability to Pay, the System is 'Two-tiered'." That's exactly the fear that the many in this Assembly and in these galleries and out on the lawns and across this province have: that if Bill 11 is enacted without the subamendment that we proposed last night and again this evening, then that is where we're heading, to a two-tiered system.

Madam Chairman, a lot of what Albertans fear is rooted deeply in memory. We remember the days before we had medicare, before there was a strong health care system. Every family in this province that's resided here for any number of years I'm sure has a tale of woe to recount in terms of the damage that was done to their family economically by not being covered by a universal health care system. I look at our own family, where after the birth of my younger brother my mother needed an operation, and it took the family 10 years – 10 years – to pay for that one operation. That memory remains strong with Albertans. We know what it's like when we don't have the strong universal system that we have come to expect and that Albertans are standing up and defending in the face of Bill 11.

I decided I'd keep my comments based on the kinds of remarks that physicians have made, and I referred before in debate to the Physicians for a National Health Program in the United States, a group of physicians down there who have come together and are trying to get what we have here. They live in a privatized system, and they know what privatized medicine is all about. If you get on to their web site, you can see the kinds of points that they're making, and it refers directly to the subamendment and those approved surgical facilities when they grow into the kinds of private hospitals that we know they are destined to become.

[Mr. Shariff in the chair]

Commenting about the American system, those physicians said: "Our pluralistic health care system is giving way to a system run by corporate oligopolies. A single payer reform provides the only realistic alternative." That's what we have, a single payer system, and Bill 11 without this subamendment would move us to the very thing that those doctors are railing against. They go on to say that "the winners in the new medical marketplace are determined by financial clout, not medical quality." Again, that's at the root of our fears. When you move to privatized medicine, the bottom line, not patient care, becomes the major concern of providers. They talk about the growth of private chains south of the border.

A second major point that they make in their materials is that "a single payer system would save on bureaucracy and investor profits, making more funds available for care." Just what we have here and what Bill 11 without this subamendment would have us move toward, a system where a number of private companies, a number of private hospitals are destined to try to cover overhead, to try to generate profit to cover their own billing systems, and they go on to detail the waste in such a private system.

They talk about physicians there, and the comparison they make is between a physician south of the border and a physician here in the public system.

The average office-based American doctor employs 1.5 clerical and managerial staff, spends 44% of gross income on overhead, and devotes 134 hours of his/her own time annually to billing. Canadian physicians employ 0.7 clerical/administrative staff, spend 34% of

their gross income for overhead, and trivial amounts of time on billing.

Is that where we want to go with our physicians? That's why this subamendment to Bill 11 is so important, so that we make sure those approved surgical clinics remain that and don't become those private hospitals that we all fear.

A third major point they make in their materials is that "the current market-driven system is increasingly compromising quality and access to care." These are physicians talking. Why would they say that if they weren't concerned? Why in heaven's name would we head in that direction or in any way that might possibly take us in that direction? Why would we want a system that compromises quality? Why would we want a system that compromises access to care? That's what Albertans are asking: why? They cannot understand the focus and the thrust of Bill 11.

They go on to enumerate the number of Americans that are not covered by health care. They list the woes and the kinds of distress that Americans suffer because they don't have the kind of system that we have here, and they envy what we have.

A fourth major point that those physicians make is that

a single payer system is better for patients and better for doctors. Canada spends \$1000 less per capita on health care than the U.S., but delivers more care and greater choice for patients.

That's what we have in a public health care system, that's what we want to avoid by having the government Bill 11 go forward, and that's what this subamendment is all about: making sure that Alberta and Canada don't head down the road to where those costs per patient are higher, the quality of service is lower, and our health care system – something that we value dearly and that has been built up over a number of years – is destroyed by a government that seems determined to proceed with a scheme that has no support from any study in a refereed journal, to proceed with a scheme that, on the face of it, can only benefit investors.

9:40

Again it has Albertans puzzled and as many times it's been asked over and over and over again in question period in this Assembly. It's been asked in forums across the province. It's been asked everywhere – coffee shops: why are they proceeding with a bill with the inclusion of approved medical facilities which can be interpreted as private hospitals. Why are they proceeding when it doesn't shorten waiting lists? It doesn't improve the system and it has every chance to destroy what we have in place now.

So, Mr. Chairman, it's very important that the members of this House look very carefully at subamendment SA1, section A, and what that would do to Bill 11. If that subamendment were passed, then I think there would be some truth in Bill 11 where it, in the preamble, talks about being dedicated to the principles of the health care act, but without that subamendment, that preamble remains hollow.

I think with those comments, Mr. Chairman, I'll await my turn to comment again. Thank you.

THE ACTING CHAIRMAN: The hon. Minister for Health and Wellness.

MR. JONSON: No, Mr. Chairman. I'll wait my turn. You might keep me in mind.

THE ACTING CHAIRMAN: The hon. Member for Calgary-Fish Creek.

MRS. FORSYTH: Thank you, Mr. Chairman. I'm pleased to rise again to debate the subamendments presented on Bill 11, and let's focus on a couple of issues on the debate.

Firstly, Albertans have had private clinics doing medical procedures such as abortions for some time. No one objected. Everyone took it for granted that these clinics would carry out insured services by private providers. Now, Mr. Chairman, I'd like to take a little walk down memory lane just for a minute. The then health minister and now the Leader of the Official Opposition was asked in question period the following:

MS OLSEN: Was this just e-mailed to you?

MRS. FORSYTH: No, it wasn't. And Mr. Chairman, I will quote: "The government can save a lot of money . . ."

THE ACTING CHAIRMAN: The hon. Member for Calgary-Fish Creek has the floor. Would everyone please respect that?

You may proceed.

MRS. FORSYTH: And, Mr. Chairman, I'll have it on the record that it wasn't e-mailed to me. I'm in my WordPerfect, so thank you.

Then the health minister and now Leader of the Official Opposition was asked in question period the following, and Mr. Chairman, I am going to quote:

The government can save a lot of money if it doesn't allow hospitals to contract to the for-profit sector. On that basis alone, will the minister reconsider her position and tell hospitals the for-profit sector has no role in the public health care system?

Her response, Mr. Chairman:

Again, Mr. Speaker, no, I will not, because the private sector does in fact have a role if it can prove that it is efficient, that it's operating fairly, and that it's meeting the responsibility of our health sector to provide access to health services.

Ironic, isn't it? Here we are debating a subamendment that states, "No physician shall provide an insured surgical service" in Alberta, and adding under (b), after "an approved surgical facility," "that requires a stay by the patient of under 12 hours."

You know, Mr. Chairman, when medicare was introduced politicians had little to worry about: costs, Canada's population was young and healthy, the economy was booming, the high-tech high-cost revolution had yet to take place. Government spent freely. In many ways medicare was successful in its early days because it was untested.

The first period was its golden era. In debates over health care, people often point out that health care worked well. We recently heard about Shirley Douglas speaking about the golden era. She recalls the golden era fondly. The problem with that is that was then and this is now. People didn't anticipate that one day every province across this fine country would be facing long waiting lists.

The problem with the golden era was that when the program was introduced the Canadian population was young and healthy with half under the age of 21. The median age of Canada's population was 25 when Parliament passed the Medical Insurance Act. In subsequent years the median age hit 30. Today the median age is approaching 40. [interjections]

An aging population means new and more demands are placed on . . .

THE ACTING CHAIRMAN: Order please. I think members should have the courtesy, the decency to allow members who have been recognized the opportunity to express themselves. You will have your time as well.

The hon. Member for Calgary-Fish Creek has the floor.

MRS. FORSYTH: Thank you. I am continuing to speak on the subamendment.

The second trend was the advance of medical technology. In areas such as diagnostic equipment and pharmaceuticals, major breakthroughs have taken place over the last three decades. So, Mr. Chairman, in the year 2000 tough decisions have to be made. We now know that as long as we seek band-aid solutions for the problems of the health care system, as long as we are not prepared to embark on miracle solutions, we will never move forward. Bill 11 to me is the miracle solution.

Sustainability is the most significant health care issue in the country, more important than hospital closures, physician compensation, or any of the other issues politicians are not willing to discuss.

It is difficult to fully appreciate how much modern medicine has improved our lives. These advances have improved not only healing – doctors have a greater ability to diagnose and treat diseases – but also quality of life.

Recent figures in the winter 2000 *Innovation* magazine provide some startling figures, Mr. Chairman: total patient visits to doctors' offices from 1989 to 1990, 18 percent increase; drug store pharmaceutical purchases from 1989 to 1999, 112 percent increase; total patient visits with treatment recommended from 1989 to 1999, 29 percent increase; total prescriptions dispensed from 1989 to 1999, 36.3 percent increase.

Mr. Chairman, in the same period, what is even more scary is prescriptions, and I will provide just a few examples: cardiovascular, 44.1 percent increase; cholesterol reducers, 655.6 percent increase. The top 20 that were listed are all showing increases except for two. These figures clearly show the cost of progress. The catch is that easy advancements in medicine come with a price tag. We are clearly now seeing only the tip of an iceberg.

So we have an amendment before us, and does that solve the problem? No, Mr. Chairman, it doesn't.

So if patients are troubled today by lengthy waiting lists, overcrowded emergency rooms, what will health care be like in the coming years? Over the next 40 years the number of seniors will continue to grow; emergency rooms will still be overcrowded; health care workers will continue to be discontented.

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Ellerslie is rising on a point of order. Citation please.

Point of Order Tabling a Cited Document

MS CARLSON: Mr. Chairman, in accordance with *Beauchesne* 495 to 500 and also in accordance with the Speaker of the Assembly's admonition on March 4, 1998, at page 684 about reference to notes and reading speeches, I'm making a request that that hon. member table the document she is reading from.

We have heard repeatedly from the Speaker of this Assembly that any information provided in debate that is an essential component or from which a member is quoting should be tabled in this Assembly so that it is available to all members of the Assembly.

THE ACTING CHAIRMAN: The citation that the hon. member has used is *Beauchesne* 592?

MS CARLSON: No. *Beauchesne* 495 to 500. In addition to that, I'm using a citation from *Hansard*, page 684, specifically Speaker Kowalski's comments on March 4, 1998.

THE ACTING CHAIRMAN: Okay.

The hon. Member for Airdrie-Rocky View on the point of order.

MS HALEY: Yes. Thank you, Mr. Chairman. First off, you don't

table things that are already in the record in this Assembly, and she was quoting from a *Hansard*. Just, you know, for the record, *Hansard* is something that you have in your desk. [interjection] Would you like to sit down? Sit.

9:50

Every person in here from time to time uses notes that they've handwritten or typed themselves in order to be able to reference back to the debate. We are having a debate in here. I really resent the implication that my colleague is not allowed to speak in here without the constant interruption of the Member for Edmonton-Ellerslie.

THE ACTING CHAIRMAN: The hon. Member for Calgary-Fish Creek on the point of order.

MRS. FORSYTH: Yes, Mr. Chairman. I'd be pleased to provide the quote from *Hansard* where I quoted the hon. member from the opposition. It's page 1,746, July 2, 1992. Please feel free to look for it.

THE ACTING CHAIRMAN: In that case, I guess this clarifies the issue.

Hon. Member for Calgary-Fish Creek, you can proceed.

MRS. FORSYTH: I'll repeat that so she understands it: *Hansard*, page 1,746, July 2, 1992. I can repeat the quote if you would like. May I start again? Thank you.

Debate Continued

MRS. FORSYTH: Over the next 40 years the number of seniors will continue to grow. Emergency rooms will still be overcrowded. Health care workers will continue to be disconnected. This is not a transition; this is transformation.

[Mrs. Gordon in the chair]

The hon. Member for Edmonton-Norwood speaks about Michael Rachlis and may consider him a guru of sorts. Rachlis recognized, however, that health care must be changed. He is quick to point out in his book *Strong Medicine*, and I will quote:

An important step in making our health care system more efficient and effective is to examine the respective roles of governments and service providers. Medicare is often called a government-run system, but of course only the insurance side is run directly by the government. Most doctors are in private practice and most hospitals are non-profit, private corporations. Is this . . . right . . . [a] public/private mix? What role, if any, should governments play in health care delivery?

Mr. Rachlis talks about:

Any offers to radically change Canada's health care system along these lines must deal with long-standing beliefs about what is really wrong and how to fix it. Some of these beliefs are supported by good evidence; others are not. Most curious of all are these ideas that ought to have been killed off completely because the evidence against them is overwhelming.

Madam Chairman, he further goes on to express that the politics of health care are challenging.

Mastering the art of the possible takes courage, strategy, and perseverance. We can learn a lot from the debates over public health care insurance [and] how to do it well. The issues may be different because at times we are talking about restructuring health care delivery.

Mr. Rachlis also acknowledges that Ottawa has an important role to play in making medicare work, including a role in supporting

health care system reform. After all, at least part of these difficult decisions provinces face were made in Ottawa. He suggests in his book that, one,

- Canada needs an overall strategy for health . . .

Two,

- Ottawa should transfer enough targeted cash to the provinces so they can provide reasonable equal access to health and social services. These cash transfers should grow at the same rate as the country's economy (measured by the gross national product).

Madam Chairman, I wish I was a fly on the wall listening to Mr. Rachlis speak at the recent opposition's policy conference – and the costs to have him speak to 300 delegates. I had the privilege of listening to him speak a couple of years ago at a health policy conference, and he credited the government at the time for their health reform. He even signed his book for me.

Another well-known health guru, Mike Decter, also acknowledges and recognizes that medicare must be changed: it isn't reform that will bring about the demise of medicare but the absence of it.

So, Madam Chairman, on the subamendment. Does it make the health care more appropriate, efficient, and effective? I think not. One must remember that hospital reform has been the preoccupation of all provincial governments for close to a decade: private providers providing care. I'll give you an example: hospice care contracts with the regional health authority, providing loving and tender care to the dying. Madam Chairman, my father-in-law died in a hospice, and he stayed overnight. He was well taken care of. We were all well taken care of as a family, all provided by private providers.

Again, and on the subamendment, one must ask the relevant questions. Why have we become so reliant on institutional care? Why have hospitals meant to provide acute care become centres for non acute care? Why not utilize the surgical facilities for minor surgeries? Several years ago I entered the hospital for a day-surgery procedure for a tubal ligation. They found out I was allergic to the anesthetic and had to send me home. The ability of the surgical clinics would be to keep me overnight and observe me.

Closing on the subamendment, Madam Chairman, when it comes to health care, we must decide on the direction of health care reform. A painful question with painful results is shown tonight. We have to make hard and difficult decisions. People of all ages are afraid of change. It's doing what's right. The protestors can protest, but we must move forward. Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Centre.

MS BLAKEMAN: Thanks very much, Madam Chairman. I was able to speak briefly to this subamendment last night, but I have had some information from my trusted and wise constituents in Edmonton-Centre and have been asked to raise a few more points, which I'm happy to do on their behalf. Democracy is a wonderful thing, I think. It can be noisy, it can be messy, and it can be time consuming, but I certainly think it's worth it. I'm very pleased and proud to be standing in this Assembly participating in a democratic process. I hope that all members that wish to be in this Assembly were able to be in this Assembly tonight.

Specific to this amendment. You know, it's really interesting. I've heard the Minister of Health and Wellness rise a couple of times and say, "Why are they talking about all this other stuff: approved surgical facilities, overnight stays, defining the length of the stay, what's an insured service, an uninsured service? Why don't they just know that this amendment that was put forward is just about adding in physicians and dentists as being those approved to provide

surgical services?" Well, the point is that we're in Committee of the Whole. In Committee of the Whole we can discuss this bill clause by clause, word by word, and there are a lot of interesting words in this particular amendment that has been opened up by the government putting the amendment forward. Some of those words include words like "insured surgical service," "approved surgical facility," "public hospital," and "major surgical service." There are a lot of interesting concepts that get opened up there, and we're perfectly entitled to be discussing them.

The instructions I have from the people in Edmonton-Centre that contacted me are saying: why didn't they change some of the things that we've been asking them to change, that the people are telling this government it's important the government change if this bill is to be acceptable to people? Now, what we've had happen in this building and what I gather is still happening outside of this building should be telling the government how much the people of Alberta do not want this bill. If it is going to be acceptable, if the government is going to put forward amendments, then there are a few more things they need to be looking at changing than simply adding the words "physician" and "dentist" into this particular amendment.

So we have a subamendment that's been brought forward by the Member for Edmonton-Meadowlark which is an attempt to try and address some of the key concerns that have been identified by people about this particular section. A big part of that concern is the whole idea of a public hospital and an approved surgical facility and what's the difference. I've heard the government also speak about approved overnight-stay surgical facilities, which I presume are the same as an approved surgical facility since in this amendment they're certainly talking about overnight stays. This is what really concerns people.

The whole idea of the 12 hours being the sort of cutoff line, the guillotine line, that you've got to be able to stay over 12 hours. The subamendment is proposing that the 12 hours is a good cutoff. If this is going to be minor surgery, 12 hours is perfectly appropriate. If you're going to go over 12 hours, you've gotten into something different here. The government is indeed claiming that the contracts are issued by the regional health authorities to the private clinics for provision of minor surgery. Well, I would think that most minor surgery could in fact be done in under 12 hours.

10:00

If you need longer for complications – and those are some of the issues that have been raised by the other hon. members in the context of debate on this amendment and subamendment – well, then is this really minor surgery anymore? If you're dealing with trying to open that window of more than 12 hours because of some sort of complications that might arise in this minor surgery, how is this going to help us? We know that according to the definition of these approved overnight stay surgical clinics, there are no acute care beds in there and there are no emergency care beds. The Premier himself suggested that these clinics would deal with those kinds of emergencies or traumas in the same way that any other clinic does: pick up the phone, dial 911, and get an ambulance to transport you to a hospital.

I guess one of the questions that I have for the Minister of Health and Wellness is: will the government then be paying for that ambulance that is now transporting this person from a private clinic to a public hospital? Right now individuals pay for ambulances themselves out of their own pocket, unless they happen to have Blue Cross, which is the extended health care coverage. I think that's an interesting dilemma, and I would like to hear the minister respond to that.

If somebody went in and the government is paying for someone to have minor surgery and complications arise, there are two things

that are happening here. One is that the person gets punted back into the public system. When that happens, first of all there's the ambulance ride. Who is going to pay for that? It certainly wasn't the patient's fault that these things have happened. It certainly wasn't the patient's fault that they got put into a private clinic for this surgery and the private clinic is unable to deal with their trauma or complications. So is the government going to pay for the ambulance ride there?

Two, is the private clinic then going to reimburse somehow the public system because the public system is now dealing with the acute care or the trauma treatment from the complications for this patient? The public system didn't get the money for the original surgery here. So are they going to get reimbursed for having to deal with the complications arising out of that surgery? I'd like to get an answer to that, please.

Essentially, I guess I have to ask: if the private clinic cannot care for that person receiving minor surgery, then why do they need the overnight? You know, keeping them overnight isn't going to help any more. As we know, they're either going to get shipped off or they won't be accepted into the private clinic. So I still don't see how the private clinics move us further forward here.

Flexibility is a reason that the government often gives, and the point was raised I think last night that we need to be giving the regional health authorities flexibility to deal with changing medical requirements, changing population, new technology, pharmaceuticals, et cetera, et cetera. Well, I raised the point last night that there have been a number of acts brought back into this Assembly in my short time here. The condominium act from '86 was also brought back in 2000. The Municipal Government Act was introduced and passed in '97 and has since shown up in '98 and '99. So there's obviously no hesitation on the part of government in a number of other instances. If you need to be flexible and adjust your legislation, bring it back into the Legislature. You had no problem doing it with the MGA and the condo act. Why would it be a problem doing it with this Bill 11, Health Care Protection Act? So you can set limitations inside of this act that will relieve some people's concerns about what's being put forward here.

There is also the argument that I've heard that the clinics need to be able to keep people longer than 12 hours for narcotics or local or general anesthetic to wear off because this affects different people differently. I'd be interested in hearing what the doctors have to say about that, because I suspect that those kinds of decisions about whether someone is suitable to go for that kind of surgery should be made by their doctor, not necessarily by an RHA contracting with a private service provider.

A number of times the constituents of Edmonton-Centre have talked about getting lost in the rhetoric here. Every time I go back to the beginning and try and work my way through the different arguments that I've now heard about this, I don't get very far. Was there a need for legislation to regulate private hospitals and private health care in this province? No question. Nobody on this side has ever disagreed with that. We all recognize the need to be able to regulate private health care and private hospitals.

The Premier says that this Bill 11 will reduce waiting lists and reduce pain and suffering. Well, a couple of points there. This government is really good at taking the credit for things that it may not have done and not taking the responsibility for things that it shouldn't be getting the credit for. For example, I don't know that the price of a barrel of oil and the ability to balance the budget on that really had much to do with the government. I think it had to do with the price of oil. In this case, you know, what did that pain and suffering get caused from? I think it got caused from a number of cuts to the health care system and choices that the government made, that caused some of those waiting lists.

I won't say that the government caused all the waiting lists. We do have an increasing population in Alberta. We certainly have to deal with that increase in volume. But everybody seems to want to talk about those long waiting lists, and I don't think we can blame all of that on an increasing population. So the idea of reducing these waiting lists – we don't have enough doctors and nurses. Doctors and nurses fled Alberta and went to other places. I still can't understand how opening up private clinics is going to shorten those waiting lists. Where are the doctors and nurses supposed to come from? When you've got a supply and demand situation, I think that the doctors and nurses are likely to move over to the private system, where they're going to be wooed with higher money, and leave the public system. So we still don't have more surgeries being performed in the public system.

I thought this whole thing about private clinics was to take the weight off, that they would take the extra lines and allow a whole bunch more work to be done in the public system. By whom? Who's left? Where are these doctors and nurses supposed to come from? In addition to that, the minister has never been able to answer my questions about the availability of surgical suites for residents to practise in, for want of a better word. My apologies to those in the medical profession. I don't know what you call it. I understand that as a resident you must spend a certain amount of time . . .

THE DEPUTY CHAIRMAN: Excuse me, Edmonton-Centre. I do have to remind you that we are dealing with a subamendment.

MS BLAKEMAN: Yes. Thank you very much for the reminder.

THE DEPUTY CHAIRMAN: Let's focus on the subamendment.

MS BLAKEMAN: I am certainly willing to talk about the subamendment, which is covering a number of things, including public hospitals and approved surgical facilities. I'm talking about how that's going to get staffed. If we don't have the staff, how do we create the positions for the new staff when those residents cannot get time in those surgical suites, particularly as we have more surgical suites opening in the private clinics? They won't allow the residents to observe or to practise. That's a real catch-22, and I'm not hearing any answers. This is the second or third time I've raised that issue.

Another question that has come up is that the Associate Minister for Health and Wellness underlined several times and with great drama that there would be no facility fee being paid to the private clinics. But something that's occurred to me is that we now have this foldable lens that's going to be paid by the government, but we also had quite a debate going on about how much those foldable lenses actually cost. I think we have Lamont hospital talking \$200, their ability to do it for that amount of money, yet people at private clinics were being charged up to \$750 an eye. There's quite a difference there. That's five hundred bucks difference. So my question is: will the government be paying the private clinics that use this foldable lens the same rate at which they pay the Lamont hospital for this surgery, or will they be paying what the private clinics currently charge for any enhanced service? I think the taxpayers would have a lot to say, not only if their tax dollars are going to subsidize private business, but they're going to pay those kinds of truly enhanced fees that go with the enhanced service. Why do the people in Edmonton-Centre, if this is the case – and please, answer the question. Why should the people in Edmonton-Centre and elsewhere in Alberta have to be paying a private clinic \$750 when the Lamont hospital manages to do the same surgery for \$200? I look forward to the minister's response to that question.

10:10

Now, we also have the whole idea of insured and uninsured services in this particular amendment and subamendment being discussed along with it. I'm really glad that the Member for Edmonton-Meadowlark raised that inside of her subamendment, because it's certainly an issue that's been raised with me a number of times. When you start talking insured services and uninsured services, the first thing that happens is that certainly the seniors in Edmonton-Centre start going: "I've been there before. We used to have things that were insured, and then the government deinsured them, delisted them. We weren't involved in the consultation. We didn't know what had happened. In many cases we didn't receive any notification about it. We didn't know until we'd actually gone to the doctor or to the clinic or to whatever medical service." Had it, then: "Oh, by the way, this is no longer covered. Can you get out your wallet or your credit card, please?" This is a real shock to seniors and to anyone that is living on a fixed income, because they didn't plan to spend that extra money. So the concept of whether you've got an insured service or an uninsured service is a really important one and needs to go in, and this amendment is proposing to do that quite clearly.

I just have a few minutes left, Madam Chairman, but there are some points that were raised by the Member for Calgary-Fish Creek that I just want to comment on. She raised the idea of sustainability of the health care system. I found that a really interesting concept, because I don't view health care like a tree or an oil well or coal, where you're worrying about whether we can harvest enough and can we get more of it from somewhere. I think the point about health care and sustainability is political will and the will of the people. Frankly, if that is the single most important thing to the people of Alberta and they want full service health care and they're willing to pay for it, then that's what should be delivered to them. So I think sustainability is about political will and following the will of the people, not some sort of definition that comes from natural resource development.

MS OLSEN: Nonsustainable.

MS BLAKEMAN: Nonsustainable. Thank you. Nonsustainable resources.

Health care is a service and in some cases a product that is offered by the government to citizens by way of a publicly administered, single-tiered health care system. At least, I hope it still will be.

Madam Chairman, I'm going to have to rise to speak to this amendment again because I've made notes and I can't read my writing anymore. So I'll have to try and search through and find out what the rest of my notes were trying to say. I look forward to continued debate on subamendment SA1.

Thank you very much, Madam Chairman.

THE DEPUTY CHAIRMAN: I've had indication – Minister of Health and Wellness, did you wish to speak?

MR. JONSON: Not at this point, Madam Chairman.

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

MR. MacDONALD: Thank you very much. It's a pleasure to rise this evening and speak to the subamendment as proposed by my hon. colleague from Edmonton-Meadowlark. Once again I'm rising to

urge all hon. members of this Assembly to support the initiative from the hon. Member for Edmonton-Meadowlark.

Yesterday we talked at length about insured surgical services and what exactly that means to the public health care system in this province. I referred to the document that was put out by the government on November 17, 1999. This document was the first stage of the plan to further privatize our public health care system. However, in that document we described services, interestingly enough, as insured.

Now, we go along further in the debate and we wonder why this amendment has come forward, and we wonder why it is so suitable and why all members of the Assembly should support this initiative. At least you have to give the hon. Member for Edmonton-Meadowlark credit for trying. She is working diligently to take a very, very poor piece of legislation and trying to improve it.

The majority of Albertans, Madam Chairman, are very concerned not only about their health care system but about democracy and free speech. It keeps coming back and back and back to the statement that the Premier used in Fort McMurray in the 1997 election, and that was: I believe in free speech as long as you say the right thing.

I realize that my comments should be on the amendment, and in light of what happened this evening, I shall keep them to the amendment. We look at what has been done with taxpayers' money, and we look at what's been accomplished or at least tried, because it is yet to be seen if this amendment will be successful. We look at this study funded by the taxpayers, by Cam Donaldson, PhD, and Gillian Currie, PhD, experts at the University of Calgary.

Now, this is the interim study, and I'm very, very anxious to receive the final report. Perhaps I can get my own personal copy from the hon. minister of health. I understand that it is near completion. It's going to be, I think, an interesting read not only for hon. members but for the public. But there is no published study of the efficiency of the purchase of surgical services and private facilities by public funders such as regional health authorities.

Now, when the hon. member proposes that we restrict an approved surgical facility to 12 hours or less, what the hon. member is doing is saving Alberta taxpayers money. We know that the existing clinics, the day clinics as they're called, are well regulated within existing legislation. We do not need Bill 11 for those 52 or 53 clinics that already exist. We don't need this legislation. What we need this legislation for is to provide these overnight stays, and as a result of these overnight stays these health entrepreneurs, these providers of market medicine are going to need Bill 11. But if we all vote for the hon. member's amendment, then there will be no market niche for them, because there will be no overnight stays, and the first finding of the interim report will be honoured. It will be recognized by all members of this Assembly – and it may be recognized by some hon. members sooner than others – that this is not the way to improve our health care system.

Now, we can say: what should we do? Well, we don't need an approved surgical facility that requires a patient stay of over 12 hours. We don't need any of that. We should open up hospital beds. We should open up operating theatres, and these operating theatres and these beds are already built. It would be nice to say to all hon. members, when debating this subamendment, that maybe those beds would never be needed, but in case they are, they're there. Emergency rooms and the crisis we have in emergency care I talked about last night. In emergency rooms people wouldn't have to wait for up to 48 hours, sometimes longer on weekends, to get to one of these beds. In an approved surgical facility with the overnight stay we get into what is called the bricks and mortar argument. In this regional health authority there is sufficient capacity to last – and this is

according to the CEO of the regional health authority – until the year 2008.

10:20

Now, it's a different situation in Calgary. I can understand if some hon. members are a little bit reluctant to see the truth about this amendment. Two hospitals have been closed in Calgary and a third has been demolished, but an approved surgical facility is not the answer, and I can understand the hon. minister from Calgary-Varsity. In that part of Calgary they would have been served very well by the hospital that was demolished. However, when we use an approved surgical facility, it's not going to pick up what that hospital used to provide Calgarians.

I believe I'm quoting from memory here, Madam Chairman. Earlier in the debate, going back to 1994, the hon. minister of international and intergovernmental affairs said that the Foothills hospitals was going to be adequate as an inner-city hospital, because in some other jurisdictions, I believe, it could be used for that, but that is the furthest from the truth. This is why this approved surgical facility and this idea, this amendment as proposed, is an excellent way of taking Bill 11 and actually diffusing the situation.

Whenever we talk about an approved surgical facility that allows a 12-hour stay or less, one that is going to be allowed as Bill 11 exists now, it is essentially a private hospital. It is essentially a private hospital if it allows overnight . . .

THE DEPUTY CHAIRMAN: Hon. Member for Edmonton-Gold Bar, I do ask you to talk about relevance. We are dealing with subamendment SA1. I've had to remind each and every member, but I would ask if we could focus our debate, our dialogue on the subamendment, please.

MR. MacDONALD: Yes. I certainly am. Madam Chairman, I'm trying to display to all hon. members that by adding "that requires a stay by the patient of under 12 hours" after "approved surgical facility" is making it quite understandable for all hon. members. When we talk about a private hospital, that certainly is what has my constituents and the majority of Albertans concerned. They say to me: if I go in there and there are hospital corners on the sheets, then it's a hospital. Those are their words. So when we look at this amendment, through the keen legislative mind of the Member for Edmonton-Meadowlark, she is removing private hospitals from all talk in Bill 11. She's simply doing that by this amendment, by restricting the stay to 12 hours or less, and there is going to be no one, hopefully, that is going to try to have a private hospital under those conditions. This is what the majority of Albertans are concerned about, the private hospitals. They know the difference. They know that the Walter C. Mackenzie Health Sciences Centre is a hospital. They know that the Mayo Clinic in Minnesota is a hospital.

Facts that every hon. member should know about the private versus the public health care system – because what we're also talking about here in this amendment is the two-tiered system, the public hospitals and this "approved surgical facility" that requires a stay by the patient. Now, in this amendment if it's accepted by the House, Madam Chairman, it will be 12 hours, but if it's not, then we're simply talking about a private hospital. All hon. members of this House should know that where we have so many private hospitals, in America for instance, health care administration costs. In this province administration costs are certainly going to go up with the contracts that we're looking at here, and sure we're looking at them in this amendment. We are looking at them in this section. Administration costs are going to go up. That is the joy, the benefit

of our system, but costs in the private American system are \$995 per person. In our Canadian public system they are \$248 per person.

Now, we will lose if we do not vote for this amendment. We will lose our economic advantage in this country. I'm not going to go into that in detail because I've spoken about that before in this Assembly. Hon. members across the Assembly are very proud to talk about the Alberta advantage, but we would be selling out our Alberta advantage if we were not to support the amendment and restrict these approved surgical facilities or private hospitals to less than the 12-hour stay. You can say anything you want about our system, our Canadian public health care system, and how it's been devised over the last 30 years, but you must admit that it is far more efficient and it gives us an economic advantage that our neighbours to the south do not have.

With private health care – and that's what we're going to have. That's what we're going to have here in this amendment, a public hospital or an approved surgical facility. That's the two tiers. That's the parallel stream we will have if we allow this to come to pass and become law, Madam Chairman. We will have, eventually, Albertans and Canadians that are without any form of health care. This will be a step backwards. This whole bill – I know I'm getting off the subject and the subamendment here – is a step backwards. We're going backwards because we are increasing the section of our health care delivery system that will be provided in an inefficient way through the private sector.

Now, we look at the amount of business, and we can say to start off on this amendment that with an approved surgical facility the door is just open a little bit. The amount of business which the approved surgical facility will receive from the health authorities is going to be very small. It's going to be very, very small, but we look at other parts of the health care administration system. We look at long-term care. We look at how the regional health authorities are taking that out, and they're delivering that through a series of contracts here and a series of contracts there. We don't have any accountability for this.

The private surgical facilities that require a stay by the patient of under 12 hours: will they provide faster access to those who pay? Whether it's a 12-hour stay or whether it is an indefinite stay, will we talk about the delivery or their offer of enhanced services? I'm looking forward, when we get further into debate on Bill 11, to the discussion we're going to have about enhanced services.

10:30

At this time I'd like to cede the floor to one of my colleagues. In closing, I would urge all hon. members of this Assembly to say yes to the hon. Member for Edmonton-Meadowlark and support her courageous effort to take what is really one of the worst pieces of legislation I've seen in my short time in this Assembly – it had hardly got to committee when there was a rush to table 14 amendments. And we went through this long process. We went through this long, long process. We went through panels, the blue ribbon panels. We went through the whole exercise of Bill 37. We went through the Premier's speech in November.

MS BLAKEMAN: A fireside chat?

MR. MacDONALD: It was sort of like a fireside chat, but it certainly wasn't a New Deal for the people of Alberta. It certainly wasn't an FDR style fireside chat, because it had been discovered by all Albertans when they got the bill in their mail that this is an attempt to privatize their health care system and further increase this manner of delivering services with a two-tiered, parallel system.

With those remarks, Madam Chairman, I cede the floor to one of my hon. colleagues. Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Redwater.

MR. BRODA: Thank you, Madam Chairman. I've been listening here this evening to what is being said, and I couldn't resist but to rise and make some comments on the approved surgical facilities' 12-hour stay. I think there's maybe a little bit of misunderstanding. When we say over a 12-hour stay, what we're talking about is that sometimes there may be somebody who has minor surgery who needs observation that requires an overnight stay. This way here, taking that particular surgery out of the public system and doing it in a private surgical facility, would alleviate the pressures out there and allow somebody else to go into the public system and receive a service that requires more medical attention than possibly one that could be done safely, efficiently, and effectively in an approved surgical facility that would have overnight stays.

Since I guess the beginning of session, we've heard nothing but "private health bill." Well, I want to make it clear that there is no such thing as a private health bill. What we have is the Alberta Health Care Protection Act. I see the members opposite don't even want to hear because they know they're wrong by making false representations . . . [interjections]

THE DEPUTY CHAIRMAN: Order. Order. Hon. members, there's one member speaking, and that's the hon. Member for Redwater. Please let us continue.

MRS. SLOAN: But he's not making any sense.

MR. BRODA: Madam Chairman, I sat here all evening listening to the people opposite, listening to members on this side as well, and I think I deserve the courtesy to continue speaking. And if I'm not making sense, neither is that member over there. I think there was a member that mentioned free speech. Obviously they don't believe in that as well. Tell the truth when you go out there instead of . . .

THE DEPUTY CHAIRMAN: Hon. member, the chairman is going to ask you for relevance. We are dealing with a subamendment. Please, let's be relevant here.

MR. BRODA: It is very irrelevant, but anyhow, Madam Chairman, thank you for the reminder.

We are talking about the subamendment to an amendment. Yes, we have had 14 amendments that were put into place, and we've been listening to Albertans. As one member said, that's why the amendments are here. We are listening to Albertans. We're making reasoned amendments, not making some subamendments to amendments just to delay time and have rhetoric here this evening and yesterday without making any sense, if that's what you want to call sense.

Going on to the amendment, Madam Chairman, the "approved surgical facilities" that we're talking about and, again, overnight stays. If we say 12 hours, what happens if you go into a facility and have surgery done at 4 o'clock in the afternoon and you do have to have observation overnight because of anesthetics or whatever? It is probably very, very minor surgery, but you need observation. We're not permitted to do that, so by allowing overnight stays, we would allow that particular procedure to follow, that an individual could get – or the physician is the one who's going to determine what kind of surgery will be provided in a surgical facility. Now, when we talk about private surgical facilities, those will only be put into place if the regional health authority can see that there is a need for them in their own region. Speaking of my region, I don't even

know if we'll ever see any private surgical facilities because there is no need for them.

So the fear out there, telling everyone that you're going to have overnight stays, you're going to become a hospital – well, I think that's very false, and I think a lot of people that are hearing this are really saying: is that true? When I go out there and explain it to my people, they say: that's not what we've heard. So I think it's important, because the thing is that what is being spread out there has been very untruthful. I think it's about time the opposition sat down and listened to what they're talking about and what kind of false information they're spreading in our communities.

Madam Chairman, the overnight stay in the subamendment by the Member for Edmonton-Meadowlark is an amendment that I think would restrict us from doing any different types. If we look at technology today, we have changes in technology. The surgical procedures we're seeing are different than what we saw 10 years ago. You can have a gallbladder operation which is only a half-inch incision that is done laparoscopically or done overnight. But sometimes there may be a need for additional surgery in gallbladder operations rather than laparoscopic which may need observation overnight, so that's not restricting them to having to go only into a hospital. It could be done safely in a surgical facility.

Madam Chairman, I think we need Bill 11. It gives regulations to our private surgical facilities that we don't have right now. We've heard from the College of Physicians and Surgeons saying: we need regulations. This bill will place the regulations to the private surgical facilities. I think we've even heard from the federal government that the status quo is not an option, that we have to look at change, and I think we're innovative. This province has always been a front-runner to all provinces in Canada here, and I think not only in Canada but in the world. When people look at Alberta, they know that we have done the best possible for everybody. We're the envy of all the world, and people are moving to this province because of what this government has done.

When we talk about our Premier, that there's no trust for him, I have a lot of trust for the Premier. I think he's one of the most honest persons I've ever met, and he's got a lot of integrity, not like the members on the opposite side.

With that, Madam Chairman, I move that we rise and report progress.

[The voice vote indicated that the motion carried]

[Several members rose calling for a division. The division bell was rung at 10:40 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mrs. Gordon in the chair]

For the motion:

Boutilier	Hierath	Paszkowski
Broda	Hlady	Severtson
Calahasen	Johnson	Shariff
Clegg	Jonson	Smith
Coutts	Kryczka	Stelmach
Doerksen	Laing	Stevens
Ducharme	Magnus	Strang
Evans	Mar	Thurber
Fischer	McClellan	Woloshyn
Forsyth	McFarland	Yankowsky
Hancock	Melchin	Zwozdesky

Against the motion:

Blakeman	Leibovici	Olsen
Bonner	MacBeth	Sapers
Carlson	MacDonald	Sloan
Dickson	Massey	White

Totals: For – 33 Against – 12

[Motion to report progress on Bill 11 carried]

**Privilege
MLA Access to the Chamber**

THE DEPUTY CHAIRMAN: Before we leave Committee of the Whole, I said that I would address an item the hon. Member for Calgary-Buffalo brought up earlier. I did in fact talk to the Sergeant-at-Arms, who did go out to find the members that were mentioned, and the chair would duly note that the members did finally make it to the committee. We are pleased that they did.

The hon. Member for Calgary-Buffalo has given notice that he would like to raise a point of privilege or a question of privilege with the Speaker tomorrow after question period regarding the MLA access. The chair would duly recognize that this can be done tomorrow, and I thank the hon. member for his indulgence.

[Mrs. Gordon in the chair]

MR. SHARIFF: Madam Speaker, the Committee of the Whole has had under consideration and reports progress on Bill 11.

Madam Speaker, I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? So ordered.

head: Government Bills and Orders
head: Third Reading

**Bill 4
Surveys Amendment Act, 2000**

THE ACTING SPEAKER: The hon. Minister of Environment.

MR. MAR: Thank you, Madam Speaker. The hon. Member for Edmonton-Ellerslie has made a number of comments in regard to this particular bill, and I've given her my undertaking that I will review those questions. My understanding is that a memo has been prepared in complete answer to the inquiry she made when we last discussed this in second reading, and I'm prepared to look into the status of that particular memo and answer fully accordingly.

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

MS CARLSON: Thank you, Madam Speaker. I am pleased to hear that a memo is in transit to me regarding these issues that we had with this bill. I feel that at this point in time I'm satisfied with the answers being supplied. If there are any concerns still outstanding after receiving the memo, I will be in contact with the minister on the issue.

THE ACTING SPEAKER: Excuse me, hon. Member for Edmonton-Ellerslie. I do have to ask the hon. Minister of Environment whether he would please move third reading.

MR. MAR: I move third reading of Bill 4, Madam Speaker.

THE ACTING SPEAKER: Thank you.

The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Madam Speaker. To conclude my remarks at third reading on this bill, I am looking forward to reviewing the memo sent by the minister, and subject to that, any concerns I have will be brought up with him in writing with regard to the issues we discussed.

Other than that small outstanding item, we don't have any concerns with this bill, and we're happy to support it at the third reading stage.

[Motion carried; Bill 4 read a third time]

Bill 2
First Nations Sacred Ceremonial
Objects Repatriation Act

MS CALAHASEN: Madam Speaker, I'm going to make a few comments before I move third reading. This is a bill that has been very important to aboriginal people. First Nations and Metis people are looking forward to this bill being passed. In fact, elders continue to reiterate that we need to ensure that these sacred ceremonial objects are returned to their rightful owners, and with elders being part of the process, which I will ensure occurs, I am positive it will work out extremely well.

I thank all the people who have contributed to this debate, Madam Speaker, because this is such an important bill for aboriginal people across this province. I thank all those who have taken part in this debate.

I move third reading of Bill 2.

THE ACTING SPEAKER: Thank you.

The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Madam Speaker. It's good to be able to get up and agree on a bill and its swift movement through the House.

I've brought up my issues and concerns regarding this bill. I still have some concern that it's paternalistic. I think the reality is that the section that gives the minister full control still bothers me. However, I would appreciate it at some point if the hon. minister could forward the regulations, when they're complete, so that we have a good sense of what's happening. Then we can also be sure to pass the information along.

In our discussions we talked about the need for the aboriginal community to take control of their own environment and their own world. This is part of a step to doing that. It's part of a step to self-government. It does still cause me some concern. I often think that if we're going to achieve something, we should do it the whole way and not partway, but this is a step in the right direction. I'm hoping my questions at some point will get answered.

Madam Speaker, hopefully this bill will be closed off very quickly.

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

MR. DICKSON: Thank you very much, Madam Speaker. A couple

of points I wanted to make. I'd just indicate, as I had done at second reading and then at committee, that while I support Bill 2, I register again my concern that throughout the entire course of the treatment of this bill, we never received a satisfactory explanation in terms of why we have not only the provision to make regulations but a minister who has the absolute discretionary power to say no. Even if all the provisions in the statute have been met, even if all the regulations have been followed to a T, the minister under Bill 2 still has the power to nix, to say no to a proposed transfer, repatriation.

11:00

Madam Speaker, I've listened to explanations that have been offered, and people talk about this being what the elders want or this being what certain aboriginal organizations wish to see, but I suspect that it was a question that you had groups agreeing to sort of the principle of the bill, not necessarily agreeing to the absolute discretion that's vested in the minister. I actually have to say "a minister" because this is one of those things where the minister could be any one of a number of people, anybody designated under the Government Organization Act.

So the problem still persists, not reason enough to – I was going to say torpedo the bill, as if one member could do that. It wouldn't be reason enough to vote against the bill, but it continues to be a concern. All of us feel a degree of responsibility for every bill that leaves this Assembly. Somewhere down the road people are going to look at this and say: well, how is it that legislators could agree to give a minister this absolute, wide, sweeping discretion without setting out some criteria, without setting out some kind of fairness test?

We just finished a little while ago dealing with Bill 11, which once again has huge discretionary powers, and it just seems to be setting the new standard for lawmaking. It's not a new standard; it's a standard we see in a lot of statutes in this province.

Anyway, Madam Speaker, I know you didn't want a tour through the 10 least favored elements of current legislation in the province. I think I've said enough. I'm simply reinforcing a concern I'd expressed earlier with respect to the bill. Having said all of that, I'm going to take my place, and I'll be voting with, I expect and would hope, all members in support of the principle of the bill, which involves repatriation of aboriginal valued objects to the people and the nations from which they came.

I'd conclude by acknowledging again the excellent work of the Glenbow institute, that has, I think, shown some real leadership. Let's also acknowledge the work of people in the office of the Department of Community Development, who I think showed some leadership in this area as well. So a lot of people can be proud of this bill as well as the bill's sponsor. Let's just hope that we'll be able to bring it in next year and touch up the discretionary power provision that's too vague now.

Thank you very much, Madam Speaker.

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

MR. BONNER: Thank you very much, Madam Speaker. It is indeed a pleasure this evening just to make a few comments before we vote on Bill 2, the First Nations Sacred Ceremonial Objects Repatriation Act. Again, I do agree with the Member for Calgary-Buffalo that certainly I can accept the principles of the bill.

The concerns I have are the concerns that were expressed by others as well that there is a paternalistic approach to this bill. I certainly don't see anything wrong with the repatriation of the sacred

objects to the First Nations. Certainly they are more than capable of taking care of their own artifacts, and this self-determination is one of the things I would have liked to have seen in this bill, but it certainly does not omit them being included at some later time.

I do continue to have some concerns with the amount of power given to the minister under regulations, but I do support this bill, and I would also urge all members of the Assembly to support this bill.

In closing, Madam Speaker, I would also like to compliment the member from Lesser Slave Lake for all of the work that she has done on this bill and the passion and concern she showed in speaking to it.

Thank you, very much.

THE ACTING SPEAKER: The hon. Associate Minister of Aboriginal Affairs to close debate.

MS CALAHASEN: Just to say that regarding the regulations, as I indicated, I'll make sure we send the information over to the critic for the opposition members.

In terms of looking at some of the issues that have been brought up, I really feel strongly that whenever we're doing something, we have to ensure that, as the elders have indicated to me, these objects go to their rightful owners. We have to ensure that there is a mechanism in place for that to occur. They have certainly brought forward some recommendations that we will be following. I think it's very important to look at that when we see some of the regulations that have come forward in a number of instances. We've made decisions for aboriginal people in the past without their involvement. We need to ensure that whatever we do, they are part of this process. As I indicated, we'll continue to make sure they do that.

So on that basis, Madam Speaker, I move third reading of Bill 2.

[Motion carried; Bill 2 read a third time]

head: Government Bills and Orders

head: Second Reading

Bill 20

Justice Statutes Amendment Act, 2000

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

MR. HANCOCK: Thank you, Madam Speaker. It's my pleasure tonight to move second reading of the Justice Statutes Amendment Act, 2000.

Last year people from across the province sat down at the justice summit to tell us how we could make our good justice system better. One of the main themes that came out of the summit was simplification: make the justice system more accessible and user friendly. We have listened to what Albertans have been saying, so access and simplification are the main focuses of this bill.

Madam Speaker, in dealing with the court system, it's never easy, and for Albertans, trying to work their way through a legal case can seem quite daunting. If you will allow me a moment to describe our court structure, you will see what I mean.

We have three levels of court in Alberta. The lowest level is the Provincial Court, which sits full-time in 23 communities and part-time in 51 others.

Provincial Court is broken down into three divisions. The Provincial Court, Civil Division, hears small claims cases under \$7,500. This level of court provides Albertans with quick civil remedies and with relatively little cost.

The Criminal Division is the court of first appearance for all

criminal cases. It holds trial and preliminary hearings for these cases.

The Family Division and Youth Division deal with maintenance, guardianship, and custody and access matters not dealt with under the Divorce Act and all matters under the Child Welfare Act except adoption. It also hears all cases under the Young Offenders Act.

The Court of Queen's Bench is the superior court for criminal and civil matters and sits full time in 11 locations and on specified days in two others. It hears criminal cases by judge and jury or judge alone, as well as civil cases. In addition, it deals with family matters including divorces and maintenance and custody and access matters under the Divorce Act. Issues of guardianship, adoption, custody and access, spousal support, and maintenance for children of both married and unmarried parents are also included. Finally, foreclosures and bankruptcies are also handled by the Court of Queen's Bench.

Then, Madam Speaker, there's another court, the Surrogate Court, which sits in the same locations as the Court of Queen's Bench. This court hears cases pertaining to wills and estates as well as applications under the Dependent Adults Act. The jurisdiction of the Surrogate Court to hear dependent adult matters has recently been called into question in the courts. Some decisions have held that only the Court of Queen's Bench can deal with dependent adult matters, even though the same justices serve on both the Court of Queen's Bench and the Surrogate Court.

Finally, Madam Speaker, we have the Court of Appeal of Alberta, which sits only in Edmonton and Calgary, and hears appeals of decisions made in the lower courts.

As you can see, Madam Speaker, sometimes it can be a job for Albertans just to determine which court to go to, and then there's the matter of hearing the case. This bill aims to simplify that process for Albertans.

11:10

As I said earlier, the Provincial Court sits in 74 communities across the province, while the Court of Queen's Bench is only located in 13. It makes sense that to give the most access to Albertans, we should broaden the jurisdiction of the Provincial Court, and this bill accomplishes that goal in a number of ways.

First, the bill allows Provincial Court judges to carry out some procedures that currently can only be carried out in a higher court. For instance, if an individual breaches a Provincial Court order, right now the case must be heard in the Court of Queen's Bench. In our view, this is an unnecessary step when a Provincial Court judge is already familiar with the individual and the background of the case.

With this amendment the Provincial Court will be able to deal directly with breaches of its orders, as well as breach of orders granted by justices of the peace. This means that serious issues like breaches of emergency protection orders can be dealt with quickly, particularly in areas where there isn't a Queen's Bench location nearby. I know this would be of assistance to many Albertans who are being protected by emergency protection orders.

In addition, Provincial Court will be enabled to deal with tenancy agreements, and it will be able to deal with contractual issues more effectively. Under these changes Provincial Court will be able to terminate or order compliance with a contract. It will also have the power to grant orders for the return of personal property other than land, normally referred to as a replevin order.

At the present time, Provincial Court can only order monetary payment for civil claims. I'll give you an example of what I'm talking about. Let's say I'm taking a case to a court in the Civil Division of Provincial Court because a person borrowed a stereo from me and failed to return it, saying it was given as a gift. My

only option in Provincial Court is to sue for the monetary value of the good. Under this amendment the court could order a replevin. In other words, they could order that the stereo be returned to me, something that right now can only be done in the Court of Queen's Bench.

So these changes, Madam Speaker, will allow Albertans to bring more matters before the Provincial Court, where proceedings are less formal and where they can represent themselves in many cases for much less cost than required to hire a lawyer and also, as I mentioned earlier, in many, many more locations around the province. It will also free up Queen's time in the Court of Queen's Bench so that other matters can be heard more quickly, and that is part of what we're striving to do.

The bill will also simplify the organization of the Provincial Court by enabling the three separate divisions, civil, criminal, and family and youth, to be merged. In other words, we'll take out the statutory requirement for three civil divisions. The operation of the court would still function in those types of divisions, but by removing that formal structure, it will allow the court to organize itself more efficiently, and it will allow the Chief Judge of the court to ensure that judges of the court sit in whichever area they're most needed at the time.

For example, if there's a long waiting list in family and youth court, it may be possible for the Chief Judge and the assistant chief judges to organize the judges on the bench who would normally hear civil claims or who might normally be in the criminal division to have them sit in family and youth division and hear cases in those divisions and thus put the bench power, so to speak, where the immediate need is. It will also help us as we look to the longer term in terms of the unification of the family court perhaps, which is a process which is under way right now. [interjections]

THE ACTING SPEAKER: Hon. minister, you do have the floor.

MR. HANCOCK: Thank you. When you were waving at me, I was wondering.

In any event, what it will allow is for the Chief Judge and the Assistant Chief Judge to better organize the bench power, as I said, to areas of need, and it will provide for a better alignment after the review is done, for example, with the task force on the unification of the family court or perhaps as we look further at unification of the trial division. It will allow us to do that more straightforwardly. The courts will continue to be administered in the same way as they are now, but by eliminating the formal divisions, it will be possible to, as I said, assign judges to meet the needs of the court with more flexibility and efficiency.

This bill, Madam Speaker, raises the potential civil claims limit of Provincial Court from \$10,000 to \$25,000. The current actual limit, as I mentioned, is \$7,500. That's set pursuant to the regulations. By raising the potential limit, we advise the public that we're moving in that direction, and it allows us, as and when we have the adequate resources to deal with the increased limit, to raise that limit on a progressive basis. Again, that will provide the public of Alberta access to civil claims resolution at lower costs.

With the success of the civil claims mediation program, the increased workload in Provincial Court has been successfully handled, on the previous increases in limit, and in fact the use of mediation and pretrial conferences for civil claims has worked so well that these amendments put forward will enshrine them in legislation.

By increasing the potential civil claims limit, we have the opportunity to further increase the actual limit, as I said, as resources come available.

In addition, Provincial Court judges will be allowed to award costs in family court matters where a party has been guilty of delays or has brought forward frivolous proceedings. This puts a tangible penalty in place for those who bring forward unnecessary court actions or who waste the court's time, time which could be used to hear other cases, and the time and money of others involved in the proceedings. Those who are guilty of delays or frivolous proceedings may be required to pay the other party's court fees.

A further change will result in the broadening of a section of the Provincial Court Act that allows for civil judgments out of Provincial Court to be filed and enforced in Court of Queen's Bench. With this change, orders granted in Provincial Court for the payment of money under the new access enforcement amendments of the Domestic Relations Act can also be filed and enforced in Queen's Bench. This means that remedies under the Civil Enforcement Act, such as writs of enforcement or garnishee summons, can also be used to collect the money owing.

Another issue that we're aware of is that creditors who receive civil claims judgments need a more effective means of collecting those judgments. So these amendments will provide for default hearings in Provincial Court.

At the present time when defendants fail to appear on a claim in Provincial Court, a judge can rule in favour of the plaintiff without hearing evidence, but the same rule is not in place, Madam Speaker, when a defendant has a counterclaim and the plaintiff fails to appear. So changes are being proposed in this bill which will allow the corollary to occur. That again will help speed up processes and access for litigants in Alberta.

The bill also deals with issues of when administrative decisions of the Chief Provincial Court Judge and Assistant Chief Judge can be challenged in the courts. The amendment ensures that purely administrative decisions on the part of the Chief Judge or Assistant Chief Judge will not be routinely challenged in the Court of Queen's Bench, tying up court time and resources. This will not prevent any clearly unreasonable decisions from being reviewed by the Court of Queen's Bench.

In addition we have put forward a number of other amendments which will benefit Albertans involved in the legal process. For example, the bill amalgamates the Court of Queen's Bench and the Surrogate Court. As I mentioned before, judges of the Court of Queen's Bench are also judges of the Surrogate Court, and it seems an artificial distinction in this day and age to require them to remove one hat and put on the other just because they're hearing a different type of case. By amalgamating the courts, it becomes much easier to deal with all of the issues at hand. The Surrogate Court has a very specific mandate of what it can and can't hear, and even though the judges are the same judges, anything that arises in Surrogate Court that doesn't directly fall under the jurisdiction of the Surrogate Court must now be dealt with in Queen's Bench.

Other changes. We're bringing forward a civil claim appeal. Anyone bringing forward a civil claim appeal will be required to file transcripts within three months instead of six. Again, when we're looking for access and ease of process, litigants want a speedier result. As transcripts are now available much sooner than in the past, this restriction will ensure that civil claims appeals are not delayed unnecessarily.

Other administrative changes enable Provincial Court to strike out pleadings or enter default judgments when parties fail to attend a pretrial conference. Provincial Court judges will be able to award costs for pretrial conferences as well as for hearings. Pretrial conferences are important to help narrow down issues before the trial begins and sometimes, Madam Speaker, even to resolve the issues without the need of a trial.

In addition, Provincial Court will be granted the authority to deal with the destruction of exhibits. That's currently an authority that the Court of Queen's Bench has, but the Provincial Court does not have that authority.

Other minor amendments are included in terms of dealing with registered mail, et cetera.

11:20

The Provincial Court Act will be amended to allow any person to apply for access to a child if the parents are deceased. This fills a gap in current legislation which only allows an application to be made when parents are living apart.

Finally, the bill makes changes to the Provincial Offences Procedure Act. Back in 1989 the limit for what were called part 3 tickets was set at \$400. These are tickets where you can't be arrested or serve any jail time for failing to pay the fine. However, they can be enforced by placing restrictions on your motor vehicle privileges, like not being allowed to register a vehicle until the fine is paid. Usually these tickets are issued for violations of the Highway Traffic Act, the Motor Transport Act, and the Motor Vehicle Administration Act. We're increasing the limit for part 3 tickets to \$1,000 to reflect changing economic times.

I should also advise that we're working with the federal government to allow our provincial ticketing scheme to issue penalty tickets for some minor federal offences. Some of these federal penalties already exceed our current \$400 limit. Other changes would make it easier to pay traffic tickets by giving Albertans the option – and I would underscore that, the option – to pay at registry offices rather than just courthouses. Albertans will still be able to pay offence tickets at the courthouse or by mail-in, but this provides one more option to them. A small fee, of course, would apply at registry offices, but that would be a choice that the person paying the ticket would make. As I stressed, they do have the option of paying them at the courthouse.

Simplicity and access: that's what Albertans have asked for in their justice system. Madam Speaker, that's the object of this bill. It's one of the steps that we're taking to simplify the system and provide better access for Albertans to their courts.

In closing, Madam Speaker, I'd like to thank the opposition critic in this area and the Opposition House Leader, who I had an opportunity to talk to about the bill in bringing it forward. The bill covers a number of justice statutes which we've encompassed in one bill. It's convenient. They deal with similar theme areas. It allows us to bring forward a number of amendments to a number of acts which we wanted to deal with in a packaged way which makes sense, and I appreciate the co-operation that we've had from the opposition in allowing me to do it in this manner.

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

MR. DICKSON: Madam Speaker, thank you very much. I hope that members opposite hadn't thought that the bill would come in and be introduced and there would be no opposition commentary on it. In fact, I want to tell my friend from Calgary-North Hill that I think we're actually under Standing Order 29(c). That would be:

A member other than the mover, speaking in debate on a Bill proposing substantive amendment to more than one statute, shall be limited to 30 minutes' speaking time.

So in fact, as I understand it, unless I'm advised otherwise, I'd think that if I needed it, I'd have a good 30 minutes to review Bill 20.

THE ACTING SPEAKER: I think, hon. member, that we will tell the Assembly that the mover of the bill under that Standing Order has 90 minutes.

MR. DICKSON: Quite, quite. To disarm me further, the Minister of Justice said some very complimentary things about my colleague and about this MLA, so that makes it really tough, then, to aggressively challenge the government on the bill. But, you know, I wasn't going to do that anyway.

Actually Bill 20 is for the most part pretty much a good-news story. People are always saying that the opposition is always so darn negative and are always poking away and saying that this isn't good enough and this doesn't meet the standard. You know, Madam Speaker, the reality is that too many bills don't measure up and don't meet the standard. But in this bill, it's a compliment to the Minister of Justice and his officials that in fact many of the things in here represent what Albertans want to see. They represent changes that are overdue in terms of our justice system, and they're reflective of a number of things that are very positive developments.

Now, it's not all perfect. I'm going to spend a minute, Madam Speaker, pointing out a few things that could be done better. For the most part, this is a bill that I'm still going through, but there's a darn good chance that some of my colleagues are going to be prepared to support Bill 20. We're still looking for some more feedback from people that are going to be directly affected. That continues to be a concern, but I'm happy to say that I don't think we're going to have to spend 17 or 18 hours going through Bill 20. Maybe only one bill a spring session warrants that kind of treatment, Madam Speaker.

Let me highlight a couple of things, though, in going through it that I think are worth comment, and I'm hopeful that people directly affected by the bill will take the time to communicate by e-mail, if they can get through to MLAs, and certainly the Official Opposition is looking for advice and input before we get much further on the bill.

One of the things that came to my attention immediately is on page 4, and it's section (6) of the proposed section 21.1. It's interesting. After we have just gone through this situation with his honour Judge Reilly, who had been the Provincial Court judge in the Cochrane-Canmore circuit, we've seen some interesting litigation over questions of the power of the chief provincial judge, the ability of that officer to designate and redesignate the areas in which different Provincial Court judges should operate. If members look at page 4, the proposed section 21.1(5)(a), (b), (c), and (d), it looks to me like there is a power that the province has decided they're going to codify.

Now, the Minister of Justice has accused me from time to time of being a codifier, probably just the nastiest thing one could say about another legislator, and I know he means it in a generous way. His argument would be that I think legislation should codify rather than leave things to the discretion of somebody, and you know, he's right.

For the most part I start off feeling maybe just a little distrustful, and I like to see things spelled out. I get a little nervous when I see broad discretionary power like we saw in Bill 2 and we see in Bill 11, but here we've got one where now I'm going to sort of change roles a little bit. I'm going to ask: is it perhaps appropriate that the Chief Judge should have this power? I want to be able to review more carefully the decision, and I'm not really sure of the justices who went to the Alberta Court of Appeal. As I recall, there was a trial judge, and I don't know whether it was Justice Mason or not who heard the first application, and then I think it went to the Alberta Court of Appeal, and we saw that judgment recently. I'm hopeful that my colleagues and I are going to have a chance to be able to review the lower court judgment, the Alberta Court of Appeal decision, and see if there is some discretion that we lose, Madam Speaker, by going through the provision that we see in section 4.

The provision in terms of eliminating the distinction between the criminal division, the civil division, family division, youth division

makes some sense, because even now Provincial Court judges who are in criminal courts may do a bit of a tour where they spend some time in small claims court or whatever. That happens from time to time, and judges will tell you, as they've told me, Madam Speaker, that they find that's often a useful experience. They appreciate the chance, having done some small civil claims material, to be able to go and spend a little time in criminal court or to be able to go into youth and family court, but there's one nagging concern I've got, and I put this to the Minister of Justice.

What this nagging, niggling concern is is that many of us on this side support the notion of a unified family court, that notion where you develop a body of expertise. You get judges who specifically want to deal with those most vexing, complicated, challenging of all issues that lawyers can deal with. My own bias is showing, the issues in the area of family law. We've seen in Ontario and in Manitoba and in other places where they have done an integrated family court. Do you know what? It's been pretty darned effective.

11:30

One of the things I didn't hear the Minister of Justice address is: does he still have that interest in a unified family court? Now, I think in fact he does, but I'm not sure I heard him say that. If he did, I didn't hear it. I think it's important that we hear from the minister how we can allow, on the one hand, for an integration of all the provincial court judges despite the different sectors they work in and yet, on the other hand, be pursuing a unified family court. My caucus, unless since the last caucus meeting there's been a change of opinion, feels pretty strongly that we want to see the advantages of a unified family court.

MRS. SOETAERT: Absolutely.

MR. DICKSON: We need that kind of assurance. Well, we've got one colleague that is paying close attention, Madam Speaker. That's not bad; we've got one out of 82. [interjections] Oh, I'm sorry. I'm in big trouble now.

MR. SHARIFF: It must be a pretty boring speech.

MR. DICKSON: Well, it may well be a boring speech.

I said that in jest when I suggested there was only one other member paying close attention. I know that there is a roomful and of course you, Madam Speaker. I know that just because people listen with their eyes closed and the book open doesn't mean they're not paying attention to what's being said. I know that. It may be just a little fiction I like to manufacture for my own purposes, but that's what I like to believe.

Madam Speaker, there is a concern with this bill with regulation-making power. One would think that the Minister of Health and Wellness, who has endured how many questions about the regulation-making power in Bill 11, would have taken his colleague the Minister of Justice aside and said: you know, this just doesn't work in Alberta; this notion of secret lawmaking has got to come to an end. If we can't find a champion in the Minister of Justice to ensure that subordinate lawmaking is done in an open and responsive way and is something that's overseen by elected legislators, then who the heck is going to champion that on the government side?

Do we have to wait for new cabinet appointments? When the cabinet shuffle happens, let's say in a month, is it a question of having to start buttonholing the people we think may be in cabinet next time and start trying to see if we can develop a little sensitivity around this issue early in the hopes that they'll transport that with them when they move into cabinet? Madam Speaker, it might be

you. I mean, we could go around and spin the dial. Who knows who is going to be in cabinet after the cabinet shuffle? Will one of those people be the champion? I'm afraid to say that the Minister of Justice, very able legislator and cabinet minister that he is, shows us in Bill 20 that he's not going to be our champion in terms of law and regulations, so we're going to have to find somebody to pursue that concern.

We have a provision that the Lieutenant Governor in Council will be able to make regulations outlining situations in which court fees can be waived. That's important because there are no provisions now in terms of a waiver of court fees. It's not just a Liberal researcher who shows up at the courthouse trying to get the latest scuttlebutt on some litigation involving the government of the province of Alberta. There are interested Albertans that try and do that.

Sometimes the fees are steep, very steep, Madam Speaker. Sometimes I think in this province we're just nickle-and-dimed. The fees for FOIP requests, fees for accessing court documents: every time you turn around, there's another user fee. But members should take some comfort. The Official Opposition Treasury critic, with his expertise in the area of the Eurig decision of the Supreme Court of Canada, has developed some particular expertise in that area. He's applying that expertise to a host of other user fees in the area of the court system, and I'm hopeful we're going to have a report, an analysis which is going to identify a number of others.

We saw some movement. I think the Surrogate Court fees have come down. It's a huge amount, \$60 million. You know, there's a reason why the Eurig case was the one where the Supreme Court of Canada was given the platform and the opportunity to identify user fees as being illegal taxes. That's because it's through our court system that we find so many of those illegal taxes and user fees. To the everlasting embarrassment of many of us in Alberta, it was the province of Alberta that was an aggressive intervenor in that Supreme Court challenge. This was not a case – what do we call the former Provincial Treasurer now, in his hiatus period?

MR. SAPERS: The member from Edmonton-North.

MR. DICKSON: The Member for Red Deer-North.

MR. SAPERS: Well, he wants to be the member from Edmonton-North. That's right.

MR. DICKSON: In any event, the former Provincial Treasurer always used to make those speeches about what a great job we were doing in terms of responding to the Eurig decision, never to my knowledge ever acknowledging in this House that the province of Alberta was right there at the table fighting with the province of Ontario to try and defend illegal taxes. To read the factum of the province of Alberta is to weep. It is a document that is discouraging and depressing. Enough of that. Let's move on to some of the other things.

One of the positive things is the provision in section 5(a)(iii). I skipped over to that. That's on page 2. I'm not going exactly sequentially, Madam Speaker. I'm sort of bopping around here a little bit. The item is on page 2, section 5. Something that when I was Justice critic I always encouraged the provincial government to look at was raising the small claims fee, and we suggested \$10,000. What the province did was actually bring in a change a couple of years ago that it could go as high as \$10,000 but that it would be set by regulation. I think it is set at \$7,500 now.

This is one where in fact the provincial government has trumped the opposition. We were looking for a \$10,000 limit, and the Justice

minister – and nobody ever accused him of being afraid of a challenge – has increased the provision to \$25,000. The issue and the question that goes along with that, however, would be this, Madam Speaker. Is the money going to be there to hire the additional provincial court judges to make this work? We understand that there was a great deal of consternation on the part of the government for moving it from \$5,000 to \$7,500, and the argument was: it's going to cost us more money because we're going to have to hire more judges.

That was always a bit of a specious argument because on the other hand, you know, we have other judges. It means we've got more Queen's Bench judges. Now, the difference is that they're paid by the federal government whereas the Provincial Court judges are paid out of the Provincial Treasury. So we've got a little bit of: after you, Alphonse. It's sort of a question of everybody agreeing that we'd like to see small claims jurisdiction enlarge, but the question is: who's going to pay for the additional judges that's going to require? So we actually have quite an audacious, quite a bold move by our provincial government in proposing a \$25,000 ceiling. You know, I support that, but I do want to know where the provincial judges are coming from there.

11:40

There may be members in this Assembly that decide that rather than running again, they'd like to apply for a Provincial Court judgeship, knowing that now there's going to be a need for new Provincial Court judges subject to the six-month cooling off period. Maybe what we should do is circulate a list. In our caucus we have sign-up lists to be a speaker to a bill. Well, if anybody here would like to have one of those new positions, we can distribute the list around and see who signs up.

Madam Speaker, that's a good item in 5(a).

Now, there's a provision for payment hearings in 5(b), and that's also a good move. You will have noticed that most of the things I'm saying are pretty positive, and this is another one.

We have a provision, though, that too much of this is being done by regulation so why don't we get that out of the way right now. I've always said, Madam Speaker, that I'm ready to retire the day the provincial government finally addresses regulations and says that we're going to . . . [interjections] Well, this may be my final offer. I've exhausted everything else. Maybe I could suggest that if the provincial government will commit to actually giving our friend from Banff-Cochrane, the chairman of the Standing Committee on Law and Regulations, the power to actually deal with regulations, then maybe we're in a position where some of us can move on – well, not to our great reward or no reward – and then it's somebody else's turn to carry on.

So that's my challenge to the Minister of Justice. I think it's a great bargain. We'll send over the contract tomorrow. If we can take all the regulations here and get a commitment to submit them to the Standing Committee on Law and Regulations, boy, you know, we'd be able to get some real change going.

Madam Speaker, maybe the thing to do, maybe there's a spot in Calgary-West. Maybe the nominations haven't closed in Calgary-West yet, and maybe there are more people that should join that race.

Anyway, Madam Speaker, this is too much fun, and we've got a lot of stuff to deal with yet. I'm not sure how much of my 30 minutes I've got left, and we've barely started here. [interjection] Okay. Thank you very much, Madam Clerk.

MR. HANCOCK: You don't have to do it all at once.

MR. DICKSON: Well, there'll be some left for committee, I'm sure.

I should have mentioned before that I'm simply standing in for my colleague from Edmonton-Norwood, who has done, as is her usual custom, a much more organized presentation. So overlook the sloppiness tonight. When my colleague speaks, you're going to hear a very pinpoint analysis of the weaknesses in the bill. All I'm trying to do now is just hit some of the things that are a bit of a highlight for me.

I think there's a very good provision here in terms of authorizing pretrial conferences and mediation. I think that's a really important area. I know that the Member for Calgary-Lougheed has a lot of mediation experience, and I think that's been very effective. I think that . . . [interjections]

Well, Madam Speaker, there may be other people that wish to speak. On the other hand, we may just want to go home. I would hope that my colleagues would stand because they're interested in this bill. [interjections] I'd like to think that was going to be a pat on the shoulder, an encouragement to keep on going. Who says you have to be delusional to be in opposition in Alberta, Madam Speaker? It isn't so.

Madam Speaker, just a couple of other things quickly to identify here. There's a provision in here – and I can't find it readily – to deal with contempt, and I think that's a positive thing.

The privative clause on page 4. I think everybody in the Legislature has now become an expert on the privative clause, what it means, what it doesn't mean, and I see it's in fact one of the interesting amendments we've got. In fact, the interesting amendment on Bill 11, the House amendment that's come forward, says nothing other than what the section currently says. It just says it in different words. It doesn't expand or restrict the notion. The minister of health may think he's somehow contracting or narrowing the scope of the privative clause, but as I read it in Bill 11, it's exactly the same after as it was before. I don't see any change.

Here we have a privative clause, but we know it's going to do something. It's going to mean that if there is a Provincial Court judge like His Honour Judge Reilly and there is an issue in terms of whether that judge can be exported to another part of the province, he would be denied that kind of redress. I think the Minister of Justice would agree. If this becomes law, we wouldn't see what happened most recently, where there was an application to the court that went on to the Court of Appeal. That wouldn't happen.

I guess we have to ask ourselves: is there any value in leaving that in? From an administrative point of view there's never anything good about an appeal or a judicial review, but sometimes there are issues of fairness that warrant some further review. That's a policy question. I haven't resolved in my own mind whether this is appropriate or inappropriate, but it's something that ought to be designated.

The provision in terms of contempt of the court, page 12, section 21.61, I think is interesting.

The management of exhibits. I know that my colleague from Edmonton-Gold Bar has raised a concern around what happens to exhibits in a Provincial Court trial. In fact, we've seen an issue recently on quite a famous environmental matter trial where there were matters that were put in front of that court, exhibits that members of the public were keenly interested in seeing. You know what? People may not recognize that pleadings are accessible but exhibits are not for the most part accessible. Madam Speaker, I think it's appropriate we see some provision dealing with exhibits. [interjections] There are so many things I can think of saying, but that's going to take us on longer and longer, so I'm going to try and fix my attention on the chair and we're going to try to get through this.

I think there are some useful provisions in terms of if both parents

of a child are dead, a person would be able to make an application for access. I'm not sure how often this comes up. I haven't run into it very often. It looks like it was a gap that's now addressed by this.

We see the end of the Surrogate Court, and that's something that the Legal Archives Society may regard as a significant black day in the history of the province. I've always found it a bit of a nuisance. The Surrogate Court was never anything different than the old district court when we had a district court, then the trial division of the Court of Queen's Bench now. It's been a long time since I've looked at a style of cause in a document. It was always pretty silly. The difference, I understood, was that there was some additional money involved to somebody who sat as a Surrogate Court judge as well as a regular judge, so we've ended it. It was a bit of a fiction. I think it just meant a lot of articling students probably having documents rejected for errors in the style of cause. It probably confused members of the public who had to access the court system in terms of accessing documents and so on. So I think that's probably a very positive matter. In fact, I compliment the minister for moving on that.

11:50

The Contributory Negligence Act is amended so that the last clear chance rule is finished, and that's probably a good thing. The last clear chance rule made lots of sense before we had contributory negligence legislation. We have that now. It's well established. It's been the subject of a lot of judicial determination, so we know that's there.

The provision in terms of amendment to the Survival of Actions Act. There is a question of an estate claiming for loss of life expectancy, and that makes some sense as well.

So, Madam Speaker, far too many regulations. Some questions around some key parts but, on balance, a lot of actually really positive provisions in this act. The more I read through it the more I like it, but we have some questions we're looking for some

information on, and we hope we'll be able to get that information sooner rather than later. I think this is one that has a lot of detail in it, and I'm hopeful members are going to have lots of latitude at the committee stage. Maybe we should tell the minister now that this is a bill that probably won't attract a lot of attention at second reading, and that's probably why I've gone maybe a little longer than members would have liked. Probably we won't hear a lot of other commentary on this at second reading.

MRS. SOETAERT: I might; you've inspired me. I want to talk about regulations.

MR. DICKSON: Well, maybe we'll hear some tonight. Maybe we'll hear some other second reading debate tonight. Certainly at the committee stage, Madam Speaker, we're going to be able to do a lot of work on this bill, and we'll be bringing those amendments forward. [Mr. Dickson's speaking time expired] Is that my 30 minutes already?

Thank you very much, Madam Speaker.

MRS. McCLELLAN: Madam Speaker, the Minister of Justice, I think, gave us a very, very good overview of this bill, and I think every member in this Assembly recognizes the amount of work and collaboration and consultation that went into developing this rather complex piece of legislation. I think the opposition critic has given some interesting comments on it.

I had intended to spend a few minutes on this bill, Madam Speaker, but in view of the hour I would suggest that we adjourn debate.

[Motion to adjourn debate carried]

[At 11:53 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]