

Legislative Assembly of Alberta

Title: **Monday, May 6, 1996**

8:00 p.m.

Date: 96/05/06

[The Deputy Speaker in the Chair]

THE DEPUTY SPEAKER: Please be seated.

head: **Government Bills and Orders**

head: **Second Reading**

Bill 39

Environmental Protection and Enhancement Amendment Act, 1996

[Adjourned debate May 6: Mr. White]

THE DEPUTY SPEAKER: The hon. Member for Clover Bar-Fort Saskatchewan.

MRS. ABDURAHMAN: Thank you very much, Mr. Speaker. I rise to speak to Bill 39. At this time I certainly can't see my way to support this Bill.

You know, Mr. Speaker, we are stewards of this great land that we have the good fortune to live in, the province of Alberta, and indeed as a human race we are truly the stewards of our land, our air, our water. What I see through this Bill is a weakening of the whole area of environmental protection. It's ironic that Bill 39 is called the Environmental Protection and Enhancement Amendment Act, 1996. The word "enhancement" would convey that indeed we're going to see substantial improvement in ensuring that that stewardship or trust that we have of this great province is indeed happening through legislation.

One of the reasons I got involved in political life was because of a great grave concern by many, many Albertans and specifically my own constituents about what was happening to the air they breathed, the water that they ended up having to consume. Our rivers, our wells indeed were being contaminated. I felt great confidence after I saw partnerships developing between community, industry, and all levels of government to work together to ensure that we had the best environmental protection in the world, to be quite frank with you, Mr. Speaker. We owe it to future generations to ensure that the soil, the air, and the water of this province are indeed protected at all times.

What I see in Bill 39 is a minister becoming all powerful. I would have thought that this government would have learned from past Progressive Conservative governments that when an Executive Council or any minister becomes all powerful, it does not serve that government of the day well in the long term, and it certainly doesn't serve Albertans or the province of Alberta in a positive way.

Because this Bill was coming before the House in the form of an amendment to our Environmental Protection and Enhancement Act, I discussed with key leaders in our industrial community the fact that when you become judge and jury, do you really truly believe that you've served well? I find it ironic that in the Municipal Government Act we removed that judge and jury from development appeal boards, something that I've advocated for years. So there was a recognition by this government that you can't be all things to all people, and indeed it doesn't serve anyone well to be judge and jury. Yet through this very Act that's in essence what's going to happen. The minister becomes all powerful. Industry in essence becomes judge and jury, because you're into self-regulation. It's like myself saying that I

will self-regulate my driving habits and that nobody else is really going to be making sure that I live within the letter of the law. I see to some degree that this is what this Bill is in essence doing.

The one thing that I heard and that we're continuing to hear, whether it's the Member for Sherwood Park where we're seeing industry asking for increased emission levels, is that Albertans are really concerned. We saw an increase in phone calls not only to the constituency of Sherwood Park but also to Clover Bar-Fort Saskatchewan, a concern by constituents. I didn't ask them how they voted, because that's not important, Mr. Speaker. We're there to represent all constituents. When you look at the majority of people that are phoning in and are concerned about the quality of their air and about the quality of the water they're drinking, it tells you that there's a high level of concern out there amongst Albertans. I think that this Bill, quite frankly, Mr. Speaker, is not acknowledging those concerns. They're dismissing that the public out there has a right to hold this government accountable for that stewardship of this province that we have the good fortune to live in.

In my discussions with leaders in industry I put it to them quite frankly: do you really believe that this Bill will serve industry well; are you not concerned that because of the manner that we're going, in actual fact it could come back to haunt industry that we don't have tight legislative controls? Indeed we've seen it in a number of industries whether it be the tobacco industry, whether it be breast implants, where legislation and the marketplace didn't do what they should have done to protect the consumer. That results in litigation which is horrendously expensive to society as a whole. Let's face it; the multinationals are no different than anybody else. They pass that cost down the line till it ends up that it's the consumer that pays that extra cost.

So I would suggest, Mr. Speaker, that indeed this Bill does not serve anyone well in the long term. It's short-sighted. There seems to be a sense in this province that if you get rid of all the regulations and you get rid of legislation, somehow the economy's going to boom and there'll be jobs everywhere and it's going to serve us in the long term in a very positive way. I think history will tell you that many of those fast-track decisions come back to haunt you as a society.

I firmly believe that this is indeed what's happening here. When we actually look at air monitoring and self-regulation, you cannot just look . . . [interjections]

THE DEPUTY SPEAKER: Order. We have Clover Bar-Fort Saskatchewan speaking, hon. minister and hon. Member for Fort McMurray, and I wonder if we could listen.

Clover Bar-Fort Saskatchewan.

MRS. ABDURAHMAN: Thank you, Mr. Speaker. As I was saying, I don't believe that in the long term this kind of legislation will serve Albertans in a positive way. I firmly believe that any industry, whether it be the petrochemical industry, whether it be the forestry industry, will behave as good stewards if the legislation indeed directs it that way. We know from history that if you do not put strong legislation in place and require people to live within that legislation, industry is no different than any other human being. Whether it be that you're in a car and you're caught speeding – we all have a tendency to push the law to its full extent if you can get away with it. This is what we've seen too often in the world when there is not strong legislation.

Now, let's look at the conservation easements. This was something that the Member for Sherwood Park had brought

forward in a Bill in this House, and now the government is making an attempt to follow the direction that private member's Bill put forward at that time that was not supported. It gives the minister this excessive power to terminate an easement agreement. I mean, why would a minister want that kind of power when we're supposed to be living in a democratic society? Surely people have rights. No one individual should be given that kind of power. Yet that's what this Legislature through this Bill is asking us to support.

8:10

DR. TAYLOR: What did she say? Say it again. I didn't hear you.

MRS. ABDURAHMAN: You know, the Member for Cypress-Medicine Hat didn't hear what I was saying. I'll put it to this gentleman, who brought forward a private member's Bill, Mr. Speaker, that wanted to give the democratic right through a citizen's initiative, and I supported that Bill, and I commended him for it because it clearly showed me, I thought, that he was a democratic thinker. Now he's sitting in this House and it sounds like he's supporting giving all this power to a minister, the right to take these easements away.

You can't have it both ways. Either you're for democracy or you're for dictatorship. [interjections] Yes, this is very pertinent to Bill 39, because when you're talking about making a minister all powerful, you're talking an element of dictatorship, and the Member for Cypress-Medicine Hat had better make up his mind which side of the fence he's on. Does he support direct democracy and allowing Albertans to have a voice in this Legislature, or does he support a Bill like Bill 39, that makes this minister of the environment and future ministers of the environment all powerful to the degree of being a dictator inasmuch as dealing with easements?

I'd go further than that. The whole tone of this Bill is giving a minister incredible powers that I do not believe any truly democratic society would want to support. So I have to ask: why is this caucus supporting this? It just doesn't make any sense when we see that attitude in the front benches that accumulated over \$30 billion . . .

DR. TAYLOR: The dictator said we had to.

MRS. ABDURAHMAN: The Member for Cyprus-Medicine Hat, Mr. Speaker, is saying that the dictator told them they had to. Now, if we're talking about caucus, I don't think it takes too much to deduce who he's inferring is the dictator.

DR. TAYLOR: Stan. Stan, the Whip.

MRS. ABDURAHMAN: Oh, well, Mr. Speaker, I must be quite frank with you. I wasn't thinking of the Whip. I was thinking that really the person who was all powerful in any caucus was indeed the leader of that caucus and party, which is the Premier of the province of Alberta.

Mr. Speaker, in speaking to Bill 39 and the democratic rights that are being removed by this Bill giving this minister extensive powers, it appears that the Whip of the Conservative caucus is also all powerful and that people who bring forward private members' Bills for citizen's initiative are really rendered impotent when it comes to demonstrating what they truly believe as a philosophy. I find that . . .

DR. TAYLOR: Stan Stalin. That's his name. Stanley Stalin.

THE DEPUTY SPEAKER: Order. Cypress-Medicine Hat, you will get your opportunity when the member has finished speaking. Please contain yourself until the hon. Member for Clover Bar-Fort Saskatchewan completes her remarks.

MRS. ABDURAHMAN: Thank you very much, Mr. Speaker. The whole area of landfills has been of grave concern to all Albertans. We know that we have to find sites for landfills within the province of Alberta. It was no different than finding a site for a hazardous waste treatment plant. We've had to deal with NIMBY, not in my backyard.

I don't think that this Bill is indeed going to improve that situation whatsoever, whether it be Bill 27 or Bill 39, because both of them have jurisdiction when it comes to siting and legislative responsibility for those landfill sites. When I look at the way this is being moved from the public health field into the environmental department – yes, they have to work closer together, but I don't see how this is going to resolve the dilemmas that Albertans have faced in siting these landfill sites and indeed ensuring that we have the highest standards to ensure that our water bodies are protected. [interjections] I can't see through the registration process, the approval process how this is really going to work.

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: Hon. Member for Cypress-Medicine Hat, the Chair has directed you to be quiet. You're now shouting about 10 seats down the way to try to attract someone else's attention. This kind of behaviour is not acceptable in a parliamentary institution.

Clover Bar-Fort Saskatchewan.

Debate Continued

MRS. ABDURAHMAN: Thank you, Mr. Speaker. Going back to the whole approval process for sanitary landfills, or waste management facilities as we call them now, we really need to have an approval process that is credible and used in all cases. What we're seeing now is a shift also to registrations.

Now, it's been suggested that in some cases registrations might be beneficial, that they indeed can cover the bins that are used for commercial waste so that we know where these bins are in the province of Alberta within municipalities. That can be beneficial, but if we are going to say that we need just registrations for waste management and that there's no public input, I firmly believe this is going to backfire on this government.

Not too long ago we were looking at approvals for a gravel pit in the city of Fort Saskatchewan. They followed the criteria laid down. In fact, I would suggest they went beyond it to try and educate the public and make them more comfortable as they were removing this gravel in the oxbow of the city of Fort Saskatchewan, which is in fairly close proximity to the residential. They had done their work. Do you know, Mr. Speaker, even after having done that, there was standing room only at a public hearing for the DAB, the Development Appeal Board? People were so concerned about the noise, about the air, about the dust that the Development Appeal Board certainly put much more stringent conditions on that development.

Now, if that's what's happening at the local level, why would we come in with an amending Bill of this nature that is going to

reduce that public input process and be autocratic in the way we do things? People won't accept that, Mr. Speaker. People are asking questions. Why is industry coming in at this point in time and asking for increases in their licence, to have the air emissions that are allowed increased.

We know that out in my constituency and in the constituency of Sherwood Park there have been ongoing concerns about the level of asthma in these communities. People want answers. You know, is there a correlation between the air that we breathe and the levels of emissions and the cumulative factor as you add industry upon industry? Is there an impact on your respiratory tract? Does it lead to increased levels of asthma? Or is it indeed something to do with the food we eat? We don't know the answers. I would suggest that through the departments of environment and Health we can arrive at determining what it is that's in our environment or our lifestyles that we see increases in the autoimmune diseases, whether it is asthma, whether it is rare autoimmune diseases, whether it's Crohn's, whether it's arthritis, or the different lung diseases that are autoimmune. We need to know those answers. You don't achieve those by weakening the present legislation you have. You enhance it, as this word in the Bill would like to suggest. This Bill does not enhance environmental protection in the province of Alberta.

8:20

I would suggest that when we're looking at waste management facilities, we should be looking very closely at zoning land so that people in municipalities know well ahead where our waste management site is going to be located in any geographic area or community in the province of Alberta. We could be leaders in that area. It's not something that is common just to the province of Alberta. A number of years ago, Mr. Speaker, many members in this Assembly had to put up with the conflict that resulted from intensive livestock operations, grain farmers or urban dwellers, and that came about because we have a code of practice that says that within agriculture that wasn't legislated.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for West Yellowhead.

MR. VAN BINSBERGEN: Thank you, Mr. Speaker. I'd like to say a few words on Bill 39. Quite frankly I have some very serious reservations about this Bill, which I think more properly should be called the environmental detraction and de-enhancement amendment Act. I think that we're taking several steps back here from what has been put in place by one of the earlier ministers of Environmental Protection, who happens to be the Premier now, and I think that the Bill he brought forth in '92-93 is now being seriously weakened by this amendment.

I'd like to make a few points on this. The very first one that I'm very, very doubtful about – in fact I think it's outright wrong – is the changes to the approval process whereby certain activities will be allowed a mere registration rather than going through the process of getting an approval with the accompanying possibility for the public to have input. That is very, very important, and I think it severely impairs the due and open process that we've come to expect in the last few years.

The changes that are proposed to the Environmental Appeal Board process – well, it's been pointed out before, I think, that they're rather ham-fisted. One is reminded of the hobnail boot. The changes that deal with the landfill sites are very problematic, I believe. I'd just like to go into detail on some of these. At the

moment we do know that all of these activities that are contemplated and are presently requiring approval under the Environmental Protection and Enhancement Act need to be approved by a director. That process automatically includes notification of the public, and it also means that the public can wade in there and make sure that its reservations are being heard, if they have any. Of course, after that has been done and a decision has been made by the director, any member of the public can appeal that decision to the Environmental Appeal Board.

Now, under the proposed process there's no input from the public possible because there's no notification. It is in fact very doubtful whether the public will be aware of what's going on, and that is the point that bothers me most, particularly when we're talking about waste management sites, landfill sites, and the like. It is really important that all the people in the area have a chance to provide input.

The Environmental Appeal Board, the board which is supposed to hold hearings when a director's decision is being appealed, was an important one because it meant that the director's decision was not the final one. It turns out under this Bill that the director's decision will be final. No appeal is possible. One cannot even go to the courts, which doesn't make any sense whatsoever. The board is given the right to change its decision anytime, which some of my colleagues have already referred to. It doesn't really make much sense either because the public can't appeal, but the board can reverse its decision. I think it was the Member for Sherwood Park who called that the Westcastle amendment because the minister could possibly exert political pressure on the board to reverse its decision.

Anyway those are the points, Mr. Speaker, that bother me probably the most in terms of the public's input being severely limited and curtailed and the public's right to appeal and the public's right to go to court. Those certainly are basic democratic rights that we've come to enjoy as being entitled to them in fact.

Now let me get to the waste management facilities, that area. It's amazing, Mr. Speaker, because under this Act the proposal is that far and away most of the landfill sites would not have to have gone through an approval process. The municipalities I presume would simply register with the minister and say, "Hey, we're going to build a landfill that I just want you to know about," and that's all there is to it.

I made a quick phone call to one of the landfill sites in my area. We talk about 10,000 tonnes, which is used as the minimum necessary for asking for approval. I found out that most of the landfill sites in my area don't even reach half that. So none of them would have to have gone through an application process. They simply would have to let the minister know they were going to build one, and that's all there is to it.

I find that objectionable. I happen to live fairly close to a landfill site, and it is of extreme importance to me that the regulations, such as they are, even under this Bill, are upheld, that they're being inspected and that they satisfy the health standards we've come to expect. By taking Alberta Health more or less out of the picture, without Alberta Health being involved in the application process – you're not just dealing as an applicant with Environmental Protection, but you're also dealing with Alberta Health so that both sides of the coin are being well represented. It bothers me that it's going to be absent in this Bill. Mr. Speaker, I think that's a severe shortcoming. Landfills, landfill sites are potentially hazardous sites in our environment and to our environment.

I'm reminded of a case that took place in my riding, and in fact

it's still taking place. The minister knows well about the Wolf Creek landfill site, which has been in dispute now for I don't know how long, and the process is very, very cumbersome and very slow. I can see very well why municipalities and probably the minister, too, would like to cut through the red tape and speed up the process. However, Mr. Speaker, I can see a process that goes so fast that the local stakeholders have no input, and I think that's objectionable. In that particular case, there have been lots of moments where it has become absolutely necessary for the local stakeholders to keep an eye on proceedings because they weren't quite sure whether they were aboveboard and whether the existing regulations, which are far more cumbersome than the proposed ones, were in fact upheld.

8:30

Now, to give you an idea, Mr. Speaker, the minister sent around a discussion paper on the proposed streamlining of approval processes and so forth and so on. I think it was very good that he did that. He sent it around in December to all the stakeholders, but it turns out that the stakeholders were only to be found in the municipalities. In fact, we're talking about municipal councils, town councils, and the like. Other organizations, such as the stakeholders of the Wolf Creek landfill site, were not given a chance to answer a whole series of questions and provide their input. When one of those so-called private, nonprofit organizations pointed this out to the minister, the oversight was very quickly restored, and I commend the minister for doing that. These questionnaires were very quickly sent out to all kinds of nonprofit, private organizations so that they could have their input. Nevertheless, initially they weren't part of the whole process, and I think therein lies the tale. That's a significant omission. Now, the minister restored it, but is he going to pay heed to what these people have to say? I think that remains to be seen.

Mr. Speaker, those are the points I wanted to make. I beseech the members on both sides of the House to take a close look at the shortcomings of this Bill, because at this particular moment I think I would vote against it.

Thank you very much.

THE DEPUTY SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Speaker. It is a delight to be able to stand up tonight and speak to environmental issues in the province of Alberta. This is, of course, an important issue in the community that I live in because we deal with environmental issues on virtually a daily basis. In our community we have numerous heavy oil sands operators. We have in situ oil sands test facilities. We have forestry projects on the go, and of course there are all of the usual environmental issues: landfill areas, timber rights, preservation of the waterways, interest groups, and concerned citizens that want to speak out from time to time about environmental issues and in fact want their MLA to speak out from time to time on environmental issues.

Now, who are those people that want to speak out on environmental issues and who want to be heard protecting the environment? Those are not the people that you might think, Mr. Speaker, to the exclusion of others, because some of the individuals who are heavily involved in the forestry industry, in the oil sands industry, in the in situ oil exploration – all of those industries themselves carry a significant interest in the preservation of the environment, the preservation of the soil, the preserva-

tion of the water. All of them recognize and know in their activities, their business activities often involving multimillions if not billions of dollars, that it is all for naught if their children and their children's children following them and the flora and the fauna of the environment and of the area suffer unduly because of their effort and impact.

So it is with great support and with great co-operation that the industry giants that I have had the pleasure of observing in action for many years pursue their environmental responsibility. Perhaps it might be arguable that many industries require very little other than a nudge or very little other than a suggestion in the right direction to provide the environmental citizenship that we require. But alas, Mr. Speaker, all industries are not like that. Indeed, over the passage of time in the evolution of development, from the postwar years into the ecologically sensitive years of the '60s and then the retrenchment from those ecologically sensitive years into the wealth accumulation and job development years of the '70s and '80s, it is the case that from time to time it is difficult to strike a balance between ecologically sound development and simply economically sound development.

That is where entering stage left, Mr. Speaker, should be the minister of the environment. I want my minister of the environment in this province of Alberta to get very angry, so that the tips of his ears turn bright red with anger, when there is environmental damage and environmental 'wastitude' in this province. I want the minister of the environment to be able to stand up in public places and say that we will not force you out of business, but by golly we will be tough in our scrutiny of your activity, and we will be sensitive to all of the effects that your activity causes in the area.

So it is with interest that I review each and every environmental Bill that this minister brings forward.

DR. WEST: Are you talking about Syncrude?

MR. GERMAIN: The hon. minister of transportation, who likes this practice of engaging in debate sitting down, says: well, what about Syncrude? I say about Syncrude that they welcome the environmental scrutiny their project gets because they pass those environmental scrutinies with flying colours, and they are delighted when the public recognizes the effort they make. By mentioning Syncrude, I do not exclude any of the other long-standing oil sands producers in the Fort McMurray area who have worked very hard to balance economic job creation with environmental sensitivity.

But who is to help along and who is to marshal all of these ideas? It is, in fact, the minister of the environment, and he should be proud of that mandate. This minister of the environment should come in here wearing green suits every day, Mr. Speaker, and when there is any doubt at all, when a creature of the universe is put in jeopardy, when any kind of possible harm could come to the environment beyond acceptable risks, rather than stand in the Legislative Assembly and shuffle paper, that minister there should stand up and fight for the environment. When in doubt, his mandate is to fight for the environment.

Now, the minister would like us to accept the fact that from time to time he wears a green tie as satisfying completely his mandate to greenery in this province. But I want to urge the minister to think that if it is simply the colour of his tie that satisfies his mandate, I want to suggest with the greatest respect to the hon. minister that he may have been just a little too shallow in the definition of his mandate. It is to that that I want to direct my comments tonight, Mr. Speaker.

Others have mentioned – and I will try and pursue it from a

different perspective – that this is not a Bill that enhances environmental control and environmental scrutiny in the province of Alberta. Quite the contrary. I can see a Bill like this offending everybody. I can see a Bill like this offending those people who feel genuinely aggrieved by a decision of the board or by the minister and having no right of appeal. I can see this Bill offending those people who want to come and express in a vocal and open way at an open forum their thoughts on the environment and have their neighbours come to hold hands with them, have their neighbours come to feel part of the system and part of the process.

You know, there is nothing more intimidating than going to a government office, especially in this time of government when you get the litany that “We’re here from the government, and we’re here to help,” or “We’re here from the government, so please trust us.” I mean, this is very nerve-racking to people. They do not like to go to government offices, but they will go, for example, as they went to address the then minister of the environment and today the Premier of the province in the little community of Athabasca a few years ago when they went to discuss environmental issues that were near and dear to them. One of the most enduring moments, captured forever by the photographers and the videotape media, was in fact one individual expressing to the now Premier his environmental thoughts and concerns about one certain aspect of that particular environment. So the minister has to appreciate that people want their open opportunity . . .

8:40

THE DEPUTY SPEAKER: The hon. Member for Calgary-Shaw is rising on a point of order.

Point of Order Relevance

MR. HAVELOCK: Yes. *Beauchesne* 459 I believe it is: relevance. Is that correct?

THE DEPUTY SPEAKER: Relevance.

MR. HAVELOCK: Yes. Thank you. While everyone loves to listen to the hon. happy little chub-muffin from Fort McMurray wax eloquent, I’d like to suggest, Mr. Speaker, that he actually stay on topic.

THE DEPUTY SPEAKER: Would you withdraw that characterization on your point of order?

MR. HAVELOCK: The “happy” or the “chub-muffin” part, Mr. Speaker?

THE DEPUTY SPEAKER: You know perfectly well that the hon. member cannot be properly so described and cannot make a point of order on the point of order, so could you just refer to him by something that’s acceptable?

MR. HAVELOCK: All right. The hon. Member for Fort McMurray?

THE DEPUTY SPEAKER: Yes. That sounds better.

The hon. Member for Fort McMurray on the issue of the relevance of your more recent comments to Bill 39.

MR. GERMAIN: Well, on the point of order, Mr. Speaker, first of all, I did recognize the salutation in both of its forms, although

I do prefer the more moderate, temperate form that the Speaker wisely directed the member to adopt.

On the point of order, the question is relevance. I’m talking about public hearings involving environmental issues and how people from time to time like to come and express their point of view and, of course, on the point of order on relevance, relating it specifically to the Bill. There is a section in this Bill that indicates – I direct your attention, Mr. Speaker, to section 86(2) of the Bill. I think on the point of relevance I will read this section into the record because it is important to make my point. Section 86(2) says, “In conducting a hearing of an appeal under this Part the Board is not bound to hold an oral hearing.” That was the point I was making, how on environmental issues the public likes to be present at these oral hearings. That’s why I felt that my approach was relevant. I await the Speaker’s learned ruling on the issue.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Shaw has risen on a point of relevance, 459 in *Beauchesne*, and has been responded to by the hon. Member for Fort McMurray. Hopefully, Fort McMurray’s explanation to Calgary-Shaw makes the tenuous point of relevance clear.

We’d invite the hon. Member for Fort McMurray to continue on his coverage of Bill 39.

MR. GERMAIN: The Member for Calgary-Shaw adopts this clever trick taught to him by the minister of transportation, thinking he will throw me off my train of thought, but at least on this particular occasion he did not succeed, so we’ll try again.

Debate Continued

MR. GERMAIN: Now, we were talking, Mr. Speaker, about Bill 39, the Environmental Protection and Enhancement Amendment Act, 1996. The member sponsoring this Bill paraphrased some of his comments as being simply cleanup and others of his comments as being what we might describe as the Bovar employment guarantee program. I know that other Members of the Legislative Assembly – I know the hon. members from Calgary, who know lots about hazardous waste, will be able to express their economic viewpoints on the government’s recent position on hazardous waste and ensuring that Bovar generates a little more business to help themselves. It used to be that only in the imaginary world of Santa Claus did gifts continue to keep coming from this government, but . . .

THE DEPUTY SPEAKER: The hon. Member for Calgary-Shaw is rising on another point of order?

Point of Order Relevance

MR. HAVELOCK: Yes, Mr. Speaker. Despite his statements to the contrary, it’s quite obvious that the point of order threw him completely off, because he’s not even addressing the Bill any longer. It’s again *Beauchesne* 459, and I’ll try not to describe him the way I did last time.

Thank you.

THE DEPUTY SPEAKER: The hon. Member for Fort McMurray on the point of relevance.

MR. GERMAIN: Yes, very much on the point of relevance. I direct the Members of the Legislative Assembly to page 22 of the

Bill. Section 182.1, which I will read into the record, says:

No person shall dispose of hazardous waste except in accordance with an approval or registration or as otherwise provided for under this Act.

When the hon. member, the sponsor of this Bill, was speaking to this Bill today, he specifically referred to the hon. Member for Calgary-Shaw as being undoubtedly pleased. He can correct me if I'm wrong at the conclusion of his remarks, but I believe he indicated the pleasure on behalf of the hon. member from Calgary that there was something in this section about hazardous waste.

So my comments, of course, flowed very nicely from the point I had just made, Mr. Speaker, at least in my respectful estimation.

THE DEPUTY SPEAKER: The Chair reflects with some amusement on the characterizations as offered by the hon. Member for Fort McMurray. I don't see that the point of order is taken, although at times it did cross the Chair's mind that maybe in respect of the interruption that these points of order cause, perhaps for a wee while the hon. member was reflecting more on the nature of those than he was on Bill 39.

So with that in mind, I wonder if we could continue with Bill 39 and leave 459.

MR. GERMAIN: Very good, Mr. Speaker, and of course I certainly respect your ruling.

Debate Continued

MR. GERMAIN: So what is my thesis on the approach that Bill 39 takes? I say to the Legislative Assembly that Bill 39 is a Bill that in fact stifles legitimate criticism of environmental issues in this province. It provides Albertans and indeed businesses, corporations, and persons affected by environmental rules and directions with only limited access to a review of their grievance. It vests an uncontrollable amount of unbridled, uncontrolled, unreviewable power in the hands of the minister of the environment. This minister of the environment may well have the character and the intestinal fortitude to rise to the occasion, but because the minister of the environment from time to time could shift and change, we cannot be so guaranteed and so assured that every minister will take his job with so much enthusiasm. As a result, vesting too much power in the minister is in fact, I say, dangerous. In fact, from a political point of view it is dangerous to vest too much power in any one given man.

Finally, this Bill is an environmental escape, and an environmental escape is not something that we should be looking at as we run out the last few years of this century and go into the next millennium. We should go forward with the strongest and most practical and most reasonable environmental Bill we possibly can. So against that thesis, Mr. Speaker, let's put this particular Bill to the test and look at some sections of the Bill . . .

DR. TAYLOR: Let's call the question then, Adam.

MR. GERMAIN: . . . and see if in fact those sections have merit. Now, I know the hon. Member for Cypress-Medicine Hat has been chafing at the bit, if I could use that expression, to speak and address the Assembly on the importance of the environmental issues. I know that they're important in his riding and to his constituents. There are some aspects of this Bill that deal with power and water issues and the pollution of water and discharging pollutants under water beds and under ice. I know that the hon. Member for Cypress-Medicine Hat will want to address those

issues, so I couldn't very well call the question, Mr. Speaker, because that would pre-empt him from the opportunity of addressing those issues on behalf of his constituents.

I want to pick up where the hon. Member for Sherwood Park left off this afternoon. He was talking about what is in fact an opposition idea. That opposition idea was the idea of a conservation easement. I know that the minister of environment, giving credit where credit's due, will acknowledge that there are some issues and aspects taken from the opposition Bill on the same issue previously. [interjection] What the minister of the environment I think says is that he was grateful to the hon. member for his Bill and for bringing forward the Bill and allowing it to come forward on these environmental issues.

MR. LUND: But his Bill was flawed.

MR. GERMAIN: Now, the minister of the environment says, "But his Bill was flawed." Well, the way you correct a flawed Bill, hon. minister, is by coming forward with reasonable, constructive amendments, the type of reasonable, constructive amendments that this opposition brings forward day after day, week after week, month after month, session after session, year after year, and so on. That's how you correct a flawed Bill. What you did was you went and raced around and sucked the good juice out of the Bill and incorporated it into your Bill, masked it and pretended that it was in fact a government idea. But I know that the sponsor of the Bill and the hon. minister of the environment will give credit where credit is due.

8:50

Now, what aspect of this Bill, however, does not pass the test of fairness? It is this section. It is the minister's override, found in section 7(b) of the Bill on page 5. I know all hon. members are reading this because it is an interesting portion of this Bill. When an individual has dedicated a conservation easement, the minister is going to be the man draining the duck pond. That's what the minister is going to do.

By order of the Minister, whether or not the Minister is a grantor or grantee, if the Minister considers that it is in the public interest to modify or terminate the agreement, you can do so. That's right.

MR. DAY: A point of order, Mr. Speaker.

THE DEPUTY SPEAKER: Order. The hon. Government House Leader is rising on a point of order.

Point of Order Relevance

MR. DAY: Mr. Speaker, after some 13 minutes the Member for Fort McMurray is finally addressing the Bill. However, he's not even doing that properly. *Beauchesne* 659, which talks about the second reading process, is very clear in saying that, "It is not regular on this occasion . . . to discuss in detail the clauses of the bill." He said that he was going to refer to sections, but he's not even doing that. He's reading specific phrases out of the Bill. That is reserved for committee discussion, and I wish he would follow *Beauchesne* and be guided by that in his deliberations. He's gone 13 minutes, and this is the first time he's referred to the Bill. Debate is not a waste of taxpayers' money. That type of deliberate discussion that has nothing to do with the debate and is only geared to waste time is a waste of taxpayer dollars, an absolute waste of taxpayer dollars.

THE DEPUTY SPEAKER: On the point of order, Fort McMurray.

MR. GERMAIN: On the point of order. With respect, sir, much of the time was taken up dealing with trivial points of order from members of the government whose sole purpose is to delay the comments that I want to make on this Bill. Now, I have been speaking about this Bill for the entire time I've been on my feet, including my response to the points of order. What troubles me is that the Government House Leader must obviously either have been missing my point, which will oblige me at some point to repeat it, or he is in fact deliberately trying to suggest that I'm not addressing the Bill when everybody in this Assembly knows that I have been addressing this Bill. Every single person knows I've been addressing this Bill.

Mr. Speaker, you will recall that I mentioned that my thesis was that this vests considerable power in the minister. I mentioned that about four and a half, five, maybe seven minutes ago, and now I am simply expressing one example of that. Now, you have to remember as well that this is not a new Bill. This is a corrective amendment Bill that goes through and picks away various sections of the Environmental Protection and Enhancement Act. As a result, I am entitled, in my respectful estimation – and I ask you to rule accordingly – to deal with the many multifaceted aspects of this Bill. It is very hard in an amendment, Mr. Speaker, to talk about an overriding purpose of the Bill when it is fragmented.

THE DEPUTY SPEAKER: Well, the hon. Member for Fort McMurray, in dealing with the point of order as raised by the hon. Government House Leader, has drawn attention to the fact that Bill 39 is an amendment Act, although it also is an enhancement as well. There are a number of changes, and when you have a number of changes, it's hard to talk about the principle of the Bill when it covers a number of areas. Indeed, I would think that the hon. member would plead guilty to citing various sections of this Bill in his characterizations of its strength and perhaps lack of it as he has gone through.

So the Chair would hope that the hon. member would be able to maintain his points on the Bill and does not find that he has strayed that far from the various sections, although at times he tends to refer to previous points of order. Once they've been dealt with, hon. member, I think it's not useful to reflect at all on the motives or whatever it is of hon. members raising these points of order but to take them as honourable points of order.

With that in mind, then, we would invite Fort McMurray to continue to address Bill 39.

MR. GERMAIN: Thank you very much, Mr. Speaker. In addition to your wonderful ruling on that issue, I also have the blessing of the hon. minister of transportation, so I feel good about that today, and I'm going to press on with the Bill. If I might . . .

MR. HAVELOCK: Mr. Speaker . . .

THE DEPUTY SPEAKER: Sorry, hon. Member for Fort McMurray. We dealt with the point of order. You have a new one?

MR. HAVELOCK: No, Mr. Speaker. I'm just hoping that at some time you can distribute an English translation of what you just ruled to the House.

Thank you.

THE DEPUTY SPEAKER: That would be relatively easy to do. I could do so now. Are you challenging the Chair?

MR. HAVELOCK: No.

THE DEPUTY SPEAKER: Or are you just asking me to explain it again? Okay.

We called the hon. member for talking about phrases. That's the hon. Government House Leader's point on relevance, particularly referring to the different sections and that you're supposed to speak to the principle of the Bill. This Chair, this person in the Chair, and other persons in the Chair have ruled that when you have a number of amendments within a Bill, it is very difficult to try and pick the principle. Some of the Bills that we've had before us in fact amend more than one Act, so you have to deal with the specific sections that are there. That's all that the hon. Chair was trying to convince the hon. members about.

So we would invite at long last the hon. Member for Fort McMurray to conclude his remarks on Bill 39.

Debate Continued

MR. GERMAIN: Thank you, Mr. Speaker. Continuing with my thesis that this Bill restricts and makes it more difficult for people to express their environmental concerns, we need to look no further by way of additional example than section (2), the amendment to section 36, found on page 8, where the minister has to supply technical information. Now, could he publish this in the *Alberta Gazette* for all to see and all to observe? No. Why wouldn't you do that? What this minister does in his statutory duty, that he takes on himself, is like the proverbial grasshopper jumping over a blade of grass and saying: look how high I can jump; I can clear this blade of grass. We say to the minister: jump over a tall building, and then we will applaud. The minister in his disclosure says that all he has to do is have copies of the standard or the code or the guideline or other rule "available on request to persons who may be affected by it."

Well, Mr. Speaker, why should somebody have to go through a value adjustment with the minister before they're entitled to public information? Why should they have to, first, convince the minister that they're entitled to it because they're affected by it and, secondly, make the formal request? It is not fair for people who want to present attitudes and ideas to the government to first have to disclose their thought process and perhaps be identified and characterized as somebody who is not a normal Albertan or somebody who is not appropriately in tune with the government or somebody who is described as a whiner or as a troublemaker simply because they go to the minister and ask for information about standards. Those standards should be published. I cannot understand why this government now in this Bill restricts the availability and the access of public information only to those people who may be affected by it.

Well, how do you know that? What if you're a university student who wants to do a report on the changing attitudes of environmental control in the province of Alberta and wants those standards? Either make the standards available for that person to look up in a public institution, such as the Legislature Library, the *Alberta Gazette*, or make a commitment, Mr. Minister, to this Assembly that if you ask for this stuff, you will receive this stuff, not go through a qualification process where you have to show that you're affected by it. I mean, Members of this Legislative Assembly, limited as much as debate is in this Assembly,

restricted to those members of the opposition who have read the Acts, surely all of you can see the inherent trouble with that. By that definition every MLA would be excluded. If I wanted to learn something about the West Castle project, for example, and wanted the applicable rules and codes, the minister could refuse to give me that information because I may not be affected by it. That is simply wrong, and I urge all Members of the Legislative Assembly to address the minister. [interjection] That is exactly what it says. The minister says to me, Mr. Speaker, that that's not what it does. Well, let's put that to the acid test.

Where a standard, code, guideline or other rule is adopted or incorporated by regulation under this Act, the Minister shall ensure that copies of the . . . code, guideline or other rule are available on request to persons who may be affected by it.

That's a two-pronged test to get public information.

9:00

First, you have to go ask the minister for it. What if you happen to be a junior vice-president at an oil company and want to find out what the standards are for pumping oil field waste back down now exhausted holes? [interjection] So you're going to say: well, why only those people? To that particular member: what if it is another oil company that you're concerned about and not your company? I mean, does this make sense? This doesn't make sense, and I know other speakers here will want to raise this issue found on page 8. This is a good issue, and they should be speaking about that.

Now, we also have more expansion of the type of exclusions for which people do not have to apply for a change of their activity. Look, my friends, on page 9. What used to be a very limited and narrow exclusion list before you applied for additional approvals has now expanded to be a five-item list, more expansion of what obviously the minister feels is just red tape or cleaning up red tape. Who knows whether those new objects that somebody who is running an environmentally-sensitive activity may want to embark on – why should those exclusions now prevent the opportunity for any form of environmental review?

Once again, we find a delegation. The hon. Member for Calgary-*Buffalo* has, for example, on numerous occasions talked about the issue of ministerial delegation. The minister delegates to the director. The director now delegates to his “authorized representative” or “an organization designated under subsection (2).” I find that on page 10, Mr. Minister, and I see lack of control on the part of the government on one hand yet omnipotent control on the other hand. [Mr. Germain's speaking time expired] No. That can't be with my points of order.

Would the Assembly grant me leave to continue?

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: With that, the Chair will not pose the obvious question.

The hon. Member for Calgary-*Buffalo*.

MR. DICKSON: Thanks, Mr. Speaker. I am motivated to get up and join debate after listening to my colleague from Fort McMurray on Bill 39. You know, this has to be an example of one of the most carelessly drafted pieces of legislation we've seen in the spring session of the Legislature, aside from the fact that a big part of it is curative. When we look through here and look, for example, at section 7, what possible rationale does the hon. Minister of Environmental Protection have for saying “a standard, code, guideline or other rule”? Now, that's something of a

general application; that's not something of narrow application. That's something that applies in a very general sense, yet every Albertan can't get access to that.

There's some kind of a means test you have to go through. The test is that you have to show up and you have to make the request, but you have to demonstrate you may be affected by it. Now, of course it has to be available to those people affected. But why only those people affected by it? It's exclusiveness. The minister, despite the absolutely incisive analysis we've just heard from Fort McMurray, still doesn't quite get it.

I encourage the minister to read section 7 again, the new, proposed (2) specifically says:

Where a standard, code, guideline or other rule is adopted or incorporated by regulation under this Act, the Minister shall ensure that copies of the standard, code, guideline or other rule are available on request to persons who may be affected by it.

By having a double test, why would you possibly – if people are going to be affected by it, you don't have to wait for them to come and make the request. It should be available as a routine matter. What happens is that there's a law of statutory interpretation that says that when the Legislature specifically imposes this kind of an obligation, it means by inference that there's no obligation to provide that “standard, code, guideline, or other rule” to anyone else. Well, that just makes absolutely no sense. There are a large number of Albertans in my constituency in downtown Calgary that are very concerned in terms of environmental standards, codes, guidelines, or other rules. [interjection] Well, Mr. Speaker, I think I heard the distinguished Minister for Environmental Protection volunteer off the record to make the modification to section 7 to ensure, as I understand it, that anybody who requests a “standard, code, guideline or other rule” will get it.

Speaker's Ruling Interrupting a Member

THE DEPUTY SPEAKER: Hon. Member for Calgary-*Buffalo* and others, it becomes a difficult process for someone who is speaking who then hears calls from other people and starts incorporating them into their speech by inferring or by stating that they are meaning this, that, or the other thing. I wonder if we could deal with the Bill before us as opposed to picking up these comments.

To the other side of the issue, I wonder if we could save our comments until we have a turn in debate, and then we can make them all at once and it's a matter of clear record.

The hon. Member for Calgary-*Buffalo*.

MR. DICKSON: Mr. Speaker, thanks very much for the direction. I always think that when we have a minister of the Crown that volunteers to amend his statute, it's such an important declaration that I wanted to share it with every member that's in the Legislature tonight.

The second point, Mr. Speaker, is that that would dramatically abbreviate the comments I was going to make tonight. If in fact I misheard the hon. minister, then I have a whole lot more to say about section 7. So I think I'm going to take what I heard from the minister at face value and move on and deal with other provisions here that give me some concern.

Debate Continued

MR. DICKSON: The other matter that attracts my attention is section 4, and this is the provision which deals with conservation

easements. As has been said before, this really was the idea that first came into this Legislature in 1993 sponsored by the Member for Sherwood Park. One would think that the government, in accepting that kind of a positive, concrete suggestion from a member of the opposition, would spend time to make sure that its existence in statutory form makes sense. In fact what we get is one big step forward, and it's a positive one, and then what happens is that the government starts diluting it. If one looks at section 4, section 22.1(7), what we have – this appears, I think at page 5 of the Bill.

(7) An agreement granting a conservation easement may be modified or terminated . . .

(b) by order of the Minister, whether or not the Minister is a grantor or grantee, if the Minister considers that it is in the public interest to modify or terminate the agreement.

This is an incredibly expansive power.

MR. WOLOSZYN: No. It makes an awful lot of sense. You'd better give your head a shake.

MR. DICKSON: Mr. Speaker, the only person that needs to give their head a shake is anybody that picks up Bill 39 and thinks this makes good sense and this represents some kind of an advantage to the people of the province of Alberta.

What we've got with section 7(b) is the fact that the minister assumes in a unilateral, absolutely bullying fashion the power to insert himself or herself in what is effectively a private dealing. It should be the grantor and grantee. I have no problem with 7(a), which makes sense and respects an agreement, because the genesis of a conservation easement is in fact precisely that: an agreement between a grantor and a grantee. All of a sudden the minister comes roaring in on his high horse on page 5, subsection (7) and has the power simply to "modify or terminate" it. There's no provision for a hearing for this. There's no provision that due process is going to be followed. There's no opportunity for the grantor or the grantee to be heard. How do we know the minister is going to submit this to the forum of due diligence and ensure, before this kind of expropriation takes place, that there's a full inquiry?

9:10

How many members on the other side, Mr. Speaker, have we heard talking about wanting to entrench a property right? It's the very same members that out of one side of their mouth will talk about wanting a property right entrenched and then bring in Bill after Bill after Bill that undermines the proprietary rights of Albertans, of landowners, in this case grantor or grantee. I would have thought that at least to be logically consistent, the government would insist that if the minister has the power to abrogate, to cancel a conservation easement, there would be some stipulation in terms of notice. At least there might even be a hearing. There might even be a hearing to ensure that the minister has the facts right, because although those members that occupy the front-row seats opposite may view themselves as infallible, consider the proposition that your successor may not be so competent. Consider the fact that some other minister rolls along and simply says: "I don't have any patience. I have no interest in this particular conservation easement. It affects an adjacent landowner who happens to be a big donor to my political party." The minister has usurped this incredible power. No safeguards, no checks, no balances, no limitations.

We're going to come to Bill 24 perhaps a little later, and we're

going to see another example where we talk about unfettered power being vested in a minister. This is an absolutely glaring example of a piece of legislation that doesn't respect the most basic property rights of Albertans. What's the explanation for it? The minister will simply tell us that "it is in the public interest." As seen by whom? We have a whole system of processes in other areas so that we don't have to rely on the goodwill or the good judgment of a single minister. Why? Because ministers are fallible, and it just happens from time to time that ministers don't get all the facts, don't get all the information. A public hearing or at least some kind of due process would ensure that there's no expropriation without a hearing.

That effectively is what's happening here. We're talking about expropriation without notice, expropriation without being heard, expropriation without a chance to make submissions. That's not acceptable to me, and when Albertans understand what is part of this proposal from the hon. Minister of Environmental Protection, they're going to say, "Where are our champions in the government caucus?" What members of the government are prepared to stand up and speak on behalf of the property interests of Albertans? I would have thought there'd be at least a few champions over there, hon. Minister of Environmental Protection, through the Chair.

Mr. Speaker, I can go through and read it again, but there's a good principle of statutory interpretation that you take the plain meaning of the words. You know, you shouldn't have to go and somehow understand the machinations that went on in the minister's office to produce this sorry provision in Bill 39. We should be able to read the Bill and understand it. Maybe the minister would like through some rose-coloured glasses to see something else there, but it's expropriation without compensation. It's expropriation without notice. It's expropriation without due process. That's bad, and that in itself would be reason to have concern about the Bill. But that's not the only problem.

So what we've got is we've got a problem with section (7), which the minister hopefully now will cure. We've got a problem with section (4). I want to ask the minister through you, Mr. Speaker: will he take some advice, in the same fashion that he's undertaken here this evening to remedy the problem with section (7), and will he also undertake to remedy the problem with section (4) before we get into the committee stage? It will save Parliamentary Counsel a whole lot of work. These poor individuals are worked to the bone cranking out amendments trying to make poor government Bills better and stronger, and it would be a very kind thing for the hon. minister to do, to give that kind of assurance this evening.

The other concern I've got has to do with the elimination of an oral hearing. For this respect I'm looking at what is the new section 26, which appears on page 16. Actually I'm skipping ahead. This is dealing with the board's scope and power. The Environmental Appeal Board in section 26 has I think again accreted onto itself an unreasonable degree of arbitrary power. This is consistent I guess with the minister's attempt to expropriate and steamroller over individual property owners' rights, but it's still unacceptable. It may be consistent with the other things that we find in the Bill. What we see when we look at page 16, section 26, is this power for the board on the one hand to be absolutely all powerful. It can "reconsider, vary or revoke" any decision that's made. There's no limitation. It doesn't require: on new evidence. It doesn't require: on there being some kind of a substantial change in circumstance. It can be whim; it can be caprice. It can be something as ethereal as just what kind of

weather you've got on a Wednesday instead of a Tuesday. That's no way to build up a body of precedent, hon. minister.

This section 92.1 as you would have it in section 26 doesn't make sense, and it's particularly offensive when you companion it with the new section 92.2. You have this very aggressive privative clause, aggressive in the sense that it makes it absolutely clear that the board will have unfettered discretion. So you conjoin the two things and you have a board that isn't in any sense constrained by what they've decided in the past – they don't have to have any reasons to suddenly charge off in a different direction – and then you have the absolute elimination of any recourse once you've exhausted application to the Environmental Appeal Board.

I think it's simply too broad. I think it's unfair. It's inconsistent again with the view of those members who share my concern for the private property rights of individual Albertans. I think the cumulative effect of these assorted amendments is a very sorry one and a regressive step.

Let me just touch on the other thing I find offensive in Bill 39, and that's section 22. We now have this provision that

the Board is not bound to hold an oral hearing but may instead, and subject to the principles of natural justice, make its decision on the basis of written submissions.

Well, at some point we're going to have to decide. If you have a privative clause and you have no remedy if you feel the board has made a bad decision, don't you at least have to have the opportunity as an Alberta landowner to be able to go forward and be heard, not submit a written submission without any assurance that it's even read or just ends up in file 13?

It would seem to me to be perhaps manageable if there were still some provision for judicial review. If the privative clause weren't as aggressive and weren't as comprehensive maybe – maybe – one could make the argument that section 86 creates no serious prejudice to anyone, but the cumulative effect of section 26 plus section (4) plus section 22 is to create, frankly, a bureaucracy out of control. That may be too strong. I shouldn't say “out of control” because that might reflect badly on well-intentioned people who sit on the Environmental Appeal Board, but it certainly creates, I think, in Alberta landowners, Alberta property owners, a real sense of disquiet, a very strong kind of unease that their basic property rights are not going to be respected and adequately reflected in decisions made by the Environmental Appeal Board. Those are the primary concerns.

9:20

Once again at section 23(b) I see the amendment in terms of dismissing claims. This actually, I think, is not as bad as I first thought. When I look at it, I can see some merit to this particular amendment. I want to acknowledge that there are some positive parts of Bill 39. I don't want to be taken as thinking that there are no redeeming features in the Bill, but the ones that I've identified, Mr. Speaker, the ones that certainly jump out to me, give me the greatest concern.

The only other one would have to be waste management facilities. This continues to be perhaps the source of the greatest number of environmental calls that my constituency office receives from concerned Albertans in Calgary-Buffalo, a lot of concern in terms of the degree of vigour that the government is going to exert in terms of managing, supervising waste management facilities. Lots of concerns here. This is almost entirely turned over to be treated as a regulatory function. I think it's too important to be done simply by regulation without setting down some principles, some objectives, some guidelines.

I'm just about finished, and I'm going to take my seat in a moment, but I hope there are some members here this evening who also are concerned about the property rights of Albertans. I hope there are some members on either side of the House, other than those who have already spoken, who share the concern about fair treatment for property owners and who will stand in their places and lend their support for Alberta property owners. I'm thinking even the Minister of Transportation and Utilities may stand and be heard on this, because I know his constituents will want to know, the people in Vermilion. Those property owners in the Vermilion-Lloydminster area, in the east-central part of Alberta, are going to be anxious to know that when they elect a member to come into this House, he's going to stand up and he's going to be consistent in terms of asserting their rights as property owners. I suppose that if we don't hear from members in this important second reading debate on Bill 39, an adverse inference can be drawn.

So with that invitation and challenge, I'll take my seat, Mr. Speaker. Thank you.

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

MR. ZWOZDESKY: Thank you, Mr. Speaker, and thank you to all members of the Assembly for giving me this opportunity to speak to Bill 39, otherwise known as the Environmental Protection and Enhancement Amendment Act, 1996, as brought forward by one of the government members, I believe from Calgary-Mountain View.

Mr. Speaker, the debate this evening is indeed very, very interesting. I was compelled to read the Act another time or at least to skim through it another time to prepare myself to jump in here, because there were several things that have been offered tonight which are of concern in my area, that being Edmonton-Avonmore, and which I'm sure my constituents would feel necessary for me to bring forward on their behalf.

Now, I understand that the main purpose or intent of this amendment Bill is essentially to change the way that environmental protection and enhancement services are to be delivered in this province. I find that this particular Bill does in fact address some very good points, and from what I've been hearing, I guess a few other points are not so good.

As I look at areas that the Bill addresses in a general sense, there are concerns regarding conservation easements. A little later on we find several references to the standards, codes, and guidelines that are going to be made available to people who are affected by it. Then further on we find other information related to certificates of qualification. I find that I have some concerns with some of those areas, and I'll comment on some of them shortly. The other area that the Bill sort of addresses in a broad sense is the entire approval process, which allows some activities to be registered. Instead of the more conventional process of requiring approvals, it simply allows for some of the activities to be registered. I hope time will permit me to talk about that.

Further on, another area that I would wish to comment on in a broad sense will be the area of the entire appeal process specifically as it applies to the EAB, or the Environmental Appeal Board, as well as the remediation certificates specifically for land where cleanup and clear-up are required after unfortunate accidents or spills may have occurred. Finally, the entire area of waste disposal and the regulations that govern the waste disposal sites, or the landfills, which once used to come under the Public

Health Act but now, if I read the Bill correctly, have all quite possibly been rolled in under the environmental protection and enhancement portfolio through this particular Bill.

So as I read through the general gist of the Bill, I did what I always do with the Bills. I like to give them a fair chance and a fair shake. I try to make some assessments as to what it is that the government is attempting to do with this Bill. In the case of the hon. minister for environmental protection and enhancement, I tried to look through his glasses to see what it was that in fact helped protect the environment through this Bill and at the same time also helped deliver on the second part of his responsibility, which is the enhancement aspect. In some parts of the Bill I noticed that there is quite likely an attempt for a little bit too much control in regard to certain aspects of environmental protection, and then in other areas I was questioning whether there was some attempt to perhaps abdicate some responsibility on the part of the government in those areas.

So again I'm asking myself if this is a good Bill or a bad Bill. Ultimately, will I be supporting it or not? These are some of the discussions that I'm going through, because of course the environment is extremely important to us all. I think we've been listening to that debate ever since I joined this House. In looking at it, I try to determine what some of the decisions are for supporting a Bill such as this, what some of those decisions might be if in fact we are going to support it. If we're not going to support it, what are the reasons for not supporting it? One question I ask myself would be: am I looking at it for just the short term? Are there implications here for the immediate future? Also, are there implications for the longer range picture, that being for our future generations?

I can tell you quite honestly and very directly, Mr. Speaker, as always, that in my constituency of Edmonton-Avonmore we have a number of individuals who are not just concerned with environmental protection and enhancement issues. I have people in my constituency who are actually members of some of the larger, better-known environmental watchdogs, if I can call them that, groups such as the Canadian Parks and Wilderness Society, or what we commonly refer to as the CPAWS group. I have one or two members who are currently, or at least used to be, members of that society living in Avonmore. They have called me frequently with regard to what our positions are and what it is that the government is up to. I feel it incumbent upon me to ask some of those questions on their behalf.

We also have in Edmonton-Avonmore, as I'm sure we have in other areas, individuals who belong to the Friends of the North society, who have another set of concerns that they bring. Of course, everything that we're talking about here, when we say the word "environment," deals with, you know, the air we breathe, the land we use, and the water we drink. In short, we're talking about every growing thing and every living thing that was placed on this Earth for us to share with everyone else.

9:30

We also have a number of schools which just recently, Mr. Speaker, as a result of a widely publicized environmental awareness campaign on the part of many of these watchdogs and others, perhaps government, have now created environment clubs in their schools. These young students are charged with the responsibility of learning as much as they can now about the environment in an effort to care for it. In the same way that we as adults now are trying to care for it for them, so too will they have that additional responsibility when their time comes.

Also in my area, Mr. Speaker, I have the Zeidler plant. The

Zeidler plant is a very productive and very industrious and very busy business located on 99th Street along 63rd Avenue. It's a plant that gives off certain emissions through its chimney stacks and through its burners and incinerators that have caused some debate in my area. I know that the good folks at Zeidler's are attempting to bring that situation there under control and to make sure that the emissions are at a safe level, not harmful to the environment, certainly not harmful to the people living around it, and that they have done a fairly good job in protecting themselves from any criticism.

Nonetheless, there have been calls to my office even in that regard, with specific reference to the level of troublesome emissions, and even to the extent where a couple of individuals had detailedly described the types of incinerators that are being used and the types of ventilation that are being used in that plant, and could they somehow be looked at to see if they do meet the most modern, the most up-to-date safety standards? Again I have to say that I do know the people at Zeidler's are trying to wrestle with that. So never let it be underestimated how important this particular issue of environmental protection is not only to the rural areas but of course to our urban centres. It's a huge area.

So as I looked at the broad scope of Bill 39, I did it kind of against that background of a combination of concerns expressed to me by my constituents, also by certain businesses that are located in my area, which also has a lot of industrial plants, and also by the young people involved in our school system, where I often speak. In response to those people I started by taking a look at this Bill 39 specifically with reference to the registration process, which is where I was hoping to find the excellent opportunities for public notification or for some public input with regard to the new initiative that the government is embarking on here. The regulations that I had hoped would somewhere be brought to my attention in Bill 39, specifically with regard to the disposal of hazardous waste or the burning of hazardous waste, would be relevant to things such as I mentioned in relation to the Zeidler plant. I of course wasn't expecting to find it here, but I thought it would somehow be brought up in the minister's overview.

I think he is making a legitimate effort to serve his portfolio, and from what I've seen, parts of that I think he's done a fairly good job on, but here I was looking to see specifically what it was that these waste management facilities would or would not be required to do to help increase the protection of our environment and/or the enhancement of our environment. I guess I just don't know what those activities are going to be from the broad scope of the Bill, Mr. Speaker, so I'll look forward to that being brought up perhaps at a later time.

There have been discussions, I'm sure, with many stakeholders who have a vested interest in environmental protection regarding regulatory reforms that the government is proposing to bring in. I'm sure that the government has also made some attempt or at least I would hope they've made some attempt to discuss with facility operators and/or facility deliverers things related to our landfill sites. I know that at least the area on the east end of Edmonton-Avonmore was looked at as one of the potential sites for a landfill, Mr. Speaker. We had concerns there as a public, and businesses had concerns. So, too, I'm sure the government is concerned here. I just don't know exactly what it is that the government did by way of its consultation process regarding sanitary landfill users or transfer station operators or other sites that are set up to receive wet or dry hazardous waste, but I would sure like to see some of that.

Mr. Speaker, it always amazes me how little information the government sometimes provides along with some of its Bills. Here we have a reasonably potentially contentious Bill, and it would sure be refreshing once in a while to have from government some of the background information that goes into the drafting of this Bill. It would aid a great deal to help the public understand where the government is going, and it would certainly help the opposition understand where the government is going.

Even though our role is to oppose, sometimes you like to take a look at where the government is coming from, and you might like to support what the government is doing. I have always tried to do that. I have always tried to be constructive in this criticism of government. I don't say "criticism" in a negative way, because if you check the comments that we make on our side, we do try to help out. If I see certain things coming that potentially cause a problem for government, I like to flag them for the government, because I don't like the government to embarrass itself. I would like them to understand that good, constructive opposition is the cornerstone of a democratic society, and it's extremely important. Just one time before this term is over I would challenge the government to provide us with some of their background information, some of their background research, some of the stakeholders they had responses from, or some of the studies they had that led to a Bill like Bill 39, because this ushers in a number of very significant changes.

Again, I realize that certain government members are making light of my comments right now, but I issue that as a very serious statement, no tongue in cheek. It would just be refreshing for once to see the government co-operating in that way. Tell us where you're coming from, not just where you think you're going. It would make the discussions in this House a lot better, and it would tighten them up a great deal. Quite frankly, it would probably lead to less criticism on our part of some of the things that they're up to.

The other area that concerns me with this registration process is with regard to the consultation from the public side and whether or not there will be any limits placed on that or whether there'll be any opportunities for the public to be consulted on matters that relate specifically to environmental protection and enhancement with specific reference to the registration process, as I mentioned.

Another area that I said I would talk about briefly earlier in my preamble was with regard to the Environmental Appeal Board, which is cited throughout this Bill. Under this Bill it states somewhere in a general sense that the EAB will no longer be required to hold any oral hearings. I find that is questionable, and it's well that we should question it. It's a serious decision if we allow the board to act perhaps unilaterally at times without the benefit of holding an open public consultation process wherein the public could be invited to give its concerns to that board, because all of society has a responsibility, Mr. Speaker, toward the environment. All of society has a right to know what it is that the government, through this particular appeal board, is doing, and we should be doing things to encourage the public's input.

Whom are we protecting the environment for? Whom are we enhancing that environment for if not for the very public that governments are established to serve? We should allow that opportunity before it's too late, because what we do see here is the board having a new process for decision-making. I would challenge the government that this is one way to allow the public an input into the environmental protection area without putting itself at risk for that public cynicism that so often exists when people think about and look at the decisions that government

makes and takes, sometimes behind closed doors. This would be one way that the government could open up that process and not put itself at risk. I hope that is taken as a helpful comment, as my previous ones were.

I guess I would conclude this part by saying that board decisions should be allowed to be challenged. In fact, I think that board decisions, such as the EAB may make, that being the Environmental Appeal Board, should be open for some public scrutiny. Just like in this House Bills and motions and other instruments of government come forward for a healthy debate and we get a chance to have a kick at them, so too should the public not be excluded from any of those wonderful opportunities to do likewise.

9:40

The other area is with regard to the process that we used to have, Mr. Speaker, surrounding hazardous waste disposal, which used to come under the area of public health. Specifically, I think Alberta Health used to be involved in the process a great deal more than I can initially read into this Bill concerning the location of landfills and certain parts of what may or may not be required to be disposed of. You will recall the tremendous scare we had a year or two ago when the Alberta Research Council had some difficulties with some hazardous waste being swept out their backdoors. Now, that affected my area a great deal, and there Alberta Health absolutely had a role to play. Now, here I think under this Act they have either no role or much less of a role to play. Anyway, as far as I'm concerned, if Alberta Health were to retain some say over the approvals regarding this, that is something that would be very helpful, would be very constructive, and it would be a very proactive move of the government to entertain retaining that.

Finally, Mr. Speaker, I know that we all have a really heightened awareness, a really heightened consciousness about our environment because our ecology is important, our biological diversity is important. All of these things contribute immeasurably to the quality of life. I do respect the minister's intentions; I truly do. I think he's an honourable representative for his area, where some of the most beautiful environment exists in our province, and through this Bill I'm hoping that he will clarify some of the concerns that I and other members have raised. I know he's anxious to do that, and I will take my seat shortly.

Finally, if the minister would just comment on section 7 on page 8 regarding the circumstances under which the minister may make information available. I know he perked up his interest earlier when others mentioned it, and I would just like to reinforce that I, too, would like some clarification of that particular area. So as soon as we get clarification of all of that and provided it's to our satisfaction, I'm sure the minister can look forward to some additional healthy debate. At the moment I have no real reasons to support the Bill until some of these questions are offered some good sensible answers, at which time I will re-evaluate this.

As I look at it right now, I know that we do everything we can to protect the environment. We go to our annual hazardous waste disposal sites with old paint cans and spray bottles and outdated pesticides and unused prescription pills and so on, and we dispose of them in a proper way. So, too, does the government have a responsibility and an onus to look after us at the larger picture level, and I charge the government with that. [Mr. Zwodzesky's speaking time expired]

I thank you. I hear the bell has gone, and I will take my seat.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Mountain View to conclude debate on second reading.

MR. HLADY: Thank you, Mr. Speaker. I'd like to wrap up debate. I'd like to thank the members for their comments in second reading. I look forward to answering some of their questions in Committee of the Whole, and I'd like to call the question.

[Motion carried; Bill 39 read a second time]

MR. DAY: Mr. Speaker, following a furious letter-writing campaign, I am bowing to public pressure and moving that we now stand adjourned until tomorrow afternoon at 1:30.

[At 9:45 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

