

Legislative Assembly of Alberta

Title: **Thursday, June 4, 1992**

8:00 p.m.

Date: 92/06/04

[Mr. Deputy Speaker in the Chair]

MR. DEPUTY SPEAKER: Please be seated.

head: **Government Bills and Orders**
head: **Second Reading**

Bill 23 Environmental Protection and Enhancement Act

MR. DEPUTY SPEAKER: The hon. Minister of the Environment.

MR. KLEIN: Thank you, Mr. Speaker. Since I didn't have the opportunity to do so when the Bill was introduced, I would like to acknowledge first of all my colleague the hon. Member for Banff-Cochrane, who headed the review panel, a dedicated group of people who traveled the province to get public input into then Bill 53, now Bill 23. I would also like to acknowledge with a tremendous amount of thanks a very dedicated staff who worked night and day and weekends to bring this Bill to where it is in the Legislative Assembly today.

Second reading, Mr. Speaker, of course is to address the principles of the legislation. I would like to do precisely that this evening. So what are the principles underlying the Act? The principles are reflected at the beginning of the Act in the purpose section, section 2. There are 10 specific principles identified in that section, and I'll be addressing those individual principles in just a moment.

First of all, I would like to talk a little bit about the process. The government's principles were first released in January of 1990 in the form of a vision statement, where we asked Albertans where they thought Environment was in terms of today's expectations and realities and perhaps where Albertans would like us to proceed in terms of environmental protection and enhancement. That vision document, Mr. Speaker, received very broad public support. As a matter of fact, over 5,000 Albertans submitted their comments, their thoughts, their ideas, their visions for protection and enhancement of the environment and how we should create an environmental agenda that would take us through this decade and into the next century.

We then took those comments and we prepared a document, a document that was prepared in the form of draft legislation, and that document was taken by the review panel to a series of public workshops and public hearings throughout the province, and we received further input. I believe we received something like 120 oral submissions and about 300 additional written submissions to the process. Throughout that process, we found that the principles of that original document really stood the test of time. The people weren't opposed to the principles of better environmental legislation.

As you know, Mr. Speaker, Bill 53 was introduced to the Legislative Assembly in the spring of 1991, and it was allowed to die on the Order Paper, but that gave us almost another year to again take that Bill out and receive even more public input. As that process took place, the Bill still stood the test of time. People still believed in the principle of the Bill. I'm confident today that the Bill reflects those principles and the consensus of Albertans about how we achieve those principles.

Mr. Speaker, I'd like to now talk about those principles as set down in section 2. First of all,

the purpose of this Act is to support and promote the protection, enhancement and wise use of our environment while recognizing the following:

(a) the protection of the environment is essential to the integrity of ecosystems and human health and to the well-being of society.

That very first principle, Mr. Speaker, is the foundation of the Act, and other provisions in the Act flow from this basic principle. I must note the interrelationship between human health and environmental quality recognized in the purpose section and in other provisions of the Act.

The second principle is

the need for Alberta's economic growth and prosperity in an environmentally responsible manner and the need to integrate environmental protection and economic decisions in the earliest stages of planning.

Basically this allows for the streamlining and the simplification of existing provisions. It also results in elimination of duplication and making the existing Acts much more consistent. Basically the legislation serves to consolidate nine Acts into one Act. It achieves a uniform approval procedure. Basically it brings five appeal mechanisms into one appeal mechanism, and it brings 39 regulations into 15. Mr. Speaker, it provides a clear set of rules and a one-window approach to environmental law.

We all have a responsibility to protect the environment, but we must recognize that a healthy environment will be supported best by a healthy economy, and I would like to quote from the report of the National Task Force on Environment and Economy:

We cannot expect to maintain economic prosperity unless we protect the environment and our resource base, the building blocks of development. Correspondingly, economic growth and prosperity provide us with the capability to support wise resource management and protect environmental quality.

I think that is the essence, Mr. Speaker, of principle number 2.

Principle number 3:

The principle of sustainable development, which ensures that the use of resources and the environment today does not impair prospects for their use by future generations.

This legislation, Mr. Speaker, takes an integrated approach to air, land, and water rather than independent management of each by including broader provisions that cover all areas of environmental protection such as purpose, guidelines, objectives, and approvals.

Principle number 4:

The importance of preventing and mitigating the environmental impact of development and of government policies, programs, and decisions.

Under this principle, Mr. Speaker, the legislation provides a framework that is based on preventive action first, which involves consultation, communication, and education, followed by environmental impact assessment and approvals and then moves progressively through remedial action, environmental protection orders, and finally to enforcement. This principle also establishes a legislated environmental impact assessment process to review proposed projects, which includes, of course, co-ordination with the NRCB and the Energy Resources Conservation Board review processes. The guideline also includes the sustainable development co-ordinating committee to encourage co-ordination and co-operation across government on sustainable development and environmental protection.

The fifth principle, Mr. Speaker, talks about the need for Government leadership in areas of environmental research, technology and protection standards.

Under this principle there is the inclusion of provisions for research by government and the private sector, and there's the inclusion of provisions for the development of guidelines, objectives, standards, and regulations. This of course allows for public consultation in the development of these guidelines.

8:10

The sixth principle talks about the shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual actions.

Here we have provided in the legislation laws that allow for the development of market-based approaches, such as tradable emission permits, recycling incentives, and other mechanisms to encourage industry to achieve environmental protection goals in the most cost-effective manner. This principle also recognizes the need for provincial government, local governments, and individuals to ensure that resources are used wisely. In that regard, the legislation includes statutory requirements for waste management and recycling. It includes provisions for recycling funds, allowing those funds to be used in support of waste minimization and recycling programs, including education, research, and incentive projects. This principle also includes provisions to enable delegation of specific responsibility to nongovernment boards who meet predetermined criteria.

The seventh principle is the opportunities made available through this Act for citizens to provide advice on decisions affecting the environment.

In other words, Mr. Speaker, this Act, Bill 23, is not just a set of laws; it really is an environmental agenda. It's an environmental agenda that will be amended and probably changed through the course of time but only through the input of the citizens of Alberta. Basically this principle allows the facilitation of public access and service by providing a single-window approach to Alberta Environment making for more streamlined administrative procedures. It includes an access to information section, a requirement for state-of-the-environment reporting, increased public consultation and participation in all aspects of environmental protection and enhancement activities, provisions supporting studies on the environment, a library, educational materials, public consultation in the development of guidelines, objectives, and regulations, public consultation in the environmental impact assessment process and the approvals process, opportunities for appeals for parties directly affected by decisions through the creation of an environmental appeal board. This board will provide an independent review of the decisions made by directors and other people within the department to provide a system of checks and balances on those decisions. This principle also provides for allowing for requests by citizens for investigations and contraventions.

The eighth provision, Mr. Speaker, is the responsibility to work co-operatively with other provinces and the Government of Canada to prevent and minimize transboundary environmental impacts.

In the Act there is recognition of the importance of the partnership role with local governments. There is a provision allowing for agreements with local governments, other provincial departments and agencies, other provincial and territorial governments, and the federal government. Under this principle there is the ability to delegate responsibility to other governments to avoid duplication and make the best use of resources, and under this principle there are specific provisions allowing for joint processes in environmental impact assessments, the kind of processes that indeed would solve once and for all the problems that we're now faced with relative to, say, the Oldman River dam.

AN HON. MEMBER: Which problems?

MR. KLEIN: The jurisdictional problems. [interjection] Right. There are no other problems. [interjection] I'm getting enough from this side.

The ninth principle, Mr. Speaker, talks about "the responsibility of polluters to pay for the costs of their actions." Under that principle we have mandatory spill reporting in the legislation, environmental protection orders and enforcement orders to require remedial action, provisions to require the cleanup of existing contaminated sites, including allocation of cost to persons responsible, requirements to provide security deposits so that those who pollute today will have to pay for the cleanup of that when plants and industries are decommissioned in the future.

Lastly, Mr. Speaker, is the principle of "the important role of comprehensive and responsive action in administering this Act." Basically the legislation includes timely and effective enforcement mechanisms. It includes provisions that allow Albertans rights in accordance with the Canadian Charter of Rights and Freedoms. Of course, the objective here, as is the case with all environmental law and all the sections of this Act, is to be firm but fair. The principle includes a hierarchy of offences with the addition of penalties and offences for persons who knowingly commit environmental crimes. We talk about that kind of violation as a crime. In this legislation we're talking about fines of up to a million dollars a day for every day the offence is committed and up to two years in jail.

Under this principle, Mr. Speaker, there is the inclusion of a section which makes the directors and officers of private corporations and provincial and municipal officials as responsible as the organizations they represent for offences that violate our land and our air and our water. This principle includes the provision of discretion. Decisions have to be made. The questions are: is there accountability, and is there openness? This Act includes checks and balances and provides for public consultation throughout.

Mr. Speaker, those are the 10 key principles of the Environmental Protection and Enhancement Act, Bill 23. I look forward to meaningful and honest and open debate on those principles this evening.

Thank you.

MR. McINNIS: Mr. Speaker, I'm certainly ready for some meaningful, open, and honest debate on this legislation. You know, this is the third version of it that we've seen in this Assembly, but this is the first date on which this Assembly has had any opportunity to debate this legislation. It's a three-year process that finally surfaced in the Legislative Assembly this evening, and I think that's significant, because members of the Assembly should have an opportunity to debate the direction of environmental policy.

I do congratulate the minister, his staff, and many other Albertans who spent enormous amounts of time putting this legislation together. It's lengthy, it's complex, and generally speaking, I say it's a step in the right direction. Certainly if you compare it with the status quo, you have to say that it's a pretty good piece of legislation, but I don't really think in 1992 that the status quo is what we should be comparing it to. We should be comparing it to what Albertans want and need in terms of an environmental policy. We should be comparing it to the state of the art, not 1972 or 1979 or 1982 legislation in the past.

Now, the minister did outline some of the history of consultation going into this legislation: the 5,000 vision statements that people in his department received and read. I didn't see all the vision statements, although a number of Albertans were kind enough to provide me with a copy of them, the ones that they had submitted. I did very carefully read through the document called Thanks from Alberta's Environment, which coincidentally was published virtually the same day that the first discussion draft of the

legislation was introduced. So it's hard to see how the vision statements had very much to do with the legislative drafting, because anybody who knows what goes into drafting legislation which is as comprehensive as this knows it doesn't happen in a 48-hour period. You just don't put together a 155-page piece of legislation with some 200-odd sections in a weekend. Nobody does that kind of work.

8:20

The public hearing process was an interesting one. I admit that in the beginning I was a little skeptical about the choice of a government MLA to chair the committee, but I think the committee did make an honest attempt to hear Albertans' reactions to the discussion draft. They produced a report which contains many statements of principle and policy which emanated from the people, but unfortunately many of the conclusions and recommendations of the Evans committee report did not find their way into this legislation. In some instances where they did, they then fell victim to the other round of hearings, the ones that were held behind closed doors by the Tory cabinet and the Tory caucus.

That's exactly what happened between the 1991 version of the Bill and the 1992 version of the Bill. That process cannot be described as an open process, an exercise in – I believe the current buzz word in government is power sharing. I read with a great deal of interest the comments of the Minister of Energy surrounding the *Toward 2000 Together* conference. This is the government line these days: the provincial government yesterday committed itself to giving up control of key economic decisions in a move expected to revolutionize the public and private sectors; what government is doing here is giving up power, said the Energy minister; instead of announcing policy decisions after closed-door meetings with civil servants, the government will coordinate brainstorming sessions by interested Albertans to set strategic directions. The greening of Rick Orman. The greening of the provincial government.

Well, that's supposed to be what this legislation was all about, but tell me, Mr. Minister: what was the process of the last 12 months? It certainly wasn't a process of government giving up power. In fact, it seemed an awful lot like closed-door meetings with civil servants in which the government made further changes to and further erosion of the kind of legislation that I think people wanted. I think this is fairly easy to document with the 5,000 vision statements, the Evans report, numerous public meetings and discussions throughout the province.

I think there's quite a difference between saying that as a government we're going to consult and hear what people have to say and then we're going to go behind closed doors and do whatever we think is wise and just and the kind of more open process that I think the Minister of Energy was trying to get at late last week in the context of *2000 Together*. I know that an awful lot of miles were put on in the process of bringing in this legislation. I thought it was interesting that the authors of the throne speech got confused and suggested that there were two years of work in this legislation when in fact there were three. I can see that it would be easy for people to lose track of time because so much time followed.

In the end what we're left with is a little more old-style politics than I would wish, a little more authority on the part of people in government, and I include in that the director of standards and approvals, who makes a lot of decisions on behalf of government. It leaves with them a lot of authority to make interpretations of policy measures in a way that's quite openly political. It doesn't have the kind of clear environmental vision that I think the Albertans who participated in the process wanted.

In the end I think the statement of purposes in section 2, if you read it quickly, sounds okay, but it confuses a few things. It confuses, for example, the relationship between the environment and ecosystems. It says, "The protection of the environment is essential to the integrity of ecosystems." Well, Mr. Speaker, I submit that it's entirely the other way around. If you don't have the integrity of ecosystems, you cannot say that you're protecting the environment. The purpose of environmental policy is not to protect ecosystems so much as the purpose that ecosystems have is to sustain our environment. I really think that the fact that the environment consists of a number of interrelated, healthy functioning ecosystems is a concept that should inform all environmental policy and in particular this legislation and that ecosystems depend for their very existence upon the biodiversity of our province and our world for that matter.

Alberta is uniquely blessed with 17 quite distinctive bioregions or types of ecosystems. That's a fairly large number for a province our size: some 600,000 square kilometres. But it's more than different types of ecosystems; it's different types of species within the ecosystems and different genetics within each species. All of these are elements of the biodiversity which sustains ecosystems which sustain our environment. It's a simple one, two, three relationship, and I don't know why this legislation doesn't capture that relationship and why it doesn't state these to be our values, the values that drive environmental policy, that drive decision-making, and that in turn drive the functioning of the Environment department.

I think some of the language in section 2 is attractive, but it really doesn't encapsulate that very basic relationship, and it doesn't give me a sense that the system will be value driven rather than politically driven. I find so many of the words in the legislation to be political words, words that are subject to political interpretation rather than any more precise or rigorous type of interpretation. I think that gets right down to the question of whether we have environmental rights in our province or we don't.

I observed the Minister of the Environment to say that he thought this legislation would be popular because even the opposition wants an environmental Bill of rights, and I guess in his mind this legislation is an environmental Bill of rights. Well, I don't think it really gives our citizens the authority to challenge improper decisions that are made based on values that are foreign to the values that I've outlined, the values of ecology and biodiversity. It doesn't protect people who report environmental offences from harassment, coercion, and other types of intimidation, which the Evans report found on behalf of Albertans was something that we wanted. We don't have ecopolice like they have in Brazil. We don't have armed cadres that roam the countryside looking for evidence of environmental destruction. We don't want that kind of society particularly. Our society depends upon active participation of citizens, and, yes, that involves reporting pollution violations from time to time. I know that when the minister is in a bad mood, he calls such people snitches, but in fact we need active participation as part of our enforcement policy, and we have to protect people who take part in that: the citizens.

The freedom of information sections in this legislation have been watered down very considerably between last year's draft and this year's draft. I suspect that has something to do with the closed-door process in government. In last year's draft it said: certain information is public. In this year's draft: information will be made public if that accords with the regulations but not otherwise. Nothing is presumed to be public. It's the old system where you have to assume everything's secret, and you fire anybody who releases information that they're not specifically

authorized to. That's a deterioration. There's virtually no role in this legislation for private prosecutions. I think that's a part of saying that citizens have environmental rights in our province as well. So I find the legislation is in need of some improvement before we can go around saying that this legislation endows environmental rights upon Albertans.

8:30

Much has been said about the environmental impact assessment process in the past several years, and this is because we've made a lot of environmental mistakes in the past. Everybody knows that, and we're all looking for a system that will help us make fewer mistakes in the future. Well, an environmental assessment process needs to be predictable in terms of the trigger: when you will have one, when you won't. I know that we shouldn't still be arguing about whether there should be an environmental assessment on the Sunpine Forest Products proposal in Rocky Mountain House, for example. It should have been not just ordered but presumed that a major project like that would undergo an environmental review, and it shouldn't really be open to dicker or negotiate on that point.

The process must include as many people as possible. You know, it seems to me that this legislation and the others we've seen from this minister take great pains to throw people out of the system. We had an environmental hearing on the Kan-Alta project in Kananaskis where there were no recognized intervenors. They were all thrown out by the NRCB because the government has a view that only people who are directly affected can be recognized as intervenors in the process.

MR. KLEIN: They wanted to be paid. They just weren't paid; that's all.

MR. McINNIS: Well, okay. The minister wants to go around this claptrap again about how people want to be paid to do things.

MR. KLEIN: Don't talk to me about claptrap.

MR. McINNIS: Well, I had you acknowledge in this House, Mr. Minister, that you have officials who advise you before you make decisions, who help you to read telephone book sized reports, who provide, in effect, information to balance what you may be told by people at meetings, whether it's in industry or what have you. Now, the fact that you have assistants to help you do your work doesn't mean that nobody else in the world should have help and assistance. When people go to become intervenors and you go around saying that they want to be paid for it, that's a crock, and you know it.

MR. KLEIN: They do want to be paid.

MR. McINNIS: What it means is that they want to have research, that they want to have the ability to have their own independent expertise as opposed to the information that comes from government.

Well, you know, I think this is a pretty basic concept. I think the minister still doesn't understand the role of intervenors in a public hearing after three years in office. I think we should have a special debate just to educate him on that subject.

I'd like to debate Bill 23 if I can. When you have public hearings that exclude everybody because they're not directly affected, then you know that the people who are drafting the legislation maybe aren't playing with all the cards above the table, that maybe they have an agenda of their own, that their friends are

going to get their projects through the process a lot quicker if they don't have other scientists, other technicians, sources of information other than what the paid company hacks bring to the table. I think that's a very basic principle and it's completely missed in this legislation. We've got the same bogus notion of who can be an intervenor, the same tired old definition, the one that's crashing and burning right now at the NRCB. I don't think it helps at all to say that people are asking to be paid when what they want is a fair shot at information. You know, when you get a stack of information written in PhD gobbledygook, for an average citizen that's not accessible information. They have a right to have their questions answered in language that they understand, not gobbledygook, not politician talk, but plain, ordinary, simple English. They have a right to have the claims that are made by the paid hack scientists reviewed independently.

That was the problem of the Oldman dam. You know, the hired guns produced reports, and they were rubber stamped, and it went through. It wasn't until Martha Kostuch went to the Supreme Court of Canada and forced independent scientific review that these reports started to tumble left, right, and centre. That's a problem as well: independent scientific review. In environmental assessment it's a question of having decision criteria which are environmental criteria and not political criteria.

Also in the area of principles, I think one of the principles that came through very clearly in my reading of the Evans report, the Thanks from Alberta's Environment document, in every meeting I've been to is that people want a lot more reliable enforcement of legislation. They want to be sure that if people transgress permits, legislation, and standards, there are predictable and serious consequences. Now, it is true that the minister mentions that the amount of the fines has gone up considerably and the potential for a jail term has been introduced, but I find it completely baffling that there's nothing in this legislation that requires the Minister of the Environment to enforce the law. Look at the minister's duties. It has all kinds of things that again sound pretty good if you read them quickly and don't think about them very much, but missing from ministerial duties is any duty whatsoever to enforce the law. Why would a Minister of the Environment bring in legislation with tough, new penalties and not impose upon himself any requirement whatsoever that he enforce the law? That's been the problem in Alberta. There's been no enforcement.

There was some criticism that the word "shall" didn't appear often enough and the word "may" appeared too often, so listen to the kind of stuff that they write. This is one of the minister's duties. Right? "The Minister . . . shall generally do any acts the Minister considers necessary." Whoa. Well, blow me over. There's a solemn duty. He has to do anything he "considers necessary to promote the protection and wise use of the environment." Isn't that the same as saying "may"? I mean, if you say that he shall do whatever he thinks is necessary, well, of course he shall. If he didn't think it was necessary, he wouldn't have done it. That's a tautology. It's totally meaningless, whereas the precise obligation to enforce the law, which is the basic oath of office that the Attorney General and Solicitor General take in terms of their law enforcement functions, is just completely missing from this particular legislation.

What are the principles in this legislation if they're not the ones that we heard from Albertans: the central role of the ecosystem, of biodiversity, and of environmental rights; an environmental assessment process which is accessible, fair, and effective; and secure enforcement with tough penalties. It's the same tired old mandate. It's the one that's been used for years and years and years. It's the protection, enhancement, and wise use formula. I'd like to talk about that for a moment. We've have Alberta

Environment for 20 years doing environmental protection, and we have this report released last week on the Wapiti and Smoky river system which says that when it comes to our water quality standards, there are just a few problems.

MR. KLEIN: Who released it?

MR. McINNIS: It was released by Alberta Environment. So this is the environmental protection that we get in Alberta. We have noncompliance in

odour, colour, sulphide, aluminum, chromium, manganese . . . nitrogen . . . phosphorous . . . phenolics, dichlorophenol, and . . . coliforms.

How about dioxins/furans?

MR. MAIN: It's 100 percent of the recommended daily allowance.

MR. McINNIS: It's 100 percent of the recommended daily allowance.

Environmental protection is a good concept, but I think that what Albertans need is a notion that the legislation and policy behind it aren't going to give us more Wapiti and Smoky rivers, more Canada Creosoting, more industry waste in public landfills all over the province, more bleached kraft pulp mills. I don't see anything in this legislation that by itself prohibits any of that.

What about the area of enhancement? I've often wondered what the minister meant when he talked about enhancement of the environment. What can you do to the environment to enhance it? I think I got the answer when he talked about Buffalo Lake. He said that God created a problem there, and Alberta Environment could solve the problem. Sure enough, 17 million of our dollars are going to be spent to raise the level of Buffalo Lake as an example of environmental enhancement. I don't really think that enhancement has very much to do with this legislation at all. There isn't a whole lot in here that is directed at enhancement. I guess that if by enhancement we mean more Buffalo lakes, where influential people in government get to have the value of their property enhanced at the taxpayers' expense, perhaps that's a good thing, but I think maybe we need to look for new values, ones that are more in accord with what Albertans want rather than environmental enhancement.

Now, the question of wise use is something I've wondered about quite a bit. There are these wise use groups that are springing up in British Columbia and Alberta. I see various ministers brandishing copies of Dixy Lee Ray's books. She's the high priestess of the wise use movement, which is essentially a vehicle to trash people they want to tag with the environmentalist label. Now, I don't really think that Alberta Environment's into that game at all, but I just wonder why that particular phrase has so much vogue and currency when in fact it doesn't have a lot of meaning. It's sort of like sustainable development, which differs depending on which side you look at. You know, if you cast your eye on the sustainable part, there's one series of thoughts, and if you cast your eye on the development part, there's another. There are people who play both sides of that agenda as they desire.

8:40

So I find generally that the legislation doesn't ring with the kind of philosophy that accords with the values that Albertans have told us they want. Now, I believe the legislation can be fixed, and the New Democrat opposition is committed to do just that. We will be proposing some amendments in committee, not a tremendous number, probably about 11 in total. They will deal with the

following matters. I'll table them as soon as they're finalized so that the minister and his advisers, the paid officials, can have an opportunity to review them.

I think probably the key one is to amend section 2 to bring in a sense of the values of ecosystem and biodiversity and also to make it clear that we think that Albertans have a right to be heard and informed and properly served by the process of environmental assessment, not the sort that depends upon the goodwill and good graces of the government. We're certainly going to introduce an amendment which suggests that the minister has a duty to enforce the provisions of this Act.

We will be amending the legislation to make it clear that certain information is public information and simply does not depend upon cabinet decision and regulation as to where, whether, and in what manner it is to be released publicly. A very important concept: freedom of information.

We have an interest in amending the reclamation sections of the Act to deal in a stronger way with so-called orphan sites. We have a lot of places in the provinces which are abandoned industrial works which cause a current and a future potential threat to the environment, and we think that that whole area needs to be strengthened in terms of its administration. In particular we think there should be an independent board which administers the environmental protection and enhancement fund, which is one of the key instruments in here to try to make sure that work is done when it needs to be done on contaminated sites or industrial activities or processes or whatever where environmental harm is taking place. The administration of that fund is very important, and we think that it needs to be beefed up in terms of its ability to acquire the kind of asset base it needs to do the job. So there'll be a comprehensive amendment along those lines.

We will be amending the environmental assessment process to clarify the purposes of environmental impact assessments and to clarify this question of who's in and who's out. It has not worked a hundred percent in the past. Whatever else you can say about the Oldman dam, you can certainly say that that was a botched environmental impact assessment from a provincial government point of view. Well, the Member for Banff-Cochrane is shaking his head. He wouldn't know a proper environmental impact assessment if it hit him right in his riding, for crying out loud. He certainly doesn't get them in his riding anyway. The Canmore resort project slides on through, no review whatsoever. The Three Sisters project: carve out a little bit here, carve out a little bit there. The Kan-Alta project: throw all the intervenors out and proceed and have it . . .

SOME HON. MEMBERS: Say that outside the House.

MR. McINNIS: I have no difficulty saying that outside the House, none whatsoever.

The environmental assessment process in this province needs to be cleaned up. The minister recognizes that. He's the one who appointed the task force that reported well over two years ago. To date I guess you'd have to consider this to be the response, but again there are a lot of loopholes. There's a lot of ability to exempt not only projects but whole classes of projects. You know, there may be other Canmore resorts that are waiting to be exempted down the line. Albertans have no protection. We can't be certain that this legislation will be used wisely by governments in the future.

[Mr. Jonson in the Chair]

The question of the “may” and the “shall”: you know, this was the central theme of the hearings before the Evans committee, and the report that was filed noted that when it came to process issues, you would find the word “shall,” but when it came to decision-making, you’d find the word “may” time after time after time. That type of wide open discretion which has been a feature of our environmental legislation since the beginning, for the past 20 years, is continued ad nauseam in this legislation. There are probably a couple of dozen places where that legislation needs to be strengthened, and it will be but in the context of a single amendment. We will be amending the decision-making criteria to try to take the politician’s language out of it and try to put some environmental language in. After all, this is an environmental Bill. This is not the politician protection and enhancement Act; this is the Environmental Protection and Enhancement Act. We take it that the purpose is to enhance the environment and protect it, not the ability of politicians to exercise power. Again I find the decision criteria to be a prime example of the old politics as opposed to the new politics that the Minister of Energy was waxing so eloquent about at *Toward 2000 Together*. You know, Mr. Speaker, they pick up the lingo so quickly, but the reality lags far behind.

I think that, in particular, when you look at sections 62 and 65, they cry out for amendments. There will be amendments dealing with certificates of variance. You know, the idea that environmental licences mean nothing when it comes to an appeal behind closed doors to the minister is repugnant to most people, and I’m quite concerned that . . .

MR. KLEIN: It’s never happened.

MR. McINNIS: The minister says that it’s never happened. Well, who was it that authorized Procter & Gamble to dump a few hundred thousand extra tonnes of solid waste material into the Wapiti River in the summer of 1989? It wasn’t me who did that.

MR. KLEIN: What about the city of Edmonton dumping their crap into the North Saskatchewan?

MR. McINNIS: That happens too. [interjections] Well, I’m not here to defend anybody dumping outside of the . . .

MR. MITCHELL: That’s Jan Reimer.

MR. McINNIS: The Member for Edmonton-Meadowlark says that Jan Reimer is to blame.

Speaker's Ruling Decorum

MR. ACTING DEPUTY SPEAKER: Order. [interjection] Order, hon. member. I would ask that remarks be addressed to the Chair and also that all sides of the House refrain from overly zealous heckling.

Debate Continued

MR. McINNIS: Let’s speak one at a time on this. Okay?

I’m not here to defend anybody exceeding their permits. What I’m saying is that a permit should mean something. The law of the province should mean something, and it shouldn’t be subject to variance certificates, letters of permission, or any other excuse to ignore what most people take to be the law and regulation.

We look forward to debating this in committee, Mr. Speaker.

MR. ACTING DEPUTY SPEAKER: The Member for Edmonton-Meadowlark.

MR. MITCHELL: Thank you, Mr. Speaker. I’m going to try to rise above this nattering that was going on back and forth between these two factions in this House. I’m going to do what should be done in second reading and deal strictly with the principles of this Bill. They’re hard to find.

Mr. Speaker, I would like to say, by way of introductory comments, that there is something to recommend this Bill, which is an effort to consolidate environmental legislation. There will be some advantages to that, I’m sure. My general concern would be that this Bill not be construed as environmental leadership by the minister, by this government. This is a very technical Bill. It deals with technical matters in a technical way, and it does not address a sense of vision about what we should be doing in this province with respect to the environment. It doesn’t bring together the efforts to put economic development in perspective with respect to environmental degradation. It doesn’t address a broader vision of what Albertans want or need with respect to the environment. It doesn’t really address the very difficult issues about how we begin to restructure the priorities in our society and give the kind of priority to environmental protection that is required by the state of the environment not only in this province and in this country but in the world today. It doesn’t address how a province like Alberta with its sophistication, with its relative wealth could provide leadership literally throughout the world with respect to environmental protection and cleanliness.

8:50

It doesn’t address issues of how we might begin to reassess economic development, begin to talk about appropriate economic enterprise, and begin to see where it is that we can replace the kind of development that seems to be the obsession of this government – with pulp mill after pulp mill after pulp mill, for example – replace that kind of development with development that promotes the environment and its protection, such as tourism. Just recently we’re beginning to see how ecotourism is becoming a major economic advantage, economic initiative for countries like Brazil. Attitudes are changing in a way that promotes and emphasizes that kind of economic enterprise over the kind that this government is still pursuing, a government that seems to be stuck in the 1970s.

So yes, this is a technical Bill. It addresses some technical issues, some issues far better than others, some issues not at all. But it is not a component of the environmental vision for this province that should be an integral feature of a government’s platform, a government prepared to provide true leadership for this province.

We are concerned with a number of issues that arise from this Bill, Mr. Speaker. One is the question of public participation and the manner in which the section of this Bill on public participation defines “directly affected.” Directly affected excludes most people, and it is premised upon a very limited view of who is affected by projects which degrade the environment. It is logically impractical in many areas of this province. To say that “directly affected” is the condition upon which an individual has access or the right to public input to a review process is to say that on many projects on Crown land, miles from any particular residences or development, there will be nobody from the public who would qualify under the term “directly affected,” and that’s simply unacceptable.

Clearly, if you take the expansion of the Kananaskis golf course, very few people would be defined as directly affected, yet many

people, all Albertans in fact, have a right to a say in what's going to happen to those lands. People who live downstream of developments like that have a right to a say in what's going to happen to their source of water and so on. So "directly affected" is far too limiting and seems to be a choice of words which has political implications, and if it isn't strictly politically motivated, could certainly be subject to political manipulation.

We would like to see "directly affected" replaced with wording like "anyone having a legitimate concern." Where this would be particularly relevant and important would be in section 42(6), which deals with statements of concern about a proposed activity; section 84(a)(iv) and (v), for example, which deal with notice of objection to an issue, amendment, or deletion of an improvement. Section 84(g) and section III(1) are also sections which we have identified where this wording is relevant. This, I should point out, Mr. Speaker, is not an exhaustive list. So the manner in which we define the right to public participation in any hearings process is far too narrowly defined. I think it may have been narrowly defined for the wrong reasons. I think it is a dangerous feature of this Bill, and it jeopardizes what could otherwise be a much more effective section of this Bill.

We are also concerned with the degree of political power or potential for political intervention in environmental review processes. The minister, the cabinet retain a degree of power, Mr. Speaker, which we believe is unacceptable. The minister will be able to define in many cases what projects will receive an NRCB review and what projects won't. This seems to be inconsistent with precedent elsewhere in this government's administrative structure. The ERCB has as a matter of course the power to decide itself what projects it will review. While the ERCB probably should only review projects for energy-related issues, and environmental implications of energy projects should be reviewed by the NRCB, the fact is that the ERCB does review projects for their environmental implications and makes that decision itself. It is wrong that this government would structure the Bill in such a way that many decisions about projects to be reviewed or not reviewed will remain under political influence.

This problem is exacerbated with respect to the operation of the environmental appeal board. The environmental appeal board will make recommendations to a minister. The environmental appeal board will not under this Act be able to make decisions. In either case, clearly there is the opportunity for political review, for an appeal to the political level. I would argue that ultimately that should always exist. In this process, in the democratic process we need to have political accountability, but it is much, much easier politically for a cabinet minister, the Minister of the Environment, to overrule a recommendation than it is for a cabinet minister to overrule a decision by a board.

What is ironical in this case is that the NRCB in fact is given the power to make decisions. The environmental appeal board is not given that power. It's interesting, if one looks at the wording, that the minister seems to have used very, very careful, selective if not almost manipulative wording to cover his trail in this respect, because he says that the environmental appeal board will make decisions but will recommend those decisions to the minister, trying to cover both bases. The fact is that it amounts to a recommendation. The fact is that it is much easier to overrule a recommendation than it is to overrule a proper decision by a board of this nature.

We are also concerned with a lack of rigour when it comes to specifying criteria for certain powers of the director as defined in this Bill. In many respects the director's decisions about whether or not an environmental impact should be required remain very largely subjective. Wording to the effect that the director should

require further assessment if he or she is reasonably of the opinion that the activity may have a significant impact on the environment would be wording that we feel would specify and reduce the subjectivity – although it's difficult, I know – of what processes the director will undertake in determining whether an environmental impact assessment would be required.

The director has a good deal of discretion also in determining when and how much security a certain operator, commercial enterprise might have to put up in anticipation of environmental damage or conservation reclamation activities being required in the future. The amount of the security will be determined by the nature, complexity, and extent of the activity, the type of terrain, et cetera. This is specified in regulations apparently, but we don't have specific criteria on which to base the amount of the security. I believe that guidelines could be placed in the legislation to direct the director, and in fact they should be placed in the legislation.

9:00

The disclosure of information. It is to the minister's credit that he's gone considerably beyond his own government's initiatives elsewhere to at least address the issue of disclosure of information, but again his provisions are quite limited. His provisions allow documents to be kept confidential if they contain a trade secret. Most if not all Canadian access to information statutes contain instead provisions which require disclosure if the balance of the information is severable. That is to say that if you can cut out that portion which is a trade secret, then the rest of the document would be required to be released. It seems that this is not a subtle distinction; it's an important distinction. It is difficult to believe that it would be an oversight. Rather, it's very likely that it is a specific decision. It seems, however, not to be that much of a problem if one thinks about it. The fact is that the minister is willing to require certain documents to be released. A document with a trade secret excluded would seem to me to amount to any other document that didn't have a trade secret in it in the first place, and therefore this distinction should apply without difficulty for the minister.

There is no specification of time lines in most cases in this Bill, and clearly timing is very, very important. It would be an improvement, and in fact an improvement in principle, that time lines be specified in this Bill or at least in regulation. The effect, the manner in which regulations can be manipulated, the manner in which this legislation will be applied, its effect, will in large part, at least not in an insignificant way, be determined by the time lines specified for the processes determined within this Bill.

There is no whistle blower protection. There is provision for individuals to request an investigation, and that is a provision with merit, but there is no provision to protect people who would undertake to do that through confidentiality; that is, the specification that their names could not be released. If this particular provision is to have real effect – that is to say, if individuals are to believe that they can request an investigation without undue pressure being brought to bear on them personally – then it can work. If whistle blower protection that would allow for that is not included in this Bill, then it will not work. The minister will say that we need whistle blower protection elsewhere, that it should be a general feature of government administrative law. However, on the other hand he's willing to put in disclosure of information legislation. You can make the same argument. That should be generally applicable to all government processes as well. So the minister can't have his cake and eat it too. If he's willing to take a legislative idea that should have general application to government – that is, disclosure of information – and specify it in his Bill, then he can't turn around and exclude whistle blower

protection by saying that it should have a general application to all government processes. He has to do both to be consistent.

Penalties. There is some improvement in the manner in which this legislation defines penalties, and it does in fact address the issue of imprisonment for individuals. We believe that the possibility for imprisonment as a penalty should be broadened to other sections. There are sections in which it could apply, but it simply has been excluded. Sections 59, 97(2), 155, 177, 211(e) would all be sections which are not unlike section 212(2) under which at least a six-month jail term is provided for. It's difficult to understand why the minister would hesitate to extend imprisonment as a possibility to these other sections in this law.

Economic instruments. The discussion of the economic instruments is encouraging. There is evidence that the use of tradable permits can be a very, very positive way to encourage commercial enterprises to reduce polluting emissions. While this isn't exactly a tradable permit, it is an economic instrument. That is the idea of an environmental levy on automobiles. Those that are less efficient would pay higher levies. When one considers the impact of carbon dioxide on our environment, for example – and certainly so much evidence on that is now being discussed out of the Rio de Janeiro conference – it is difficult to accept that anybody needs to drive a fuel inefficient car. It just is a luxury that we simply cannot afford, and in fact I would put it in terms of a moral obligation not to pollute frivolously, which driving big, fuel inefficient cars does. It simply does. So what we would like to see and what we'd like to see the government embrace is a piece of legislation. [interjection] Well, you think it's okay to pollute, Doug, do you? Why don't you do that? Why don't you get a bigger car? Why don't you get 16 cylinders, Doug? Maybe 32 would be twice as good as that yet.

MR. ACTING DEPUTY SPEAKER: Order please.

MR. MITCHELL: The fact is that if a minister's ego requires that he have one of those big cars so that his neighbours can say: "Must be successful. Our taxpayer dollars have just bought him four extra cylinders, and he can pump that much extra carbon dioxide" – if he requires that, maybe that is the motivation for that kind of legislation, a provision being excluded from this Act. The fact is that we pollute by driving those cars, and the fact is that at the very minimum if people are going to drive them, they should be required to pay a whole bunch of money for doing it. What we need to do is follow the lead of Ontario, which implemented a number of years ago an environmental levy, progressive, costing more as the new cars being purchased were less fuel efficient.

AN HON. MEMBER: Bikes.

MR. MITCHELL: Drive bikes? Wouldn't be a bad idea. Sort of get those double-breasted suits that the minister of culture wears a little mucky if he did that.

The environmental appeal board, as I mentioned before, I just want to reiterate is a critical feature of this legislation. It has something to recommend it. It is important, however, that its powers not be curtailed. It should be making decisions; it should not simply be recommending. It is also the case that due to problems of disclosure under this process, somebody objecting to a proposal before the environmental appeal board may not have all the information available. If problems of confidentiality occur as well, we believe that the Ombudsman should be able to represent the public interest at an environmental appeal board hearing, that

that should be a recourse for somebody who wants to approach the environmental appeal board.

The environmental protection order for release. This seems to be replacing certificates of variance, the stop orders. It may well work as an improvement over those things. What the Bill doesn't appear to provide for is that the public would be informed when a protection order of this nature is released, that there is no mandatory provision that there be public notification of such an order, and it seems to us that while the government has tended to do that, to the extent that they have tended to do that, it wouldn't hurt to put it into the Bill and provide just that much more security for people that pertinent and important information will be released.

9:10

CFCs. That's a current and important issue, and a very disconcerting issue. The Act does deal to some extent with CFCs, but we believe it doesn't deal with it broadly enough. Certainly the regulations seem to deal with it, but they deal particularly with the manufacture and sale of CFCs and halons and venting during the testing of fire extinguishers. They do not specify the collection and recycling of CFCs from air conditioners, and certainly this could be dealt with under, if nothing else, the recycling portion of this Act. This Bill also doesn't address the issue of HCFCs. Other Bills do. Manitoba, and New Brunswick as well, has much broader and rigorous provisions for the regulation of CFCs. We believe that this Bill should deal with the collection and recycling and eventual destruction of CFCs from refrigerators and air conditioning units. We believe that those working on such systems should receive training and registration. We believe that products containing ozone depleting substances should be labeled. Certainly this is done as a matter of course in Manitoba. New Brunswick goes beyond even these things and treats HCFCs as CFCs for recycling. HCFCs are in the New Brunswick case to be used as transitional compounds only until the year 2000. There is a complete ban on all new halon systems.

The fact that we have through conscious effort created and utilized chemicals that have depleted the ozone and continue to do so, so that we have significantly altered our style of living – that is, we are endangering our health, and now parents are finding themselves having to lather their children in sun block when they send them outside – the fact that that has occurred should be enough in and of itself for this minister to be extremely aggressive about CFCs. If it is that he cannot be aggressive about that when there is such overwhelming evidence of its consequence for us and in particular for our children, it raises serious doubts and suspicions about this minister's and this government's capability of doing anything of true significance and consequence with respect to environmental protection.

We're pleased to see that there are provisions for groundwater and related drilling. We are pleased to see that there is provision for a recycling fund. It will be interesting to see exactly how that fund will be funded and how the funds that arrive in it will be utilized. It seems that a levy on fuel inefficient cars would be one way to fund it, and it would be interesting to see the minister embrace that idea.

There is nothing in this Bill to prevent the importation of hazardous wastes for disposal. Draft regulations seem to ban the import of hazardous wastes for disposal, but they do not ban the import for treatment, and it seems that hazardous wastes could be imported for storage with the permission of the minister. We would like to see those possibilities banned.

There is a general problem with the fact that we do not have the final draft of regulations available at this time. They will have an

impact, clearly, on the effect of this Bill and how it will be applied. It therefore makes it difficult for us to properly evaluate the impact of this Bill.

Mr. Speaker, this essentially covers my concerns: political influence, the influence of the minister, the definition of "directly affected" as being far too limited, the lack of whistle blower protection, the lack of more aggressive and broadly based provisions for the control of ozone depleting substances, and disclosure of documents, limitations. In addition to these features, there is one other point I would like to make, and that is with respect to private prosecution. The Evans panel recommended that private prosecutions should be stayed by the Attorney General only with the consent of the court. The level of grass-root desire to have a responsibility in this process in this province, the need for a true grass-root level accountability I think call for the need for fairness in the application of this private prosecutions provision. It is the fact that the Evans panel was very farsighted, I think, in recommending that, and it's difficult to understand why the minister would not accept this particular recommendation from a committee chaired by one of its own MLAs.

Thank you very much, Mr. Speaker.

MR. ACTING DEPUTY SPEAKER: The Member for Banff-Cochrane.

MR. EVANS: Thanks very much, Mr. Speaker. I'm delighted to have an opportunity to make some brief comments on the principles of Bill 23, the Environmental Protection and Enhancement Act. I would like to begin by congratulating the minister and his department and the hardworking people in the Department of the Environment for their perseverance in bringing forward this very bold and very proactive piece of legislation.

At the beginning of this process, Mr. Speaker, the intention was to incorporate into one piece of legislation nine environmental Acts in the province of Alberta and at the same time create a one-window approach that would make the legislation user friendly and give the public an opportunity to be effectively involved in the decision-making process from the earliest possible opportunity. I firmly believe that the Act has accomplished that and that the time and effort that's been put into the draft legislation, Bill 53 as introduced in the Legislature last year, and now Bill 23 this year will clearly serve Albertans well for the balance of this decade and into the 21st century.

The legislation is very consistent in attempting to ensure a one-window approach for those who refer to the legislation so that they do have an opportunity to see a consistent process from start to finish. This is accomplished in the Act, recognizing, Mr. Speaker, that this is complex legislation. It's complex because it is regulatory legislation that controls impacts on our environment. It must therefore be much more than mere philosophical platitudes; it must have a concrete process for ensuring that our air, our land, and our water are protected today and for our future generations.

One of the most important provisions in this legislation is increased public participation, and by legislating the environmental impact assessment process, that public participation is ensured to be meaningful and thorough.

9:20

The polluter-pay concept and the penalties that are imposed by the Act for contravention of the rules that society, the people of Alberta, set for environmental protection clearly point to an effort by the government and the Minister of the Environment to be sure that the punishment fits the crime. Once the crime has been identified, then the punishment is very severe, and very severe it

should be in the most extreme cases. As the minister has indicated, there is a hierarchy of offences under the Act, and the most stringent penalties of \$1 million per incident and two years in prison or both attached to the most extreme cases of environmental degradation where there is a guilty mind.

I think it's also very important to recognize the provisions in the Act that deal with the responsibility of directors, officers, and both municipal and provincial officials if they take an active role in environmental degradation.

The fact that Albertans had an opportunity through the Environmental Legislation Review Panel process to give their comments to the minister, to give their comments to the government and the cabinet, I believe shows that there was a commitment from the very beginning that this legislation would be not only adaptable to the concerns of today but would be responsive to the concerns of the future.

I really do take exception to some of the comments made by opposition members who have spoken tonight who have said that the process has been far too long, that recommendations have been watered down. The process has been long because it has been consultative. It has allowed for substantial input by average Albertans, by vested interest groups not only in the legislation itself but also in the regulatory process. If members were to review the report of the Environmental Legislation Review Panel and then look at the implementation of those recommendations through the Act, through the regulations, and through the policy processes and practices of the department, I'm sure that they would be convinced, as I am, that the majority, the clear majority, in fact the greater majority of the recommendations that were made by the panel that I was so pleased to chair have been implemented by the Department of the Environment. Those recommendations, Mr. Speaker, came from members of the panel who represent industry and business, who represent our agricultural community and our energy community, who represent local government and, very importantly, represent environmental groups in the province of Alberta.

There was comment made by both opposition members who spoke to this Bill about the whistle blower protection. The whistle blower protection was recommended by the Environmental Legislation Review Panel and I think for good reason, the reason being that if we recognize that we don't wish to and can't afford to have enviro police on every corner in the province of Alberta, we have to be sure that Albertans take responsibility for impacts on their environment. To ensure that they take that responsibility freely and without fear of recourse to them is a many-faceted debate, but what's most important in the exercise is to ensure that a legitimate concern raised to Department of the Environment officials about an environmental problem cannot result in any type of negative repercussions to that employee. Now, the concerns that were raised when this issue was debated during our hearings were twofold. One, we didn't want to encourage frivolous claims by disenchanted employees, because that could be an extremely expensive proposition to industry in the province of Alberta. On the other hand, we wanted to be sure that legitimate claims and concerns raised by employees could not result in those employees being dismissed.

After a careful review of this issue, the minister – while I don't think he's necessarily convinced that whistle blower protection is important, Mr. Speaker – I think has taken at least the first step in saying that this kind of an issue should be addressed by government. I think quite properly he said that the Department of Labour, as the department responsible for labour issues throughout the province and in its many facets, should be the lead agency in dealing with this issue. It's my understanding that the Department

of Labour is reviewing the issue of whistle blower protection. It's my personal hope that the minister will be making some recommendations to this House in due course, because I firmly believe that with controls to ensure that frivolous claims will not be made by those disenchanted employees, it is nonetheless very important that we protect those who make legitimate representations to government about legitimate concerns about environmental degradation.

I want to make a couple of comments about three environmental impact assessments, Mr. Speaker, that are ongoing in the Bow corridor in the area that I'm proud to represent and in the area where I've lived for the past 15 years. I have no intention of lowering myself to the level of Edmonton-Jasper Place in the gratuitous comments that he made earlier this evening. Instead what I will do is make some comments about the reality of the three environmental impact assessments that he referred to.

The first issue that I want to deal with is regarding the Kan-Alta project. I had the pleasure of attending part of the environmental impact assessment review by the NRCB just outside of the Bow corridor on Tuesday of this week, June 2, and for the member to have given the impression that, I think, in his words, intervenors were "thrown out by the NRCB" is quite frankly, Mr. Speaker, irresponsible. The board has a mandate and must operate under certain rules. The interpretation of the board of those who sought funded – and I stress the word "funded" – intervenor status to appear before the board was that there were no parties that were directly affected and therefore none that would qualify for intervenor funding. Nonetheless, it was important, I believe, to see that a number of interested parties did take the time to make representations to the NRCB at the hearing at Rafter Six Guest Ranch.

The Kan-Alta project is a project that is proposed in an area that has been identified for multiple use, Kananaskis Country, and it is important that the proposal does receive environmental review. The minister has come to the conclusion that there could be environmental impacts that could be significant and therefore the project should be reviewed. I'm very pleased that the opportunity is there for the panel or the board to examine the evidence and then make a recommendation. I think this ensures some certainty of process and will give all those who are interested in making a presentation the opportunity to do so.

9:30

I want to move on to the CADCO application, Canmore Alpine Development. I believe the Member for Edmonton-Jasper Place has stated that that project was approved without any kind of a thorough environmental review. The member should realize that that project came on stream as a concept of the developers as early as 1986-1987. It came about as a result of considerable discussion and communication not only between town officials and the proponent, not only between the proponent and environmental groups in the corridor and beyond the corridor representing environmental interests throughout the province but also in conjunction with the people of the community of Canmore, people in the area.

The proponent, the developer, has really taken a very, very positive attitude about public input. The proponent has gone through all of the government regulatory processes reviewing such things as the wildlife migrations, such things as the forest that is involved in the application footprint. Approval was granted to the proponent prior to, well in advance – well in advance, Mr. Speaker – of the NRCB process coming into play. Now, there was never any suggestion, nor in my humble opinion should there be any suggestion, that the NRCB process should have been

retroactive. To suggest such would be abundantly unfair to those who have in good faith gone through the regulatory process to gain approval for their projects. However, that said, only phase 1 of the Canmore Alpine Development project has been approved and has been given development approval by the town of Canmore. The balance of the project process will undoubtedly result in a review by the NRCB. The developer is well aware of that.

There has been, apparently, a report commissioned by and prepared on behalf of Parks Canada, the Canadian Parks Service, which identifies some concerns about wildlife migration which begins within Banff national park and moves through the Bow corridor. It's my understanding that the contents of that report will be reviewed in due course. I think there will be a discussion about the contents of the report and any recommendations the report has between our Forestry, Lands and Wildlife department and the federal government. That's appropriate. I do not question the Canadian Parks Service for expressing concerns about wildlife in their jurisdiction. I don't think that's in any way, shape, or form a condemnation of the approval process for the Canmore Alpine Development project but rather recognition that the Canadian Parks Service has responsibility for wildlife within its jurisdiction and concern that wildlife have migration routes outside of Banff national park.

Then moving to the Three Sisters project. In a way this is a very exciting process with respect to Three Sisters. It's a very large piece of land located in the Bow corridor, and on June 15 the NRCB process with respect to Three Sisters will begin. The board has come to the conclusion that a number of those who sought intervenor funding were eligible for that intervenor funding. Those funds will be paid to the funded intervenors by the proponent.

I am sure that this process will be an enlightening process for all those involved. I've seen the environmental impact assessment that was required to be prepared by the Department of the Environment. It's well in excess of 12 or 14 inches of material, Mr. Speaker. A great deal of scientific material and very important information is contained there not only for the Three Sisters project but also for the entire corridor with respect, again, to migration routes, air distribution and transportation throughout the corridor, and a number of other issues including clean water.

Now, what the NRCB process will do as a result of this legislated environmental impact assessment process that is in this Bill 23 and has been implemented by the Minister of the Environment is again ensure that all of the issues are discussed, debated, and then whether or not this project goes beyond the carrying capacity of the corridor or whether a recommendation will be made to the Lieutenant Governor in Council that the project be approved. I think this process is very exciting not only for tourism projects like the ones that I've mentioned but also with respect to forestry projects, dam projects, quarriable mineral projects, and I want to commend the government for the legislation that requires all of those types of projects to be reviewed. That's recognizing, of course, that the tourism projects are only reviewed if they are identified by the minister as having potentially significant environmental impacts. The other projects that I've mentioned are mandatory review projects.

So we see, Mr. Speaker, that there is a process now in place that gives Albertans an opportunity to input; not only that, but gives directly affected Albertans financial resources upon application to bring their points of view forward, to give them an opportunity for independent research and for professional presentation of their positions. That's what this legislation is all about. It's about involving the public. It's about being proactive. It's about ensuring that we do have the cleanest environment in the province

of Alberta that we possibly can, but it also means that we must recognize the concept of sustainable development and recognize that there is a correlation between our economy and our environment.

Our review panel heard from a number of people who were concerned that there be any reference whatsoever to economic issues in the legislation. Because the Department of the Environment is responsible for environmental protection they were concerned that the only issues that it should deal with and the only focus that it should have in the Act should be on environmental matters. It was the feeling of the review panel that that would not be in the best interests of the Department of the Environment and certainly wouldn't reflect the focus of our government and a number of other Albertans who said we do have to integrate the environment and the economy through the concept of sustainable development. We have to make sure, Mr. Speaker, that our legislation – and what a perfect example of an opportunity to focus this concept in this legislative package, to ensure that we recognize that it's not a matter of saying one or the other. It's not a matter of saying we either protect the environment or we develop our economy, but rather that we have the opportunity for an integration of those two concepts, that we have an opportunity to ensure that we look at economic issues in the Act but that clearly the focus of the Act is on the protection, the improvement, and the wise use our environment now and into the future.

I'm very pleased to have had the opportunity to make these brief comments on the principles of the Act, and I look forward to further debate at committee stage.

Thank you.

9:40

MR. ACTING DEPUTY SPEAKER: The Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. I wish to add some comments to the debate this evening on Bill 23.

Bill 23 does represent, I think, an important milestone in the development of environmental policy in this province, but one can hardly say anything except that it's about time. After three years of talking, finally we get this Bill. As my colleague from Edmonton-Jasper Place pointed out, it's a move in the right direction, so it's a Bill that we can at least support some aspects of, but it does come up short in a number of areas. This Bill was before the Assembly last year and was promised the year before that, so we've ended up with two or three years of debate and discussion, and finally we get the Bill. The minister, of course, tries to make out that that's a virtue. Actually, of course it's just covering up for procrastination. They put off as long as they possibly could developing an environmental Bill that would have some teeth in it, and even then, it doesn't have a lot of teeth. Too much of it depends on the attitude the minister takes or his officials take. They have sweeping powers to decide the fate of this Bill and the direction it will go, and I'll get back to that subject a little bit later.

The Bill should not so much be compared to what we had in the past, which was certainly not good enough, but it should be compared, each step along the line, with what would be the best for the protection of the environment and with what the people that are environmentally aware and concerned have been asking for. Looked at in that way, I think we'll find that the Bill comes up short in a number of areas.

I want to look at the section on page 20, the purposes of the Act, which the minister went through in some detail. I want to look first at subsections (b) and (c).

The purpose of this Act is to support and promote the protection, enhancement and wise use of the environment while recognizing the following.

Notice that word "use" there. The word "wise" in front of it I suppose is supposed to make it a good thing. Wise use: I mean, that's something that everybody likes. But might not it occur to the minister that we could think of an area of the province where you might not want to use it? I mean, the word "use" has the context of exploitation, and perhaps we'd want to protect an area just for the sake of protecting the environment; let's say an old growth forest, for example, or something like that. So there's an implication all the way through this Bill, and it's exemplified mainly in points (b) and (c), that all our resources are to be used or to be exploited. We are to have growth, and we are to have development. Now, you soften those words by putting "sustainable" in front of the word "development". But if you think about the conference down in Rio de Janeiro now about the environment, you would understand that people are saying things like, "We've got 5.4 billion people on this Earth, and maybe we have to start thinking about limits to growth," along the lines of what the previous speaker was just saying.

Perhaps the role of a Minister of the Environment is to think about protection of the environment, not so much about growth. Maybe growth is something that the Minister of Energy, the Minister of Economic Development and Trade, the Minister of Agriculture, and the Minister of Technology, Research and Telecommunications should be thinking about. It doesn't mean that the Minister of the Environment shouldn't be concerned about what they're planning, but his role maybe should be protecting the environment and making sure that what they are planning is not going to wreck the environment too much. Of course, that's what he'll say he is doing, but it is a little bit like in the agricultural situation. For instance, we have too many of the canals and water resources, the irrigation systems, being controlled by the Department of Agriculture, whose interest is not in being careful about the use of water resources and controlling the environment around that. Their interest is in expanding agriculture and growing more things, whether or not that's good for the environment. We see that in the building of dams like the Oldman dam.

I think the minister has in some sense – you could look at it one way as sort of saying that he's taken the bull by the horns and said, "We're going to make sure that this growth is done in an environmentally sustainable or an environmentally friendly way," but I don't think it's his role to talk about the growth. I think it's the role of other people to talk about the growth and his role to talk about whether or not he would let it go ahead and, if so, then how it can be done. It should be done in that context.

The question is really one of how we structure our priorities, and obviously our priority in this society and under this government is still one of growth creation, when we should be stopping to think about whether we can afford more of that growth or not. The kind of growth that we consider also is important, and I think the minister should think about that, as should all the ministers on the other side of the House.

We should think about whether the things we are proposing are appropriate or not, not just from the point of view of will it generate more wealth for a few people, but will it create jobs, for example. Right now we're in the middle of a big recession. It's all very well to talk about getting the economy going again and getting a bigger gross domestic product. That seems to be the chief aim of both the federal government under the Tories and the Alberta government under the Tories, without too much consideration as to who is benefiting from that growth in the gross domestic product. Unless we think in terms of creating more jobs

and more wealth for the people who are now the working poor or are unemployed or on social assistance, then really we're not making much in the way of gains. If all we're doing is putting more money in the hands of people who already have more than they have time to spend and pushing more and more people out of middle-level paying jobs where they have some security and some benefits, pushing them out and then hiring them back on contract labour at minimum wage so that they join the working poor and the unemployed and the social assistance people, then the increase in the gross national product, or in this case the Alberta gross domestic product, is really not of a great deal of benefit to a lot of the people in the province. So you have to think about the word "growth" and how it's being used and who's benefiting from it. I don't think the minister has given that the due consideration it deserves.

There are a few of the other principles here that I'd like to just comment briefly on. For example, (e) talks about

the need for Government leadership in areas of environmental research, technology and protection standards.

Now, it's true that we have had some commitment by the government on research and technology, like in the Alberta Research Council, but I don't see this government as having led the way in terms of environmental research and environmental concerns, and I really don't see them changing much in the future. We've had 20 years of the government dragging its feet. They're not going to get many more years to drag their feet, so I guess probably it's all right. If we get a minister from our party, we will get some action in that area, I guess.

I want to skip down to subsection (h) of the purposes of the Act on page 20. It says:

The responsibility to work co-operatively with other provinces and the Government of Canada to prevent and minimize transboundary environmental impacts.

I think the minister should check very carefully with the Alberta negotiators at the constitutional talks and take a pretty good look at what issues, what areas the Alberta government is asking the federal government to give up their powers in and turn it all over to the provincial government. For instance, the total control over development of natural resources could have some very important implications if we're dumping the pollution from pulp mills in our rivers, for example, which flow across borders into other provinces. So I think the Environment minister wants to take a hard look at subsection (h) and see if the directions that the constitutional talks are going is going to mean that we get more co-operation with Ottawa, in terms of protecting our environment, or less. It's certainly not clear at this stage of the constitutional talks and the way they're going so far.

9:50

I think the thing that the minister needs to feed into the Minister of Federal and Intergovernmental Affairs is what the people would want, and that is a clean environment, not necessarily what is best for Alberta and to heck with Saskatchewan downriver or that sort of thing. It's all very well to say that, well, we've got to cut duplication of services, so Alberta should have environment and the federal government shouldn't have anything to do with the environment. In fact, having the counterbalance is not a bad idea for those people concerned about the environment. If you can't get action out of the provincial government, you can turn to the federal government and perhaps get some action; not very much, I must admit, under the present one. But at least there is the possibility that if you've got two different levels of government to appeal to, you may be able to get some action on environmental problems, whereas one government may just stall the public from getting that input.

[Mr. Deputy Speaker in the Chair]

The final point is (j), "the important role of comprehensive and responsive action in administering this Act." I couldn't help picking up on the minister's comment that his intention was that he, the minister, and his department would be "firm but fair" in administering this Act. I've got to say that I've got little faith. I'm sorry, but I've been watching this government for a long time. I've been watching this minister for three years, and I'll be very surprised if he's very firm or particularly fair in his assessments of who should have what. I guess we can go to the example of the Kan-Alta hearings, which the previous speaker just mentioned, and say that again some intervenors were tossed out that wanted to speak and weren't allowed to.

The Minister of Energy has also made some comments in the process of the Toward 2000 Together consultations. He's talked about how that's a beginning of power sharing, and I think that's a good concept. I've got to say that I have some disbelief that the government is really sharing very much power, but at least the people who attended the conference, for example, in Calgary did believe that they were going to have an effect on policies, and I hope they do. I'll be watching very closely to see just how much attention the government pays and where it goes from here. I've got to say that certainly they did not have as broad a range of representation of citizens of this province at that conference as there should have been. Nonetheless, those people who were there did put forward quite a variety of opinions and believed that they would have some influence on government policy. I don't see that the Minister of the Environment is sharing in that vision and that idea that he should empower people to start to really have a major effect on the direction the government goes in the environmental area.

I guess I have to say one more thing, also, about the Toward 2000 Together process. It does seem to me that the government was rather – those were nice words the minister said about this power sharing, but in fact in the process the government was not prepared to put their policies on the line and say, "What do you the people think about the ad hoc funding of companies?" or, "What do you think about Vencap?" or, "What do you think about the Alberta stock savings plan that we've now shut down?" They didn't put their policies specifically on the line. Furthermore, I have a document called Going Global, which I mentioned earlier in the Assembly, in which the government is planning some economic policies which they also didn't put out for debate to these people who were coming to the conference, which shows that they of course intend to keep on planning government policy in secret, much the way they've done in the past. So it will be interesting to see if they really are prepared to power share, as the Minister of Energy indicated. The Minister of the Environment has not indicated that he has any intention to go in that direction, as far as I can see.

Mr. Speaker, the minister himself and the director of standards are going to have a lot of individual power. If you look through the Bill, you find that in almost every section that mentions the minister or the director, the word is that the minister "may" do this or he "may" do that. It hardly ever says that he "shall" do this or he "shall" do that.

I want to pick some examples. For instance, if you were to look at page 52, 75(1):

The Minister may issue a certificate of variance if the Minister is of the opinion that . . .

Then you have three categories or three conditions under which he may issue a certificate of variance. It doesn't say that he shall or anything.

Section 75(2) says:

The Minister may . . . impose any terms and conditions that he wishes.

On page 53, 79(1):

The Director may in accordance with the regulations

- (a) amend a term or condition of, add a term or condition to or delete a term or condition.

So there's a lot of individual discretion and power given to the minister. Almost every section has that the minister may make regulations, and then there's a long list. For instance, on page 54, near the end of that particular section:

The Minister may make regulations

- (a) designating activities or classes of activities . . .
- (b) exempting any activities or classes of activities . . .
- (c) designating activities . . .

I'm just reading the beginning words to give you the sense of what I'm saying. Mr. Speaker, there are about 12 of these things that the minister may do.

Now, I understand that the minister and the departmental officials do have to make regulations putting in the details around a Bill, but this government carries that to extraordinary lengths. They basically leave so much discretion to the minister that my colleague from Edmonton-Strathcona, Gordon Wright, before his untimely death used to describe them as Henry VIII clauses, basically saying that the minister can do as he darn well pleases, and that's just about the size of it. It's an incredible amount of power and discretion left to the minister and in some cases to the directors or in some cases to the cabinet, the Lieutenant Governor in Council. There are just too many of those kinds of things in this Bill. Another one on page – I guess I made note of that one already. Again, that's not the kind of thing, I'm sure, that the people in the environmental movement, in this province anyway, had in mind, because I'm sure that after this many years of procrastination on the part of the minister, they don't really trust him to necessarily do it the way it should be done.

One of the areas of the Bill deals with freedom of information, and given this government's record in the past, of course, I guess you'd expect that it would be watered down from any of the recommendations that came through the consultation process the minister bragged so much about. For instance, there's no whistle blower protection for people that complain about what's going on in the environment in the province. Again, that's not the way the people of the province would like to see us proceed, I'm sure.

In the environmental hearing aspect, as the Member for Edmonton-Jasper Place pointed out, again the minister seems to think that the only people that should be able to intervene are those who are directly affected. Well, how direct is direct? I mean, if something happens in southern Alberta to harm the environment, does that affect those of us living in Edmonton? You bet it does in the long run. We all live in this society together. [interjection] Yeah, well, that may be the case in some instances, but we need to have a healthy environment right throughout the province, right throughout the world for that matter, and we need to see to it that we're working in co-operation with all parties to try to have a healthier environment. Somebody who is not directly affected: according to whom? According to the minister or according to the NRCB. So who are they to say? It's just a judgment call on their part, and if somebody else thinks they do have a right or do have a concern, then it seems to me that we should err on the side of allowing people to have their say and should not say, "Well, you're not directly affected, so go away; we don't want to listen to you," as happened in the Kan-Alta case. I think the people of Alberta would want it otherwise. They would

want that kind of generous allowance for anybody to be heard that wants to be heard.

10:00

The legislation also seems to miss the point that some of the intervenors may need some assistance to be able to intervene effectively. We watched this government go through the process for the Al-Pac hearings, and it was an incredible process. They stacked the deck by handpicking the people for the first set of hearings, and then they were convinced by people who in many cases didn't have a lot of help to make their presentations, but their arguments were so forceful that that whole panel turned on the government and said, "You can't go ahead with this project until you've done certain basic studies." Then the government dismissed their hearings and said, "Oh, well; we'll set up a new panel and control it a little tighter and get a different decision to go ahead and do what we want." It seems to me that people fighting the cause of the environment deserve intervenor funding so that they can make their presentations on the same sophisticated and technical-sense level as those proponents of the projects that are being negotiated or analyzed, whatever word you wish to use.

So, Mr. Speaker, the minister has gone some way to meet the environmental concerns of Albertans, but the Bill does not live up to its billing – pun intended.

AN HON. MEMBER: I didn't get it.

MR. McEACHERN: He is a little short over there.

The minister has listened to the people of Alberta all right, mainly because the government has got into this mode of saying, "Oh, we're listening," but they only half listen. They go away and work in secret behind closed doors and reject what they don't want and put all kinds of little barriers in the way so that the people don't get the kind of public consultation that's necessary for an open and democratic process; they don't get the kind of information or support they need to marshal their arguments and their information.

So we end up with a Bill that, while it's an improvement over the past, is still a block to the future that we should be building, where we have a more open and democratic process and are empowering people to take control of their own local communities, their own environment, and their own futures. I think while we can support the Bill on second reading in principle, we're certainly going to be looking to amending it in a number of areas at committee.

MR. DEPUTY SPEAKER: The hon. Minister of the Environment to close debate.

MR. KLEIN: Thank you, Mr. Speaker. Very briefly to close debate, I do appreciate the comments offered this evening, and I appreciate an indication of the amendments that will be forthcoming from the opposition parties and look forward, along with my colleagues, to debating those amendments at the committee stage. We will also have a few amendments of our own, mostly of a minor nature.

With those few comments I would like to move second reading of Bill 23.

[Motion carried; Bill 23 read a second time]

[At 10:05 p.m. the Assembly adjourned to Friday at 10 a.m.]

