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The 27th Legislature  
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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 Mittel, 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.

Wednesday, October 15, 2008

### Government Bills and Orders Committee of the Whole

[Mr. Cao in the chair]

**The Chair:** Hon. members, it's 7:30, so I call the committee to order to resume the debate in Committee of the Whole.

#### Bill 9

#### Land Agents Licensing Amendment Act, 2008

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

**Mr. MacDonald:** Yes. Good evening, Mr. Chairman. Certainly, I heard from the hon. Member for Cypress-Medicine Hat earlier this afternoon regarding this legislative proposal, the Land Agents Licensing Amendment Act. I would certainly agree with his remarks on that. I heard over the summer from some individuals in the oil and gas sector who still had reservations about this proposed legislation, but I think in light of the circumstances surrounding the case of Mr. Ray Strom these amendments are necessary. They're a step in the right direction.

You know, this is one place where I think we should encourage choice. I don't think we should encourage choice in education. I think we just should stick with private funding for private schools. If you want a private school, you pay for it, but public education should be provided by the taxpayer, and that's a choice one would make. Certainly, I hope we don't go any further down the road of choice with health care where we have the choice between private and public. Let's just fix the public system and make it work.

This is one case where I think it is reasonable to expect there to be a choice. If one wants to get their neighbour to help them out with their negotiations regarding resource company access, well, that's their business. This bill clarifies this, and it certainly has been interesting not only to participate in the debate on Bill 9 but also to hear the views of interested parties throughout the province of Alberta.

With that, Mr. Chairman, I will cede the floor to anyone else who wants to speak on Bill 9. Thank you.

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

**Mr. Hehr:** Well, thank you very much, Mr. Chairman. I, too, would like to speak in favour of this amendment. I'd like to also sort of echo some of the comments by my colleague from Edmonton-Gold Bar. I will agree with him that the Land Agents Licensing Amendment Act is one of those places where choice should be allowed in the marketplace. It seems to be up to the individual here to pick a person that they deem trustworthy and whom they feel close with to discuss the very ramifications of the land use, that it should be available to these individuals to hire whomever they wish.

I would like to point out, though, that choice is not always the best measure for Alberta citizens, and I'll reiterate what my good friend from Edmonton-Gold Bar said. Choice in schooling where government dollars are being put right now into private schools: that is something I do not support. If they are private schools, they should be paid for privately. Why else would they be called private schools? Public funds should not be used for that measure. The same thing for public health care: it should be public. That's how it should be, and we should have the choice. Lots of choice within the public system, sir; just let's keep it a public system.

Those are my comments, and thank you very much. It was an honour to stand here tonight and discuss the Land Agents Licensing Amendment Act.

**Mr. Chase:** Well, I'm pleased that my colleagues have in their mind a more settled interpretation of this bill than I do. I range kind of in that intermediary circumstance because what I see happening with Bill 9 is an attempt almost like a large amendment to add on to the 23 amendments that the government put through to try and correct Bill 46, which dealt with landowners' rights and responsibilities. There was a terrific amount of controversy associated with Bill 46, and I'm not sure that Bill 9 completely addresses those concerns.

As my hon. NDP colleague, the leader of the third party, pointed out, Ray Strom was fined \$500, and basically in the fining, his Charter rights were infringed upon because while he was not a professional landman, he did have the right to express his opinions. For that freedom of speech he was basically fined \$500. I think what happened was that the government recognized, by trying to silence a person because they didn't work for a particular company or weren't of a particular industrial bent or mind, that their opinions weren't valid and weren't recognized.

I'm also torn by my colleague from Edmonton-Centre talking about the professional standards, and she referenced the professional standards in real estate. I would also suggest the professional standards in any legal profession. If a person is offering advice, that's one thing. But if they're hanging a shingle out indicating that they're something that they're not and they haven't gone through any particular training, I think that has to also be spelled out very clearly. What the source of their advice is and a resumé for the individual seeking their advice would be very appropriate, and I'm not sure that Bill 9 does that. It goes from a very regulated circumstance with regard to landmen to the sky is the limit; it's open season; anybody can offer advice. So somewhere in between those two extremes is probably the right answer.

Also, I've been at numerous rural meetings over land disputes. I've been, for example, to Drayton Valley and Ponoka, to Nanton with my colleague from Calgary-Mountain View. I've been to Wetaskiwin and Ponoka with my colleague from Edmonton-Gold Bar. I've been to Stettler. I've heard at a number of forums people expressing concerns about their rights, the rights to prevent access, of course the whole dispute over surface rights and mineral rights, and then the organization of landowners that has both those rights enshrined in their agreements.

I've heard Joe Anglin talk extensively and express concerns about power lines and intrusions onto property, and it was suggested that Joe had received a considerable amount of remuneration for offering his advice. Then it turned out that, no, that wasn't, in fact, the case. So who does the advising and under what circumstance is of great concern to me.

7:40

At the rural forums I attended, in addition to the transmission lines, which came up most directly to do with Bill 46, I heard a terrific number of concerns about coal-bed methane and its effect on local groundwater. A number of landowners were extremely concerned about allowing access to their land, and it has pitted neighbour against neighbour because the drilling limitations – basically, if you're not within 500 metres of a drill site, your opportunity to seek intervenor status is very limited. Then if you are appearing before the old EUB, or I think it's now the ERCB, your opportunities to intervene are very limited and in some cases extremely costly.

In terms of costly interventions I want to reference what is happening at the Tomahawk school. There a gas company wants to

drill a series of wells which are within the emergency evacuation zone, compromising the local fire hall. So in the event of a well blowout and an evacuation, the fire department would be out of the loop. They wouldn't be able to assist the residents in an orderly evacuation.

While the degree of sour gas is not to the lethal extent that it was in Compton, where I was the last intervenor when Compton was proposing drilling a series of wells within a kilometre of the location of the southeast hospital, in the village of Tomahawk the municipal government has paid out thousands of dollars. The bill for the school board, I think, is approaching \$340,000. This is money that isn't going into the schools in terms of benefits to the children or professional support for the teachers. It's being forced upon this small village because of the questionable rights as to where surface rights trump, basically, democratic rights to live in a healthy environment without the threat of being imposed upon by industry.

Bill 9 is part of a larger discussion as to what individual rights you have and then, when you add to the individual rights, the concerns about who pays the bill. In the case of the Compton hearing individuals who were having to leave their jobs or spend numerous, repeated sessions intervening on behalf of a particular organization were compensated, just as Joe Anglin received very minor compensation for his intervention in the transmission lines. [interjections] I remember as do you, member, that his compensation was under \$500 and he donated that to the group. Let's make sure we get our facts straight because we tried to slide that one back at the Bill 46 meeting in your constituency. It didn't fly then, and it won't fly here tonight.

**An Hon. Member:** Were you there?

**Mr. Chase:** Yes, I was.

Now, going back to the Tomahawk school district. Why should they be forced by industry to pay a bill to defend their rights to education, to health, and to a lifestyle that should not be compromised? Where are our rights? How do the landmen, whether they have gone through a series of courses or training, or the individuals who are simply advocating on behalf of their neighbours and friends – where does it all fit? I'm not convinced that Bill 9 delineates exactly what authorities individuals have.

It's going to be even more controversial as more and more drilling takes place. Yes, I want this province to prosper. I want that drilling to be balanced with the effect. Is the money from a particular well site worth the interruption in the lives of the citizens who surround that well? Bill 9 doesn't spell out those rights and the rights to compensation either. Bill 9 is a grey bill, and I guess I'm looking more for a black-and-white interpretation that unfortunately this bill doesn't provide.

When I was at a number of these rural events, as I say, primarily dealing with coal-bed methane, although transmission lines were discussed both in Wetaskiwin and Ponoka as well as previous discussions on coal-bed methane in Ponoka when I attended, there were individuals there who were offering advice, and their advice took the form of contracts that spelled out, if a driller was to come on to the land, the conditions that they would have to meet before drilling would be permitted. This was the only way landowners who did not have the mineral rights could basically prevent companies from sort of coming onto their property with no rights to appeal because they didn't own the mineral rights. So what the contracts basically did was have so many exclusionary requirements that the companies were required to meet before they would have access to the land that it wasn't worth the company's while to actually access

that land. They would go down to a neighbour or farther down the road, do directional drilling if that was possible, and avoid the conflict and the potential confrontation.

Bill 9 turns Bill 46 on its head, but it doesn't really resolve the matter, and therefore I'll look forward to the debate from other members, especially if we have geologists and engineers and individuals involved in the industry. I would also like to hear from anybody with a medical background, and of course we have a number of lawyers. We have two prominent individuals sitting in the front bench who will be able to talk about charter rights and infringements and due diligence, intervention. We have our experts, and I hope to hear from them tonight.

Thank you.

**The Chair:** Any other members who wish to speak? The hon. Member for Cypress-Medicine Hat.

**Mr. Mitzel:** Thank you, Mr. Chairman. I'd like to thank everyone who participated today in Committee of the Whole for Bill 9, the Land Agents Licensing Amendment Act, 2008. To recap, this amendment repeals section 1(c)(ii), which will give landowners the option they require, the right to not be restricted in who they hire when seeking advice or representation in land negotiations. Along with this comes the potential responsibility to also pay for this representation. The land agent title does not change. What may come in is perhaps a new group called the land adviser.

The landowner has the interest in the land. It's his land. The industry wishes to acquire that interest or a portion of that interest for their respective purposes. The industry engages the land agent to represent their company and acquire that interest or a portion of that interest. The landowner has two choices: to hire a land agent or to hire a lawyer to represent them. Remember, they own the interest. They cannot hire anyone else, especially not for a fee. There's a distinct difference between the needs of both parties. I think "unattached land agents" is perhaps the wrong term.

7:50

As I mentioned before, land advisers is probably a better choice of words to describe the landowner representatives. As a matter of fact, a wide range of Albertans who have an interest in land negotiations have created an association to advise and represent landowners in these matters. The Alberta Land Advisors Association is incorporated under the Societies Act with a mandate to provide assistance to landowners when it comes to negotiating with industry. Landowners can use the services of any of the membership, which may include land agents and those with environmental science or agricultural backgrounds to name a few.

I've spoken with the director of the professions and occupations branch within Alberta Employment and Immigration. The director is also the registrar of land agents. This branch can provide advice on registration and academic requirements, code of conduct, code of ethics, and a disciplinary process. There will surely be further discussion within the Land Agent Advisory Committee as to the potential role of this association in this new dynamic resulting from the passing of the Land Agents Licensing Amendment Act. I believe we will see these developments to be useful and potentially provide a service to landowners who might request it.

The need is there now to address these concerns expressed and to pass this legislation in order to be able to provide the services I just mentioned to landowners.

**The Chair:** Are you ready for the question on Bill 9, the Land Agents Licensing Amendment Act, 2008?

**Hon. Members:** Question.

[The clauses of Bill 9 agreed to]

[Title and preamble agreed to]

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

**Hon. Members:** Agreed.

**The Chair:** Opposed? Carried.

[Mr. Mitzel in the chair]

### **Bill 11 Insurance Amendment Act, 2008**

**The Deputy Chair:** Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Calgary-Varsity.

**Mr. Chase:** Thank you. In light of what's happening in B.C. and the whole point of Bill 11 being to co-ordinate our two insurance policies, it seems to me that this bill would be an ideal candidate for referring to a committee or potentially setting aside through a hoist at this particular time. I'm throwing these out for consideration as options because the reality is that the B.C. Legislature isn't sitting.

We've done our homework in the sense that we've got a very thick document that attempts to parallel the B.C. process so that TILMA can be brought into effect and in another manner facilitate that trade agreement, yet the other half of the partnership is in the process of conducting an election, which does not necessarily have the guaranteed determination that the individuals who suggested approving the original TILMA recommendations will be there at the end. B.C. isn't Alberta. They change governments every once in a while there. So the people who have set out the various statutes that we're trying to parallel may in fact not be there when we go to exchange our insurance information and attempt to co-ordinate it. It makes some of this discussion that we're having rather moot because if only one partner has done their homework and it's a group assignment, to use an educational term, what value is the half that we've done?

I appreciate the fact that in committee you have various opportunities to speak and respond. I look forward to clarification, again from individuals who potentially have an insurance background, a real estate background, a legal background, or went fishing at some point in British Columbia. If they could indicate to me how proceeding with half of the homework is possible without the other half being turned in, I would look forward to their recommendations. Hopefully, we'll have some interesting discussion on a job half done as opposed to a job well done.

**The Deputy Chair:** Does anyone else wish to speak? The hon. Member for Lethbridge-West.

**Mr. Weadick:** Thank you, Mr. Chairman. I'm pleased to rise and speak to Bill 11. I also have an amendment that I would like to propose; however, we're going to have to get copies made, so I will hold that back for a moment. I'll speak a little bit to the bill while we're doing that.

As you heard from the previous speaker, there's a lot of talk about TILMA. The changes in Bill 11 were significantly under way under

Bill 42. At that point when the TILMA agreement was signed, it was seen as an opportunity to take this bill and look at opportunities where we could streamline our insurance changes that were in the works to work closely with British Columbia's. We were aware that the governance issues would be different in B.C. and other jurisdictions because of the government ownership of the insurance industry.

Beyond that, what the people would see on the ground, what the client of the insurance companies would see: the clarity and consistency of the documentation, the policy surrounding the insurance would all be consistent so that someone buying insurance here or there and probably across Canada would have consistent knowledge of what was in the documents. The documents would be plain and clear and easy to understand. The appeal periods would match up across jurisdictions. People would have some understanding of what they needed to do to have this bill work properly and mesh nicely with the legislation in British Columbia. This was a piece of legislation that we needed to bring into Alberta anyway.

We have heard today that there are a number of potential positives coming out of this. There are increases in transparency, access to information for policyholders. The whole reason for Bill 11 is to modernize the bill and to meet some of the requirements under the Supreme Court. This bill is absolutely necessary with or without the TILMA agreement. But TILMA, really, was a great opportunity to work together with people in both jurisdictions and come up with the best possible legislation.

With that, Mr. Chairman, I would move to adjourn debate until further opportunity.

[Motion to adjourn debate carried]

8:00

### **Bill 14 Court of Queen's Bench Amendment Act, 2008**

**The Deputy Chair:** Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Calgary-Buffalo.

**Mr. Hehr:** Well, thank you very much, Mr. Chair. It's an honour to rise and speak on this Court of Queen's Bench Amendment Act. Essentially, this amendment is intended to ensure that, when appropriate, the provisions that apply to judges under the Provincial Court Act also apply to masters under the Court of Queen's Bench Act.

Masters in chambers perform similar duties to the judges and, in many respects, face the same issues and concerns. Amending the provisions that apply to masters will give masters in chambers more career options and will, in turn, benefit the courts by increasing the public's access to justice and the efficiency of our court proceedings. I believe that this is an important step that was taken that recognized masters as playing an important role in our legal proceedings. Many times during a matter, whether it's litigation or otherwise, masters play an important role in interpreting the rules and regulations of the court and what rules parties will be bound by going forward in a litigation. These things are very important matters and can really streamline a master's role in the legal system, can really streamline the justice system, really add to its efficiency.

Masters having the ability to perform many similar duties as judges is going to make it easier for practitioners in the legal profession as well as many users of the court system, which can no doubt only speed up the process, which, as we've known in Alberta, has severe lag times right now. We learned recently that Alberta had the longest wait times between when a person was charged with a

criminal offence to when they, in fact, went through the whole legal procedure and were either found guilty or were set free. Clearly, justice delayed is justice denied. Also, if these individuals are guilty, they should be given their sentence behind bars, and that would go a long way to cleaning up what is perceived to be a backlog in our court system. But I digress.

To get back to the general merits of Bill 14, it will work to clearly speed up the litigation process as well as give masters in chambers some opportunities that their fellow justices have had for quite some time.

Thank you very much for allowing me to speak to the amendment.

**The Deputy Chair:** Does anyone else wish to speak? The hon. Member for Edmonton-Gold Bar.

**Mr. MacDonald:** Thank you very much, Mr. Chairman. My remarks certainly will be brief on Bill 14, the Court of Queen's Bench Amendment Act, 2008. Certainly, when we go through this section by section, we see where it harmonizes aspects of the Provincial Court Act with those of the Court of Queen's Bench Act.

We're also looking at other changes to processes surrounding the retirement of the supernumerary appointment for a one-year term of masters in chambers of the Court of Queen's Bench. It is interesting that we are doing that at this time, Mr. Chairman. Again, these issues, in my opinion, are certainly related. Some time ago the province extended monies for professional development to judges of the Provincial Court. Now, that's fine. When we look at this a little closer, this amendment entrenches this measure for masters. In addition, the retirement and the supernumerary appointment of masters are addressed by this amendment, as well.

When we look at provincial judges and masters in chambers and we look at their retirement plans, many of them may be anxious to take an appointment for a one-year period or in some cases longer. When you go back and you look at the net investment loss that their pension fund has experienced, the net investment income has been down significantly between 2007 and 2008. In 2007 they were \$10 million ahead, and this past year they are \$1.3 million behind. When one looks at this more closely, you can see the details. I'm looking at note 9 on page 492 of the hon. minister of finance's annual report. The investment income or, in this case, the loss in 2008 was unfortunately significant. It was over \$5 million, and again it was arising from the derivative transactions that we spoke about earlier today.

Then if one is to look also in the reserve fund for the provincial judges and masters in chambers, we can see where there is, unfortunately, a trend here. In 2007 the investment income was close to \$5 million. In 2008 there was a loss of 1 and a half million dollars. If we dig further into the annual report for Alberta Finance, we will see that again the net realized or unrealized gain, in this case a loss on investments, included actions from derivative transactions. I would just like to note that in the debate here this evening, Mr. Chairman, regardless of whether it's Court of Queen's Bench or the Provincial Court, members may take some of that financial news into consideration whenever they have a look at these amendments. Certainly, no one seems to be immune these days from what's going on in our financial markets.

I will conclude my remarks on this matter with these few statements. Overall I would think that this amendment will have a very positive effect on the administration of the Court of Queen's Bench, and I would encourage all hon. members of the Assembly to give this bill serious consideration.

Thank you.

**The Deputy Chair:** The hon. Member for Calgary-Varsity.

**Mr. Chase:** Thank you. Generally, I see Bill 14 and the spelling out of the duties of masters in chambers as a positive move. I'll just share with you some of the background information, and then I'll elaborate on it.

This paragraph caught the attention of lawyers and websites across the country and around the world. It came in the context of a builder's lien action on the issue of binding judicial precedent and illustrates the humour and proficiency that local Jedi Master Funduk brought to issues in the Court of Queen's Bench.

Any legal system which has a judicial appeals process inherently creates a pecking order for the judiciary regarding where judicial decisions stand on the legal ladder.

I am bound by decisions of Queen's Bench judges, by decisions of the Alberta Court of Appeal and by decisions of the Supreme Court of Canada. Very simply, Masters in Chambers of a superior trial court occupy the bottom rung of the superior courts judicial ladder.

I do not overrule decisions of a judge of this Court. The judicial pecking order does not permit little peckers to overrule big peckers.

It is the other way around.

This is a quotation. It illustrates a point: there is definitely a pecking order.

**8:10**

While masters in chambers provide a valuable service by freeing up the time that judges might take, in fact, if they can resolve through a sort of a collaborative process and prevent a dispute from escalating to the point where it becomes so costly and confrontational that you have to have a team of lawyers to back you and you see your account being drawn down very quickly, then masters in chambers have a definite role. But I wouldn't suggest that Bill 14 intends that they replace judges; I would suggest that they can't.

My observation, particularly with regard to children and youth justice, is that we have this wonderful, shiny new courthouse in Calgary, and what it physically does is put both the Court of Queen's Bench and the Provincial Court under the same roof. Therefore, it has the potential by physical proximity of creating a greater co-operative spirit between the Court of Queen's Bench and the Provincial Court, but simply setting up a physical space and hoping that this is going to take place isn't guaranteed.

Last year in November I brought forward with the assistance of the Member for Battle River-Wainwright the amendment of adding the word "process," a unified family court process. I would hope that masters in chambers might be able to apply their capabilities in children and youth justice situations. They might be the gatekeepers that could prevent costly litigations from occurring, which have a draining effect on the bank accounts of the individuals, grandparents trying to gain access to their grandchildren or parents trying to have their children returned after they've been taken into custody. If these masters in chambers can provide advice and eliminate a degree of the controversy and the cost associated, then these individuals will be welcome. But, as I say, they can't replace.

In a teaching situation, we have professional substitute teachers, but they don't receive the salary and they don't have the same authority as the teacher in the classroom. In sort of a police enforcement circumstance, we have bylaw officers, we have sheriffs, and we have local police forces, the RCMP, and so on. There is a delineation as to the various powers. While the various levels can assist each other, the person at the top of the judiciary chain can't simply be replaced. A nursing example: a registered nurse versus an LPN. They have different levels of authority.

So I support Bill 14 in the hope that the masters in chambers will provide backup for judges and provide, as is the case, the first-line

adjudication that will take some of the heat and cost out of what is basically a confrontational court system. Then I believe there is value. I'm hoping that the passing of Bill 14 will be one of the very small first steps in seeing what Motion 511 was intended to achieve, and that is greater co-ordination between Court of Queen's Bench and Provincial Courts so that individuals benefit, particularly those most vulnerable, and that's children and youth.

Thank you.

**The Deputy Chair:** Do any other members wish to speak?

If not, are you ready for the question?

**Hon. Members:** Question.

[The clauses of Bill 14 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? That's carried.

#### **Bill 15 Family Law Amendment Act, 2008**

**The Deputy Chair:** Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Calgary-Buffalo.

**Mr. Hehr:** Well, thank you, Mr. Chair. It again gives me pleasure to rise in support of the Family Law Amendment Act, 2008. As we are aware in this Legislature here today, this bill will establish a new and much-needed service for separated and divorced parents and their children. With this new service, called the support recalculation program, many parents will no longer have to go to court to recalculate child support orders as changes in their incomes will be assessed through the administrative process.

Clearly, I can offer my support to an amendment like this. It's easy to do as other jurisdictions in Canada have been doing this for some time. We should have the ability for parents to avoid going to court and adding to their already busy lives of work and taking care of children, given that there is relatively little child care space available here in Alberta and that they have to be juggling a busy work schedule as well as maintaining a home life, to be spending as little time as possible in the courthouse. So I applaud this motion.

If we also look, this is very imperative as it will streamline our justice system. As many in this House are aware, the Supreme Court of Canada passed laws making it mandatory for income earners, be it either a husband or wife, who receive an increase in wage to report that to the court. This provides an automatic way where the court can keep track of any pay increases that individuals have and recalculate the payments that are due and order them owing under this system. There is no need now for individuals to take their former spouse to court asking for a recalculation of the payments, incurring all that unnecessary expense, often heartache, and often strife for the children involved. Clearly, this is to be applauded as it will take care of some of those issues.

I would also like to commend the other jurisdictions that have done this first, primarily Newfoundland-Labrador and Manitoba. I believe that also in the making are Quebec and Ontario, so it's good that Alberta has looked to proactive solutions engaged by other

jurisdictions. I would encourage this Legislature to look elsewhere in terms of some other proactive measures, perhaps on the environment, on our recycling issues, and things of that nature, where it seems that other jurisdictions are, in fact, light years ahead of ours. I hope this sort of sets the stage for things to be coming down the pike eventually.

**8:20**

Again, just to reiterate, this will make the process of registration and ideally the collection of awards relative to support orders much more user friendly. I applaud the minister and the entire Ministry of Justice for bringing this forward in such a manner and allowing our families, even our families who are in the midst of a divorce or coping with divorce, to make their way in the Alberta landscape.

Thank you very much for giving me the opportunity to rise and support this amendment.

**Mr. Chase:** I very much want Bill 15 to work. Since I inherited the responsibility as the critic, or shadow minister, for Children and Youth Services, I have come across numerous family situations, again referencing Motion 511, where there were jurisdictional difficulties between Court of Queen's Bench and Provincial Court. I've learned an awful lot about the legal procedures in this province over the last months since the March 3 election.

Not necessarily problems, but one of the things that causes confusion is that Court of Queen's Bench is responsible for divorce, but every other facet of Children and Youth Services falls under the direction of the Provincial Court. I've had an example very recently where Court of Queen's Bench ordered a father to continue paying child support for a young lady who was attending university at Queen's. The young lady was 22, but because she had not graduated, according to the Court of Queen's Bench, she was still a dependant. However, Children and Youth Services states that we don't collect support past age 21, so we have a statute on Court of Queen's Bench that's being ignored by Children and Youth Services.

With regard to facilitating the collection of support payments, I want to briefly relate the story of a person who was, in quotes, considered a deadbeat dad. He was working as a driller. He was making good money, approximating \$100,000. He was working up north. When the drilling season ended, he was seeking employment in construction. He couldn't keep making the percentage of garnisheed wages in terms of support for his daughter because he no longer had that particular job.

What happened to him was that the vehicle that he depended on to get to work was taken away because he could no longer afford to keep up the payments. Because he could no longer afford to keep up the payments, Children and Youth Services, as punishment for not keeping up the payments that he could no longer do because he was no longer employed, took away his driver's licence. So it went from him being absolutely unable to support his daughter because he didn't have a vehicle and he no longer had a driver's licence, but the garnisheeing of his wages to such an unrealistic extent ended up with him being homeless and living in the drop-in centre.

There has to be a degree of reality connected with child support. Not only was this person punished for not being able to make payments that he couldn't make because he didn't have a job, he didn't have a car, and he didn't have a licence, but the daughter, who was dependent on these supports, wasn't getting the support payments. So how was justice done?

I am in the process of working with this individual, who I'll be meeting with again on Friday, trying to get Children and Youth Services to recognize the fact that if he doesn't have his licence, he can't get a job, and if he can't get a job, he can't make the payments.

So what's the point? I'm saying that if Bill 15 helps to sort out some of the unreal expectations in terms of child support, great.

It's really important to me that fathers aren't stereotyped as deadbeat dads. While the level of abuse of men is a considerably smaller percentage than that of women, this individual was assaulted by an individual from Children and Youth Services. He was assaulted by the mother of his child. Although he had joint custody, he was never informed when Children and Youth Services took his daughter from the mother and into custody. All his legal rights were basically trodden upon.

I'm hoping that Bill 15 will sort this out and will add, as it's intended to do, increased access to justice for Albertans. As long as we have conflicting orders from the Court of Queen's Bench and the Provincial Court, when an individual who is under a restraining order is permitted to basically have custody of the daughter for whom the restraining order was put out in the first place, then the convoluted system has problems. If Bill 15 addresses some of these problems, that's great.

Another circumstance that I've experienced is a family that to date has paid out \$255,000. They have appeared in court 43 different times before seven different judges. Their daughter, who initially had difficulties, was forced to give up her child. The grandparents were willing to take over that responsibility, the daughter wanted them to have that responsibility, and yet \$255,000, 43 court appearances, and seven different judges later, they're no further ahead than they were when the process started.

Another situation. A five-month-old child is taken along with his two-year-old brother and three older siblings, the oldest of which is now 13. They're separated. The five-month-old is put in a speedy adoption/custody circumstance. As the three-year-old grows up in this foster home, the foster parents are having the older boy, as he approaches age five – because this has taken place over a series of years – refer to himself with the foster family's last name. They even teach him how to write their last name. Yet the family who had the five children taken away can't even have access. The grandparents had previously been foster parents, but they can't have access. They can't even have visiting rights to their own five children. They have no idea what's going on. If Bill 15 helps to untie some of the knots that the judicial system is currently facing that are impeding justice from being done for children and their families and their grandparents, then Bill 15 has the highest amount of support I can give it.

The system is not working for a number of individuals. It is costly for the individuals who can afford the cost. It's costly for the taxpayers who are paying for legal aid. It's costly because of the judges having to appear 43 different times. The system badly needs improvement, and if Bill 15 is part of that improvement, bring it on.

Thank you.

8:30

**The Deputy Chair:** Does anyone else wish to speak?

Are you ready for the question on Bill 15, the Family Law Amendment Act?

**Hon. Members:** Question.

[The clauses of Bill 15 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? That's carried.

## Bill 8 Climate Change and Emissions Management Amendment Act, 2008

**The Deputy Chair:** Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Leader of the Official Opposition.

**Dr. Taft:** Thank you, Mr. Chairman. I appreciate that. [interjection] You ain't seen nothing yet.

Bill 8 is kind of an interesting bill, and it's an important one for this government's agenda. The purpose of Bill 8 is to create a delegated authority to manage the funds that are being collected by the government's carbon levy. At least that's how I understand it.

I think language is interesting when it comes to these debates on carbon levies and carbon taxes and such. It actually seems to me that this bill allows a mechanism to collect and pool the money from a carbon tax and that Alberta is the first jurisdiction in Canada, maybe in North America, to have a carbon tax. It's called a carbon levy, but it's just a carbon tax. I actually think that we should consider calling it a dumping fee because, after all, all we're doing is charging people who use our atmosphere like a sewer, charging them for the right to do that just like we charge people to put garbage into landfills or to do other things. So I think we should consider calling it a carbon dumping fee, and then quite seriously I think public opposition would switch and understand what it's really about.

Anyway, call it what you will – a dumping fee, a levy, or a tax – it has to be collected and pooled and then redistributed, and it has to be done in a legal manner. That's what I think Bill 8 is attempting to achieve.

There are, of course, a lot of concerns. There's a lot of debate around how to proceed on climate change. I think that there is something to be said for this particular mechanism. I see some of the benefits to it. I think that putting a price on carbon emissions and then collecting that money and using the funds collected to reduce those emissions through new technologies or other developments is a pretty sensible way to go, so fundamentally this mechanism makes some sense.

It's a small step on a very long journey. My concern and I think our concern and the concern of many, many people outside of Alberta, as well, is that this is too small a step on what will be a very, very long journey. Having said that I think there is something to admire or favour in this mechanism, I also have to say that it's much too little. It's much too modest. It's much too weak. Simply putting in legislation to combat Alberta's rates of emissions doesn't mean very much and won't achieve much if the legislation is weak.

The simple fact of the matter is that even the federal government's climate change plan is quite a lot more ambitious than this government's climate change plan, and most people regard this federal government's plan as too weak, so that tells you where Alberta's plan is. Despite the rhetoric from this government about how great their work is, the harsh reality is that that's empty rhetoric, and it's time for some more action.

Now, the funds that have been collected so far according to budget figures are over \$90 million. Ninety million dollars is a significant amount of money, but in the overall scale, when an individual oil sands plant, for example, might be \$9 billion, you can see that it's probably not going to really amount to a lot.

I'm also concerned, as many others are, about the Auditor General's assessment of Alberta's response to climate change. The Auditor General has indicated there are huge holes in the government's plan on climate change. First of all, the plan isn't particu-



larly clear on how it's going to achieve anything. It has set out targets but no mechanism to reach those targets. So if you don't know what you're doing, then you can pour all kinds of money into something, including the \$92 million here, and have nothing to show for it. You can waste staggering amounts of money.

What I find so often with this government is that the money is thrown at a situation, and the strategy follows. I would prefer that it was the other way around, where you think through the strategy to solve a problem, and then you provide the necessary amount of money.

The Auditor General is very clear in saying that even though this government has set actual emissions targets, these cannot be met without measurable goals and targets and without a plan to achieve them, basically saying that the targets chosen cannot be met because there are no definable actions to achieve them, no implementation plan, no modelling – no climate modelling, no financial modelling – to indicate that the actions chosen by this government will actually result in emissions declining. I could go on and on. The fact is that the Auditor General has pages of concerns about the problems with this government's so-called climate change plan.

I've said any number of times that I think climate change will increasingly become the defining issue for Alberta and for the world, and I think we're just at the beginning of feeling that. The newspapers are filled with all kinds of evidence and the scientific journals are filled with all kinds of evidence and the reports are filled with all kinds of evidence that this issue is mounting, and it's mounting quickly. The evidence is very diverse, and it all points in the same direction.

This summer, again, a tremendous melting back of the polar ice cap, which almost equalled the record melting back of last year. We've seen dramatic reports in the last weeks about huge drops in the viability of species of all kinds of creatures, from amphibians to fish to birds to mammals. Many people are pointing out that these are like warning bells for the rest of us, for human beings, that something is fundamentally wrong with our world when you see a 50 per cent drop in the population of songbirds or when you see the collapse of amphibian populations or the collapse of fish stocks, when you see 20 or 25 per cent of mammal species endangered. These are serious issues, and much of it is traced back to climate change.

**8:40**

This bill before us is attempting to help the government take a tiny, tiny step in addressing these problems. Mr. Chairman, we'll support this step, but I think we have to do that being very, very clear that we think this step is woefully inadequate. The longer we put off addressing the issue, the more expensive it's going to be. This is a \$90 million fund right now that's going to be administered under this amendment to the Climate Change and Emissions Management Act. It may be \$90 million now. It'll be many, many, many times greater than that in the future.

I am glad the government is seeing the necessity of actually properly establishing a legal, delegated authority to administer these funds. I hope that the Minister of Health and Wellness follows suit very quickly and does the same kind of thing, a parallel thing, with Alberta Health Services because I think there are some serious questions about the legality of that agency. So this bill maybe puts the Minister of Environment a step or two ahead of the Minister of Health and Wellness.

I think that with those comments, Mr. Chairman, maybe I'll just briefly summarize. This is a useful bill. There's something to be said, I think, for the way the government has established the carbon levy system, but it's far, far too small a step. It's timid. It's not

bold, and this is a time for bold actions on this file. I would also seriously suggest that the government and others involved in the debate reconsider their language and stop referring to a carbon tax and start calling it for what it is, which is a dumping fee. I expect we'll support this bill when it comes to a vote, but we wanted to get some of our comments on the record.

Thank you, Mr. Chairman.

**The Deputy Chair:** Do any other members wish to speak? The hon. Member for Calgary-Varsity.

**Mr. Chase:** Thank you. When man first landed on the moon, the famous quote was: one small step for a man, one giant leap for mankind. I want this particular bill to make a difference, and it is a start, but it is an extremely small step for Albertans, and in the larger world arena it's an extremely small step.

When it comes to measuring emissions, we're still dependent on companies to report their emissions. There's no one from the government sort of standing outside the factory smokestack or where the CO<sub>2</sub> is being removed and measuring it. We don't really have a sense, just as we didn't have a true sense of how our royalties were being collected. We had one individual employed by the Ministry of Energy receiving flowchart information based on the heaviest producers and then trying to figure out based on that singular data what the rest of the various companies who had lower producing wells and so on should be charged for royalties. It was a farce. We weren't collecting the royalties that were due to us, and as a result the potential of royalties lost was extreme. The problem was that the government set a percentage, and they didn't even collect their own percentage, never mind what, potentially, they should have or could have collected.

When we talk about this particular bill, I have concerns; for example, section 3(d). Well, I'd better go to 3(a). Section 60(1) is amended by repealing clause (d) and substituting the following:

governing the maximum specified gas emissions intensity for operations and undertakings in Alberta based on levels of emissions of specified gases per unit of energy input or output, material input or output, product output or other thing, including, without limitation, regulations.

How do you measure it unless you sequester it? This is a question I have. If it's simply going up into the atmosphere without any kind of a measurement, how do we know when we've necessarily reached a tonne? Why is it that in Alberta we're proposing to charge \$15 a tonne when Europe is currently operating at a value of \$30 a tonne?

This is the start of a potential cap and trade initiative. I do support what the Premier has suggested, that the funds and the capping and trading stay within the province of Alberta to benefit Albertans. This is one area that I agree with. But the effect that this bill has is very questionable. As the hon. Leader of the Opposition, the Member for Edmonton-Riverview, pointed out, the technology doesn't exist to the point where the models that are being proposed can guarantee the degree of collection. That's not to suggest that we don't try. Far from it. We desperately need to try.

I've talked to individuals from the Institute for Sustainable Energy, Environment and Economy, which is quite often substituted for experiential learning, and they've indicated the research that's been done on sequestration and the possibilities that are connected to it. We have this small plant in our neighbouring province of Saskatchewan in Weyburn where North Dakota is sending its CO<sub>2</sub>. But as the Auditor General points out, there are so many ifs in the equation that, while Bill 8 as it actually gets put into practice will determine and echo what the hon. Leader of the Opposition stated, we're doing things kind of backward. We're putting out the money

in the hopes that at some later point the science will actually take place. I would suggest that maybe where we should be putting more of our money is into innovation and technology studies so that we would have some sense beyond just the model but the practical evidence that we can sequester considerably larger emissions than we're proposing to do.

I give the Alberta government credit for attempting the notion of sequestration, but I'm also aware that currently in Alberta we suffer from the greatest degree of pulmonary ailments. My son-in-law, unfortunately, and as a result my grandson both suffer from asthma. Asthma is one of the most common illnesses from which Alberta children suffer, and unfortunately it's not something they grow out of. They continue to suffer. So anything that will reduce those emissions is welcomed, but we have to get the balance right. We can't just simply make \$2 billion announcements and think that the problem has been solved. We have to account for every one of the dollars of that \$2 billion investment. We have to see the examples, the scientific evidence that has taken place and embrace the best technology that we can find.

For example, in talking with individuals about sequestration, I had this imaginary circumstance that we take this air, we compress it, we pump it underground, and it's just there in its sort of gaseous state. But the reality is that it combines, it forms solids, and it's that solid formation from gasification to solid through the liquid stage that keeps it there because it basically attaches itself supposedly to the sedimentary rock. The possibility of using the sequestered CO<sub>2</sub> to pump out further oil and gas as opposed to using water is a wonderful concept if we can get it proved.

8:50

Now, this is in industry's best interests as well as the Alberta government as stewards of and overseers of Albertans' health and wealth to get it right, so the degree or the amount that industry should be putting out to make sure that they continue to have a viable source of income into the future and how much seed money the government should be putting out is a subject for debate as well.

So Bill 8 is a start. To what extent we have control over our own environment based on the imposition of federal rules and based on the expectations of the countries that import our product will also be a large determinant on the success of the industry and the ability to control the emissions. I recognize the government for having taken this initial step. I'm hoping that it's successful. But being a member of Public Accounts and having great faith in Fred Dunn, our Auditor General, I want to see how the dollar matches the risk matches the science.

Thank you.

**The Deputy Chair:** Do any other members wish to speak? The hon. Member for Calgary-*Buffalo*.

**Mr. Hehr:** Well, thank you very much, Mr. Chairman. I, too, will rise in some tepid support for this what can only be called a meagre first step, I guess, in Alberta's joining the battle against climate change. I recognize this is a large step from only 2004, when this government didn't even recognize climate change as being a problem, so really we've come leaps and bounds from that time.

**Dr. Taft:** We've come from the Stone Age to the Iron Age.

**Mr. Hehr:** Exactly. From the Stone Age to the Iron Age. That's a very good analogy.

But we still have a long way to go. You know, what we've put in place here, a \$15 carbon tax – I guess that's the lingo; it is a carbon

tax. Although we yell and scream that we're against carbon taxes and all that, this government has imposed a carbon tax, and I will actually applaud them for doing that. We can just as easily call it a polluter pays principle or a dumping fee, as the hon. Leader of the Opposition called it earlier. But essentially what it's doing is that the Alberta government is putting a price on what we are doing to the environment. By any stretch, if you've done any reading on the subject, looked at any of the prognosticators, the consensus is clear. The biggest issue facing Alberta and in fact the world, maybe not now but definitely 40 years from now, is the climate change issue.

I know that when I look at my nephews, who are three and one, and I look at the future I have as a 40-year-old man – or 38. I don't want to misspeak on the record. Just being clear here: 38. Seeing them in 40 years, I don't know if some of this stuff we're doing here right now, today, will make that a better future. I guess the thankful equation is that most likely 40 years from now I'll have gone on to my eternal reward or eternal whatever is out there, but needless to say, my nephews are probably going to have to live through whatever climate change breaks, and let's hope that it's not as bad as many of the experts predict.

If we do not want to make it as bad as some of the experts predict, we in Alberta have to do our part to be part of solving the problem. Like I said, this is a first step, a minor step towards us solving the problem. Let's face it. The simple fact is that we have 20 per cent of the world's proven resources right here. We are going to have to be a big part of the changes that are going to come when we as a world community, as an Alberta community have to do better. I guess that's a good thing because – guess what? – we're not all going to revert to living in tents, and we're not going to resort to not having lights and heat in our home. That day is long gone, and I don't propose to go back there.

Needless to say, governments can lead on this file. I don't believe there is much leadership on this file at a \$15-per-tonne dumping fee. I hear in this House, usually during the bluster of question period, our Environment minister or even our Premier saying: "We have the strongest environmental legislation in the world. I challenge anyone to tell me otherwise." Well, the simple fact of the matter is that if that actually was a truism and not just something you say in question period, why is it that every single environmental study that comes out looking at the provinces rates us last? Do they all have it out for the Alberta Tories? Are they all just people looking at all the different legislation, saying: "The Alberta Tories are a group I'd like to pick on. They're having too good a time over there in Alberta. Let's name them last again in protecting the environment." Well, I don't think so, not when study after study from different groups continues to put us at the bottom. I don't think that's something we in this Legislature should wear with any badge of honour.

I said, you know, that a little bit of what was good is that we put a price tag on carbon, but let's look overall at our climate change philosophy and where we've chosen to reduce. For this it's been on emissions intensity. We all know what that is. You've got to reduce your emissions by 12 per cent on every barrel of oil produced. Well, big deal. You know, I could get a large Slurpee and realize that at the end of the day it's not doing very much because we continue to produce more and more and more and more barrels of oil. Don't get me wrong. The world continues to use it. Great. Nonetheless, our environmental footprint is growing – okay? – because of our continued use of this. What we need to do is put an absolute limit on the amount of carbon we are using. Then those words that you guys like to use, "putting a fair price on carbon" – guess what? – that'll get the market going. It'll say: "Holy moly, this is costing my shareholders money. It's hitting us in the pocketbook."

The government is doing their legitimate job in shaping the marketplace. It's what governments are supposed to do, by the way:

shape the marketplace. Yeah, let's not totally interfere in it, but let's shape the marketplace to where we're actually going to allow these companies to pay to pollute in our jurisdiction. By shaping the marketplace, you're hitting these guys in the pocketbook. These guys are real smart. We always point to the leaders of business and industry and say: they can solve our world's problems. But they only solve our problems if we as government shape the regulatory environment that they play in. I guess by shaping it, putting a fair price on carbon – let's say, move to the European standard of \$30 per tonne for a dumping fee – heck, that'll get our technology moving that much faster. Companies will realize: "Hey, let's invest in this stuff. It costs us just as much to reduce our actual emissions as it does to just pay it off to the government and move on with our day."

I'd like to move on to the second part of this. This information really wasn't available to me the last time. I, too, have read the Auditor General's report. He appears to be onto something here in that there is no way that Alberta has any idea how it can achieve its very own what can only be called modest targets on our emissions.

**9:00**

We have to wonder if they have any plan of knowing how the funds collected from the carbon tax will be strategically allocated to technology to reduce climate change and how it will measure success. The province cannot even measure if it's on track to meet its 2020 or 2050 targets. You know, the Auditor General rightfully points out that we have no way of measuring the overall impact or the overall emissions that are coming out of our smokestacks, out of our large emitters, small emitters, tailpipes, what have you. It's really a plan without a plan. Where have we heard that before?

Needless to say, I'm running out of what we call hot air on this issue. Hopefully, the air won't get much hotter in Alberta before a solution is found. Alberta can be a player in this. You know, our success, the fact that we have this oil, should also enable us to be leaders. We've got more money than other jurisdictions. We have more influence. We have the ability to be on the cusp of greening our economy now, funding things that get the green initiative, getting our businesses set up so they're ready for 40 years from now, not just right now. Let's be ready for the future.

Thank you very much, Mr. Chairman. I'm going to sit now, and we'll move on.

**The Deputy Chair:** The hon. Government House Leader.

**Mr. Hancock:** Thank you, Mr. Chairman. At this time I would move that we adjourn debate on Bill 8.

[Motion to adjourn debate carried]

**The Deputy Chair:** The hon. Government House Leader.

**Mr. Hancock:** Thank you, Mr. Chairman. I would move that the committee now rise and report bills 25, 16, 21, 9, 14, and 15 and report progress on bills 11 and 8.

[Motion carried]

[Mr. Mitzel in the chair]

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

**Mr. Johnston:** Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bills: Bill 25, Bill 16, Bill 21, Bill 9, Bill 14, and Bill 15. The committee reports progress on the following: bills 11 and 8. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

**The Acting Speaker:** Does the Assembly concur with the report?

**Hon. Members:** Concur.

**The Acting Speaker:** Opposed? So ordered.

The hon. Government House Leader.

**Mr. Hancock:** Thank you, Mr. Speaker. I'd move that we adjourn until 1:30 p.m. tomorrow.

[Motion carried; at 9:04 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]





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