

## Legislative Assembly of Alberta

**Title:** Wednesday, August 14, 1996 **8:00 p.m.**  
**Date:** 96/08/14  
 [The Deputy Speaker in the Chair]

THE DEPUTY SPEAKER: Please be seated.

head: **Government Motions**

MR. DAY: Mr. Speaker, following some consultation and discussion with the Opposition House Leader, I'm now pleased to first of all request unanimous consent to waive Standing Order 38(1).

THE DEPUTY SPEAKER: The hon. Government House Leader has asked if we would give unanimous consent to waive Standing Order 38(1). Would you care to elaborate as to . . .

MR. DAY: Certainly. I'd be happy to.

THE DEPUTY SPEAKER: Succinctly, I think, is the word we want.

MR. DAY: Mr. Speaker, for those who may be unfamiliar with 38(1), a day's notice by our Standing Orders is required for a motion, and this waives that particular necessity to be able to introduce motions related to committees of the Assembly and also the numbers on the committee on the Alberta heritage savings trust fund. That's the reason for this.

MR. BRUSEKER: Indeed, Mr. Speaker, the Government House Leader and myself have communicated on this earlier on, and therefore we would support this motion from the Government House Leader.

THE DEPUTY SPEAKER: All those in favour of the motion of the Government House Leader, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed, please say no. Unanimous consent has been granted.

MR. DAY: Mr. Speaker, thank you to the Assembly for that.

### Standing Orders Amendment

22. Mr. Day moved:

Be it resolved that Standing Order 49(2)(f) be amended by striking out "15" and substituting "nine" and that this amendment take effect on the date that the Alberta Heritage Savings Trust Fund Act, SA 1996, cA-27.01, is proclaimed into force.

THE DEPUTY SPEAKER: The hon. Government House Leader will provide all members with a copy of that. The hon. Government House Leader has moved that we amend Standing Order 49(2)(f). Is there unanimous consent for this motion?

[Motion carried]

THE DEPUTY SPEAKER: The hon. Government House Leader.

MR. DAY: Thank you again, Mr. Speaker. I now require, again

a similar request, unanimous consent to waive Standing Order 38(1) again, and this would be to allow us to deal with a number of committees that have been approved by the Assembly. Once again I request unanimous consent to waive Standing Order 38(1).

THE DEPUTY SPEAKER: The Assembly has heard the motion of the hon. Government House Leader. All those in favour of this motion, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Opposed, please say no. Unanimous consent has been granted again.

The hon. Government House Leader.

### Committee Membership Changes

23. Mr. Day moved:

Be it resolved that the following changes to the following committees be approved by the Assembly: on the Special Standing Committee on Members' Services that Mr. Stelmach replace Mr. Woloshyn as deputy chairman and that Mr. Severtson replace Mr. Stelmach, on the Select Standing Committee on Privileges and Elections that Mr. Stelmach replace Mr. Woloshyn, and on the Select Standing Committee on Public Accounts that Mr. Havelock replace Ms Calahasen and that Mr. Renner replace Mr. McFarland.

Be it further resolved that on the date the Alberta Heritage Savings Trust Fund Act, SA 1996, cA-27.01, is proclaimed into force the present members of the Select Standing Committee on the Alberta Heritage Savings Trust Fund Act be replaced with the following nine members: Mr. Dunford, chairman; Mr. Doerksen, deputy chairman; Ms Carlson; Mrs. Forsyth; Mr. Havelock; Mr. Langevin; Dr. Percy; Mr. Sekulic; and Mr. Shariff.

[Motion carried]

head: **Government Bills and Orders**

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

MR. EVANS: Thank you, Mr. Speaker. I would like to seek unanimous consent of the Assembly pursuant to Standing Order 73(2) to move to second reading of Bill 46, the Electoral Divisions Act. As you've asked for previously, I will be succinct in my comments.

The unanimous – and I would stress unanimous – report from the Electoral Boundaries Commission was made available through your office to all Members of the Legislative Assembly in the third week of June of this year. There has been some considerable opportunity in the intervening period for members to discuss this important piece of legislation with their constituents. I have read in the media that the Liberal opposition are content with this report and that they want to see speedy passage of the new piece of legislation. I'm reminded, Mr. Speaker, that every day we sit in this Assembly it costs the taxpayers of the province of Alberta a considerable amount of money, and we want to be as efficient with our time as possible. So once again, on behalf of the government I would seek unanimous consent to move to second reading of Bill 46 pursuant to Standing Order 73(2).

MR. BRUSEKER: I think it's a debatable motion. Just speaking to the motion, Mr. Speaker. Bill 46 was introduced this afternoon. As you're aware, it deals with the 83 constituencies around the province of Alberta, based primarily on the report of the Electoral Boundaries Commission. Therefore, we would like to have the time to review the Bill and compare it to the final report dated June 1996 of the Electoral Boundaries Commission. Therefore, we do not support this motion as put forward by the Minister of Justice.

THE DEPUTY SPEAKER: We have a request. The hon. Deputy Government House Leader has asked for unanimous consent to waive Standing Order 73(1), (2) in order to proceed with second reading of Bill 46, Electoral Divisions Act. Do we have unanimous consent? Those in favour, please say aye.

SOME HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: The unanimous consent is not granted.

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

**Bill 41**  
**Water Act**

[Adjourned debate May 8: Mr. McFarland]

THE DEPUTY SPEAKER: The hon. Member for Little Bow.

MR. McFARLAND: Thank you, Mr. Speaker.

MR. BRUSEKER: There's no water in Little Bow.

MR. McFARLAND: You're right. Mr. Speaker, the hon. Member for Calgary-North West is married to a gal who is also from the south and knows what it is like to be without water, and believe me it has been.

Mr. Speaker, over the course of the summer we've had numerous responses, letters of encouragement urging all members of the Assembly to support the Water Act, particularly from the municipalities, the irrigation districts, and the agricultural sector at large. I can only add that, further to the comments made this past spring, I would urge each and every one of the members in the Assembly to support second reading of Bill 41, the Water Act.

**8:10**

THE DEPUTY SPEAKER: The hon. Member for Leduc.

MR. KIRKLAND: Mr. Speaker, thank you for the opportunity. You know, I am a person of few words, and I'll be as succinct as I possibly can on this particular matter.

The government seemed a little concerned, and I think perhaps they're not accustomed to receiving positive comments or can't recognize positive comments. When we talk about the principle of this particular Bill and we look at the evolution – I think many months ago it started off as Bill 51. Of course there was a great deal of concern with some of the provisions of that Bill, and the government pulled it off the Order Paper, so to speak, and

accepted some more input. I think that was a very wise decision on the government's behalf. There is no question that Bill 51 had to be improved upon, and what we're looking at here today is an improved version of that particular Bill, so I would say it was a positive stop for the government. It would probably be one indication that I can think of in this Legislature where they actually stopped to listen to the input, and I would compliment them for doing that.

Water, as you know, is a commodity that has caused a great deal of concern in some countries, and it's a commodity that has certainly captured the interest of most Albertans. We know that there's a great diversity of opinion about water and how it should be managed depending on whether we live in the north half of the province or the south half of the province. Now, I have in the past, in my first year in this Legislature, questioned perhaps some of the water usage in southern Alberta. Being one of those northern Alberta-raised Albertans, I certainly didn't view it as those who live in southern Alberta do.

However, when I look at Bill 41, although I compliment the government for accepting more input on it, I would suggest that when we look at it, there is one deficiency that I hope we can address here in the Assembly during the debate. I would hope that the government is open to some suggestion in these matters: that is, Mr. Speaker, the fact that the grandfathering of the licences, as I read this Bill, takes precedence and overrides such things as emergency use for water, and perhaps even the addressing of river ecosystems or water ecosystems that may be threatened as a result of a shortage. That grandfathering clause: I understand some of the rationale behind it. However, I do believe that there is an opportunity to modify it so all parties are satisfied. I would think it would also protect the government in the event that we run into emergency situations as far as water is concerned.

So, Mr. Speaker, when I look at Bill 41 on the whole, I'll be complimentary that in fact it was taken back to the Alberta public for input. I would suggest that the Bill we have before us is a good Bill, but as with every Bill, there are a few shortcomings. I would certainly be looking at perhaps introducing an amendment to Bill 41 to accommodate what I consider or perceive to be a deficiency. That potential amendment certainly would not compromise or jeopardize the government's position, nor would it compromise or jeopardize the position particularly of the irrigation districts in southern Alberta. They have managed the water in southern Alberta for many years, and for the most part I would suggest they've done a good job of that water management in that part of Alberta.

Mr. Speaker, with those comments and speaking generally of the Bill, I would ask all to give some thought to that potential to ensure that we have the opportunity, as people of all of Alberta and also as other than agricultural users, to ensure that the province or the government itself has the ultimate control over the water and its use. As I say, the way I interpret that Bill and the way I read that Bill, that grandfathering clause ultimately overrides and takes precedence. So I would think it would be wise for the province to ensure that they can always have access to water to address such things as an emergency. Though I don't know southern Alberta geography as well as I could, if we look at cities like Medicine Hat, if they were to run into difficulty with the water that they extract from the Oldman River, then I think there has to be an opportunity to address that. One should not have to go on bended knee to those that have grandfathering licences to ensure that those needs are met.

Now, I am not suggesting, Mr. Speaker, that the irrigation districts that receive those grandfathering clauses would be so

heavy-handed in their approach to it. I know a good-neighbour policy exists in southern Alberta, as it does everywhere, and I'm sure that if we looked at a contingency where one of the communities on the river was suffering as a result of a low water level, in fact the irrigation districts would probably address that.

I would also suggest, Mr. Speaker, that when we look at the ecology and the importance of preserving our rivers, it's extremely important that we as a government have the final say in when we can address that without having to depend on somebody else's good graces to ensure that we have adequate water to prevent any sort of disaster within a body of water or a river.

So with those comments, Mr. Speaker, I would ask all members to give serious thought to that. I think the discussion will reveal a method and an opportunity to ensure that that particular component that I've identified is addressed, and I would suggest it will not be to the detriment of any side of the discussion.

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

MR. GERMAIN: Thank you very much, Mr. Speaker. The hon. members of this Assembly will recognize and know that 65 percent of all of the water in North America lies north and a large chunk of it in northern Canada. As one of the MLAs from northern Alberta I want to comment on the Water Act, because this is not the first time that we have seen this type of legislation before this Assembly in the short time that I have been a member. In fact, the previous attempt at this legislation was withdrawn by the government in dishevelment and disarray as it related to the provisions that they were then proposing to bring in concerning the regulation and control of water in the province of Alberta.

You know, it is only this government, Mr. Speaker, that would have a Bill of 127 pages to deal with fundamental issues such as water and the protection of water rights for all Albertans. What this Bill does instead of that is that the purpose of the Bill and the glowing objects of the Bill are lost in this government's approach to handling legislation. As I develop my comments tonight, I will return again and again to the themes that this Bill represents and mirrors, themes that this government has brought forward in other pieces of legislation. Now, I see that some of them . . . [interjection] I would have thought that after a holiday of rest and relaxation some of the chatterers from the back row would listen.

#### Speaker's Ruling Decorum

THE DEPUTY SPEAKER: Order. Hon. members will remember that we are not in committee, that we are in Assembly, and that lively debate is really by the rules of the House entered into by only one speaker at a time, and the one that has been recognized at this moment is Fort McMurray.

#### Debate Continued

MR. GERMAIN: The government Whip relocated the hon. Member for Calgary-Shaw so I can keep my eye on him all the time, Mr. Speaker, and I'm grateful to the Whip. In fact, all of us should be keeping our eye on that hon. member, who again this summer announced more million dollar losses on the Bovar matter, Bovar of course being a consumer and user of water in the province of Alberta and therefore tying directly to the pith and substance of this particular Bill today.

Now, let me return, Mr. Speaker, to the Water Act. I'm moving to that Act. This is another example of this government's approach to secret government, hidden regulations, regulations not

displayed, regulations not published. As we develop this Bill and as we examine it, we will see that it is rife with examples of secret government.

You know what else this is, Mr. Speaker? This is a tax on water. We have now come in this province of Alberta to where we tax the sick, we tax the poor, we tax the aged. Now we're going to tax water in the province of Alberta.

8:20

DR. TAYLOR: We're going to soon start taxing lawyers, Adam.

MR. GERMAIN: Well, the hon. Member for Cypress-Medicine Hat says that we're going to tax lawyers. I want to go on record as saying that the legal profession has some of the largest taxpayers in the province of Alberta. So the hon. member has a great idea, but he's too late.

So we have a tax on water for the first time in this province, and all of those members, when they stand up there and do their desk pounding and chattering and chiming for the second reading of this Bill, should remember that what we're doing in this Bill is we're now taxing water in the province of Alberta. I know, Mr. Speaker, that I've got your attention now, so I'll come to that section and read it into the record so that all those who review *Hansard* will see indeed that this government is now moving down the rung of social responsibility by taxing water.

Of course, this Bill is also a violation of civil liberties, Mr. Speaker, through the entire reading of the Bill. [interjection] The hon. Member for Cypress-Medicine Hat again chirps up when I suggest that civil liberties are being violated in this particular Bill, and that leads me to question out loud whether the hon. member has read the Bill and intends to engage in debate on this particular Bill, because it is an intrusion on civil liberties.

Now, the minister of the environment may say that that is necessary to preserve and to protect . . .

SOME HON. MEMBERS: Down here. He's over here.

MR. GERMAIN: Oh, yeah. He's down there. He's moving. The hon. Government House Leader wants to remind me again that the chairs on the *Titanic* were reshuffled here during the summer recess, and I'm grateful for his instruction, Mr. Speaker.

This is a violation of civil liberties. This is an exclusion of the courts, a restriction of the time and opportunity that people aggrieved have to go and take their case before the courts. It is also a bar . . . [interjections] May I continue, Mr. Speaker?

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

#### Point of Order Questioning a Member

MR. DAY: Mr. Speaker, referencing *Beauchesne*, would the present speaker entertain the very briefest of questions which would only require a one-word answer?

THE DEPUTY SPEAKER: The hon. member is only required to say yes or no.

MR. GERMAIN: I'm happy to at the conclusion of my debate, sir.

THE DEPUTY SPEAKER: All right. Please continue.

**Debate Continued**

MR. GERMAIN: Now all of the parliamentary experts want to come alive in the Legislative Assembly tonight, Mr. Speaker. It almost makes me glad that I interrupted my holiday to come back here today. I interrupted my holiday, came back to this Legislative Assembly to enjoy this good-quality debate.

THE DEPUTY SPEAKER: Is the hon. Member for Fort McMurray soon going to get on to the issue that we have at hand, which is the Water Act?

MR. GERMAIN: I'm trying. I'm trying. [interjection] Now the minister of agriculture is urging me to tell about my holiday. There is a beautiful lake – water, water, water, water: the Water Act. There is a beautiful lake in northern Alberta called Lac La Biche, and the good folks of Lac La Biche have been asking for a weir on Lac La Biche for many years to control the water level of that particular lake, a project that can be completed for a few hundred thousand dollars, and the government is embarking on this major restructuring of civil liberties identified as the Water Act instead of getting out there into the rivers and the lakes and the streams of this province and solving some of the water problems that we have in this province so that people wouldn't be tearing at each other's throats for water rights and that we wouldn't need 128 pages of legislation about that. That was my study of the water rights of Alberta this summer at the beautiful shoreline of Lac La Biche in northern Alberta. That is for the hon. minister of agriculture, who specifically urged me orally in this Assembly to comment on my holiday that I interrupted to be here today to talk about the Water Act.

AN HON. MEMBER: Must be nice to have a holiday. I didn't have a holiday.

MR. GERMAIN: Well, that's fine. You're out farming, and I know that you're out there making millions farming. So that's fine.

I want to talk about secrecy and government regulations, Mr. Speaker. This Bill again allows the government to make secret regulations without the requirement that they be published in the Regulations Act. Once again we find that the government in this particular legislation will pass regulations without the obligation that they be published in the official *Alberta Gazette*, and it is also the case that the government will pass regulations pursuant to this Bill. You know what, Mr. Speaker? Not one single regulation passed pursuant to this Bill will come before the Standing Committee of this Legislative Assembly on Law and Regulations, chaired by the hon. Member for Calgary-Shaw, himself a lawyer, a Queen's Counsel, a man in whom the Premier places a great deal of confidence, yet he will not call this committee to deal with these regulations. [interjections]

**Speaker's Ruling  
Decorum**

THE DEPUTY SPEAKER: Hon. Member for Cypress-Medicine Hat and his colleague the hon. Member for Taber-Warner, it is not incumbent upon you to respond to each and every assertion, no matter how near and dear it is to your heart, that is uttered by the hon. Member for Fort McMurray. He does have the floor; you do not.

The hon. Member for Fort McMurray in conclusion.

**Debate Continued**

MR. GERMAIN: Conclusion? I'm sure, Mr. Speaker, that was a Freudian slip on your part. I'm just beginning my comments.

Now, having established those concerns about this Water Act, I want to focus the members on some of the details of the particular Bill and its purposes and the objects of the Bill as expressed in the written words that deal with these issues. First of all, if all members will turn to page 22 of this Bill, in section 14 of the Bill you will see – what do we have here in this section? We have first of all that “the Minister [of environment] may establish water guidelines.” But guess what? In the next section: “the Regulations Act does not apply to water guidelines.” Now, the Regulations Act obliges that certain regulations of the government be published in the *Alberta Gazette* before they take effect. This particular piece of legislation puts this minister again in a position of being able to pass regulations without any public impact.

Let me just give you two examples of regulations that have blown up in the government's nose similar to the situation that the minister is in in this particular situation. The first a few months ago, Mr. Speaker, would have effectively removed certain operating nurses from operating rooms in the province of Alberta by way of regulation. The outcry was so great that the government had to immediately back down on that regulation. Less than a month ago this government espoused . . .

DR. TAYLOR: Point of order.

THE DEPUTY SPEAKER: The hon. Member for Cypress-Medicine Hat is rising on a point of order?

**Point of Order  
Relevance**

DR. TAYLOR: Yes. *Beauchesne* 439, relevance. He's now talking about health care and operating rooms and nurses being removed, Mr. Speaker. I see little of that. What he should be talking about is the Water Act and relating it to water and perhaps the water on his brain. He could relate it to that as well.

THE DEPUTY SPEAKER: Well, the latter comment is of course inappropriate. We of course want to look at 439 rather carefully, which talks about papers tabled by addresses to the Crown. I don't recall any reference to that in the case.

In the matter of relevance, when a person makes a comment, you have to wait a moment or two in order for them to develop it. Presumably, the hon. member is going to make his comments relative to the Water Act. If he doesn't, then the hon. member is invited to speak to it again.

The hon. Member for Fort McMurray.

**Debate Continued**

MR. GERMAIN: Thank you very much, Mr. Speaker. Another excellent ruling.

The second regulation by way of example. These are examples of the difficulty that the minister is about to embark on in this particular Bill. Another example occurred this summer, less than four weeks ago, where this government decided that it would become appropriate to carry open alcohol in a moving vehicle down the highways, streets, and roads of this province.

DR. TAYLOR: Point of order, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Cypress-Medicine Hat.

**Point of Order  
Relevance**

DR. TAYLOR: I meant 459 instead of 439, *Beauchesne* 459. Now we're on alcohol and cars. I realize he has some experience with that, but we should not be discussing that right now, Mr. Speaker.

8:30

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

MR. GERMAIN: It is relevant because we're talking about the implications of section 14(2) of this Act, which says that "the Regulations Act does not apply to water guidelines", and I was giving examples of other regulations that have been passed without public consultation, without publication in the *Gazette* and, as a result, have caused this government an undue amount of personal embarrassment. That was the point I was trying to make, Mr. Speaker, in connection only with section 14(2), speaking about the Regulations Act.

MR. PASZKOWSKI: You should worry about embarrassing yourself.

MR. GERMAIN: Not a chance, hon. minister. Not a chance.

MR. PASZKOWSKI: People might read *Hansard*.

MR. GERMAIN: It's good for them. I hope they do.

MR. PASZKOWSKI: Talk about liquor and the Water Act. That's really, really . . .

THE DEPUTY SPEAKER: Order. The hon. Member for Cypress-Medicine Hat has brought up a point under 459, which does deal with relevance. The Chair has listened to both points, from both the hon. Member for Cypress-Medicine Hat and from Fort McMurray. Although I'm not quite able to follow all of the logic of the hon. Member for Fort McMurray, it does seem relevant that one could deal with the issue that he's mentioned of not having regulations apply to guidelines when on the other hand something that was rather unforeseen did in fact go through order in council. Presumably the Member for Fort McMurray is making the point that one is desirable and the other is not.

MR. PASZKOWSKI: What's that got to do with the Water Act?

MR. GERMAIN: Well, the hon. minister of agriculture says this has nothing to do with the Water Act, Mr. Speaker. If he has not yet grabbed the significance of the Regulations Act and why it is important that it be enshrined in each piece of legislation of this government, then I know that the hon. Member for Calgary-Buffalo, who has become a specialist on issues such as this, who will be following me in the speaking order today, will re-educate the hon. minister, and I know that the minister will want to stay tuned for that exciting lecture.

**Debate Continued**

MR. GERMAIN: I want to press on though, Mr. Speaker,

discussing the Water Act. This Bill . . . [interjections] A fine example they're setting for the new member, the hon. member sitting beside me, a woman to whom I promised I would teach everything I know on the Water Act.

The next point that I want to make is the issue of the sale of water, that this Act permits the sale of water. I want to direct all members' attention to section 35 of this particular legislation, which specifically allows the minister to sell water to individuals that he sees fit. In this section

the Minister may by order reserve water . . . and specify the purposes for which, how, to whom, and the time period with which, an allocation of the reserved water may be made.

Now, that to me, Mr. Speaker, seems to vest in the hon. Minister of Environmental Protection an unprecedented amount of power over one of our greatest and most priceless natural resources. The hon. Minister of Energy does not have that power over energy product in the province of Alberta. The hon. minister of agriculture does not have that power over his sphere of influence. The hon. minister of transportation does not have that power within his sphere of influence. Indeed, the Premier of the province of Alberta does not have the power to give or sell or divest provincial water to individuals, but this minister reserves unto his right that ability: an unchecked, unbridled power, power to control the supply of water in the province of Alberta and to whom it is to go. I think that particular unbridled, unqualified power must be in fact examined closely by this Legislative Assembly, and it must be checked.

Now, do you have any legal rights under this Water Act if your rights are violated? Well, Mr. Speaker, in answer to that hypothetical question I invite all members to turn to section 117 of this particular Act. It's found on page 93, and found in this particular Act and the policy of this government expressed in this Act is as follows:

If an inspector or the Director issues a water management order with respect to the administrating priority and that order . . . is successfully appealed . . .

So if somebody has taken the government to court, much like a cement plant had to take the government to court recently to get permission to build their cement plant at a 30 percent markup in cost, if somebody takes the government to court over water rights, here's what happens to them.

. . . no action for damages may be commenced and no compensation may be paid with respect to any impact on or losses incurred with respect to any person's priority as a result of the issuance or appeal of the water management order.

Now, the minister of agriculture earlier was chiding me about talking about water and about agriculture and about rural agriculture. Suppose that a rancher in this particular province has his water rights cut off, superseded, or suspended, and all of his cattle experience death by drought, death by water shortage.

MR. PASZKOWSKI: You'd better read the Act.

MR. GERMAIN: Now, take it easy, Mr. Minister. You'll get a chance to stand up and take your 20 minutes in a moment.

The minister's going to say, "Oh, well, there are provisions covering that." But in the overriding principles of this particular legislation nobody can go after compensation from the government for a breach of the orders under this section.

This government recently paid, Mr. Speaker, \$9 million to get out of a court case where a trial judge had found that they had wronged a construction company in the province of Alberta. Nine million dollars. The interesting thing was that the construction

company only got judgment for significantly less than that at trial, but the government did not want to go to the Court of Appeal and have their laundry exposed there. Nine million dollars.

Now, if this section had been in that legislation under which those proceedings were brought, then there would have been no economic redress for that aggrieved citizen of the province of Alberta. Hon. members of this Assembly, I find it awkward – awkward – sitting in this Legislative Assembly and passing section after section after section of government legislation that allows the government to do wrong and escape compensation.

AN HON. MEMBER: Are you calling the irrigation district stupid, Adam?

MR. GERMAIN: I said “do wrong.” I said “do wrong, do wrong.”

SOME HON. MEMBERS: Do rah rah rah, do rah rah rah.

THE DEPUTY SPEAKER: Order.

MR. GERMAIN: Now, I did not provoke that, Mr. Speaker. I did not provoke that outburst of singing, let the record show.

AN HON. MEMBER: Are you done?

MR. GERMAIN: No, I'm not done. I thought the hon. Speaker was going to call the House to order because of that inappropriate and out-of-tune singing.

MRS. BALSILLIE: Bad singing.

MR. GERMAIN: Bad singing.

MRS. BALSILLIE: Very bad.

MR. GERMAIN: The hon. Member for Redwater on her first day here has already recognized that the singing quality is poor, and on the Water Act, Mr. Speaker . . .

MR. DINNING: Three minutes.

MR. GERMAIN: Three minutes. You know . . .

MR. DAY: Don't forget my question.

MR. GERMAIN: Don't forget your question. How could I ever forget a question from an individual wearing a tie like that today? How could I ever do that, Mr. Speaker?

MRS. BALSILLIE: And the jacket, Adam, and the jacket.

MR. GERMAIN: The hon. Member for Redwater, herself a fashion critic, says the jacket is worthy of comment too, but I'll let her say that in her 20-minute speech here.

Now I want to talk about the seizing of property in this particular legislation. I want to direct the members' attention to page 97 of the Act, Mr. Speaker. Page 97 of the Act allows an inspector to seize articles or goods or property and detain those articles, goods, or property. That inspector is given powers greater than the Royal Canadian Mounted Police and all of the police forces in the province of Alberta have. That inspector is

given powers to do that seizure even if he has reasonable grounds to believe an offence was committed under this Act and the purpose of the offence was to secure evidence. Then this is a subjective test; this is not an objective test. This is his belief, not a reasonable belief or a fair and reasonable belief. This is his own subjective belief, and he can go in and seize property. That is simply an inappropriate restriction on people's civil liberties in this particular Act.

8:40

Let us look at this unbridled discretion further by turning to page 105 of this particular Bill, Mr. Speaker. There is found section 135(1), which says:

The Director may issue an enforcement order . . . if in the Director's opinion that person has contravened this Act, whether or not that person has been charged or convicted in respect of that contravention.

There you have a situation where a director can make a water rights order, either taking away or restricting an order or putting on use controls, even though that individual is doing nothing wrong. Surely that has not been considered carefully by the minister's department. It is well and good to have an orderly program in the province of Alberta for the control of water, the orderly use of water. It is well and good in the province of Alberta to have water management to prevent flooding, to prevent drought conditions, to provide recreation and to provide crops. All of those are laudable objectives. [Mr. Germain's speaking time expired]

MR. DAY: The question which the member asked that I ask was simply: will the member stand in his place and just give us an honest answer, yes or no, has he read the Bill in its entirety?

MR. GERMAIN: Absolutely. I don't mind answering that question. May I continue my debate and further prove that point, Mr. Speaker?

THE DEPUTY SPEAKER: The Chair is standing because when the time is up, it is up, and the next person is really not entitled to ask the question on the time which has now run out. It's now time for the next speaker on this Bill, which is, as we may remember, Bill 41, the Water Act.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Mr. Speaker, thanks very much. It's always a daunting prospect to follow that kind of trenchant and entertaining analysis of Bill 41. I'm anxious to disclaim any of the expertise that had been mischievously represented by my colleague from Fort McMurray, but as someone who has attempted to read through what I think is a very technical and detailed Bill in the course of preparing for this debate, I wanted to attempt to do my very best. I'll offer my analysis, and I expect that those members who have contrary views and who are much more knowledgeable about this important resource in the province of Alberta will be able to stand and set me straight and correct the inaccuracies that they may hear in my analysis.

Now, a couple of things that strike me. I want to approach this, Mr. Speaker, on sort of a first-principle analysis, because there's an enormous amount of detail in this Bill, and we're going to have an entertaining time, no doubt, at the committee stage in terms of wrestling with some of the specific provisions. I have some misgiving that we're having a second reading debate tonight on a Bill on which I had understood representatives from both

caucuses have been engaged in a diligent and industrious fashion in trying to resolve some issues and trying to agree on a set of amendments that would take Bill 41 and would ensure that it more truly reflects the public sentiment, the public feedback that's been heard since the consultation started in 1991.

You know, I've made this observation before, Mr. Speaker, relative to other Bills. Sometimes one gets the sense that the government puts these things on, there's some kind of a juggernaut that just keeps grinding away, and there's little attention paid to debate in the Legislative Assembly, when we could enormously economize on time . . . [interjection] You know, the Minister of Environmental Protection reminds me that we've seen this sort of thing before. You remember when the freedom of information Act was being debated in the Assembly? We were attempting to sort out amendments outside the Assembly in a way that was expeditious, that was efficient . . .

MR. LUND: You double-crossed.

THE DEPUTY SPEAKER: Order. I think, hon. member, you may wish to reflect upon that comment.

MR. LUND: Reflect upon it? I just called it as it was.

Well, Mr. Speaker, if you need more clarification on the comment, the fact was that we had agreements that we settled on outside the Chamber. We came into the Chamber, and it was as if we hadn't met. So if the hon. member has some terrible feeling about that being termed as misrepresentation, then I will withdraw that comment.

THE DEPUTY SPEAKER: Thank you.

MR. DICKSON: Mr. Speaker, I appreciate your intervention. I hadn't intended on pursuing it, but now in light of the comments we've heard, I just want to be really clear on the record that I heard the distinguished Minister of Environmental Protection refer to double-cross. He said that very specifically.

### **Speaker's Ruling Repetition**

THE DEPUTY SPEAKER: Hon. member, when a member makes a comment that perhaps is inappropriate in parliamentary terms and then withdraws that comment, it doesn't behoove any other member, then, to repeat that and carry on with it.

So if the hon. Member for Calgary-Buffalo could continue on with Bill 41, the Water Act, without any further reference to this, that would be helpful.

MR. DICKSON: Mr. Speaker, it may be that my hearing is going; I didn't hear an apology. If you did, sir, then I stand corrected, but I heard neither an apology nor a withdrawal from the Minister of Environmental Protection. That's the reason I chose to pursue what I saw was a slur and a defamatory statement that had not been otherwise addressed.

THE DEPUTY SPEAKER: To clarify, it was the Chair's understanding that the hon. minister withdrew the comment, so that's why it would be appropriate for you to continue on with your comments on Bill 41, the Water Act.

MR. DICKSON: Thanks very much, Mr. Speaker. I appreciate the clarification.

### **Debate Continued**

MR. DICKSON: I think the point I was trying to make is that I understand there have been some negotiations outside this Chamber to resolve the issues that are outstanding between the opposition and the government. Surely it would be prudent to allow those negotiations to proceed. It seems to me that the Government House Leader, who is always quick on his feet to talk about economizing on time of the Legislative Assembly – this may be a genuinely classic example of time being expended here that need not be expended talking about Bill 41 and talking about principles when in fact there may be amendments that come forward that resolve the differences.

Now, unfortunately we're in a situation where the government sets the agenda. The government has brought forward Bill 41, so we will deal with it. I caution members that they're likely to hear in debate this evening from members in opposition concerns that have been raised before. We have little alternative, because if we don't know what amendments are going to be accepted, what changes are going to be made, then it's a question of going back and trying to reinforce those concerns.

I want to raise some additional concerns I'm not sure are going to be covered in whatever amendments come forward. There are some things that strike me in the Act. I started out saying that if we approach this on a first principle basis and we say that we've created a position – the director's position is an extremely powerful bureaucratic position. If one looks at Bill 41, there are extensive powers that accrue to the director. What I'm uncomfortable with is that in too many instances the director is left with virtually unfettered discretion.

**8:50**

Let me give you some examples, Mr. Speaker, that come to mind. One looks at section 34 and then at section 38(2)(c). I'm just going to move quickly and quote two elements of section 34(1). The first one says:

If the minister is of the opinion that a proposed activity, diversion, [et cetera] . . . should not proceed because it is not in the public interest, the Minister may order.

Now, what I have to ask is: if there is a proposed activity that's not in the public interest, under what conceivable circumstance would we allow it to proceed?

It doesn't say in section 34(1) that if there's a proposed activity or diversion or transfer that's contrary to the public interest, the minister shall order that no application is to be accepted. So what this clearly, expressly says is that there will be proposals that are contrary to the public interest, however that's determined by the director, which can still proceed. Why? Because the director has a discretion. If the director for whatever reason chooses not to exercise the discretion, we have some kind of a development proceeding, going ahead, that is "not in the public interest."

Now, I can't for the life of me understand why in this province anything that would be contrary to the public interest would proceed. I may not be imaginative enough, Mr. Speaker, to envisage or contemplate some of those circumstances, and I hope the Minister of Environmental Protection or someone else can tell me, give me an example of something that would be contrary to the public interest yet notwithstanding that can still proceed.

I would have thought, I would have hoped, and my constituents I think would want to know that if there was a determination made that an activity or a diversion or an "operation of a works" or a "transfer of an allocation of water" was found to be contrary to the public interest, that would be the end of it, full stop, finis. But what we've got is a distressingly large discretion left to the

director. Why would that be? Well, I've read the Act. I've read *Hansard* from May 8, when there was the fullest discussion at second reading on the Bill. It makes no sense to me.

Another example, Mr. Speaker: section 38. I refer you and members to section 38(1). Here we've got another one of these things where "the Director may issue or refuse to issue an approval to an applicant to commence or continue an activity." Well, that's pretty straightforward.

Subsection (2) then goes on to say what kinds of factors must be considered or may be considered by the director. We look at 38(2)(c)(i), and that in effect says that "in making a decision under this section, the Director . . . may consider . . . effects on public safety." Now, under what conceivable circumstance should the Minister of Environmental Protection have an option of considering public safety or not considering public safety? Wouldn't it be absolutely fundamental that the director must on every application consider public safety?

Now, I'm looking to the minister for some explanation, some clarification, but I would like to think that if the director . . .

MR. LUND: This is second reading, remember, on the principle of the Bill.

MR. DICKSON: Well, the principle of the Bill, Mr. Speaker, is precisely what I'm attempting to address now. The principle is: do we give the director unfettered discretion to be able to ignore public safety concerns, which is the case in section 38(2)(c)(i), and do we allow the director to ignore the public interest, which is the case in section 34? Those are simply a couple of indications. There are others, but to me those were two of the strongest weaknesses that jump out at me.

Now, somebody can say, "Well, this is the minutia of the Bill," but I think not, Mr. Speaker. When we create a new position like this and we give this enormously broad and generous discretion, this is the place where we've got to ask the questions: are there adequate safeguards to protect public safety, and are there adequate safeguards to protect the public interest? Clearly from the two sections I've cited, I think there are not adequate protections. There are not those protections that I think my constituents would want to see.

I should say, perhaps belatedly, that I think there are a lot of really positive initiatives in the Bill. I'm not speaking against the Bill. I'm attempting to identify those elements of it that give me concern. I have no doubt that with a commitment on the part of the draftspeople in the Legislative Counsel office, if the will is there, these matters that I'm identifying and respectfully suggesting are problems could be readily remedied. You know, I offer these comments in that sense.

Now, moving from this concern about too broad a discretion in Bill 41, the other matter that gives me some concern is the expanded regulation provision. If you look, there are some six pages of enabling regulatory lawmaking, sections 169 to 170 and then again section 174. As my friend from Fort McMurray ably identified before, we have this ongoing problem that in matters as important as water, perhaps one of the most essential elements in our province, we have an enormous amount of subordinate lawmaking that's going to be authorized under these Bills.

My friend from Fort McMurray has made the points that I think our caucus always tries to make with respect to the Standing Committee on Law and Regulations, the most underutilized pool of talent in the Legislative Assembly, so I wouldn't want to repeat that. I think it's fair to say that the real business of this Act is

found between pages 120 and 126. What happens is that if you have a director who has this broad discretion and you companion that with this exceedingly broad subordinate regulatory lawmaking power, you may well have a recipe for disaster and certainly a recipe for a bureaucracy run amok. I wouldn't think that that's what Albertans would want to see, particularly when we're dealing with a resource as important as water.

Now, some other concerns I had. I note that there's no minister identified with responsibility in the Act. This is an issue that's been raised in debate on other Bills, and I know that the Minister of Environmental Protection no doubt will sort of respond and casually dismiss this concern by saying: well, the Government Organization Act allows us to identify a minister as and when. I'd like to think that when we're dealing with something as important as a water resource, we would want to charge the Minister of Environmental Protection with this specific responsibility. We might reverse it and say: why would we expect another minister to be responsible for water management independent of the Minister of Environmental Protection?

You know, I've listened to the Member for Peace River, who chairs the government's deregulation task force and always talks about how we're trying to consolidate, how we're trying to streamline. Well, what better way of streamlining, consolidating than saying that all Albertans can know that the person that's going to protect this most essential element in the province is the tried and true Minister of Environmental Protection, the man who represents one of the most scenic parts of the province with one of the most interesting water systems anywhere in Alberta? I think Albertans might take some measure of comfort from knowing that it's the Minister of Environmental Protection and not, for example, the Minister of Energy. I think that sends out very much the wrong message, maybe not under ordinary circumstances but particularly when you have this very broad scope for discretion.

9:00

Now, just a couple of other provisions that strike me as being problematic, Mr. Speaker. The concern had been mentioned before in terms of section 18(2)(b), and I won't belabour that other than to say that I can only hope there'll be amendment to that as a consequence of the direct dealings and discussions that have gone on between my colleague from Sherwood Park, the critic for Environmental Protection, and the government. Clearly that has to be changed.

I had a difficulty with section 52(1)(b). The provision here maybe is a little more detailed and something that can be better dealt with at the committee stage, and I'll come back to it then.

[Mr. Clegg in the Chair]

The other concerns I had tend to relate to particular wording in some of the sections, and maybe that can be better dealt with at the committee stage, if those matters haven't otherwise been resolved through direct negotiation between our respective caucuses.

I'd just sum up my remarks on Bill 41 in terms of saying that I think generally the Bill is positive. It attempts to remedy an identified gap in our legislative framework in the province. It attempts to respond – and it's certainly an enhancement over the earlier Bill – to very broad public input. But I'm uncomfortable with the fact that the public interest and the public safety in sections 34 and 38 are not adequately protected and could easily be protected with some minor modification of the statute. I'm



concerned with the breadth of subordinate lawmaking and the regulation power, which I think is so broad as to be abusive when there's no all-party oversight of the regulatory lawmaking.

Those are my primary concerns now as well as those that you've already heard with respect to section 18(2)(b). I'll be interested in a response from the Minister of Environmental Protection or some other more knowledgeable member who can set me straight on my concerns.

Thanks very much, Mr. Speaker.

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

MR. VAN BINSBERGEN: Thank you, Mr. Speaker. I am delighted to be able to say a few words cogently and succinctly on this very important Bill 41. The very first question I have is: really, why are we bothering with this Bill at this particular moment? As I understand it, the minister has made the draft regulations, a very important section of the Bill, available for the public to comment on, to actually provide input on those regulations until the end of September 30. So conceivably we could pass this Bill soon, particularly with government members seeming to be interested in moving at breakneck speed, and then change things afterwards again if the government is serious about paying any attention to public input.

Nevertheless, Mr. Speaker, I shall plow onward here as if we are considering this, and this is going to be one of the most important moments of this Bill. We will do so even while the great helmsman is out fishing. We'll put ourselves to the task of grappling with this very important . . . [interjection] Yeah, I think he's checking out the local water supplies.

Mr. Speaker, I think everybody is in agreement that water is a very important resource, and it's to the credit of this government and more specifically the Minister of Environmental Protection that he is trying to update the legislation that pertains to the use and management of water. It hasn't been updated in a long time, and it needs to be done. It is a very important resource. Lots of so-called experts maintain that water is going to be the most important resource in future years and that the consumption of water on the North American continent particularly is so high that we're going to run into problems and that we Canadians are very lucky to be in possession of so much fresh water that our neighbours to the south would very much like to get their hands on.

Now, Mr. Speaker, the thing that intrigued me as I was reading the purpose of the Bill – and I want to refresh my memory here. The purpose is to manage and conserve water resources, “including the wise . . . use of water,” while sustaining the environment, recognizing the need for “growth and prosperity,” et cetera, et cetera. I think that's very significant. It's also all-inclusive, having to do with almost, as far as I can see, all aspects of water.

Yet this Bill does not really speak greatly to the subject of protecting the resource from pollution. That's the thing that I find a noticeable omission, especially after we've seen the recent report from the commission on the northern river basins study, a very good report that gives us a great amount of information. I was hoping to see a little bit of this perhaps even embodied in this Bill. Nevertheless, that's not the case. Of course, I'm particularly interested in that because of having the headwaters of many of those waterways in my constituency, and they're still relatively unpolluted as they leave my constituency. Then they go on to other places – Athabasca, Grande Prairie, and whatnot – and there they receive a great shot of pollution.

Mr. Speaker, I have some reservations about this Bill. While there are many good sections in it, needless to say I'm not quite tipping my hand as to which way to vote. I think this is probably the time to point out the weaknesses that I can see, and perhaps the minister can allay my fears and straighten me out on any misperceptions that I may have.

First of all, Bill 41 gives the following powers to the government, and I think that's important: to amend, suspend, or cancel approval or licence “if in the opinion of the Director a significant adverse effect on the aquatic environment, human health or public safety,” – tah-dah, tah-dah, on it goes – has occurred. The government may withhold 10 percent of water when a licence is transferred to another person, again if the director perceives that to be necessary, and may take emergency measures if that is deemed to be necessary. I think that makes eminent sense, contrary to some of my colleagues perhaps. I think that the government must have those powers because of the importance of the specific resource.

Then there is a glaring sort of hole in this legislation. In clause 18(2)(b) none of the above provisions apply to an existing licence if they're in conflict with the terms of the licence. That to me is sort of akin to the federal government declaring a state of emergency and then saying that it really doesn't apply to all Liberal members or so. You know, it would be very nice perhaps, but you can't do that. When you have that kind of a blanket Act, it's got to apply to everything, and there's got to be found a way to do so. So I think that's a weakness of the Act.

#### 9:10

I'm stepping over many aspects of the Act, and I'd just like to proceed to the final section of the draft regulations. There are some very intriguing ones in there, in my view, and I thought I'd give the minister the benefit of my views on those.

First of all, Mr. Speaker, there is the text. Bill 41 refers to regulations in a number of places. Specifically, it is section 169(2) that lists matters for which “the Minister may make regulations”, yet there are no regulations provided for many sections on that list, even when there is reference made in the Act itself to the regulations. I find that an inconsistency, and I think the government simply should provide more of their regulations so that we know what exactly they have in mind.

Then there sections 73 to 78, which deal with the registration of traditional agricultural use. Section 73(4)(h) requires the applicant to “meet the requirements of the regulations,” but the regulations themselves are absolutely mum on the subject of the registration process. So that doesn't help anyone very much, I think, and in my view, again, the government ought to provide a little more clarity on the matter.

Section 33 deals with agreements to assign water, and it refers to a temporary assignment rather than a permanent one. The section does state that “an agreement made under this section is subject to the regulations,” but there are no regulations. Again, maybe the minister would like to stick them in later, but it's important to have them right now, in my view.

Section 82(8)(c) states that

the Director may, subject to the regulations, take any necessary steps to reverse the transfer, including but not limited to amending the licence from which the transfer was made.

Again, where are the regulations? Under what conditions is it proper for a director to do so? It'd be nice to know, you know.

Actually only one more that I'd like to focus on, and that is the disclosure of information part, part D. Section 18(2) states that subsection (1) applies only to documents and information provided

to the department after the coming into force of this section. That means, in my view and my understanding, that we can't possibly obtain any copies of existing licences or approvals under that particular regulation. I think the minister has stated that all licences will be treated the same under the new legislation, so that doesn't make sense. And would we be able to access that information under FOIP, at least, even after paying yet another 25 bucks?

Mr. Speaker, those are some of my comments. They're perhaps more in the form of questions. I would appreciate it if the minister could provide some answers to those questions.

Thank you very much.

THE ACTING SPEAKER: The hon. Member for Bonnyville.

MR. VASSEUR: Thank you, Mr. Speaker. I'll begin my comments by referring to the Act and saying that I didn't take the leisure of reading the Act word by word, but I did look for the areas that pertain to the water management plan. In northern Alberta for some 15 years, in the area that I'm from anyway, it has been a huge debate. Maybe it's not a big debate this year because the rain has fallen and everybody's happy, but the concern over many years was a defined and well-prepared and comprehensive water management plan.

Now, we know that in southern Alberta the usage of water is much, much different than northern Alberta. In southern Alberta for generations already we have managed water. We have managed water because of agricultural use and agricultural demand. We have managed water because of heavy domestic demand by larger urban areas.

In the north it was never really an issue because of the appearance of the abundance of water, but a few years ago when industry started coming into northern Alberta with a large demand for water, there was a concern that was identified. The first people to be concerned about that – and we're going back to the late '70s – were the agricultural community, and rightly so. At that time there was no drought, but they were concerned about how much water was going to be used and what quality of water was going to stay behind.

Now, I'm not saying that all the queries or all the concerns were legitimate at the time, but they were concerns that should have been addressed. For many years we've been promised that there will be water management plans. My disappointment with the Act is that in section 7 all it says is that "the Minister must establish a framework for water management planning . . . within three years." So we've gone through a period of almost 20 years where the government has been telling us that we are going to manage water.

There may not be any problems at the present time because there appears to be and there is a large quantity of water right now, but there are three sources of water. In a proper plan, proper management of the water would satisfy every user. It certainly would supply the domestic users because they are not in large quantities in northern Alberta. The agricultural community, because of the inability to do what they have done in southern Alberta, could never look at that kind of infrastructure. But industry has become the big user of water. With the proper management and telling people that these are the priorities, that this is what the priority would be, if the water levels in a certain lake go down below a certain level, then they're cut off, and that's how the licences are issued presently – what we need in a water management plan is exactly that. Not left only to the

discretion of the minister through a director to come up with a plan when an application comes in for water usage.

Now, going back into a little bit of the history, we were told many times that there would be a comprehensive study, a water management plan in the area, and I was expecting at least a reference to the different water planning areas in the province in the Bill. To my disappointment, none of that is in here. True, there is not a problem at the present time, but when can we expect these water management plans to be in place? We may not be as fortunate as this year, when there's an ample amount of water fall, when there is not all that much question from the public at the present time, but we could very easily have another drought period where people are going to ask similar questions to what they've been asking for the last 10 years.

9:20

The other issue that we were told time and time again would become part of the Act was the quality of water. I'm not taking anything away from the oil and gas industry that is investing in the north. They know that there are ample amounts of water. They know that there are three different sources of water. There's the surface water, there's the water from the aquifers, and as a last resort there's the saline water, which they have to dissolve the salts from and use, which is a little bit more expensive. They know that the water is there. They would much prefer to take from the first two, of course, because of the cost, but if the plan would dictate to them that when it hits a certain level or if we've depleted the aquifers to a certain level, they must go to the alternate source of water, then everybody would be happy. The domestic water users would understand the plans in front of them. The agricultural community would know that this is the amount of water that's being used and no more and no less, and the industry would be happy, because they would know when they have to switch sources instead of coming begging to the government again.

With those comments, Mr. Speaker, I would like the minister to answer a few of those questions, not that it's probably going to change the Act here, but those are some of the concerns, and not only my concerns but concerns of a lot of northerners.

Thank you.

THE ACTING SPEAKER: The hon. Member for Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Speaker. I, too, wanted to make a few comments about Bill 41, the Water Act, that is before us today. The Bill begins with some 10 pages of definitions of various terms and phrases that are used throughout the course of this legislation. We've seen the Bill introduced by the Minister of Environmental Protection; in fact, his name is on the front of the Bill. But indeed the Bill has a rather vague definition when it deals with the definition of which minister shall be responsible for this particular piece of legislation. It says simply that the minister determined by the Government Organization Act, section 16, will be the minister responsible.

Now, I'm curious as to why, in defining which minister would be responsible for the Water Act, it doesn't clearly spell out that it will be the Minister of Environmental Protection. Much of the reference made in this Bill that deals with water deals, of course, with agricultural purposes, and it seems to me that it could be entirely possible that the government might at some point deem that it will be the Minister of Agriculture, Food and Rural Development who might at some point down the road be the

minister deemed under section 16 of the Government Organization Act to be responsible for the Water Act. I'm wondering, as the first question that I would put to the minister, why that is not more precisely spelled out rather than leaving it as open as it is in this particular piece of legislation.

Mr. Speaker, one of the sections that we have in here deals with the prohibition of interbasin water transfers. In fact, it's pretty clear that there is a prohibition under section 47 of this Act that deals with licences and says that there may not be any "transfer of water between major river basins" – and this is the point that gets to be a bit of a concern – "unless specifically authorized by a special Act of the Legislature."

The next section, section 48, talks about the requirement for a public review. Now, Mr. Speaker, I support the idea that there should not be interbasin water transfer notwithstanding that in the deep south, as the Member for Cypress-Medicine Hat has pointed out, there are some dry, drier, and driest areas of the province. The crops down in the southeast part of the province are plain awful right now; there's not much left to harvest because they've shriveled up because of the hot weather. Having said that, there is a section earlier on in the Bill, section 8, that talks about biological diversity and the concern about biological diversity, therefore giving part of the rationale why there should not be interbasin water transfer, because you would not just be transferring water but also the organisms contained there, both plant and animal, and when I say animal, I mean both vertebrate and invertebrate animals.

When we look at section 48, it talks about a public review. In this particular section it says that "the Minister must consult with the public, in a form and manner satisfactory to the Minister." Well, that's pretty open-ended, Mr. Minister. I mean, that might be simply turning to the Member for Cypress-Medicine Hat and saying, "Hey, buddy, what do you think"?

DR. TAYLOR: Excellent consultation.

MR. BRUSEKER: Excellent consultation. Now, I'm sure that you would get an earful from the Member for Cypress-Medicine Hat. There is no question that you would get an earful from that member, but I'm not sure that I would agree that that's necessarily public review. Well, I'm sorry, hon. minister; you and I may differ on that.

DR. TAYLOR: We'll ask the folks in Manyberries.

MR. BRUSEKER: We'll ask the folks in Manyberries. Well, okay. That might work. If you got there on a Friday evening, you'd have a bigger crowd than you would on a Monday morning, but that's okay too.

I guess my concern with that particular section is that I would like to see something a little broader, rather than simply the minister rather introspectively, as this seems, asking himself, "Gee, what do I feel like doing today?" It seems to me that an issue that I feel as strongly about, which is interbasin water transfers, should require some broader form of public review. I think that the potential for changing of food chains is a strong potential if you introduce new species either of game fish or predator fish or the introduction of diseases. Transferring protozoans from one sort of water basin to another water basin could introduce diseases. So, Mr. Speaker, I would like to see something a little stronger when we get to the section during committee wherein the minister might look at some broader form

of public review.

Certainly the government is no stranger to requesting public input. Just a few months ago the Treasurer asked for input on what we do with the surplus the Treasurer has managed to create this year and got a broad response from Albertans north, south, east, and west across the province. So the issue of public review, Mr. Speaker, in my opinion, as the Bill is currently written in those two sections that I referred to, I think it needs a little more tightening up, a little more strengthening to make it a little clearer.

There's a large section of the Bill here, part 3, the right to divert water and priority of uses, that talks about who gets the first kick at the cat or first kick at the water, I guess, if you will. We have the concept of being first in time, first in right to use the water. Now, that sounds fine in some areas, but I would suggest, Mr. Speaker, that there might be areas of the province where that would present some difficulties. Again I'll use as an example the southeast corner of the province, where the soil is basically sand in places, very, very porous, and the water can simply drain away as it goes from one neighbour to the next neighbour, and the neighbours – and I've seen this firsthand – have gotten into fights as to who was using and overusing the water when in fact the water is simply disappearing into the porous, very dry soil that is down there. So even though someone may have the first in time, first in right claim, the water may not in fact get to an individual because the water simply drains away into the soil.

Now, the issue that I'm raising here is that it seems to me an oversight in this particular piece of legislation, the concept of who is upstream versus downstream from users compared to who gets the first use of the water, who the water first flows past in the streambed. I think that's potentially an oversight. Quite frankly, I don't know how one might resolve that apparent conflict between upstream versus downstream users as compared to the first in time, first in right use of water supply, but I do think, Mr. Speaker, that that is a concern that has not been addressed in this particular piece of legislation that I think should be included within this legislation that allows for some variety of different approaches depending upon the location within the province, the soil type, the hydrogeography within the area that determines how the water is going to be most effectively utilized from one person to another down the stream and from one person to another as we go across the land.

9:30

Mr. Speaker, there's also a section here that deals with transferability of water rights. This deals with part 5. It starts with section 80, division 1, changes in ownership. There is a long sequence of sections that deal with transferring water allocations: who can transfer and how water can be transferred from one individual to another. I see some potential problems in this particular area as well. When individuals sell the land, they may then start transferring the rights to the water separately from the sale of the land.

Certainly, as I said, particularly if you get into some of the drier areas, if you sell the land without the water rights, the land ain't worth a whole heck of a lot without the water to go with it. I think that's a potential problem if we start having people market a piece of land in a piecemeal fashion, if you will. If with irrigation a piece of ground produces, for example, 60 bushels of wheat to the acre on average and you take away the irrigation rights and it's down to 15 or 20 bushels to the acre, then your opportunity to make a living off that patch of land is going to be substantially reduced, and the time it's going to take you to pay

that back, if ever, is going to be greatly increased. I think that has to be given some consideration as well.

Certainly, I guess, to a certain extent the minister may respond and say: "Well, buyer beware. You have to know what it is you're buying." I suppose to a certain extent that's true, but also I think we need to be giving some consideration as to how we develop the entire agricultural industry and the rural economy, which I know is near and dear to the minister's heart. I raise that, I guess, as a concern, Mr. Speaker, because I'm not sure that this Bill, as I read through it, really adequately addresses that possible concern for some areas. Now, where there is no irrigation or no adequate water flow to give that terrific impact one way or another, then I don't see that as being a big concern in those particular areas. Where the water is there and can be shut off, if you will, or diverted, then I think that's a potential problem.

Mr. Speaker, I want to go back to the issue of definitions. There are a number of places that talk about water management works and undertakings and stream diversion and if it is or is not in the "public interest," is the phrase used in the legislation in a number of locations. The phrase "public interest," I guess, is a rather vague term. I would like to see a little more definition being given to the term "public interest."

Just by way of example to perhaps help the minister clarify some of his comments, if we think back to the construction of the Oldman River dam, there are those who would say that that was tremendously in the public interest, and there are those who say it was tremendously not in the public interest because it had tremendous impact on three different river channels, it flooded a tremendous amount of farmland, and then of course we have the huge cost that was associated with the building of that particular dam. On the other side of the coin, in the communities of Lethbridge and downstream from where the dam is located, now you have a more regular and a more reliable source of water for those communities. So the obvious question then is: how do you determine public interest? Which is the greater good when giving consideration to diversion or construction of diversionary waterworks or dams or what have you?

Mr. Speaker, I think that overall the government is moving in the right direction in an attempt to clarify what is going on in here, but I see a number of relatively arbitrary things in this particular piece of legislation. One of them talks about exempted agricultural use. This deals with – and this figure appears in a number of locations – the issue of diverting a certain volume of water. The number that is used is 6,250 cubic metres per year, which works out to about 5 acre-feet. Now, I guess the question is: how was that number determined? For some individuals that may be sufficient water; for other individuals it may not be anywhere near enough. It's used in a couple of places within this particular piece of legislation, and I'm wondering how that number was determined.

Was that number achieved with some consultation with the Alberta Cattle Commission, for example, or the Wheat Pool? I'm not sure exactly. So that's my question. How was that number arrived at and determined?

Again, Mr. Speaker, dealing with the issue of priorities, there's a section in here that allows for a traditional agricultural user – this is section 30(2) – "to divert the whole allocation of water specified under the licence." It seems to me that that then potentially leaves a person, as is referred to in the section, with "a numerically higher priority number" with no water whatsoever. Again I go back to the issue that I raised before. In dry areas of

the province – and certainly we have those areas within our province – if you deny those agricultural users at least some water on a regular basis, the economic viability of those areas is going to be certainly dramatically reduced.

In fact, in the southern part of the province you see areas now where of course farmers are buying larger and larger areas, when it was first settled with a homesteader on every quarter or half section. The end result, of course, as you're probably aware from our history, Mr. Speaker, is that there are a great number of individuals who simply could not make it on those dry patches of ground in that small area. They simply needed bigger areas.

The final comment that I would make is again dealing with the whole issue of: how do we resolve disputes? How do we make sure that different people have got the right amount of water at the right place, hopefully at the right time? Of course, the weather being what it is, that can't always be determined. There's a section here, section 52(4), that talks about if there is a loss or damage that has occurred, "the Minister [will] determine the amount to be paid . . . and that determination is final." I guess I have two concerns with that particular section. It seems to me there's no mechanism for any kind of an appeal under that particular section, and one must also ask: how does one determine what the damage is or the loss that has been incurred that occurs there? Now, maybe there will be a series of regulations that come out that will address that particular issue, but I think that with the way the Bill is currently written, there are quite a number of, shall we say, gaps in the legislation that I think need to be tightened up.

Overall, Mr. Speaker, I think that this Bill is probably, as I said, moving in the right direction. I think it will need some amendments at the next stage, at the committee stage, in order to tighten it up and make it a more useful Bill in particular for the agricultural users around the province, and I look forward to that stage.

Thank you, Mr. Speaker.

**THE ACTING SPEAKER:** The hon. Member for Cypress-Medicine Hat.

**DR. TAYLOR:** Yes, Mr. Speaker. I'd like to rise and address this Bill briefly. What we have here is a very positive Bill. It's a Bill that's taken, as you know yourself, a long time in its development. You worked on this Bill in the early years of your career here in Edmonton, developing some early statements in terms of this Bill.

[Mr. Herard in the Chair]

Mr. Speaker, I'm concerned by what I hear tonight. We have a group here in opposition that is standing up and delaying the passage of this Bill. This Bill is needed in southern Alberta. I know they have no representatives from southern Alberta, but this Bill is needed in the south, folks. We need it. The Alberta Cattle Commission supports the Bill. The Irrigation Council supports the Bill. Irrigation districts support the Bill. The irrigation users support the Bill. The small communities of southern Alberta support this Bill. You people stand there and delay and delay and delay. I'll tell you quite frankly: once this gets out there that you've delayed this, you need not even bother standing a candidate in southern Alberta, because it'll be a waste of your money. Don't bother. This is a popular Bill in southern Alberta, and we need it. Unless you live there, unless you know the water

shortages that we experience daily in southern Alberta, you cannot appreciate it. We cannot expand our agricultural irrigated acreage any farther in southern Alberta because we don't have the water. Bow Island, which is in my constituency, has the highest heat units of any place in this province.

9:40

AN HON. MEMBER: It's because you live there.

DR. TAYLOR: No, it's not because I live there. I actually live in Medicine Hat, member. That was a good one.

We can't expand our irrigation. We can't expand our agriculture any further. We're producing all kinds of value-added crops in southern Alberta. We're producing spearmint. We have farmers that are producing peppermint and spearmint. We have farmers that are producing catnip. We have farmers that are growing ginseng. These are all very specialized crops that we can produce in the south because of the high heat units, but we need the water. To delay this Bill, as you're doing, you know, doesn't make sense. It's a good Bill. Don't delay it.

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

THE ACTING SPEAKER: The Member for Fort McMurray is rising on a point of order.

#### **Point of Order Allegations against Members**

MR. GERMAIN: Citation 23(h), (i) and (j), Mr. Speaker. The member implies false motives to the Official Opposition, indicating that we are delaying the Bill. As one of the members of that opposition sitting here today, I take that as a personal allegation and as a result rise on this point of order. This is an important piece of legislation, and while I am very interested in the hon. member's positive comments about the Bill, he should listen to the other comments about the Bill too. Nobody has said that dealing with water issues is not important, but what we want to have is a clear and cogent debate on the issue, and that's what we have had.

DR. TAYLOR: On the point of order, I would point out that this is a bit like calling the kettle black, Mr. Speaker, in the sense that he's the man that talked about open alcohol in vehicles when he was talking about this Bill. I think he talked about nurses and somehow tried to relate nurses and nursing assistants to this Bill. So I really quite frankly don't think it is a point of order.

THE ACTING SPEAKER: Hon. members, I think some of those issues that Cypress-Medicine Hat has just brought up were dealt with by the Speaker when they were brought up. I listened intently to the comments from the hon. Member for Calgary-North West and felt that they were certainly on the principles of the Bill. I did not see any particular attempt to delay, and I don't believe there is a point of order.

#### **Debate Continued**

DR. TAYLOR: Thank you, Mr. Speaker. I'll go on now and talk in just a little bit more general sense about the Bill. I think in some sense I would like to see the Bill go a little further. I think it makes it a little too difficult for us to get another dam in southern Alberta. We need a dam at Empress. It would be called the Meridian dam, or that's what the community group is calling it just for a token name. What this dam at Empress would do is

back up the South Saskatchewan River and open up thousands and thousands of acres to irrigation. I think we need to be more open towards those kinds of issues in a Bill like this. I think we should have statements that would support those kinds of things and promote those kinds of things after appropriate research.

One other issue that I think is perhaps made a little too difficult by the Bill is selling water, for instance. Water is a natural resource. It renews itself. I mean, we have nobody complaining and worrying about us selling our oil, which is a nonrenewable resource. We have an abundance of water in Alberta, and I think we should be able to investigate selling water and making it a natural resource as are oil, gas, minerals, and promoting them and using them to increase the economic development of the province. Now, I'm not saying that we leave Alberta short of water; I would never say that. I would be totally opposed to that. But I think there is good opportunity to reroute some of our water and be able to turn it into an economic advantage.

The other thing I'm concerned about is interbasin transfer. As I believe I tried to explain earlier, we don't have water in the south. We need more water. It doesn't rain down there. As the Member for Calgary-North West pointed out, southern Alberta is drying out. We have in Manyberries and south of Foremost areas where, quite frankly, the farmers are drying out. Their crops are being damaged by the hot, dry weather. We've had no significant rainfalls since late May. If we had the advantage of transferring northern water to the south, then I think we would be able to open up more opportunities for economic development in the south.

Now, I recognize that this is a very sensitive issue, and I'm not arguing that we should suddenly start doing this. What I would like to see is some research being done on how it could be done. Certainly we have to be concerned about the transfer of various kinds of diseases from the north to the south and so on. But we need to start looking at research in this area, and I'm afraid that the way the Bill is written, it won't happen. I would like to see the Bill actually encourage the development of a program of interbasin transfer, encourage at least some research. This would take a number of years to do this adequately, but if we don't start now, to start it 10 years from now is far too late, Mr. Speaker. We need to start that process now. We need to be encouraging in this Bill a research approach to interbasin transfer, and I think it could certainly benefit the whole province.

SOME HON. MEMBERS: Question.

DR. TAYLOR: I hear members calling "question," so with those comments I'll conclude.

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

MR. SEKULIC: Thank you, Mr. Speaker. I, too, rise to speak to Bill 41, the Water Act, and I consider it to be one of the more important issues in Alberta today. The Treasurer earlier whispered across the way that his familiarity with water and the Water Act is that if it doesn't come in two litres off the Safeway shelf – he's just not sure about issues, I guess, beyond that.

Mr. Speaker, I think it's truly a benefit to the Assembly and to all Albertans to see that this type of debate takes place, and I would challenge my hon. colleague from Cypress-Medicine Hat about the delay tactics of the opposition. Clearly you yourself stated that there was no evidence of that. In fact, I support the purpose of the Bill, I see the need for the Bill, but I do want to

state that there are some concerns that I myself have.

This Assembly, Mr. Speaker, is one of the only venues where all the needs from Albertans all across Alberta can actually be put forward and debated. Just as the hon. Member for Cypress-Medicine Hat is here now lobbying for the Meridian dam, I hope that he hears too the concerns of Albertans that need health services and need that northeast Edmonton health centre, because that voice too needs to be heard. I hope the hon. Member for Cypress-Medicine Hat will be gracious enough to enter the debates on that in a positive manner when he's given the opportunity.

Mr. Speaker, the part of the Bill that I had some difficulty with when I went over it – and this speaks to the general principle of the Bill, although it's found in section 46(2) – was the transferring of water from the province outside of Canada. I do have a great deal of difficulty. I totally disagree with the hon. Member for Cypress-Medicine Hat on the issue of selling water. I'm personally totally opposed to it, and I think I am entitled to that view. My concern there is that earlier these 83 members voted on a Taxpayer Protection Act, and the reason we voted on that Bill was to protect Albertans and provide every Albertan with the opportunity to prevent that Conservative government from imposing a sales tax on Albertans. I agreed with that. I supported that Bill.

Mr. Speaker, water is as important as the prevention of the imposition of a sales tax. I would say that we should permit all Albertans to have control over this valuable resource and in fact that section 46(2) somehow, hopefully in committee, be amended so that the voice of all Albertans can be heard, hopefully through a referendum. I know the minister, being open to positive suggestions, will look to that and see if there can be any similarity in the way we permit Albertans to speak on this Bill as we have, in terms of the sales tax, through the Taxpayer Protection Act. I think there were some good ideas there.

**9:50**

The next area that I did have a bit of concern with was section 142(1), which speaks to offences. It states: "a person who . . . fails to provide information, data, records, reports or documents as required under this Act" would be "guilty of an offence." Of course there's a penalty of up to \$50,000 for not disclosing the information. I've been here for three years now, and I've asked them for information on numerous occasions. And you know what, Mr. Speaker? The government hasn't been required to bring it forward, and there's been no penalty – political, financial, or otherwise – to the government for not bringing that information forward. So I do agree with this clause, but I would like to see the government not being cynical and imposing the same standards

upon itself as it's imposing upon its citizens.

So, Mr. Speaker, overall I do see the merits of this Bill. I do see the needs of our neighbours in the southern constituencies, the difficulties they have, and that we have to do something to address their concerns. I think this Bill will go a long ways to doing that. I hope that we can continue in an objective manner to address the needs of all Albertans and that the minister will continue to be open, particularly in Committee of the Whole, to suggestions that have been put forward, I know, by the Liberal opposition's environment critic. I think that if this is in fact the case, we can see this Bill's passage expedited through this Assembly so it can go and serve the needs of Albertans.

Thank you very much, Mr. Speaker.

THE ACTING SPEAKER: The hon. Minister of Environmental Protection.

SOME HON. MEMBERS: One minute.

MR. LUND: Well, thank you, Mr. Speaker. I hear some of my colleagues saying "one minute," so we will keep it very short.

Mr. Speaker, I'm pleased to hear that a number of the members agree that the principles of this Bill are very sound and that in fact it is a very important piece of legislation for the province of Alberta. While it is true that the allocation and the use and the availability of water in southern Alberta is much more critical than in other parts of the province, as the hon. Member for Bonnyville pointed out, there are other areas within the province where there isn't a large supply of water. It is very important and critical that we do in fact get in place a system for the management of the water.

So I hope that we will see some co-operation from the opposition as we move forward in Committee of the Whole. We will be endeavouring to answer the questions that they've raised in second reading. I know they won't be happy with all of the answers. I knew that before we ever got started, because there are some things that the public have said very clearly in the process that they didn't want to see in the Bill. I hear them echoed across the way tonight: the old shalls, and, you know, you've got to come with the hard knocking and big government. So we're going to try to appease as much as we can.

With those brief comments, Mr. Speaker, I would move that we call the question.

[Motion carried; Bill 41 read a second time]

[At 9:52 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]