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First Session

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The Honourable Kenneth R. Kowalski, Speaker

Legislative Assembly of Alberta

The 27th Legislature

First Session

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 Mitzel, Len, Cypress-Medicine Hat, Deputy Chair of Committees

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[Errata, if any, appear inside back cover]

Legislative Assembly of Alberta

7:30 p.m.

Monday, May 26, 2008

[Mr. Mitzel in the chair]

The Acting Speaker: Please be seated.

Hon. members, before we proceed, may we revert to Introduction of Guests?

Hon. Members: Agreed.

Introduction of Guests

The Acting Speaker: The hon. Minister of Service Alberta.

Mrs. Klimchuk: Thank you, Mr. Speaker. It's a pleasure to rise this evening and introduce to you and through you to this Assembly residents and staff of The House Next Door Society in the constituency of Edmonton-Glenora. The House Next Door Society is a transitional group home that helps individuals with severe and persistent mental illnesses acquire skills and community supports in order to achieve greater independence. The residents from The House Next Door are here with their leaders, Carol Grey Hoyles, Amanda Dwyer, Liz Estell, and Risa Ganpatt, and I'm thrilled they could come and see all of us tonight. I would ask that they rise to receive the traditional warm welcome of this Assembly.

Motions Other than Government Motions

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

Animal Protection

507. Mr. Johnston moved:

Be it resolved that the Legislative Assembly urge the government to enhance the protection of animals by reviewing relevant provincial legislation and the processes in place for investigating cases of animal cruelty.

Mr. Johnston: Thank you, Mr. Speaker. It gives me great pleasure to begin the discussion on Motion 507. Cruelty towards animals is an unnecessary act. It is preventable and should not happen. Albertans have recently been witness to some callous acts towards living creatures. These appalling situations have led to outright protest and unrest from communities and groups across the province. Motion 507 would encourage the Alberta government to enhance the protection of animals by reviewing relevant provincial legislation and the processes in place for investigating cases of animal cruelty.

Mr. Speaker, I would ask each of my colleagues here today to consider what we can do to prevent further cases of these crimes. While we may never be able to stop each and every instance, I feel that the government could look into this matter further and determine what changes could be made to further decrease these occurrences.

I have proposed in the motion before us that we consider the investigative process as a means to inhibit these actions. This could prevent future cases of animal cruelty. Mr. Speaker, the phrase "animal cruelty" encompasses a wide range of behaviours harmful to animals, ranging from neglect to malicious torture and killing. Intentional cruelty towards animals is an abhorrent act. Those who commit malicious acts to an animal under their care commit a crime.

Under the Criminal Code of Canada cruelty to animals can result in stringent penalties. Recently the House of Commons passed Bill S-203, which dealt with increasing the maximum penalties for those

who contravene the code. While this may be a deterrent for some, very few cases ever result in conviction. It may be extremely difficult to obtain a conviction because evidence of cruelty or neglect is difficult to obtain. An animal cannot testify in court nor are the effects of abuse easily spotted. After the creature is nursed back to health, it is difficult to prove definitely that anything ever happened. A defendant will only be found guilty of the crime if unwavering proof is presented, and this may require an eyewitness account or testimony.

Mr. Speaker, intentional acts are only one aspect of animal cruelty. This phrase encompasses a wide variety of behaviours, including neglect. Most cases of neglect investigated by animal protection officers are unintentional and do not require punitive measures to be rectified. Sometimes a verbal reprimand from a peace officer will suffice. But these cases do cause distress to the animal being neglected. Any person who partakes in the ownership of another living creature should be held responsible for their actions.

In Alberta the Animal Protection Act governs the protection of animals from experiencing distress. The definition of distress includes not providing adequate shelter, ventilation, space, food, water, veterinary care, or reasonable protection from extreme elements; not providing adequate care if the animal is injured, sick, in pain or suffering, abused or subjected to undue hardships, deprivation, or neglect.

Motion 507 does not wish to stop or punish legal activities, though. This motion does not urge the government to hinder rights such as hunting, fishing, and trapping nor is the motion an appeasement to radical animal rights activists who wish to further their own agenda. However, it does aim to limit the suffering endured by an animal in Alberta.

I believe that many Albertans would agree that the 80-20 rule works with respect to animal rights. The rule states that the majority of society agrees with 80 per cent of what these animal rights proponents have to say but disagrees with the other 20 per cent of what they put forth. While that rule is not perfect, it does reflect the fact that Albertans agree with the ethical treatment of animals. This includes the treatment of livestock and domestic pets as well as other animals.

Mr. Speaker, after looking through the documents pertaining to the conduct towards the treatment of animals, I believe that this government is on the right path. But after discussing this matter with the Edmonton and the Calgary societies for the prevention of cruelty to animals, or SPCA, it is apparent that there are potential changes to Alberta's legislation that may prevent further animal cruelty cases. Their recommendation includes enhancing the investigative process currently within the Animal Protection Act. Motion 507 urges the government to further this process, which can enable awareness of potential cases and allow for the peace officers to take preventive measures. By doing so, I am not looking to include authority above and beyond what is granted to any peace officer. The potential for conflict could result from granting too much authority, such as entering a private dwelling, but something should be done. Motion 507 would urge the government to allow animal protection officers the ability to further enhance their investigative capacity.

The seriousness of preventing these inhumane acts could also prevent other abusive activities. Mr. Speaker, there have been numerous studies that show the relationship between cruelty towards animals and abusive relationships with other individuals. The Alberta SPCA, the YWCA family violence prevention centre, and the American Humane Association have each noted the correlation between animal abuse, family violence, and other forms of commu-

nity violence. If animal protection officers are able to further investigate cases of animal cruelty, they might be able to reduce the number of abusive relationships in this province as well.

Mr. Speaker, I would like to conclude my remarks by reiterating that I believe this government is on the right track when it comes down to animal cruelty prevention, but if there's any way this government is able to further prevent cases of animal abuse, then it should be done.

I would like to thank the members from the Calgary and Edmonton SPCAs, especially peace officer Jennifer Olson, for all the hard work and recommendations. I look forward to hearing from my fellow Members of the Legislative Assembly on this subject. Thank you, Mr. Speaker.

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

Mr. Hehr: Well, thank you very much, Mr. Speaker. I'm pleased to rise and speak in favour of the motion for enhancing the protection of animals that is Motion 507. There is no doubt that there are still a disturbing number of cases that come to our attention, from the media and from other outlets, that are highly shocking both to me and the average citizen here in Alberta.

What this bill does is propose incremental changes to expand the definition of what is being included as an animal that is distressed and give some broader meaning to flesh out that term and to allow our enforcement officials to do a better job of investigating these heinous and terrible situations that emerge from time to time.

If we also take a look at other things, there's just that added sense of protection for both owners of animals and those just passing animals on the street. I take the words of the member at face value. Oftentimes situations of abuse, situations where an animal has been mistreated are symptoms of a larger crime or possible crimes that are indeed happening at that place of residence that can at least bring our officials to shine a bright light on this issue. I think it does a lot of good for not only animals but the rest of society. So I'm just very pleased to speak in favour of this.

There is some note of caution in that we do have to make sure that our officials who are enforcing these acts are actually doing the job. For instance, I believe that we had the Animal Protection Act back in 2006. There have still been numerous incidents at zoos and petting zoos that have remained sort of unchecked and ongoing. If we can increase the amount of enforcement along with this type of measure, I think it's a proactive step in the right direction.

Again, I will be supporting this motion. Thank you very much.

7:40

The Acting Speaker: The hon. Member for Strathcona.

Mr. Quest: Thank you, Mr. Speaker. Motion 507 urges the government to consider enhancing legislation targeted at protecting animals. This motion addresses a recent pressing concern of myself and the constituents of Strathcona. I am, therefore, exceptionally grateful for the opportunity to rise in the Assembly today and speak to Motion 507.

Mr. Speaker, let me begin by clarifying that normal day-to-day farming practices are not the issue here. The issue is owners who neglect to provide necessities to the detriment, the survival of their livestock. Recently a large livestock seizure occurred within our province where horses were removed from a ranch in questionable condition. Currently these animals are at the Keno Hills stable in the Ardrossan area in my constituency, where they're being graciously cared for by a team of volunteers. These incredible individuals started the Rescue 100 Foundation, which calls on volunteers and collects funds to assist in the undertaking of caring for these horses.

As I mentioned earlier, this motion addresses a timely issue for me and my constituents. My constituency is home to many farming operations, both big and small, and included in the mix are numerous hobby farms with various livestock. Mr. Speaker, livestock, which by definition includes cattle, horses, sheep, swine, goats, and poultry, to mention a few, are all protected under the Animal Protection Act. Their rights include the animals' basic necessities, such as food, water, shelter from extreme weather, and adequate care if ill or injured.

Mr. Speaker, there are many ways in which this government is working to ensure the well-being of livestock animals; the issue is enforcing the regulations. Legislation within Alberta requires that peace officers obtain a warrant before entering the premises. Therefore, situations involving neglect, which may not be situations of urgency, develop over longer periods of time and may result in unnecessary animal suffering. Let me reiterate that I am not talking about branding cattle or other normal, widely accepted farming practices. I'm talking about starving horses, for example, situations that involve gross neglect and abuse. We must ask ourselves if there's something more this government can do to enhance the protection of livestock animals.

The Alberta livestock protection system was created for such reasons. Formed in 1998, this is a coalition of the Alberta Farm Animal Care Association, the Alberta SPCA, the Ministry of Agriculture and Rural Development, the Canadian Food Inspection Agency, and the Royal Canadian Mounted Police. This partnership was formed in response to the growing concern for effective and accountable animal care across Alberta. It exemplifies how both government and industry are coming together to increase the protection of livestock animals.

Mr. Speaker, I'd like to thank the hon. Member for Calgary-Hays for bringing forth this motion because it provides a way to discuss further means to protect animals from neglect or abuse. We all wish never to hear horror stories involving undue suffering of innocent animals. Despite the current commitment from government agencies, the community, and industry these preventable situations still occur from time to time. Therefore, it is worthwhile to review the investigative procedures provided by provincial legislation in order to avert further occurrences of animal cruelty.

Mr. Speaker, for these reasons I stand before this House wholeheartedly in support of Motion 507. Thank you.

The Acting Speaker: The hon. Member for Edmonton-Gold Bar.

Mr. MacDonald: Thank you very much, Mr. Speaker. I rise this evening to debate Motion 507, enhancing the protection of animals in Alberta. Certainly, I would urge all hon. members of the Assembly to give this motion consideration. We only have to look back to, and others have mentioned in their remarks, the horrifying stories that unfortunately have been reported recently regarding animals and acts of cruelty, whether it's the teenagers that were charged in and around Camrose – this case involved a cat that was microwaved. I can't believe that teens anywhere would do something like that, but it did happen. It is a reminder to all of us that not only are there acts of cruelty against humans but also to our pets as well.

Certainly, there were cases in other areas where horses were not fed properly nor cared for. Five horses were found dead in a field west of Red Deer. Two other men were charged in March of this year. These individuals were from Andrew, Alberta. As the hon. Member for Edmonton-Strathcona has stated earlier, a good thing that has happened, Mr. Speaker, from a bad situation is that so many

people have volunteered not only their time but also food and veterinarian supplies to try to gradually bring the surviving horses from that case back to good condition. So there are examples, whether it's dogs, cats, or horses, where there have been examples of cruelty. Through this motion, if we explore ideas on how to reduce that, again, it is well worth supporting.

Now, it is important to know, Mr. Speaker, that there have been changes taking place to prevent these acts at both the provincial and federal levels. The most recent changes that have been made at the federal level were in April of this year. A private member's bill passed which increased penalties for acts of animal cruelty. It will increase the maximum penalty for animal cruelty from a six-month imprisonment and/or a \$2,000 fine to five years imprisonment and/or a \$10,000 fine.

Provincially the Animal Protection Act was last revised here in 2006. It was first enacted in Alberta in 1967 following an industry review process which started in June 2004, going on until the following year. The Alberta Farm Animal Care Association played a key role in this review process. The act was revised to clarify definitions and other wording and to improve animal protection to respond to industry's request to amalgamate other provincial legislation that related to animal care.

Now, I would remind hon. members that some of the highlights of the changes to that act included expanding what it means for an animal to be distressed. The act was changed to say that "no person shall cause an animal to be in distress." It previously made reference only to the owner or to the person or individual in charge. New wording was added to protect anyone who reports an animal in distress. Peace officers can now seize abandoned animals even if they are not in distress. Animals are allowed to be seized if they are not likely to be relieved of distress and can be held until corrective action is in place. Those were some of the highlights of the changes.

Some things which did not change in the last amendments, in 2006: the need for warrants to collect evidence, the fine maximum of \$20,000, and the ability of peace officers to inspect public facilities. The process for dealing with offences as outlined in the Animal Protection Act is a maximum \$20,000 fine as well as the court being able to make an order restraining the owner from continuing to have custody of an animal for a period of time specified by the court. There is nothing in this section of the legislation which outlines jail time.

Now, zoo standards, Mr. Speaker. We've all heard about zoo standards. One area of great concern has been the treatment of animals at roadside zoos. Although the province enacted new zoo standards, which came into effect two years ago, there are still serious animal welfare and public safety problems at roadside zoos in the province. Zoo regulations fall under the jurisdiction of two provincial ministries. Provincial zoos require a zoo permit to possess live animal species whose possession is regulated under the province's Wildlife Act. This act is administered by Sustainable Resource Development. The well-being of animals falls under the jurisdiction of Alberta Agriculture and Rural Development through the Animal Protection Act.

7:50

Now, the World Society for the Protection of Animals as well as Zoocheck Canada held a press conference in November 2007 which highlighted the issue. The two organizations counted more than 100 violations in one of our animal farms and more than 50 at a wildlife park. This animal farm, I will clarify, is a roadside zoo. Problems at these facilities included animals being kept in dirty, filthy cages without potable water, social animals being housed in isolation, unlocked gates, low barriers, and others.

I think the Minister of Sustainable Resource Development has responded by saying that the matter has been investigated. This motion, Motion 507, hopefully will encourage that hon. minister to make his findings public straight away. In conclusion, Mr. Speaker, certainly in February I heard directly from constituents of Edmonton-Gold Bar who were very concerned about the incident that occurred with the teenagers and the cat in Camrose, that horrifying act. Any individual or any family that has a pet can get very emotional, and justifiably so, whenever an animal is mistreated or abused or treated in any cruel sort of way.

In conclusion, I would urge all hon. members to please consider supporting this motion, and I think we will have a lot fewer incidents in the future similar to the unfortunate case in Camrose. Thank you.

The Acting Speaker: The hon. Minister of Transportation.

Mr. Ouellette: Well, thank you very much, Mr. Speaker, for allowing me to rise and speak to Motion 507. I'd like to start by acknowledging the Member for Calgary-Hays for bringing this motion forward for debate as it's an important issue for Albertans. Alberta's animals should always be treated with respect, and potential improvements to our system should be explored from time to time. With that said, though, I worry that this motion elicits a sense of redundancy. In 2006 the Alberta government enacted Bill 22, the Animal Protection Amendment Act, following extensive stakeholder consultations. That act made animal protection the best in the country. I know the hon. member next door just mentioned that act in '06, but I know that sometimes nothing is good enough for the Liberals.

Among the widely supported changes to the APA was the provision which increased the role of peace officers investigating cases of animal cruelty. Officers now obtain the authority to control a situation if deemed dangerous to an animal's continued health due to the poor care or abandonment and before an animal begins to suffer severe distress. Previous legislation, Mr. Speaker, required proof that an animal was in distress based on a veterinarian's examination. Obviously, this posed a problem for animal protection officers since an officer could not request a visitation to a veterinarian for an animal sight unseen. Rather, control officers relied even more heavily on reports from witnesses or a personally observed animal in distress. Currently our RCMP and city police officers are working very hard and are often kept busy by what could be considered more serious crimes, if, indeed, we can rate one crime as more brutal than another.

Is it possible to better address this issue beyond what was done just a couple of years ago? Mr. Speaker, animal protection is often dealt with by peace officers and animal protection officers who obtained enough power under the APA following the '06 alterations. The act as it stands allows peace officers to take an animal into custody if the officer is of the opinion, on reasonable and probable grounds, that the owner or caretaker is not likely to provide for the animal. An officer can also "take an abandoned animal into custody whether or not it is in distress." The act goes further by supplying more reassurances to whistle-blowers, thus allowing those who report suspected animal distress to be free from prosecution unless the report was made "maliciously or without . . . probable grounds for the belief." These are, of course, only a couple of examples of the changes that were recently made to the APA, positive changes to increase enforcement.

Simply put, I don't know how we can go any further. This issue was just addressed a couple of years ago, Mr. Speaker. The fact is that much of the animal cruelty that occurs in our province is done on or in private property and within private dwellings. Under section 4(2) of the APA

a peace officer who on reasonable and probable grounds believes that there is an animal that is in distress in a private dwelling house shall obtain a warrant to enter the private dwelling house for the purpose of carrying out the peace officer's duties.

The procedure is no different for police officers entering private property for evidence or to pursue a criminal; a warrant is mandatory.

It seems to me that Motion 507 only reiterates what was accomplished in this Assembly a short time ago. I believe that Alberta's animals should always be protected as best as possible, but I'm afraid that Motion 507 would not improve upon our situation unless we were to infringe upon fundamental rights of Albertans. Therefore, Mr. Speaker, I cannot support Motion 507 at this time, but I look forward to the rest of the debate.

Thank you.

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

Mr. Rodney: Thank you, Mr. Speaker. It's my pleasure to rise today to speak to Motion 507, and I'd like to commend the hon. Member for Calgary-Hays for bringing this forward today. This motion responds to a number of high-profile animal abuse incidents that have recently taken place in Alberta. In light of this, it's only appropriate that the government of Alberta consider options that would further prevent animal abuse or neglect, but it's important to note that this would not result in limiting or eliminating legal activities with respect to animals such as hunting or trapping. The proposed motion simply recommends that the government review "relevant provincial legislation and the processes in place for investigating cases of animal cruelty." By doing so, Motion 507 urges the government to explore better ways to conduct the investigative procedure that could enhance the protection of animals.

Mr. Speaker, the underlying intention of this motion is something that I back because I feel that there's an inherent importance here in addressing the concepts of animal welfare and the prevention of cruelty and violence. It's especially relevant when we consider the relationship that has been established between animal cruelty and human violence. The infliction of pain and suffering upon another living creature is repulsive. I think we can all agree on that. Unfortunately, it may lead to a cyclical pattern of psychological and physical abuses upon many victims, and we have a lot of evidence to back this up.

According to the American Humane Association the correlation between animal abuse, family violence, and other forms of community violence has been well established. Child and animal protection professionals have recognized this link and noted that the abuse of both children and animals is connected in a self-perpetuating cycle. When animals in a home are abused or neglected, it's often a warning sign that others in the household may not be safe. In addition, children who witness animal abuse are at greater risk of becoming abusers themselves.

An article from the American Psychological Association entitled *Animal Abuse Issues in Therapy: A Survey of Therapists' Attitudes* polled 174 therapists who were treating problems involving animal cruelty. From this poll 28 per cent of the respondents indicated that their patients had encountered animal abuses within the previous five years and that 87 per cent concluded that animal abuse was clearly a mental health related issue. Now, many law enforcement agencies both at home and abroad have recognized the correlation between violence and animal abuse. In the U.S. the FBI recognized this connection in the '70s when its analysis of the lives of serial killers suggested that most had killed or tortured animals as children, and in this province Alberta's SPCA has posted information on its

website indicating a strong association between violence and animal cruelty as well.

8:00

Right now humane societies such as the Alberta Society for the Prevention of Cruelty to Animals enforce most of the reported cases of animal abuse in Alberta. Most cases investigated by animal protection officers involve unintentional neglect, and these can often be resolved through education of the animal owner or caretaker, which is a great thing. But in light of continuing cases of animal cruelty the government of Alberta should consider options that would prevent animal abuse or neglect.

This motion would encourage feedback from animal owners and stakeholders that can further enhance the Animal Protection Act. Taking further preventative measures on animal abuse could foster other behavioural changes such as abusive relationships with other individuals and family members. Concurrently other research has exposed consistent patterns of animal cruelty among perpetrators of more common modes of violence, including child abuse, spouse abuse, and elder abuse.

A 2001 collaborative study by the Calgary Humane Society and the YWCA family violence prevention centre and researcher Sue C. McIntosh, which was supported by Resolve Alberta, found that of 100 women in shelters who owned pets, 25 per cent delayed leaving an abusive situation out of fear of what would happen to their pet. In an earlier Hamilton, Ontario, study the number was actually close to 50 per cent. Meanwhile 56 per cent reported that their abuser either threatened to or actually did hurt their pet, and in Hamilton it was 61 per cent. Thirdly, 21 per cent were aware that their abuser had abused animals as a child or adolescent.

In addition, of those women with both children and pets who stated that their partner had abused their pet, 65 per cent reported that their children were aware that their pets were being abused, 65 per cent believed that their children were impacted by the abuse of their pets, 59 per cent talked to their children about their pets being hurt or threatened, but less than 20 per cent discussed the impact of such abuse with anyone else at all. With the inspiration of this motion further investigative measures exploring animal abuse could lead to earlier detection of such issues and even foster other positive behavioural changes in these individuals.

I'd also stress, Mr. Speaker, that given the connection between violence and animal abuse, when we highlight this issue, we're also assisting our law enforcement officers. Addressing animal cruelty may allow them to better identify potential violent perpetrators and intervene in situations before an escalation of violence or damage occurs.

Currently the maximum penalties under the Animal Protection Act are fines up to \$20,000 or a lifetime prohibition from owning animals, but there is no option for officers to ask for jail time for a convicted offence. Instituting jail time for an offence would make the APA a much more consequential law to potential offenders.

The APA contains no legislation that outlaws animal fights as well. It would be advisable to bring the wording that bans fighting from sections 446(d) and 447 of the Criminal Code into the APA. Making an offence of training animals for fighting should also be added to the APA as at this time there is no legislation that prohibits this action. Additionally, animal protection officers are not able to charge any offender for killing an animal. This does not make it an offence to kill an animal; however, the Criminal Code does contain wording that makes it an offence to kill a dog, bird, or other animal. APOs are not able to charge offenders under the Criminal Code as it's not in their appointment from the Solicitor General of Alberta, so when enforcing the APA, animal protection officers can only

charge an offender with failure to provide food, water, shelter, protection from injurious heat, cold, or veterinarian care for wounds or illnesses, but not for the death itself.

Lastly in this section, Mr. Speaker, poisoning is another offence that is listed in the Criminal Code but not under the APA. Currently if officers receive a concern regarding the poisoning of an animal, it must be passed on to the EPS officers to investigate and pursue. Unfortunately, these officers have very little time to follow up on this type of investigation, so this offence normally receives no attention even though it can be a very serious occurrence. Typically the investigation of animal rights violations relies upon the observations of bystanders and neighbours, and as we as a society become increasingly attuned to this issue, we become more intolerant of it. Thus this motion may embolden more citizens to come forward and report cases of animal abuse. This would allow us to better prevent future occurrences, and it would be both proactive and reactive.

Mr. Speaker, I see this motion as a means of promoting an awareness of animal cruelty and the consequential ramifications it can have on families and communities. Motion 507 would show the government's continuing commitment to protecting animals from distress. It could engage feedback from animal owners and stakeholders to see where legislation could be enhanced. It does not require much financial assistance from government to act, and taking further preventative measures to animal abuse could foster other behavioural changes, that have been previously mentioned.

In summary, rehabilitation and education can become an important ally in combating something as insidious as violence and cruelty. By continuing to teach the significance of imparting humane regard to animals, we give our younger generation a better chance to develop into healthy and adjusted members of society. We can also benefit exponentially from promoting the bedrock values of respect and dignity, which are aligned with the character of a safer, stronger Alberta.

Mr. Speaker, some suggest that Motion 507 is not necessary because Alberta may have some of the best legislation in this respect, but members of this House and citizens of this province would be better served if we knew it for sure. That's why we have nothing to lose by voting for this motion. If upon investigation we learn that our legislation is indeed sufficient, well, that's important information to learn as well. If we can improve even one aspect of this jurisdiction, however, in any related aspect, the motion is well worth passing, and that's why I strongly encourage all hon. members to vote without any reservation for Motion 507.

Thank you, Mr. Speaker.

The Acting Speaker: The hon. Minister of Municipal Affairs.

Mr. Danyluk: Well, thank you very much, Mr. Speaker. I rise today to express concern with Motion 507. In the motion itself it says "to enhance the protection of animals." I do not believe that this is the right direction to follow. If the motion talked more about being a proactive model, I would have more sympathy towards the direction. It really talks about reaction, and reaction does not work. We have the people there. I'm not saying it doesn't work right now; it works. But to have more officers in the field is not what's necessary. What's necessary is to have the education; education will be preventative. This to me is a reaction motion.

As you know, Mr. Speaker, I am a cattle rancher, and tragedy would not be alleviated with more inspection. In reality, we do have thousands of inspectors out there right now, and if anybody is driving by or seeing animals that are miscared for, that will be reported. I know that treating animals is the proper care. It is the right thing to do, and it makes good economic sense. So what does

that mean? That means that, you know, farmers are the original stewards of the land, the original stewards of livestock, and the treatment of animals in a fair husbandry way is profit.

8:10

Mr. Speaker, the challenges that we do have are with individuals who have no experience, and that's why I say that I believe that education is probably the most important. Additional regulations may have unintended consequences. We really need to strengthen the discussion in education. Motion 507 urges the government to enhance the protection of animals and to review the processes in place for investigating cases of animal cruelty.

The prevention of cruelty to animals is already clearly legislated, as mentioned here today, within Alberta under the Animal Protection Act and federally under the Criminal Code of Canada. In Alberta the Animal Protection Act defines how animals must be treated and cared for. It sets out an authority of a peace officer to enforce any breach of the act. Any person who contravenes the act can face fines of up to \$20,000 and the prohibition of animal ownership. The Criminal Code of Canada also sets strict rules with respect to the protection of animals. I am confident that the current provincial and federal legislation sufficiently protects animals from cruelty without further need for review.

In particular, there are already high standards in place for the protection of animals in the Alberta livestock industry, the Alberta livestock protection system, a partnership formed in 1998 by our current Premier when he was the minister of agriculture. It involves Alberta Agriculture, the Canadian Food Inspection Agency, the Alberta Farm Animal Care Association, the RCMP, the Alberta SPCA. It also involves a response, an enforcement, data collection and analysis. If we used that data, we could educate and inform individuals before the situations happen. There is an alert line. It's a 1-800 hotline. It has veterinarians on call. It allows anonymous reporting of livestock health concerns.

Mr. Speaker, when we talk about unintended consequences, branding is often cited as a concern by those not familiar with the industry. [interjection] I'm very happy; I have an audience.

Identification through branding allows for accurate monitoring of my livestock on a day-to-day basis, an important safety mechanism to protect the public interest for food safety, emergency management, and public health. If we are committed to food safety, we should not enact animal protection regulations that impede this important goal. Education is critical. Improved education, not increased regulation, may be the key to improvements in animal welfare. For example, the Alberta Farm Animal Care Association, which I mentioned earlier, offers training courses for livestock handling, livestock transportation, and emergency response with community schools and 4-H to begin awareness at an early age. Mr. Speaker, that we could in this motion talk about the education that we could do with these groups, with the children, with 4-H groups: that's what I think is important.

Mr. Speaker, I firmly believe that the best results will be achieved through proactive initiatives like this, not reactive legislation and government oversight. For this reason, I cannot support Motion 507.

Thank you very much for listening.

The Acting Speaker: The hon. Member for Lethbridge-West.

Mr. Weadick: Thank you, Mr. Speaker, for allowing me to rise and speak to Motion 507. The proposed motion aims to review current provincial legislation and the protection process in order to further prevent animal cruelty in Alberta. This motion would urge the government to work in accordance with and build upon rules and regulations under Alberta's Animal Protection Act, the APA.

The most recent revisions to the act were ratified in 2006, which

followed extensive stakeholder consultation, making the act quite comprehensive and modern in scope. Currently Alberta's APA describes specific duties that the owner of animals must adhere to as well as specific prohibitions and offences which cause distress to animals. In Alberta animals are protected by the APA along with the enforcement of the Canadian Food Inspection Agency, the Health of Animals Act, and the Criminal Code. Mr. Speaker, Alberta has the highest maximum monetary penalty in Canada for causing animals distress. I think this is important to mention because the prescribed punishments in the APA are not the problem. Rather, it's the ability of Alberta's RCMP, local police departments, peace officers, and APOs to enforce these punishments, which I believe could be improved upon.

Mr. Speaker, Alberta's Royal Canadian Mounted Police detachments and city police services are very busy keeping our streets safe and secure so that all Alberta citizens can continue to live a high quality of life with peace of mind. By reviewing the ability of peace officers and animal protection officers, the rules of the Animal Protection Act could be much better enforced, allowing additional qualified individuals to enforce the legislation we already have rather than creating more legislation that we will not be able to enforce.

An example of this, Mr. Speaker, is the unnecessary and arbitrary killing of nonhunted animals. The offence is not covered under the Animal Protection Act. The Criminal Code, however, does contain wording that makes it an offence to needlessly kill a dog, bird, or other animal. Therefore, police officers and animal protection officers are not able to charge offenders under the Criminal Code as it is not their appointment from the Solicitor General of Alberta.

When enforcing the APA, animal protection officers can only charge an offender with failure to provide food, water, shelter, protection from injurious heat or cold, and veterinary care for wounds or illness, not for the death itself. Poisoning is also not included in the APA. Once again, this is an example of conduct which could be more strictly enforced by including similar wording from the Criminal Code in the APA. Mr. Speaker, we have the opportunity to allow more skilled officers to enforce rules and regulations which are already in place, making our province a safer place for animals.

The last thing I would like to mention, Mr. Speaker, is the inability of Alberta's officers to enforce the rules of the APA, the Health of Animals Act, and the Criminal Code because of the difficulty posed by entering a private dwelling. Evidence must be presented by the officer proving that an animal is in distress before obtaining a warrant. However, without access to the animals it becomes increasingly difficult to obtain such evidence. As a result animals may have to continue to suffer until an APO is able to obtain a warrant and assist the animal. This does not include any extraordinary authority granted for animal protection officers such as entering a private dwelling without a warrant. The motion proposes to review current legislation and deduce where a peace officer may be able to enhance their investigative abilities.

Mr. Speaker, I think this motion would be a great opportunity to examine ways that will allow more of Alberta's well-trained officers to enforce the already sufficient legislation and better protect our animals from unnecessary cruelty. Therefore, I will vote in favour of Motion 507 and encourage my fellow hon. members to do so as well.

Thank you.

Mr. Snelgrove: Well, Mr. Speaker, this is always the interesting day, Monday, when we do private members' bills, and for an hour here Monday night, when we get to deal with private members'

motions. I suppose that in our business it's always nice to be able to spend an hour and talk about really nice things that we should do. Sometimes I think we get caught up in the moment, and we fall for the: well, if we can only save one bird, or if we can only save one person, or if we have somehow magical ability that legislation will make things better. Often it's a reaction to an event without really understanding all of the circumstances around the particular event.

We often see it in cases where there's a particularly cruel murder or someone has been convicted of drunk driving multiple times. We all get up and say: well, there's got to be a tougher law. There have to be appropriate enforcement levels, and there has to be a way to enforce the laws we have. Making tougher legislation around stop signs doesn't make people any smarter about stopping at them.

You can review the best legislation probably in North America now. You could go through and you might be able to make it tougher, but if you haven't got the tools to access or to look at where the problems are and if you're not talking to the people that actually are out in the field working there – I mean, I have tremendous respect for those who care for all creatures, human and non. As a matter of fact, our PC Association picked three charities to sponsor at our fundraising tournament last Friday, and one of them was the SPCA out in Lloydminster – we were able to donate \$4,000 to them – so this isn't an issue about not caring for animals. It's simply saying that sometimes we're solutions out looking for a problem.

8:20

The other thing that is a little troubling is that I think we send the wrong message to groups – quite candidly, terrorist groups – like PETA, who will go to any end to stop you from having anything to do with animals. These people, according to the American ag group SARC in the States, are the biggest threat to agriculture there because their principles are based on the belief that no animal can be used for any reason. You can't rationalize with them. There is no middle ground here.

These people, quite candidly, are as far out in the wilderness as I hope anyone would ever be. We're saying to them: "Oh, wait. You'd better come to Alberta. Our legislation isn't quite tough enough." This can be picked off the news wire to New York. It'll be in their next brochure that the Alberta government debated animal cruelty laws and came to their senses, voted it down. So there. We're all going to hell in a basket because we didn't make tougher laws. We already have the toughest laws, but when we bring up motions like this, we're sending a message to the media from anywhere – it doesn't have to be this room; it doesn't have to be Edmonton; it can be anywhere in the world – that, oh, we just don't care about animals.

When you see the anger from people, the case in Didsbury or Olds or somewhere, where the people tortured a dog: now, that is abhorrent. But you know what? I don't think that people ever surrounded Clifford Olson's car and kicked the sides in on that, and he murdered 23 people. You know, we have to keep in context what we're legislating about here.

I don't think there's anything wrong with a private member coming forward with a bill that simply says: well, I can go home and say that I care more about animals than you. But I think that especially the people who actually make a living ranching and caring for animals know how important animal health is. We know how critically the rest of the world looks at us with our processes around any confined livestock, the way we deal with our poultry, turkeys, all of the animals that we care for. The rest of the world is saying, "As a society you must treat your animals humanely," and I couldn't agree more with that. We have to.

I sometimes think some of the worst cruelty in the world is when

you put your dog or cat in something that makes them look completely foolish and then parade them uptown. I don't think anybody could be – well, I might have been jealous of that little dog that Paris Hilton paraded around with just for a while, but honestly that's probably as cruel to that animal as anything you ever did. But that may be a different story.

I'm just saying that we don't need to be sending these messages from this Legislature around the world that somehow our legislation is lacking when it comes to cruelty to animals. We have some of the leading legislation. If there were a problem, Mr. Speaker, it would be to co-ordinate all of our enforcement agencies from SRD through fish and wildlife, our sheriffs through the RCMP, municipal police, and bylaw officers so that everyone knew what to see or how to recognize animal cruelty or cases where there may be cruelty going on. That would be a far more appropriate message to send: that we have all of these people out on the streets already. Let's make sure they have the appropriate training and resources to implement and ensure that the legislation we have now is looked after.

Before we go making more, before we go reviewing legislation, we need to understand what doesn't work. Probably what doesn't work now – I know that in our area the funding for the SPCA is very challenging with all of the other groups out there looking for volunteer dollars, and naturally so. They need to compete with a good product, and they are. They're trying hard to build a new building, and in many growth communities things like the SPCA sometimes are forgotten.

Mr. Speaker, this is what private members' business is all about. This is a good, interesting debate about the different sides of the discussion, but at the end of the day I am more concerned that voting for this is sending a message to the rest of the world that we don't have good enough legislation. I simply think we have appropriate, timely, enforceable legislation, and if there were something, we need to work on the enforcement side of it. But I would hope that we would say: "Well, it was a nice try, hon. member. It's your opportunity to bring forward the motion, but we think probably we should vote it down."

The Acting Speaker: The hon. Minister of Agriculture and Rural Development.

Mr. Groeneveld: Well, thank you, Mr. Speaker. Certainly, the SPCA is controlled by Agriculture – it's under my division – so I think probably I should make a comment or two on it. There's been some great debate here this evening, but when this went back to my department and we talked and went through this with a fine-tooth comb, including the SPCA, the recommendation probably was to reject this motion at this particular time. I'll just give the reasons that they give, and I think that's about as concise as I can get.

The act and the regulation were revised in 2006 – that was brought out here – and the maximum penalties have never been used. The highest penalty assigned by the courts, \$10,000, was successfully appealed. Perhaps the implementation of new tools, like specified penalties and standardization of cases through the dedicated Crown prosecutor, may have more impact on gaining compliance than a new penalty structure. That could well be. The only benefit that we probably could come up with in accepting Motion 507 is to demonstrate the due diligence in an area that has had a number of high-profile cases, which were, not surprisingly, certainly brought out in not great detail. The ones that are currently on the list, certainly, we talked about.

Now, I have to admit to the Minister of Municipal Affairs that I couldn't have written that speech better for myself or the department

because he totally gave the speech that I probably should have given on it. If I didn't know better and didn't know he was having so much fun in his own ministry, I would probably think he was after my job. However, there are just a couple of things that jumped out. Probably the biggest thing that the minister brought up was education. Once again, that certainly is what we have to work on. We have to make people aware. We have to talk about it. It's almost like the farm safety issue: we can put more in there.

The Acting Speaker: I hesitate to interrupt the hon. Minister for Agriculture and Rural Development, but under Standing Order 8(4), which provides for up to five minutes for the sponsor of a motion other than a government motion to close debate, I'd like to invite the hon. Member for Calgary-Hays to close debate on Motion 507.

Mr. Johnston: Thank you, Mr. Speaker. I'd like to thank each and every member who participated tonight on Motion 507, which proposes to enhance the protection of animals. We expect all owners to be responsible and not to cause animals distress. By granting further investigative authority, peace officers could prevent further instances of abuse or neglect.

We did get some very interesting comments here. I certainly have nothing to do with PETA and don't endorse what they're all about, but I don't think we have to send the message around the world. I just would like to send a message to the hon. members.

The legislation was reviewed in 2005 with consultation from stakeholders, and Bill 22 did allow for expanded authority of peace officers to enforce the act. However, it is important to note that Motion 507 came out of further stakeholder consultation between myself and the Edmonton and Calgary SPCAs. These groups felt that some aspects of the APA did not go far enough, so we're talking about enhancing existing legislation. We're talking about employees that feel it doesn't go far enough. For example, they were keen on looking at how we could further expand the investigative procedure for peace officers. Humane societies such as our local SPCAs handle the majority of cases of animal abuse in Alberta. Animal protection peace officers are utilized to conduct investigations upon receiving complaints. Under the mandate given by the Animal Protection Act, the peace officer may be limited when investigating animal abuse cases.

I believe that our legislation should not inhibit a peace officer when conducting an investigation. Therefore, Motion 507 requests that the government look at any possible way to facilitate the process. By improving this process and looking at other ways to address animal cruelty, we can also get at the heart of animal abuse and its role in family and community violence. As you've heard today, Mr. Speaker, many studies have shown the correlation between animal abuse and cruelty towards other individuals. Further investigation may reveal and prevent other problems that are associated with an animal abuse case, including those that may manifest in other issues down the road. This can help prevent abuse in other aspects of life such as dealing with family members or other members of the community.

Mr. Speaker, the intention of Motion 507 is to urge the government to further enhance the protection of animals. This may require looking at the investigative process that is currently in legislation. If there is any possible way that we can prevent malicious acts or neglect towards animals, I believe we should do so. I have some recommendations that were sent to me from the two SPCAs in Calgary and Edmonton, and I just want to indicate that there are many, many things that they recommended where the existing legislation should be changed. I can certainly make copies available. But I'll just touch on four of those.

8:30

The first one, designated prosecutor. In Calgary they have a designated prosecutor; in Edmonton they do not. So we don't have consistency there. The fines do range from \$100 to \$1,000 in some cases, but they felt there should be a mandatory minimum. That was the second recommendation. They feel there should be jail time for some offences, and that would make "a much more consequential law to potential offenders." As I say, I'm quoting this letter. The fourth that I will quote: sections in the Criminal Code, 446 and 447, make an offence of training animals for fighting. This should be added to the APA. At this time there's no legislation to prohibit that. Those are just some of the recommendations in this letter, as I mentioned, from the SPCAs.

I would like to thank my colleagues in this Assembly for their contribution to the debate and ask that you support Motion 507. Thank you, Mr. Speaker.

[Motion Other than Government Motion 507 lost]

Government Bills and Orders Second Reading

Bill 7

Post-secondary Learning Amendment Act, 2008

The Acting Speaker: The hon. Deputy Government House Leader on behalf of the hon. Member for Calgary-Montrose.

Mr. Renner: Thank you, Mr. Speaker. On behalf of the Member for Calgary-Montrose I'm pleased to move second reading of Bill 7, the Post-secondary Learning Amendment Act, 2008.

Mr. Speaker, this is an important piece of legislation, and I'm looking forward to having a lively debate at second reading. So that all members have an opportunity to prepare for that debate, I would like to move that we adjourn debate at this time.

[Motion to adjourn debate carried]

Bill 8

Climate Change and Emissions Management Amendment Act, 2008

The Acting Speaker: The hon. Minister of Environment.

Mr. Renner: Thank you, Mr. Speaker. I'll have a little bit more to say on this bill. Mr. Speaker, I'm pleased to move second reading of Bill 8, the Climate Change and Emissions Management Amendment Act, 2008.

Although the implications of this bill are important, the amendment is administrative in nature. The primary purpose of the proposed amendment is to enable the administration of the climate change and emission management fund. Money that is paid into the fund will be invested in strategic projects or technology aimed at reducing greenhouse gas emissions in the province.

Mr. Speaker, you'll recall that not very long ago we had the end of the first reporting period under the Climate Change and Emissions Management Act, and some 40 million dollars flowed into the government hands. This particular bill will put the framework in place so that the management and the administration of that \$40 million as well as many anticipated more millions of dollars will come into greater focus.

In 2007 the government committed to create the fund as one of three compliance mechanisms large industrial emitters will have to meet if they do not meet Alberta's 12 per cent reduction in emissions

intensity. At that time we had not yet identified how the fund would be governed but outlined our intent to use approaches that most effectively and efficiently allocate funds into strategic projects.

The proposed amendment supports an administration model for the fund that would divide the responsibility between the Minister of Environment and an arm's length not-for-profit organization. Under this model the ministry would collect money going into the fund as part of its compliance system, and the not-for-profit organization would allocate money from the fund for projects that would result in reductions in greenhouse gas emissions. Currently the fund is being administered internally by my department. This proposed model will streamline department involvement and engage stakeholders in developing and implementing innovative solutions for reducing emissions.

This amendment also includes housekeeping measures that enhance the existing provisions of the legislation. Again, Mr. Speaker, while they are administrative in nature, they do reflect the need to continue to enhance and modify our system, which is the first of its kind in North America. These changes will ensure our system continues to set the pace and will reinforce our role as manager of our natural resources. It reflects the government's commitment to remain at the forefront of addressing climate change.

With those brief comments, Mr. Speaker, I again move to adjourn debate.

[Motion to adjourn debate carried]

Bill 17

Alberta Personal Income Tax Amendment Act, 2008

The Acting Speaker: The hon. Deputy Government House Leader on behalf of the hon. Minister of Finance and Enterprise.

Mr. Renner: Thank you, Mr. Speaker. On behalf of the Minister of Finance and Enterprise I'm pleased to move second reading of Bill 17, the Alberta Personal Income Tax Amendment Act, 2008.

This is legislation that in part will harmonize our legislation to be consistent with the budget that is currently before the House among other things. I look forward to good discussion on this piece of legislation. I wanted to give all members an opportunity to participate in that discussion. Again, in order for them to adequately prepare for that discussion, I would move that we adjourn debate on Bill 17.

[Motion to adjourn debate carried]

Government Bills and Orders Committee of the Whole

[Mr. Mitzel in the chair]

The Deputy Chair: I'd like to call the Committee of the Whole to order.

Bill 12

Teachers' Pension Plans Amendment Act, 2008

The Deputy Chair: The hon. Member for Calgary-Buffalo.

Mr. Hehr: Well, thank you very much, Mr. Chairman. It gives me great pleasure to speak in favour of Bill 12 as both my father and mother have been Calgary public school teachers, and they have paid out roughly 12 per cent of their earnings since about 1992 in funding their pensions. They're now retired, but nonetheless this bill will

enable young teachers and teachers even in the middle of their careers to rest assured that they're not going to be, I guess, disproportionately covering the government's portion of what their pensions would be.

8:40

It is with some pride, like I said, that I was speaking to this motion as my father spent considerable time with the ATA working on pension issues for much of his life. Speaking with many of my friends who are teachers, they are greatly relieved that this is being settled. I'd just like to say good on the government for doing this. I wish it hadn't taken an upcoming election to get this done. It should have happened a long time before that. Nevertheless, credit must be given where credit is deserved, which is what I am in fact doing tonight.

Besides that, nothing more to add. Just saying that I encourage everyone to vote for this Bill 12. Thank you very much.

The Deputy Chair: Does anyone else wish to speak? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Chairman. I'll be very brief with respect to this bill. This bill will resolve a long-standing and very difficult issue that has been going on far too long. I appreciate that the government did see fit to resolve this issue. It is unfortunate, though, that the government a number of years ago played a significant role in bringing this entire situation about. Just in the brief time that I've been here, I have seen the government struggling to deal with this political issue and attempting to use it from time to time as a hammer over the head of the Alberta Teachers' Association.

[Mr. Marz in the chair]

Nevertheless, it has been resolved and, I think, in a way that will not unfairly hurt the younger teachers upon whom the largest part of the burden of this issue was falling. I think it's a positive step. I congratulate the government for doing the right thing. It's unfortunate that it took so long. But I think the perseverance of the Alberta Teachers' Association and Alberta's teachers has paid off, and I would like to congratulate them for their perseverance and fortitude in attempting to get justice for retired teachers as well as newer teachers. They've succeeded in doing so.

With that, Mr. Chairman, I'll just indicate that we will be supporting the bill, and we're pleased to see this finally resolved. Thank you.

The Acting Chair: Are there others who wish to enter into the debate?

Are you ready for the question on Bill 12, the Teachers' Pension Plans Amendment Act, 2008?

Hon. Members: Question.

[The clauses of Bill 12 agreed to]

[Title and preamble agreed to]

The Acting Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Acting Chair: That is carried.

Bill 13 Financial Institutions Statutes Amendment Act, 2008

The Acting Chair: Are there any comments or questions with regard to this bill? The hon. Member for Edmonton-Gold Bar.

Mr. MacDonald: Yes. Thank you very much, Mr. Chairman. In Bill 13, the Financial Institutions Statutes Amendment Act, 2008, we're making some changes to the Credit Union Act and the Alberta Treasury Branches Act. Certainly, at second reading I had some questions for the hon. Member for Calgary-North Hill. They were essentially around some of these changes to the capital requirements in section 20 and the prescribed charges and grants in section 14. The current section 20 is repealed and is substituted by what we are proposing. My questions certainly were on record during second reading, and if I could have those questions addressed on the public record through *Hansard*, I would be very grateful.

Thank you, Mr. Chairman.

[Mr. Mitzel in the chair]

The Deputy Chair: Are there any other comments on Bill 13? Are you ready for the question?

Hon. Members: Question.

[The clauses of Bill 13 agreed to]

[Title and preamble agreed to]

The Deputy Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Deputy Chair: Opposed? It's carried.

The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Speaker. I move that the committee now rise and report Bill 12 and Bill 13.

[Motion carried]

[Mr. Mitzel in the chair]

Mr. Weadick: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bills: Bill 12 and Bill 13.

The Acting Speaker: Does the Assembly concur in the report as presented by the hon. Member for Lethbridge-West?

Hon. Members: Agreed.

The Acting Speaker: Opposed? So ordered.

Government Bills and Orders Third Reading

Bill 4 Alberta Enterprise Corporation Act

The Acting Speaker: The hon. Deputy Government House Leader on behalf of the hon. Minister of Advanced Education and Technology.

Mr. Renner: Thank you, Mr. Speaker. On behalf of the Minister of Advanced Education and Technology I'm pleased to move for third reading Bill 4.

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

Mr. Hehr: Thank you, Mr. Speaker. I'm just here to speak in support of this bill. Studies have shown that knowledge-based companies in Alberta have faced challenges in raising investment capital in spite of the large amounts of capital available in this province. This has primarily been due to an absence of a community of experienced technology investors. The types of measures taken through this bill will see capital moving into these underserved areas, that maybe can develop a viable market and a viable niche and, really, an opportunity for these companies to grow and gain a foothold not only here in Alberta but throughout the globe. I'm very supportive of these measures, and I really hope they go forth and support our people who are going to be starting a bunch of very new and exciting programs as a result of this. I support the bill.

8:50

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

Mr. Mason: Thanks very much, Mr. Speaker. I'm pleased to make a few comments with respect to Bill 4. The areas that have been designated as priorities in this bill are information technology, communications technology, life sciences technology, nanotechnology, and environmental technology. The bill will create a corporation that can be used to support beginning technology and knowledge-based companies in up-and-coming sectors, which I have just mentioned, and it will not only promote knowledge-based companies but also provide the venture capital necessary for the initial survival of the company.

Now, Mr. Speaker, it's not a Crown corporation, and its operating funds will come from the government, so it doesn't have a degree of independence from the government. That's not necessarily a bad thing. The real issue that I think may come back to haunt the government on this is the supply of government money as venture capital for some of these start-up companies. Now, I've been around long enough to remember Vencap in the province of Alberta and some of the poor investments that were made at that time. My concern is that there needs to be appropriate protection for taxpayers' money with respect to investment in new technology businesses, and I will be looking for that when the government actually establishes this corporation. I don't think that we can afford to go down the path we've already been down before with respect to Vencap in this province.

Now, the government intends that this will help the small companies in Alberta overcome a critical hurdle faced by Canadian start-up companies, but there are no details of the funding program. If government money is used for start-up purposes, will the corporation recoup its investment? Will it collect interest on the investment? What steps will be put in place to manage the risk of putting government money into private companies? The question is: if capital is provided by the government through this corporation, then what proprietary rights does the government or this corporation have to any successful technologies that are developed and commercialized?

Unlike some members of the government, I'm not philosophically opposed to the government making some investments, but I do think that the government needs to do it in a businesslike fashion: manage its risk and have some equity stake or some return on that invest-

ment. We should not just be using taxpayers' money to subsidize up-and-coming young entrepreneurs that go on to be multimillionaires based on public investment that has been made.

I find this an interesting approach because I know that it rubs the philosophical grain of some members of this House and government the wrong way. This is not a truly conservative approach to the economy, so I'm a little bit surprised to see this bill coming forward from the government. Nevertheless, I've always felt that when you're investing taxpayers' money, you need to make sure that that money is well protected. There's nothing in this bill that speaks to that or, at least, not in any meaningful way. There's not protection for taxpayers' money, and there are no rules about what return on investment there may be. So I have a lot of concern about this.

Having said that, Mr. Speaker, one of the things that we talked about in the last election and continue to strongly believe is that Alberta needs to become a centre of renewable energy technology, that that is truly the future of the province. Our proposal was to establish a \$20 billion green energy fund that would help develop that industry. In fact, I visited with a number of small and up-and-coming businesses around the province that are getting involved in renewable energy technologies. I think Alberta should become the centre in Canada or even in the world for renewable energy technologies and ensure that when we're no longer able to market our oil and gas, if there's any left at all, we leave behind for the next generation the kind of quality of life and standard of living that we've enjoyed and that Alberta remains the energy engine of the country. Moving in this direction I think is something that's very necessary and is certainly part of our vision for the future of the province. I can only hope that the corporation established by Bill 4 will in fact be able to do that.

With the reservations that I've set out, I will support the bill, but I will certainly be keeping a close eye on the development of this government corporation and certainly will be asking the Auditor General to review the rules that are set in place for the management of public funds that are invested in companies that are established in these five areas. Mr. Speaker, having said that, I will support the bill and hope that it turns out the way the government intends because I don't believe that they've taken all the steps necessary to ensure that.

Thank you, Mr. Speaker.

The Acting Speaker: Hon. members, under Standing Order 29(2)(a) five minutes are set aside for anyone who wishes to ask questions or comment. Does anyone wish to do so?

The hon. Deputy Government House Leader to close debate?

[Motion carried; Bill 4 read a third time]

Bill 3

Fiscal Responsibility Amendment Act, 2008

The Acting Speaker: The hon. President of the Treasury Board.

Mr. Snelgrove: Thank you, Mr. Speaker. It is my pleasure to rise today and move third reading of Bill 3, the Fiscal Responsibility Amendment Act, 2008.

The proposed amendment is required for financial accounting purposes. Currently the act does not allow the province to have the debt incurred for capital infrastructure on the province's books unless the province owns the infrastructure or deposits an amount sufficient to retire the debt in the debt retirement account. This will allow the government of Alberta the flexibility to enter into a variety of P3 arrangements. Mr. Speaker, this is absolutely necessary for us to address the backlog of very needy hospitals across this province.

Thank you.

9:00

The Acting Speaker: Do any other members wish to speak? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Speaker. I'm pleased to speak to Bill 3, the Fiscal Responsibility Amendment Act, 2008. The bill will amend the existing act so that the capital raised for the construction of hospitals and schools is counted as accumulated debt. That's a good thing. It amends the act so that capital raised for the financing of construction and maintenance of buildings for the Cancer Board, school boards, RHAs, and postsecondary institutions will be counted as accumulated debt. I think that's reasonable. It will remove the provisions made for the Alberta rebate payments for the payment of the resource rebates and the sustainability revenue.

Mr. Speaker, previously P3 payments were logged within the budget under the euphemistic title of alternatively funded projects but not necessarily as debt. This act potentially will allow P3 funded projects to be logged as accumulated debt rather than just project revenue. What's not clear is if the government will count the aggregate value of the P3 payments, 30 years' worth altogether, or if it will log the payments for the projects on a year-by-year basis, potentially underreporting the government's total commitments. This measure goes a long way in making the government mistakes more accountable since previously P3 payments were not counted as debt, but it still continues down the erroneous path of P3s in the first place, which have not been proven to be a successful model of capital growth in Alberta.

Mr. Speaker, one of the major criticisms we've had of P3s has been that it's a way of hiding debt. This bill takes a step towards fixing that problem because it allows the government to count P3 payments as debt. So in that sense it's a positive thing. The difficulty we've got is that the government has gotten an awful lot of mileage about paying down Alberta's debt. [interjections] I knew there would be some thumping, and I'm glad to see that because that was the impression that was given by the government under the regime of Premier Klein. He was going to pay down the debt, and I remember when he announced this.

The accumulated provincial debt was about \$22 billion when Premier Klein decided he was going to deal with this. He asked a lot of sacrifices of Albertans. Thousands of health care workers and other professional people were laid off. Hospitals were closed. Hospitals were blown up. There was a substantial reduction in the workforce. Provincial employees were asked to take a 5 per cent pay cut. There was a lot of sacrifice in order to pay down the debt that was created by the Conservative government in the first place. This was not a debt created by the people of Alberta or by health care workers or by the opposition parties; it was a debt that was created by the Progressive Conservative government. But they took it on as a challenge to reverse the dreadful financial mismanagement of themselves and reinvented themselves in the process.

So what happened? Well, aside from the sacrifice that so many provincial employees had to make, one of the government's strategies was to reduce expenditures in infrastructure. As the province grew and began to grow more rapidly, new investments in infrastructure were not made, old infrastructure that needed to be replaced or rehabilitated was ignored, and an accumulation of debt in infrastructure arose.

Before the last election I know that some hon. members of the government talked about what the total accumulated debt in infrastructure was. It was considerably more than the original financial debt that the government claimed to have cleaned up. Mr. Speaker, if you want to use an analogy, it's like doubling up on your

mortgage payments on your home but not fixing the roof, not repairing the foundation, not painting the house, and saying that you're debt free. Of course, once you've paid off the mortgage, you have a very significant financial liability in your home, in your infrastructure. In this case the infrastructure debt is greater than the original financial debt. So when the government talks about what a wonderful financial manager it is, they are dealing with smoke and mirrors because financially this province is in a worse position, by any measure, than it was in 1993 when Premier Klein and his government took office. These are facts. These are a matter of public record.

Now we're going to try and solve the infrastructure problem that we have, so the government is turning to P3s. Private companies come along, and they build according to a contract. They finance. They finance at a higher interest rate than is available to the government, plus they have to have a profit, which the government doesn't have to have. But they're competing for the same materials and the same workforce, so naturally the costs of those projects that are built under P3s are going to be higher. Mr. Speaker, they're going to be considerably higher. In fact, this is the record around the world with P3s: they are more expensive. Of course, it's private money that's put into it and not government money, so that is a strategy that the government can follow to get the infrastructure built while hiding the fact that this is debt.

This bill, interestingly enough, reduces the government's capacity to do that. It's interesting: there's a lot of debate among professional accounting organizations around the world about P3s and how you account them. There's a distinct shift in recent years, particularly in Britain where the Thatcher government went very heavily into P3s. The British professional association of accountants has changed its rules so that P3 projects have to be counted as debt because they are a long-term obligation of the government. The government has to repay these companies over a 25- or 30-year period, whatever the term of the agreement is. There's a real shift in terms of how people are expected to account for debt in P3 projects.

There's no way around it, Mr. Speaker, but the government is in debt for infrastructure up to its eyeballs. We don't believe that P3s are the way to go. We think that it's more expensive, and there will be more problems down the road. I believe that the government's P3 strategy will come back to haunt them. Nevertheless, the bill takes a positive step in requiring that some of the P3 expenditures be accounted as debt, and as such we will support it. But I want to place it clearly on the record that we do not believe that P3s are the most cost-effective way to build infrastructure or to provide services, and we will continue to raise questions about them. We will continue to challenge them and hold the government accountable for clearly stating the financial position of the province of Alberta as it enters into this substantial period of infrastructure investment and the resulting debt that goes with it.

Thank you, Mr. Speaker.

The Acting Speaker: Do any other members wish to speak?

The hon. President of the Treasury Board to close debate.

9:10

Mr. Snelgrove: Thank you, Mr. Speaker. I want to thank the hon. member for his participation. I would say, though, that on the debt-deficit crisis of the previous decades there's a substantial difference between an accumulating and operating deficit and long-term debt based on operating programs. Whether a project is a P3 or a conventional build, if you have an asset to back your debt, you have something to show for it. If you have operating deficits, you have nothing. It's much like a family with a credit card debt. I agree.

You should not build a house and think that you're scot-free if you haven't maintained the roof and the walls. I think the Premier has clearly identified that with his unallocated surplus allocation to ensure that an appropriate amount of dollars is spent on repair. To suggest that P3s have not been successful is simply to pick the exception that is not as opposed to the rule in many of the English counties where they have been very successful.

Mr. Speaker, this is clearly and transparently showing Albertans the initial, the operating, and the long-term cost of projects. Quite honestly, I think that like the mortgage on your house it should be there to address the backlog. We need to have all these tools. While I appreciate that we may have a philosophical difference on P3s, appropriate debt, appropriate investment in infrastructure, an investment that houses our children, houses our academics, and moves our industry into the wealth creation that we all need to maintain the standard of living and programs we've got is very important to us and, I'm sure, to them.

I thank him for his qualified support. In time, Mr. Speaker, be it 10 or 20 years, I hope we're able to look back and say: "Ha ha. You were wrong."

Thank you, Mr. Speaker.

[Motion carried; Bill 3 read a third time]

Government Bills and Orders
Committee of the Whole
(continued)

[Mr. Marz in the chair]

Bill 1
Trade, Investment and Labour Mobility
Agreement Implementation Statutes
Amendment Act, 2008

The Acting Chair: Are there any comments or questions with regard to this bill? The hon. Minister of Environment.

Mr. Renner: Thank you, Mr. Chairman. I'd like to just spend a few minutes summarizing some of the discussion that we've had to date on this bill and perhaps answering some questions that have arisen during debate at second reading. Over the past few weeks we've had a spirited debate over Bill 1 in the House. We've heard many supporters of free trade and barrier busting voice their support for TILMA. We've also heard concerns raised by hon. members based on some misconceptions about TILMA. I think it's in the best interests of everyone to once again outline what TILMA is and what it isn't and why we need Bill 1.

The TILMA is a bilateral free trade agreement between Alberta and our neighbours to the west. Its goal is simple: make life easier for Albertans by removing barriers to trade, investment, and labour mobility. This reflects a long-standing policy of the government of Alberta to liberalize trade both internationally and domestically. The agreement was signed in April of 2006 and came into effect for certain sectors in April 2007. Alberta and British Columbia are working together to fully implement the TILMA by April of 2009, and we're both pursuing similar legislation to meet this goal. The key to successfully implementing the TILMA is the transition period that we are in right now, from April 2007 until April 2009.

Bill 1, the TILMA Implementation Statutes Amendment Act, 2008, is critical to keeping us on target. The bill will help usher in a groundbreaking agreement that is unprecedented in Canada, an agreement that's already a catalyst for how Canada and all provinces look at internal trade and labour mobility.

The bill has three areas of focus. First, it reconciles corporate

registration. This will help businesses, especially small ones, by eliminating the need to register in both provinces. Second, the bill allows the ERCB through statute the discretion to make regulations to waive certain requirements as they relate to B.C. oil and gas companies that operate in Alberta. For example, the ERCB will accept emergency contracts for Alberta companies even if those contracts are in B.C. Third, the bill amends the Government Organization Act by consolidating the provisions of TILMA in one place, which will allow the agreement to operate smoothly.

Now that we have a good, clear understanding of the bill, I think it would be prudent to talk about the overall agreement because that's where much of the concern seems to be. First, it is pivotal to understand that TILMA is an agreement between two provincial governments. Mr. Chairman, the hon. members raised concern during debate over the secrecy of TILMA. I'd like to point out that it's standard practice for provinces and the federal government to enter into agreements without debate. For example, in 2006-07 Alberta was party to more than 150 international or intergovernmental agreements. These are included in the annual report of the Ministry of International and Intergovernmental Relations. I'll add that every step towards reaching TILMA has been made public through website postings, news releases, and consultations with affected groups. What we'll rightly debate in this Chamber are any changes to the legislation required under TILMA.

Another misconception is that TILMA takes away local governments' rights to make laws. This concern was raised a few times by some hon. members. Mr. Chairman, let me assure those members that TILMA does not affect any municipality's ability to make laws, such as zoning bylaws, height restrictions, signage rules, land-use decisions, that they believe are in the best interests of their citizens, and it does not interfere with social housing programs or assisting those less fortunate.

One of the biggest concerns raised was that TILMA will restrict local governments from awarding contracts to local business. Once again, this is simply not the case. Under the current pan-Canadian agreement on internal trade, municipalities must openly tender across Canada any goods and services contracts valued at more than \$100,000 and any construction contracts valued at more than \$250,000. TILMA is looking at possibly lowering those procurement thresholds. We continue to work co-operatively with municipalities on threshold levels that will increase competition but still satisfy the needs of local governments. The province has had very positive consultations with more than 120 municipalities, and we have regular discussions with the AUMA and the AAMD and C.

Another concern is that the agreement would lead to the deregulation or privatization of government services. The fact is that TILMA does not provide for expropriation or require the deregulation of government-provided services. Additionally, TILMA explicitly allows the following with respect to Crown corporations: the maintenance of existing Crowns, the establishment of new Crowns, and the regulation of Crowns.

Mr. Chairman, during debate it was suggested that TILMA will lower labour standards. Once again, this is a misconception. In fact, both Alberta and B.C. have specifically committed to promoting high labour standards. We have worked together with more than 60 regulatory bodies that represent the 100 professional and skilled trade occupations covered under TILMA. These regulatory bodies are directly involved in these negotiations, which is why we are very confident that high standards will continue. In most cases we're finding that the regulatory bodies are opting to mutually recognize credentials.

9:20

Mr. Chairman, there was also concern raised during debate that

TILMA will only help big business. I can tell you that one of TILMA's greatest benefits is that it will in fact help the little guy. TILMA will reconcile corporate registration, eliminating the need for small businesses to register in both provinces. It will reduce red tape and save small businesses money. TILMA also gives small businesses the same access to the dispute resolution mechanism that's available to big business. This means that the little guy has the same opportunity to raise concerns directly with government. Alberta and B.C. are working to create a more level playing field for businesses to compete in. We've agreed not to offer or provide subsidies to a company that place a competing firm in the other jurisdiction at a competitive disadvantage.

There have been suggestions that TILMA contains provisions that are open to interpretation and that a panel could interpret the agreement in a way that the province did not intend. Alberta exercised due diligence before the agreement was signed, and it has continued to do so throughout the transition period. There has been a review of all government of Alberta statutes to ensure consistency with the agreement. We're continuing to work with municipalities, academic institutions, school boards, and the health sector, also known as the MASH sector, to ensure that we are fully prepared when coverage extends to these entities. Alberta has a strong history of being compliant with the agreement on internal trade and the North American free trade agreement, and that will carry through with TILMA. Additionally, article 34(4) of the agreement allows the parties to issue joint declarations declaring the appropriate interpretation of the agreement should it be necessary to do so.

This leads nicely into another subject that I'd like to address today. I think it's also prudent to clear up some misunderstandings about the TILMA dispute resolution process. First, the dispute resolution process will be public. Second, there's no ability for businesses to sue municipalities under TILMA. Any challenges come directly to the provincial governments. The process is in place to ensure that provincial governments live up to their commitments. Most importantly, a penalty against a provincial government can only be assessed if the government is found to be in breach of its obligation and then fails after a reasonable period of time to bring itself into compliance.

Mr. Chairman, an enforceable dispute resolution process under TILMA improves the agreement on internal trade where some governments continue to ignore panel decisions. It's also important to highlight that Alberta has never been challenged by a dispute resolution panel under the AIT.

I hope this information helped quell some of the angst among hon. members. I hope I've demonstrated that once fully implemented, TILMA will mean seamless access for businesses and workers in both provinces. It will mean access to a larger range of opportunities within a single economic region. TILMA will in fact create Canada's second-largest market, with more than 7.7 million people and a combined GDP of more than \$400 billion. It will eliminate duplicate and overlapping government red tape between the provinces, making the flow of goods and services and people much easier. In the end TILMA is designed to help Albertans.

With that, I ask for your continued support to pass Bill 1, which is critical to fully implementing Canada's most comprehensive interprovincial trade agreement.

Thank you, Mr. Chairman.

The Acting Chair: The hon. Member for Calgary-Mountain View.

Dr. Swann: Thank you very much, Mr. Chairman. My first opportunity to speak to this bill in Committee of the Whole. I think all Albertans want to facilitate mobility between provinces, reduce

red tape, and maximize professional and labour transfers between provinces. I guess the question that many of us have is the extent to which, by facilitating these measures, we are limiting the ability of municipalities and the ability of professional bodies to maintain the highest possible standards for both labour and for environmental conditions.

I've heard some of the discussion from the minister, and I'm not yet convinced. I have opinions that have been given to me from municipal associations in B.C. and policy centres across Canada that remain unconvinced that we are adequately protecting the standards for labour, the standards for the environment, the ability of municipalities to maintain those standards and to in fact increase those standards, and to apply some of the new knowledge that we have about the trade-offs with advancing technologies and the risks that some of these new businesses may pose to both labour standards and to the environment.

Let me quote the Union of B.C. Municipalities, which commented that there was sufficient vagueness and ambiguity in some of these requirements that they were unable to support it without more debate and more clarification and specification of some of these conditions. For example, if a local government creates obstacles to investment by restricting or impairing it, it could be subject to a tribunal and a challenge. If the local government does not mutually recognize municipal regulations from Alberta, developers could choose which regulations they wanted to abide by. In another section the preservation of rental accommodations, ethical purchasing, heritage properties, industrial lands priorities, again, are not covered under the act and may simply be seen as an oversight, but they may in fact result in this agreement not serving the public interest but serving particular private interests.

On another front, Mr. Chairman, the Canadian Institute of Chartered Accountants indicated that they were concerned.

In our striving for the ideal of a domestic free market open to unrestricted competition, it is critically important that we remember that not all standards and regulations are inherently bad, nor are they necessarily anti-competitive. Particularly where the standards and regulations are present for the specific purpose of protecting the public.

Some of these may in fact slow business. They may in fact slow investment, but they are seen to be a better balance between the public interest and the private interest. For one province to be able to challenge that and, in fact, receive a sizable settlement over that begs some serious questions and, I think, simply needs to be much more fully discussed with some more legal and academic views of how these are going to impact in real life.

I'm particularly concerned with respect to the environment that some of these guidelines are not actually included under TILMA. For example, part V of TILMA lists measures that are excepted from the agreement's key prohibitions, and the list fails to provide a comprehensive exception for some environmental measures. Instead, it lists specific exceptions for certain measures that relate to the environment such as water, services and investments pertaining to water, fish and wildlife and forests, the promotion of renewable and alternative energy, and the management and disposal of hazardous and waste materials.

It's very good to have those included, but what isn't included is then subject to dispute, and that includes issues such as reducing greenhouse gases, protecting endangered ecosystems in spite of the desire by developers to invest and to develop some resources in that. Higher standards on air pollution, for example, may or may not be interpreted as interfering with business. So these are potential legal challenges under TILMA, and unless we have a fairly comprehensive list of exceptions, it becomes moot whether we end up with

much more challenge, much more difficult issues to deal with, and whether this is actually going to serve the public interest.

I know that there's much more to be said about this, and I'll turn the floor over to others who may want to make other recommendations to improve this bill. Thank you, Mr. Chairman.

The Acting Chair: The hon. Member for Edmonton-Gold Bar.

9:30

Mr. MacDonald: Thank you very much, Mr. Chairman. I would like to start by acknowledging my appreciation to the hon. Minister of Environment and the Deputy Government House Leader for his clarifications on Bill 1. Certainly, there is more than one opinion regarding TILMA. I welcome, again, the opportunity to have this public debate on TILMA. This debate on this bill should have been presented long before the government arbitrarily signed this deal with British Columbia. There are still issues that need to be clarified.

I'm not convinced by the hon. member's clarification on labour mobility and the whole idea of having compulsory trades in Alberta and not having compulsory trades in British Columbia and what that means. Certainly, there are those that say that we are lowering our standards. I'm told here this evening that we are raising our standards and not to worry. But I for one will continue to urge caution in regard to this.

Now, certainly, whenever we look at the details of this legislation and the amendments to the Government Organization Act, when we look at the amendments, I believe, to the Cooperatives Act – I have quite a list of them, Mr. Chairman – there are amendments to several interesting pieces of legislation. We're looking at the responsibilities of this government. The Minister of Intergovernmental and International Relations is going to be responsible for

- (a) carrying out on behalf of the Government of Alberta any of its powers or duties under the Agreement, or
- (b) exercising on behalf of the Government of Alberta any discretion it has under the Agreement.

I don't know why it's necessary to assign responsibilities of the government to this ministry, and if I could have through the course of debate an answer why that is necessary, I certainly would appreciate it.

The whole concept of liberalizing trade is a good one, but when TILMA was developed – I have to remind all hon. members of the House that it was developed in a fundamentally undemocratic way. The government, up until the time that this bill was introduced, refused a proper debate on it, and the genuine concerns of many citizens and organizations were dismissed or disregarded.

Now, if we go back two years to when this was signed between British Columbia and Alberta and we look at the change of government in Saskatchewan, the change of government in Saskatchewan certainly did not change how they feel about Crown corporations and about public auto insurance, for instance. I'm not going to get into a comparison of different insurance plans and what consumers in Alberta pay and what consumers in British Columbia pay and what consumers in Saskatchewan pay for automobile insurance. There is certainly a significant difference. Guess who pays the most? Same as with our electricity bills: Alberta consumers.

Mr. Groeneveld: What's the difference?

Mr. MacDonald: Hon. Minister of Agriculture and Rural Development, the difference is that consumers and consumer interests and consumer protection are taken a lot more seriously in both British Columbia and in Saskatchewan than here in Alberta. The public interest, the public defence, of consumers and consumer-related

issues is on the back burner with this government. That's the difference, hon. member.

Now, getting back, Mr. Chairman, to Bill 1 here. We look at trade and this concept that TILMA is going to harmonize the province's commercial vehicle registrations, ending the need for dual registration. We will see electricity regulations that are to be generally accepted, and the applicable North American standards or standards for the western interconnection region are to be used. The parties that are involved in this know full well that with electricity deregulation B.C. has been the winner – Powerex – with their exports of electricity at prime rates to Alberta. It's not the other way around, and it'll be a long time before Alberta, if we maintain our electricity deregulation scheme, our flawed scheme, will have electricity rates that would compare to our neighbours.

Now, the hon. member previous talked about government procurements that are open and to be nondiscriminatory. We had a discussion earlier on labour mobility. One of the things that I think we need to have a look at, Mr. Chairman, is section 4, which is prohibition on private cause of action, and this goes to section 2, which is again assigning responsibility to the Minister of International and Intergovernmental Relations.

No legal proceeding lies or may be brought or continued against the Government of Alberta or another person to enforce or determine a right or obligation that is claimed or arises solely under the Agreement or the Agreement as interpreted by a joint decision issued under Article 34(4) of the Agreement.

It goes on here.

Subsection (1) does not apply to a proceeding that is contemplated by Part IV of the Agreement.

Now, part IV of TILMA is the dispute resolution, or TILMA's private enforcement regime. In the event of a dispute, Mr. Chairman, and a panel being struck under TILMA, British Columbia would select a panelist from Alberta's roster and Alberta would select a panelist from British Columbia's roster. The two panelists would then choose by consensus an individual from either the Alberta or British Columbia roster to chair the proceedings. Now, that is how the dispute resolution mechanism is to work, as I understand it.

According to a legal brief that I have – and this legal brief is researched and written by lawyers Sack, Goldblatt, and Mitchell – the establishment of TILMA

represents a radical departure from Canadian legal norms by according private parties the right to directly enforce an inter-provincial agreement which they are neither party to nor owe any obligations under. The architecture of TILMA dispute procedures represents . . . elements taken from the . . . NAFTA investment rules [among others]. Under both of these regimes, individuals, as well as the Parties themselves, are entitled to invoke dispute procedures. However, by far the most significant feature of TILMA's dispute procedures is borrowed from Chapter Eleven of NAFTA, which entitles foreign investors to claim monetary damages where these are alleged to have been caused by a failure of the Parties to comply with their obligations under the Agreement.

9:40

Now, we look at TILMA's dispute resolution, and we look at subsection (2) here, and then we go to subsection (3), where no legal proceeding lies or may be brought or continued against the Government of Alberta for compensation, damages or any other remedy for anything arising as a consequence of a joint decision . . . under Article 34(4) of the Agreement.

This would come into play on April 1, 2007, not this year but last year. Essentially, no legal proceedings can be moved or filed against the government of Alberta.

Now, is the government responsible for signing this deal? Yes.

Did we sign this deal while there were still many questions to be answered, questions from various organizations and individuals? Yes. Yet we seem to be getting this – it's not a get out of jail free card, but certainly the government with this section is unwilling to accept any legal responsibility for this bill.

Mr. Chairman, if I could at this time, I would like to introduce this amendment, please. If I could have one of the pages distribute this – and the signed copy, of course, will go to the chairman of the committee – I would appreciate it.

The Acting Chair: Okay. We will allow a moment for the pages to distribute it to the hon. members before you continue.

Okay, hon. member. I believe you can continue on the amendment.

Mr. MacDonald: Thank you. I appreciate that. For the convenience of the hon. members, Mr. Chairman, shall we name this amendment A1?

The Acting Chair: Good point. We will call this amendment A1.

Mr. MacDonald: Okay. Thank you. Now, with this amendment I would be requesting that section 4 be just struck out or removed. Then this legal inoculation that is being provided through section 4 to the government of Alberta would be removed. If the government of Alberta is confident in TILMA and confident in everything that they say and do in promoting this trade deal, then they shouldn't have any worries with the removal of this section, and they should support this amendment because I don't understand why after all that discussion it would be an issue. We can look through this deal, and we can spend a lot of time doing it. We can look at each individual article, but, Mr. Chairman, I don't understand why. The hon. Member for Vermilion-Lloydminster surely cannot agree with the idea of giving the government protection from any and every legal proceeding that could be developed as a result of this deal. I'm sure the hon. member doesn't think that that would be fair or just.

With that, Mr. Chairman, I will cede the floor to anyone who is interested in discussing this amendment. I appreciate your time. Thank you.

The Acting Chair: Does anyone wish to speak on the amendment? Are you ready for the question on amendment A1?

Hon. Members: Question.

[Motion on amendment A1 lost]

The Acting Chair: Are there others who wish to speak on the bill? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thanks very much, Mr. Chairman. I'd like to speak to this bill. I think many of the concerns have been raised at second reading. Certainly, the Member for Edmonton-Gold Bar raised a number of concerns.

I want to ask a question if I may; I don't know if I'll get a response. The hon. Minister of Environment had some comments with respect to this bill and attempted to reassure members of the House who have some concerns. The hon. Minister of Environment is also the Member for Medicine Hat. The city of Medicine Hat has a long-standing natural gas enterprise, where they provide natural gas to their citizens, they use natural gas to generate electricity for their citizens, and they purchase their own reserves of natural gas and in doing so are able to provide that natural gas with a high

security of supply at lower prices generally than exist in the sale of natural gas in other parts of the province through private, commercial arrangements.

My question, really, for the Minister of Environment is if the government has consulted with the city of Medicine Hat with respect to the impact of the TILMA agreement on the operation of their gas and electricity enterprise, what that answer might have been, and whether or not the government has done any independent analysis of the potential impact of the TILMA agreement on an enterprise like the city of Medicine Hat has if someone wanted to get involved and claim that the city of Medicine Hat was operating in a way that restricted their commercial rights. That's an open-ended question. That's not a rhetorical question. I don't know the answer to the question. I'm asking it, really, in the hopes that the minister can provide me with some of that information.

The Acting Chair: The hon. Minister of Environment.

Mr. Renner: Thank you, Mr. Chairman. I am not aware of specific consultation with the city of Medicine Hat, but I can advise the member that such consultation would not be unique to Medicine Hat. As I mentioned in my opening comments, there has been extensive consultation with municipalities on the general terms as they affect or, more importantly, do not affect municipalities.

I can tell the hon. member that with respect to the city of Medicine Hat and its operation of utilities there would be no change as a result of TILMA. The city of Medicine Hat has some restriction on their ability to sell electricity into the power grid because of the fact that they have a specific exemption and are not subject to the rest of the regulations as they affect electric power production because they are restricted to selling power to their own citizens. I can see no reason why TILMA would have any impact whatsoever. The provisions of TILMA with respect to issuance of various contracts, whether those contracts are issued in the capacity of the city acting as a municipal corporation or the city acting as an electric or gas producer, would be no different than what they experience now. So I can see no reason why any of the operations that the city of Medicine Hat is involved in would be harmed in any way as a result of the implementation of this agreement.

9:50

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

Mr. Hehr: Well, thank you very much, Mr. Chair. I just have a couple of brief comments to make. I thank the minister for making his initial comments. Yet I do have some reservations to TILMA as it is going to be implemented and actually about, you know, some of the things that were said. Initially, I'd like to point out that this bill has gone through with very little consultation with many of the groups who could be affected by this bill. Organizations involved with cities around this province have said they've been told what TILMA is but they weren't asked for any input as to what they would like to see. I believe that is one of the fundamental things that may be lacking in some of the linchpins that appear maybe to be under the surface, so to speak, here in the TILMA bill.

In particular, I'd like to sort of speak about article 25. The hon. minister did mention that private individuals can challenge governments under TILMA, but again we've discussed this at length with the hon. Minister of Justice. Access to battling the government by the average, common, everyday citizen: I don't know if it's really feasible in today's age of getting reasonable legal advice under these things. I look at article 25 with that being my general frame of reference, and it strikes me that, whoa, all of a sudden corporations

are people too. It strikes me that article 25, although purporting to give everybody the ability to sue, is just limited to where corporations are able to sue under this bill for all intents and purposes, whatever that may be.

If you look at that, that's where this bill really has some difficulty for me. As my friend from Calgary-Mountain View has indicated, while these corporations interfere with public decisions of local bodies such as school boards who decide, say, they're not going to sell Coke and Pepsi in their school or some regional hospital that says they're not going to have Frito Lay potato chips – I'm not sure. You know, those are just some of the things it appears this bill is opening us up to, a host of having corporations interfering with our local boards and how their decision-making powers are going to be impacted going forward. I guess we'll have to wait and see, but that is the one thing that really strikes me as being somewhat amiss here. It tends to put a lot of power away from controlled local electorate divisions into the hand of a trade agreement, which I'm not in agreement with.

Those are my comments, and the proof will be in the pudding. I can't say that I'm against trade, because I'm not. If you see the theory behind the bill, having welders being able to weld in B.C. and Alberta lawyers – God forbid they be unable to practice in B.C. when they're able to practice in Alberta without taking a test. Those are good things, but they could have been handled in a little more streamlined fashion than this whole gauntlet, where we now seem to find ourselves.

Anyway, that's all for me tonight. Thank you, Mr. Chairman.

The Acting Chair: The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thanks very much, Mr. Chairman. I'm certainly prepared to speak on this particular bill at more length on third reading, but I just want to respond to the Minister of Environment. I appreciate his answers to my questions, but what he has suggested is that he sees no reason why this wouldn't affect the operations of the city of Medicine Hat. My concern is that there has been no examination of the specific impact or consultation with municipal government with respect to that matter.

Right now the city of Medicine Hat runs a monopoly utility, and utilities are in many respects natural monopolies. I firmly believe that they need to be operated in the public interests, but there may be a situation where private gas companies either here or in British Columbia might decide that they want to get in there and compete. Some members opposite might think that's just fine. In my view there's a tremendous public benefit by the operation of municipal utilities. They provide a reliable service, they provide a reasonable cost for the utility, and they bring a return to the municipality. In my view this is a legitimate activity of municipal governments, and it ought not to be constrained in any way by this agreement or any other agreement that the government might sign. I'm disturbed that the government cannot say clearly and with conviction that they've looked at this matter and are convinced that the city of Medicine Hat or any other municipal activity currently existing in this province would not be jeopardized by this agreement.

The city of Medicine Hat also does most of the land development. It's unique. The city of Edmonton at the time that I was involved did about 10 per cent. I think that in the city of Medicine Hat it's 80 or 90 per cent, and the result is tremendous value for the citizens and a great return to the municipality. That would be another activity that I would be very concerned about, being challenged by private land development companies who want to use this agreement in order to get municipal government out of their way so that they can continue to make a profit.

I don't have anything against trade either, Mr. Chairman, but I do object on principle to the notion that agreements are made by a government which give private corporations the right to challenge legitimate activities of government and particularly, in this case, the legitimate activities of municipal government. There are private companies that do some of the same things, but of course the benefits of those activities flow to their shareholders and not to the people of the municipality.

I think we can disagree philosophically about what's the best way to deliver those kinds of services to people, but I don't believe that we should be passing legislation or signing agreements that give the legal right to private corporations to put local governments out of the business that they've been in traditionally and which benefit the people. That's something the voters should decide, Mr. Chairman, in an election.

10:00

For example, if you don't think that the city of Edmonton should be involved in the telephone business, or you didn't, then that should be up to the elected officials of the city of Edmonton. They did make a decision a number of years ago which I disagreed with, but it was made by elected representatives. That's something that the voters should be making through their elected representatives and not tribunals of unelected people. It's the interference in the sovereignty of government, which I mentioned the last time I spoke on this, that is the most objectionable aspect of this bill and, indeed, of the entire movement to create these free trade agreements.

The fact that you have appointed tribunals that have powers which overarch and oversee the rights of elected Legislatures and councils, I think, is one of the most problematic developments in policy and in government in these days. In fact, I'd like to quote from a document which does an analysis of a bill which is before us, and there are number of concerns. First of all – and this is the point that I've been attempting to make – these agreements like TILMA “directly confront basic constitutional norms, including the rule of law and democracy.” There's a general prohibition, which is set out on measures by the municipal and public bodies, that interferes with the rights of investors, labour mobility, and trade. These agreements “improperly derogate the role and authority of superior courts and therefore offend the constitutional safeguard of judicial independence engendered by s. 96 of the Constitution.”

Four, it's unconstitutional to move powers that belong to the sitting Legislature and also impose these powers or lack of them for future governments. If governments make decisions that will be in conflict with TILMA, then governments can be taken to court by business affected by that future law, so it infringes on the power of the elected Legislature that we sit in. It arrogates power from the courts by removing dispute resolution and putting it into the power of a tribunal.

Six, trade and commerce is federal and does not belong under the jurisdiction of the province. If it's really about trade, investment, and labour mobility, anything the province did could be challenged on that ground.

There's another interesting point on this matter because there are some clauses in this bill that give the power of the government by regulation under the bill to supersede provisions of the bill itself. I found that under division 2.1, Special Rules Respecting Extra-provincial Requirements,

293.4 Where there is a conflict or inconsistency between a provision of a regulation made under section 293.3 and a provision of this Act, the provision of the regulation prevails to the extent of the conflict or inconsistency.

In 1997 the supreme court of Ontario made a comment on a similar effort there: “This breathtaking power, to amend by regula-

tion the very statute which authorizes the regulation, is known to legal historians as a 'King Henry VIII' clause because that monarch gave himself power to legislate by proclamation."

It's interesting, Mr. Chairman, that the supreme court of Ontario would put it that way: a Henry VIII clause, which basically uses the Legislature's power to give that power to the government over the Legislature. It turns the principle of responsible government, really, on its head. Now, some members might think I'm just going a little bit over the top with this, but these kinds of agreements have broad-reaching implications because they set up a system by which major decisions about what government can do and what government can't do are taken away from the elected people of the province or of an individual municipality and handed to nonelected tribunals. We've seen a number of examples of that.

I'm not prepared to support a bill that will take away the rights and privileges of this Assembly and hand them either to the government or to a government-appointed tribunal. I'm not prepared to support this. I don't think the government has adequately outlined or properly limited the potential impacts of this legislation. I'm not convinced that 10 years from now, should this bill be passed, we will look back and say: this had a beneficial effect on the lives of the people of this province. I don't believe that it will, so I will oppose it and will continue to oppose it.

Those are my comments for the moment, Mr. Chairman. Thank you very much.

I'll move that we adjourn debate.

[Motion to adjourn debate carried]

Mr. Renner: I move that the committee rise and report progress on Bill 1.

[Motion carried]

[Mr. Marz in the chair]

The Acting Speaker: The hon. Member for Grande Prairie-Wapiti.

Mr. Drysdale: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports progress on the following bill: Bill 1. I wish to table copies of all amendments considered by Committee of the Whole on this date for the official records of the Assembly.

The Acting Speaker: Does the Assembly concur in the report?

Hon. Members: Agreed.

The Acting Speaker: Opposed? So ordered.

Government Bills and Orders

Second Reading

(continued)

Bill 9

Land Agents Licensing Amendment Act, 2008

The Acting Speaker: The hon. Member for Cypress-Medicine Hat.

Mr. Mitzel: Thank you, Mr. Speaker. I'm very pleased to have this opportunity to speak to Bill 9, the Land Agents Licensing Amendment Act, 2008. This proposed legislation is being welcomed by many Alberta landowners. It gives them more options when it

comes to choosing representation in negotiations around access to their land. Right now landowners can represent their own interests or they can choose a professional licensed land agent.

10:10

As I've mentioned in the past – and I don't think it can be said too many times – Alberta's 1,600 land agents are licensed professionals, Mr. Speaker. They have standards to meet, codes of ethics to follow, and are subject to disciplinary measures if they don't adhere to these standards. Currently, acquiring companies and landowners must both be represented by licensed land agents. This amendment will remove this requirement for the landowners only, which means they'll have greater freedom to choose who they want to negotiate on their behalf. It could be someone they feel has a greater interest or a deeper understanding of their position. It could be a neighbour, a friend, a colleague. Landowners could choose to represent themselves, or they could still hire a licensed land agent or lawyer. The choice is theirs.

Mr. Speaker, I would also add that licensed land agents hired to represent the landowner usually submit their bills to the companies they've negotiated with to be paid the going rate. I said usually because it's not mandatory. It's just the way it's been done to make things easier for the landowner and in some cases to expedite the process. Under this proposed amendment the issue of who pays the landowners' bills will continue to be up for negotiation between the acquiring company and the landowner.

With that, Mr. Speaker, I'd like to adjourn debate.

[Motion to adjourn debate carried]

Bill 19

First Nations Sacred Ceremonial Objects Repatriation Amendment Act, 2008

The Acting Speaker: The hon. Minister of Culture and Community Spirit.

Mr. Blackett: Indeed, Mr. Speaker. I'd like to move second reading of Bill 19, the First Nations Sacred Ceremonial Objects Repatriation Amendment Act, 2008.

[Mr. Mitzel in the chair]

The proposed amendment for the act will formally repatriate or transfer legal ownership of certain sacred ceremonial objects to three Blackfoot First Nations in Alberta. The objects in question were obtained by the Blackfoot First Nations from the Royal Alberta Museum by a series of 15 long-term loans made between June 1998 and August 2001. In 2000 the government of Alberta enacted the First Nations Sacred Ceremonial Objects Repatriation Act. This act was intended to achieve two primary objectives: to establish a legislative process for the repatriation of sacred ceremonial objects and to deem as repatriated other sacred objects that were the subject of the Blackfoot agreement entered into on January 14, 2000, by Her Majesty the Queen, the Blood Tribe, the Peigan First Nation, the Siksika Nation, and the Glenbow-Alberta Institute.

The associated regulation enacted in 2004 set the application process that Blackfoot First Nations must follow to have the objects repatriated. However, the acts and regulations apply only to objects loaned from the Glenbow-Alberta Institute and to new applications for repatriation made after the enactments of the FNSCORA. They do not apply retroactively to the objects covered by the 15 long-term loans from the Royal Alberta Museum. The proposed amendment

act will achieve the goal of deeming ownership of these objects to rest with the First Nations without requiring further action by the band members. The amendment essentially involves expanding the definition of the Blackfoot agreement in section 1 of the act to include the 15 long-term loans from the Royal Alberta Museum. Both Alberta International and Intergovernmental Relations and Aboriginal Relations and the constitutional law side of Alberta Justice have been consulted and support the proposed amendment act.

Mr. Speaker, I request leave to adjourn debate.

[Motion to adjourn debate carried]

Bill 20
Agriculture Statutes Repeal Act, 2008

Mr. Griffiths: Mr. Speaker, it's a pleasure to rise on second reading of Bill 20, the Agriculture Statutes Repeal Act, 2008.

This act repeals three acts: the Agricultural Societies Amendment Act, the Gas Distribution Amendment Act, and the Federal-Provincial Farm Assistance Act. I remind all members that the first two acts have never been proclaimed, Mr. Speaker, and the third act is addressed by other legislation.

I would like to move that we adjourn debate on second reading.

[Motion to adjourn debate carried]

Bill 21

Heating Oil and Propane Rebate Act

Mr. Griffiths: Mr. Speaker, it's a pleasure after six years in here to rise and move second reading on Bill 21, the Heating Oil and Propane Rebate Act.

The act will repeal and replace the Natural Gas Rebates Act. All the rebate programs that were introduced in the 1980s under the Natural Gas Rebates Act have been discontinued for over 20 years, Mr. Speaker, except for the rebates for heating oil and propane purchases for those Albertans that do not have economical access to natural gas. The provisions in this act are applicable only to nonexistent programs, and they'll be repealed.

Mr. Speaker, I'd like to now move adjournment of debate.

[Motion to adjourn debate carried]

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

Mr. Renner: Well, thank you, Mr. Speaker. Given the fact that we've had considerable progress this evening, I want to acknowledge all of the members who participated and the good progress that was made. I would now move that the House stand adjourned until 1:30 tomorrow afternoon.

[Motion carried; at 10:17 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

Table of Contents

Monday evening, May 26, 2008

Introduction of Guests	951
Motions Other than Government Motions	
Animal Protection	951
Government Bills and Orders	
Second Reading	
Bill 7 Post-secondary Learning Amendment Act, 2008	958
Bill 8 Climate Change and Emissions Management Amendment Act, 2008	958
Bill 17 Alberta Personal Income Tax Amendment Act, 2008	958
Bill 9 Land Agents Licensing Amendment Act, 2008	967
Bill 19 First Nations Sacred Ceremonial Objects Repatriation Amendment Act, 2008	967
Bill 20 Agriculture Statutes Repeal Act, 2008	968
Bill 21 Heating Oil and Propane Rebate Act	968
Committee of the Whole	
Bill 12 Teachers' Pension Plans Amendment Act, 2008	958
Bill 13 Financial Institutions Statutes Amendment Act, 2008	959
Bill 1 Trade, Investment and Labour Mobility Agreement Implementation Statutes Amendment Act, 2008	962
Third Reading	
Bill 4 Alberta Enterprise Corporation Act	959
Bill 3 Fiscal Responsibility Amendment Act, 2008	960

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