

Legislative Assembly of Alberta

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head: Government Bills and Orders

head: Committee of the Whole

[Mrs. Gordon in the chair]

THE DEPUTY CHAIRMAN: I'd like to call the committee to order. Could I everyone take their places. I'm calling the committee to order. Thank you.

Bill 10 Land Titles Amendment Act, 1999

THE DEPUTY CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: Oh, excuse me. I'm very sorry. Yes, we'll let the sponsor of the bill go first. Go ahead, hon. Member for St. Albert.

MRS. O'NEILL: Thank you very much, Madam Chairman. This evening I wanted to respond specifically, if I could, to the main concerns that were expressed by those who voiced their opinions with regard to Bill 10. Most of the concerns centred around the duplicate certificate of title. One of the things that I wanted to remind everybody of is the fact that it is a duplicate certificate of title. It's just exactly as it is titled. In other words, as a duplicate there is the original, always has been the original, that has been registered since the Torrens system came into effect in 1906. Consequently any concern that would be expressed about the, perhaps, loss of or the misplacement and going into the ability to misplace and therefore misconstrue a transaction by not being able to find the duplicate certificate of title is something that I think we need not be concerned about.

We currently, Madam Chairman, live in a situation and in a province where we're looking at mechanizing and digitizing so much so that we can call it up so easily. A duplicate certificate of title originally was intended as a transition form of title as the deed system was eliminated, but it has outlived its usefulness, particularly because some individuals have kept these duplicate certificates of title and not kept them current; i.e., not kept the registrations identified on them. However, all registrations must be identified at the land titles office. I feel that it's unnecessary for us to continue with this.

However, in response to the concern that many people have expressed that perhaps there are those institutions or those individuals who might be using a duplicate certificate of title for what is called an equitable mortgage -- those individuals who perhaps are holding those certainly are able to find out more swiftly, more accurately, and more completely what is registered on the true title, which is at land titles.

We have a wonderful, simplified land titles system here in Alberta. We have two offices. Northern Alberta is from Innisfail north, and south of Innisfail is looked after by the land titles office in Calgary. Quite frankly, for anyone who has concerns or who has issues on those, all they need to do is go to the original.

So, Madam Chairman, I just conclude by saying that quite frankly we have to remember that a duplicate certificate of title, while it

might have a very symbolic presence and understanding for a number of people, is not the original. The original always has and always will be there for anyone to find what is accurately registered on title. I wanted to make that clear, because those were mainly the concerns that were expressed during second reading.

Thank you.

THE DEPUTY CHAIRMAN: Thank you.

The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Madam Chairman. I'm happy that the sponsor of the bill spoke first because it's quite clear from what she said that she doesn't understand the concerns that were given forth from this side of the House during second reading and in fact may not understand what the duplicate certificates were originally intended to do and in fact by law still do. I see that she isn't going to be getting up to speak to this again and perhaps clarify that for us.

You know, the problem with these duplicate certificates, in essence, is that they were used in these equitable mortgages. The people who issued those duplicate certificates to someone who was holding a mortgage on their property did so in good faith. Those people receiving the duplicate certificates received them in good faith, knowing and understanding that those certificates would keep the person from selling the property without the person who held the duplicate certificate being aware of it.

The problem that you're saying, that they're just a symbolic presence, that in fact anyone who has concerns can just go and get the original, isn't really based on fact. What has to happen is that the people who are holding these duplicate certificates must themselves become aware that the law is changing, and they must then find out from land titles what the process is going to be for them to redeem them. In fact, they cannot go to land titles and redeem them for some new kind of security because they're not in that respect a legal document. It's not a transferable kind of equity that they're holding by having that duplicate certificate.

Let's say, for instance, that I needed \$50,000, and you, Member for St. Albert, were willing to loan me the \$50,000, but of course you need some security. Rather than go through a lawyer and gain additional legal fees or go through any sort of long-term process, I could say to you: well, I'll give you the duplicate certificate of title; you hold that. That keeps me from selling the land because I need a duplicate certificate of title in order to change the title on the land, and you're holding that. So you're going to hold that until the money is paid off. When the money is paid off, you give it back to me. I can take it back to land titles if I want to, or I can just hold it in my possession until such time as I sell the piece of property, and then I bring it into land titles.

Well, if there are any of those out there in the province right now that aren't redeemed and you change this system to a more mechanized and digitized system, which I'm saying is a good idea -- there's nothing wrong with doing that, and of course we have to keep up with the times -- how is this person holding the duplicate certificate of title going to still retain some sort of security for the loan that they have made? The problem is we don't even know how many of those are outstanding in the province. There could be none. There could be one. There could be 700. There could be a thousand. We don't know. There's no way of actually tracking back who's got those duplicate certificates. I could be holding mine in a safety deposit box, I could be holding it in my desk drawer at home, or somebody could be holding it on my behalf because they're wanting to have some sort of security for a loan that I may have got from them that isn't in fact registered anywhere else.

The problem is, if you all of a sudden change the system -- and

you're saying here by June 30 of 2000. If I'm holding somebody's duplicate certificate as equity and I don't find out until after June 30 of 2000, I no longer have any security. So what sort of grandfathering propositions do you have to take care of those situations? I don't see them addressed in this bill. I'm not saying that it shouldn't be done. I think it's a good idea to move forward, but the time space that you've got here to get the message out -- I mean, I'm sure you're not going to be giving anybody any kind of marketing budget to get the word out here. I'm sure that land titles doesn't have the resources to do that in any sort of effective and systematic way. Maybe they do. If they do, then you should tell us that. Tonight would be a good time to do that. What I'm suggesting here is that perhaps you look at an extended grandfathering time, maybe something closer to two or three years, and that has to be accompanied with some sort of an advertising program where people know that this is an issue.

You know, I don't actually know if it's such an urban problem as it is a rural concern. A lot of business is done on a handshake. I remember my grandfather having a duplicate certificate of title outstanding many, many years ago. I remember the talk around the kitchen table in the farmhouse. I don't know what ever happened. I don't know if that was redeemed. I don't know if he ever then took the duplicate certificate upon redemption into land titles and filed it back with the original certificate of land. That's a question that may have to be followed up in many areas. There are many areas of this province where people are still happy to make loans based on a handshake, and that's the kind of transaction that this included. You're eliminating a part of the history of the province, but more importantly you have the potential -- I'm not saying it's going to happen, but there certainly is the potential there -- for people's security to be eliminated under this process. So to say here, in explaining the concerns we have with the duplicate certificates, that because it's a duplicate, it's only a symbolic presence I think misses the essence of the argument and the concerns that we have around this.

8:10

Madam Chairman, I'm hoping that the Member for St. Albert will stand up and further explain that, because there have been a number of problems with these duplicate certificates in the past. How does this get cleaned up at this stage? I don't understand the process. If you just go to a mechanized or a digitized system now, on June 30, 2000, who's going to do the inventory of all of those duplicate certificates that are not around any longer, that they can't find for whatever reason? I would think that it would be proper to do that, that you would be notifying the property owners who do have outstanding duplicate certificates of title and asking them to bring them in so that they can be tracked. What's the process? Who's going to pay for the finding of those people and those certificates that aren't there? I know that currently you can just come in and swear that you lost your certificate, and that's a good enough process, but what about those people who truly don't know what happened to those? What are you going to do with that?

So I still have outstanding questions. I'll take my place now and hope that the member speaks to them. If not, then I'm going to be reiterating them again, perhaps in a manner that is a little easier to answer. If you could answer those questions -- particularly why do you think this is simply a symbolic presence, how many duplicate certificates do we have out there that aren't tracked now, who's going to and when are they going to be inventoried, and what's the process to do the follow-up on them? -- then I think I could be satisfied with this bill.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Madam Chairman. It's with great pleasure that I rise to offer a couple of amendments that might strengthen the bill. I think we've brought up some of those issues. The first amendment that I'd like to discuss is the one that amends section 189. If we could have those distributed, I'd appreciate it.

THE DEPUTY CHAIRMAN: Hon. member, we'll deem this amendment A1.

MS OLSEN: Thank you. Madam Chairman, I think everybody has the amendment, and I would like to read my amendment. I move that Bill 10 be amended by striking out section 36 and substituting the following. Section 189 is repealed and the following substituted:

189(1) Where the Registrar has recorded that a duplicate certificate of title has been issued, the Registrar is deemed to have received notice that the title is subject to an equitable mortgage.

(2) On production to the Registrar of satisfactory proof, by statutory declaration by the person to whom a duplicate certificate has been issued or by someone having knowledge of the facts, of the loss or destruction of the duplicate certificate issued, the Registrar may record that the duplicate certificate was not issued.

(3) A person holding a duplicate certificate as security for a loan may register a caveat against the lands protecting that person's equitable mortgage and, upon registering the caveat, the Registrar may record that the duplicate certificate of title was not issued.

Madam Chairman, the reason that I proposed this amendment is because section 189 presumes that once the duplicate certificate of title is issued . . .

Chairman's Ruling Decorum

THE DEPUTY CHAIRMAN: I just want to remind everyone that we do have someone that is speaking, that has the floor. It is very, very noisy in here. We all know that we are in committee, and that will allow free movement. It does not allow people to stand up. Hon. member, it does not allow people to stand up. I would ask that we do try. If there are conversations, please go out to the other rooms to have them, because it is important that we hear the debate that is going on.

Go ahead, Edmonton-Norwood.

Debate Continued

MS OLSEN: Thank you, Madam Chairman. As I was saying, the reason that I proposed this amendment is that 189 presumes that once a duplicate certificate of title is issued, the land is subject to an equitable mortgage. It protects existing holders of equitable mortgages. It gives the holders of these mortgages access to the assurance fund if the registrar prejudices their interests and encourages people to bring their duplicate certificates of title in for cancellation because the presumption is against absolute ownership and in favour of the land being secured; that is, I'm still in debt. These are three of the reasons I propose this.

Section 189(2) is the present section 189 modified after the last comma. This allows the registrar to change the field duplicate certificate: yes to duplicate certificate, no on the title searches.

Section 189(3) allows the holder of an equitable mortgage secured by a DCT who has not bargained for the right to register a caveat protecting the equitable mortgage to register a caveat protecting his security.

Madam Chairman, I think one of the things that we have to be

cognizant of as we walk through the debate with the Land Titles Act is that the issue of duplicate certificates generally is not a problem. However, there are those certificates that are floating out in the hands of the folks who believe they are security. We need to address that, and we need to address that in the legislation. So I would recommend that the Assembly support this particular amendment given that it helps correct, hon. member sponsoring the bill, the issue and allows for the duplicate certificates to in fact still exist for those specific mortgage holders.

Thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thank you very much, Madam Chairman. I'm pleased to be able stand and support the amendment put forward by the Member for Edmonton-Norwood. It seems that somewhere in the process of debate on this bill we've taken a very cavalier approach to those Albertans that hold equitable mortgages. I go back to a caution that I'd mentioned when we were dealing with this bill at second reading, and it had to do with expropriation. That indeed is what section 36 has the effect of doing. It's a form of expropriation, and this is a chance for every member in this Assembly who thinks that property interests are worth something, for every member that thinks that the rights of Albertans as lenders cannot be extinguished to rise up and be heard on this.

8:20

For members not to be concerned about the interests of somebody who has granted an equitable mortgage or, perhaps more importantly, received an equitable mortgage -- there's an enormous risk to these people, and there are a host of ways of trying to mitigate this. Our always creative colleague from Edmonton-Norwood has come up with a very creative solution, and I want to salute right now the imagination and the creativity of my colleague from Edmonton-Norwood for coming up with this proposal.

Now, having said that, I may suggest that this may be a somewhat cumbersome way of trying to deal with the issue, but, Madam Chairman, the Member for Edmonton-Norwood is trying hard to make this bill with some serious problems a better bill, to mitigate some of those issues. What we've got in front of us -- I can see that the Government House Leader is not persuaded yet, so let me advance some additional arguments.

The issue here is how we can adequately recognize and protect those people who stand to forfeit their security interest, those people who have lent money on the strength of receiving a duplicate certificate of title. It's not good enough to say that it doesn't happen very often and that it may not happen in thousands of cases, and it's certainly less common as lenders become more sophisticated.

The reality is that there are some Albertans that take that duplicate certificate of title out of the safety deposit box, knock the dust off what used to be an old cardboard document, take it down to their local credit union or take it in to perhaps a noncommercial lender, and with quivering hand surrender that duplicate certificate of title to a lender. It's not very often that you're going to hear this MLA addressing the concerns of lenders being taken advantage of, but that lender in good faith then may offer hard cash, may provide thousands of dollars, nay, tens of thousands of dollars on the strength of that equitable mortgage, that duplicate certificate of title, and all the time that unsuspecting lender and often an unsophisticated lender, thinking that we're still doing business like we did in the 1950s, may think, Madam Chairman, that he or she is going to be adequately protected. Well, when they find out about Bill 10, they will be

quaking in their boots. The Member for Edmonton-Norwood has given us an opportunity to try and address some of those concerns.

I heard the Member for Edmonton-Ellerslie before. We're only at committee stage, and there's been more discussion about equitable mortgages than I heard in three years of law school and over 20 years of practising law. The point is, Madam Chairman, that it is a legitimate concern, and it's something that warrants the attention of all members of the Assembly.

The Member for St. Albert has been working hard to sell us on the merits and virtues of this bill. She suggests that it's remedial, that it's helpful, that it simplifies the process. She lauds the virtues of the Torrens land registration system. And, by gosh, we agree on each one of those points except we seem not to be able to persuade the mover of Bill 10, the Member for St. Albert, that the bill inadequately protects those people who have lent money on the basis of an equitable mortgage. As I say, I think this amendment is not the easiest way of doing it, but if the Member for St. Albert has a better way of protecting the interests of those people who are at risk, then perhaps she could share that with us.

The Minister of Intergovernmental and Aboriginal Affairs, himself a distinguished member of the bar for many years, probably has dealt with some equitable mortgages in his professional experience. He may have some constructive suggestions in terms of how we can give notice to those people whose interests may be just eliminated, just extinguished in the year 2000. As the clock turns over, they may have tens of thousands of dollars just virtually eliminated like that.

Now, there's little I can add to the analysis that I've heard from my colleagues who spoke against this earlier, but I'd like to suggest this. I wouldn't try and represent that the amendment that's currently in front of us is the only way of trying to cure this problem in the bill. I'm not sure what amendment this is. Is this A1, Madam Chairman? I wouldn't say that this may be the only way of curing this bill, but it seems to me that it's the only one on the table in front of us. I urge members to say to the Member for St. Albert or some of the distinguished lawyers in the government caucus -- and there's certainly a number of them here with us this evening -- come up in the short time we have when we're debating this bill with a better way of protecting the interests of these equitable mortgagees.

The purpose of amendment A1 is clear. I think the reason why it warrants support has been made clear as well. I'd just challenge the Member for St. Albert or any other member of the government side to explain a better way of being fair and nonprejudicial to people who've lent money in good faith on the basis of an equitable mortgage.

Those are the comments I want to make at this stage, Madam Chairman. Thanks very much.

THE DEPUTY CHAIRMAN: The hon. Government House Leader.

MR. HANCOCK: Thank you, Madam Chairman. I just wanted to address a few matters relating to the proposed amendment. The province of Alberta, indeed all the world, is rapidly moving towards the 21st century, and it seems that the member opposite who was just speaking to this on the matter of equitable mortgages wants to resist that forward progress. In fact, as he stated, he did speak more about equitable mortgages in the last five minutes than most people have spoken about in the last 10 years.

Nonetheless, there are some equitable mortgages out there. The question of whether there is an equitable mortgage quite often is defined by law. So the equitable mortgages that we see or have seen by people actually taking their piece of paper and giving it to somebody, pledging their title so to speak in the classic and historical sense, is really an anachronism and a thing of the past.

What Bill 10 does is provide for a full year after July 1 of this year, in fact to July 1 of the year 2000, in the event that there is anybody who has taken a pledge of a duplicate certificate title as security for a mortgage to file a caveat or to take whatever steps are necessary to make that pledge known to the public, which is the whole purpose, quite frankly, of the Torrens land titles system: that we have certainty, that titles are registered, that charges against title are registered, that people know what those charges are. In fact, pledging a title in the classic sense by delivering the piece of paper is really something which is contrary to the concept and principle of the Torrens land registration system, because it does not give people notice of the pledge of title or notice of the charge against the title.

So rather than encouraging people to stay with the anachronisms of the past, we should be encouraging people to move to the future and to solid title, to a clear Torrens land titles system, and one where the charges against the land are known. If this bill is passed without this amendment, there will be a full year, in fact more than a year, from July 1 -- if there are any equitable mortgages out there still, where people have simply delivered a piece of paper or a duplicate certificate of title, as it were, there will be plenty of opportunity for them to register.

8:30

Madam Chairman, there are better reasons for defeating this amendment. The amendment on the face of it makes no sense whatsoever. Section 189(1) is proposed to read:

Where the Registrar has recorded that a duplicate certificate of title has been issued, the Registrar is deemed to have received notice that the title is subject to an equitable mortgage.

Well, that provision if enacted, would create a whole bunch of equitable mortgages that don't exist now and never were intended to exist, and why the registrar would deem notice of mortgages that don't exist is nonsensical.

Paragraph (2). Section 189, which is being repealed, basically is a provision to replace your duplicate certificates of title if in fact you've lost it or can't find it. That's what 189 now does. It's being repealed because we're no longer going to have duplicate certificates of title. So clause (2) of this makes no sense.

Clause (3) makes no sense because it provides for the filing of a caveat to protect your mortgage, which is precisely what we're going to be doing once this section is gone and once the concept of the duplicate certificate of title is gone. So to put this back in makes no sense.

So on the basis of just reading this, I would suggest that whatever ill the hon. Member for Edmonton-Norwood is trying to correct -- and I take it in good faith that she's trying to correct an ill -- this is certainly not the way to go.

MR. DICKSON: Madam Chairman, it seems to me that Vladimir Ilyich Ulyanov, otherwise known as Lenin, would be smiling now down from the top of that great big tomb in the centre of Moscow, because what we've just heard is a wonderful explanation for state planning. This is a state that knows all.

Whatever happened to recognizing that Albertans with all of their frailties don't always do things in the most rational way and that people don't always act in a way that's absolutely congruent with the Torrens system? I think that members on this side understand that Albertans -- we take those Albertans and love them with all of their imperfections and all of their weaknesses and all of their shortcomings. We recognize that we have to mold laws not on the basis of some grand scheme of social engineering, Madam Chairman, not some scheme of social engineering where we sort of wedge all of those square pegs into round holes because, by gosh, we think that that's the best way we achieve the total vision.

We recognize that whether there are 200 equitable mortgages or

2,000, those are people who lent money in good faith. By gosh, we're prepared on this side of the House to not want to undermine the Torrens system by any sense. We know that we're moving to the kind of world in terms of land registration that the member for St. Albert wants to take us by the hand. But she's pulling us down the path. She's pulling us down the path, and some of us are saying: you know, Albertans may take a meandering route, and they may wander off the path from time to time. They may stumble on the side, but we're confident that they're going to get there eventually. All that the Member for St. Albert has to do is sort of paint a bit of a picture in terms of where we're going. She doesn't have to be prodding people as they walk along the path. She doesn't have to be sort of trying in a coercive way to make people be more organized, to make people be more rational than they are.

I think that what this amendment does is respect the fact that not all Albertans will have the foresight to take out a proper mortgage or to register a caveat, and rather than trying to tell people that they're wrong, we're prepared to recognize that people with those frailties and with that inadequate understanding of equitable mortgages and so on still deserve protection. That's what this caucus believes, Madam Chairman.

I think that the kind of social engineering that was espoused by the Government House Leader may be of great comfort to the two members of the third party. They may rhapsodize about having found a soul mate in the Government House Leader, but I don't think that he speaks for most Albertans in so casually and cavalierly discounting the interests of those equitable mortgagees.

I for one -- and I think some of my caucus colleagues support me in this -- think that we have to take Albertans as we find them. We design laws that respect and reflect the fact that we don't live in a perfect world. Everybody doesn't always do things in the ideal way, but they still deserve a voice, and they still deserve to be protected. Whether they live in Hanna, Alberta, or downtown Drumheller or any other place in this wonderful province, they deserve to be protected, and that's what we're trying to do tonight every way we can, and this amendment is one of those ways, Madam Chairman.

Thank you.

MRS. O'NEILL: Madam Chairman, first of all, o ye of little faith, let me just give you a little bit of faith on how this can work for you and all of the citizens of Alberta. You speak about letting people meander here, there, and everywhere. If we were to adopt this amendment, which I suggest everyone vote against, then I would suggest that this particular amendment is going to get us back not only into the early 1900s, but it's going to get us into the prehistoric cave age, where someone exchanged goods for goods.

Ladies and gentlemen, this particular bill will bring us into a system where people can accurately, clearly, and quickly access what is registered against their properties. It appalls me to think that the Member for Calgary-Buffalo is defending the rights of these lenders who have taken these equitable mortgages. In real estate we cautioned anybody to stay away from an equitable mortgage. It just isn't the way to protect people. This is what the bill is going to do: make sure that you know what has happened to your land, who has registered a caveat against it, and for goodness sake, don't depend on a duplicate copy of something.

MR. DICKSON: What I heard the Government House Leader say a few moments ago and the Member for St. Albert now -- you know, there are some people that are taking money out of the bank for the end of the year and are putting it in their sock or they're hiding it under their bed mattress or they're hiding it in the basement of their house. That's maybe not rational. That's not the best place to put

their money, but they're doing it. Instead of being critical of our fellow citizens who choose to do things in an unorthodox way, can we not just say -- I want to suggest a compromise to the Member for St. Albert because I think she's interested in finding a compromise and she's interested in moving on with this thing. I'm sure that I didn't see her shaking her head in a negative way when I suggested that, Madam Chairman.

I'm going to suggest to her that if she were prepared to come up with a way -- and there are alternatives. I'm speaking out of turn, so whatever I say is subject to what my colleague for Edmonton-Norwood may think. Maybe what you do is allow a longer time period. There are options. All I'm saying is: let's try and make this act fit the people who are going to be directly affected by it. Nobody is arguing against moving to the ultimate elimination of equitable mortgages. It's simply a question of: what are the transitional steps? It's pretty simple. How do we manage the transition? We're saying on this side that July 1, 2000, does not adequately manage the transition.

I think that surely to goodness the government members, the sponsor of the bill, the high-powered Government House Leader can find a compromise proposal. You know, if we could find some compromise on this issue, I'd be happy to talk to my colleagues, and I'd encourage them to support it. So if the Member for St. Albert doesn't like this amendment, I challenge her. We've been real clear on what our concerns are. Goodness knows they're probably much smarter on that side than we are, and they probably have already figured out a better way of sort of managing the transition, so I'm hoping they'll share that with us.

You know, whether it's people in Calgary-North Hill that have equitable mortgages or somebody in Calgary-West, all those people deserve to be protected, and that's what we're trying to do right here, Madam Chairman.

Thanks very much.

8:40

MS CARLSON: Madam Chairman, I'm waiting for questions to be answered by the Member for St. Albert, so I'm hoping that she'll do that. I'll state them again. One, is she willing to extend the grandfather time period further than June 30 of next year so that any duplicate certificates out there have a chance to be identified and collected? Two, have they done any kind of an inventory to see how many duplicate certificates are out there? Three, if there is a large number of them, what's the process for identifying those that are outstanding and remedying the situation? If she could answer those, I would appreciate it.

MRS. O'NEILL: Madam Chairman, I can answer them very quickly. First of all, I think most Albertans do not lead hermitic lives. They read newspapers; they enter into transactions with their bank. There is a systematic way in which people can be notified that if they are holding an equitable mortgage and they wish to make sure it is identified and registered, or whatever you want to call it, however they are feeling vulnerable, they will have a whole year. When you think of how fast things happen these days, one whole year is quite sufficient for us Albertans who are astute, tuned in, ready, willing, and able to respond. Therefore, I think we cannot hold this province hostage, and we cannot hold the system hostage to people who don't read and respond.

Quite frankly, Madam Chairman, I feel that the members across the floor are just trying to keep us from entering into a new age, where we will be able to protect and notify the people who have their interests registered.

MS CARLSON: Well, Madam Chairman, you know that isn't good enough. We on this side of the House speak for all people in Alberta, not just those who conveniently fit into the slot that the government wants them to.

A few moments ago the Member for St. Albert stood up and said, "ye of little faith." Well, in fact, when we see example after example of the arrogance of this government in dealing with people of this province, yes, we do have little faith, Member for St. Albert. This is a perfect example. You yourself said that most people will see it in the newspaper. Well, as my colleague for Calgary-*Buffalo* said, what about the rest?

People who would deal with equitable mortgages in the first place have little sense of security in the existing systems that this government has put in place. So how do you notify those people? I ask a simple, straightforward question: are you going to mail them letters? What are the steps you're going to take to identify those people who have duplicate certificates outside of the norm? I don't think that's an unusual question. I don't think it's beyond the realm of possibility for the government in introducing new action, good action I might add, action that does take us into the 21st century. I have no problem with that. But for those people who do not fit the most people category, those people who, as my colleague for Calgary-*Buffalo* suggested, do things like keep their money in their socks or in tin cans or buried in the backyard or believe in a handshake and an equitable mortgage as an okay way to do business -- there are people like that in this province. Their rights have to be honoured by this government, and I do not see the government in this bill addressing those specific concerns. I expect the Member for St. Albert to respond to them in a manner that is going to meet their needs.

[Motion on amendment A1 lost]

MS OLSEN: Madam Chairman, I'd like to move on to a second amendment. This is a pretty standard Liberal amendment and speaks very much to the need for more openness. I'd like to move that Bill 10 be amended by adding the following sections after section 41. [interjection] Oh, we haven't got it passed out. I apologize.

THE DEPUTY CHAIRMAN: Hon. member, we will have the pages pass this out, and we'll deem this A2.

MS OLSEN: Thank you. Madam Chairman, most members of the House have seen this amendment before. We're just changing different sections here. As I said, I'd like to move that Bill 10 be amended by adding the following after section 41: 41.1 The following section is added after section 203:

203.1(1) In this section, "Standing Committee" means the Standing Committee of the Legislative Assembly on Law and Regulations.

(2) Where the Lieutenant Governor in Council proposes to make a regulation pursuant to section 18 or 203, the Lieutenant Governor in Council shall cause to be forwarded to the Standing Committee a copy of the proposed regulation.

(3) On receipt by the Standing Committee of a copy of a proposed regulation pursuant to subsection (2), the Standing Committee shall examine the proposed regulation to ensure that

- (a) it is consistent with the delegated authority provided in this Act,
- (b) it is necessarily incidental to the purpose of this Act, and
- (c) it is reasonable in terms of efficiently achieving the objective of this Act.

(4) When the proposed regulation has been examined as required under subsection (3), the Standing Committee shall advise the

Lieutenant Governor in Council that the proposed regulation has been so examined and shall indicate any matter referred to in subsection (3)(a), (b) or (c) to which, in the opinion of the Standing Committee, the attention of the Lieutenant Governor in Council should be drawn.

Now, you may think that this is a foreign amendment; however, it is not. It is one that I'm actually very proud to bring forward. It is on my hard disk, and I pop it out where necessary.

We're in a position where this government does a lot of governing by regulation. We've made this comment before: that every time we see new laws coming out, there's a substantive regulation aspect to the bill. At some point this government is going to have to recognize that the business of the Assembly belongs on the floor of this Assembly, and the Legislature has responsibility for these laws that are being made, not the Executive Council in itself. Many regulations that are being passed are worthy of further debate. Either that is done through the Law and Regulations Committee or that is done on the floor of this Legislature. I acknowledge that this committee, which I am a member of, certainly hasn't convened since my time here. I know that the hon. Member for Banff-Cochrane is the chair of that committee, and I'm sure that she would like to have the opportunity and the experience of chairing the Law and Regulations Committee.

I'd also like to draw to your attention the fact that in the House of Commons they review legislation by an all-party committee. I think that's an interesting process, because it has a lot of worthy points to it. Madam Chairman, I really believe that at some point there's going to have to be a change in the mentality of this government. If they really want to be open and accountable, then they'll convene this committee or bring these regulations into the actual bill itself so we know what's coming down, so we know and understand as an Assembly what in fact is happening in the realm and in the broader aspects of the bill.

With that, Madam Chairman, I'll take my seat, and I'm hoping hon. colleagues will stand up and support this amendment. Thank you.

8:50

MR. DICKSON: Madam Chairman, you know how it is at Christmas when you hear one of your favourite Christmas carols: it gladdens your heart; your heart soars like an eagle. And every time I hear this amendment, it sounds better. It sounds better. When I listened to the presentation from the Member for Edmonton-Norwood, just as my heart is gladdened when I hear a familiar Christmas carol over Christmastime, every spring session when I see this amendment come forward, I just think again about the power of it.

You know, I was following in the wake of the Member for Calgary-North Hill this morning. I was at SAIT, the Southern Alberta Institute of Technology. They have about 160 students involved in a political science program, and they're mainly students in their journalism course at SAIT. The Member for Calgary-North Hill was there recently, I understand, doing a presentation. I had the chance to follow up, to provide an opposition perspective, and those students were absolutely astonished when we talked about the way regulations are made in Alberta. They were astonished, Madam Chairman, that there's no all-party oversight, because they'd heard from the Member for Calgary-North Hill about the advantages of the standing policy committees and the steps the current government has taken to operate more efficiently. They were impressed when they heard that. The Member for Calgary-North Hill made a wonderful, powerful presentation on behalf of his government, talking about the role of a government MLA.

But these young people were very, very surprised to find out that the way regulations are made in this province is simply that it's

basically done in secret. As one young fellow said to me after the class: "Well, why don't Albertans protest? Why don't they insist that regulations be made in the Legislative Assembly where all elected people can see them?" The only explanation I could offer is that it's just far more efficient from the government's perspective not to have to deal with the tough questions. It's far more efficient not dealing with the broader public interest, and if you can sort of control the stakeholders you consult with, it's just a whole lot neater.

But, Madam Chairman, as these young people at SAIT in the journalism program also understood, the purpose of democracy is not to be the neatest form of government. The purpose of democracy is to best serve the interests of all citizens, not just a small number. You know, the American poet Jane Carlyle said one time, "When one has been threatened with a great injustice, one accepts a smaller as a favour." Well, we've tried so many ways and so many times to get the government majority to activate the Standing Committee on Law and Regulations. Just as Jane Carlyle said, when you've been threatened with a great injustice -- well, Albertans have been threatened with a great injustice for at least the last 20 years by not having any all-party oversight in regulation-making -- one would accept a smaller as a favour. Of course we'd accept a smaller as a favour. That's why what we look for here when we're dealing with law and regulations, would be to have one bill sponsor come forward and say: I think regulations under this bill that were currently debated should be reviewed by the Standing Committee on Law and Regulations.

We pass in this province some 600 or 700 regulations a year. They're passed with -- sometimes there's some substantial stakeholder input; sometimes there's very little input. The Member for Peace River and his deregulation task force may have something to say about these things. In fact, he may want to join debate on this amendment and give us an update, give us an update on some of the shortcomings he's experienced with the system that he's responsible for, because I know that that member would never claim to have found perfection. He's a straight shooter. He's a fellow who is always frank and candid in his assessment of where the legislative system doesn't work so well. So he may want to venture an opinion, and we'd sure value that, Madam Chairman, as well.

You know, there gets to be a point where people don't take this sort of amendment very seriously. They say: we've heard it all before; we've heard the speeches. They start tuning out, but that's the time when they should say: we have a chance to put an end to this.

I figure that all of us are sort of locked together, joined at the hip, as it may be, for maybe another two years before the next election, maybe a little earlier. In that time we're going to probably see another 50 or 60 bills every year. That's 120 bills, perhaps, in the next two years, never mind the additional ones yet to come this year. Do members really want to sit through and see the same Standing Committee on Law and Regulations come forward? I don't think anybody has that much patience, Madam Chairman.

So if we were to make some progress on this, we'd be able to focus on some of the many other shortcomings in the bill and be able to put all our energy in there. But as it is, we keep on trying, like the ice climber trying to be able to get their pick into a little bit of ice to secure it. We're there, if you can imagine us on the side of the glacier, Madam Chairman, with our ice picks in our hands. We're just trying to get that hook in the ice face, and then we can propel ourselves upward. But we're having trouble finding it, and we need help from members in this Assembly to be able to get up. Our limbs are getting stiff, it's getting pretty cold out here, and we just need this opportunity to be able to move on.

Those are the comments I wanted to make, and the Member for

Calgary-Fish Creek may be interested in joining the debate as well. I heard a contribution from her moments ago. I'm hopeful that we'll be able to move forward on this, Madam Chairman, and I look forward to the rest of the debate, whether it comes from Calgary-Fish Creek or it comes from Peace River or from any other member. I'm looking forward to that.

Thanks very much, Madam Chairman.

[Motion on amendment A2 lost]

MS OLSEN: Our colleague is going to leave now because we've asked him to vote with us, but he chooses not to. He's coming back.

Well, Madam Chairman, we have before us another amendment. I guess the issue with this amendment is simply that we leave the issue of the DCT in the act, and that would merely provide for the necessary concerns that we had raised earlier. So if I could move one last amendment. I'm assuming that'll be A3. That one will just be the one-liner you have there, and that's that Bill 10 be amended by striking out section 2. We'll wait for that one to make its way around.

THE DEPUTY CHAIRMAN: Thank you, hon. member.

MS OLSEN: Are we ready? This is not a big amendment, Madam Chairman.

THE DEPUTY CHAIRMAN: No. Go ahead, hon. member.

9:00

MS OLSEN: Okay. I move that Bill 10 be amended by striking out section 2. In fact, the amendment keeps the definition of DCT in the act. I would suggest, Madam Chairman, that I'm still not convinced that the whole issue of the duplicate DCT not having a role within this act is accurate. If we look at the issue of equitable mortgages -- and that merely means that if I just exchange a title with my colleague here and he gives me \$10 for that, that's fair game -- I think that if that duplicate certificate is all he has, then we're going to run into some problems. I would suggest that the hon. Member for St. Albert really needs to consider some adjustments to this particular act to ensure that those people who do hold those duplicate titles as security for an equitable mortgage are in fact treated fairly and that in fact those titles are grandfathered so they actually mean something. That would be the reason I move this, and that's about all I have to say on that.

[Motion on amendment A3 lost]

MR. DICKSON: I have another amendment to put forward, Madam Chairman, and I understand from Edmonton-Norwood that it may be at the table already. This is the one dealing with section 44. Is that at the table already?

THE DEPUTY CHAIRMAN: Yes, it is.

MR. DICKSON: I wonder if I could ask that that be distributed, and I'd move that amendment to section 44 in Bill 10.

THE DEPUTY CHAIRMAN: We'll deem this amendment A4.

MR. DICKSON: Thank you very much.

THE DEPUTY CHAIRMAN: I think you probably can go ahead, hon. member.

MR. DICKSON: Thanks very much, Madam Chairman. This is another attempt to address the problem with section 36. This is the part we've dealt with before. It deals with equitable mortgages, and this is quite frankly a different way to give the government an opportunity to delay bringing into force that provision that will extinguish the equitable mortgage.

We've already made the arguments and expressed the concerns we had about the expropriation that government members seem determined to proceed with. I think there's little else to add to the arguments that have already been advanced, but I just want to make it clear to members that if they were to support A4, it does provide a measure of protection from expropriation that doesn't currently exist. So I'd encourage all members to support the amendment for those reasons, Madam Chairman.

Thanks very much.

[Motion on amendment A4 lost]

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Madam Chairman. I just want to make a few final comments on this bill. We've talked about the issue of the duplicate certificate, and we've also talked about the regulation-making power. One of the things that is interesting is that in this particular bill there's some concern about who can actually search by name, in fact, to determine where you have property and who should have responsibility for making the decision on that issue. That's something that I don't know if the hon. Member for St. Albert, the promoter and the sponsor of this bill, has thought about.

I'm concerned about those people who fall somewhat short of seeking a legal remedy, and we've talked about those people before: credit investigators, skip tracers, and the like. Should just any Tom, Dick, or Harry be able to come in off the street and search by name for property that anybody may own? Should we be allowing that to occur? If the answer to that is no, then why is that not spelled out in the bill itself? I'm wondering what's behind that regulation-making power that's going to allow cabinet to broaden that scope? Search restrictions need to be set out in the act, Madam Chairman, so that we in fact know exactly who is going to have those powers.

We know that certain searches we don't want to restrict. Some of those searches would be responsibilities under the Maintenance Enforcement Act. So I think there are people who need to have searches done on them, but I think that should be identified in the act. Again, we leave too much to regulation, too much to the discretion of the cabinet, and I'm not comfortable with that. I'm not comfortable that the right decisions will always be made for the right reasons. We know that that doesn't happen.

You know, if in fact there's going to be this far-reaching cabinet power, then in fact we should convene the Law and Regulations Committee. I think that's the most open and accountable thing to do. Quite frankly, I don't know if the hon. Member for St. Albert has given that any thought. Obviously it's an important aspect of this bill, because I just don't believe anybody should be able to come in off the street and by name search somebody's records. I believe that that should be outlined in the legislation, not through a cabinet process.

Madam Chairman, that's all I have to say on this particular bill. I do not believe, given the issues that still exist with this, that we can in fact support this bill.

Thank you.

[The clauses of Bill 10 agreed to]

[Title and preamble agreed to]

THE DEPUTY CHAIRMAN: Shall the bill be reported? Are you agreed?

SOME HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: Carried.

9:10

Bill 9
Tobacco Tax Amendment Act, 1999

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you, Madam Chairman. We had a pretty reasonable discussion during second reading on Bill 9 and highlighted the elements of the bill that were of interest, particularly the introduction of black stock and stepping up the enforcement of the illegal trade in tobacco in the province.

A number of issues were raised during second reading. The Treasurer very promptly provided some written answers to myself and my colleagues, and I want to thank the Treasurer for taking the time to do that. It's a model that I would commend to all members of Executive Council, because it certainly makes it easier to have an intelligent discussion and to put a little bit more meaning into the remarks we make in debate and helps us inform our votes. I know that the Minister of Health pays rapt attention to issues to do with tobacco and tobacco use, and I know he himself is such a strong advocate of public health that he wouldn't be dismissive at all about this issue.

The fact is, Madam Chairman, that Bill 9 seems to be appropriate legislation. A problem has been identified by the government, and they've drafted a reasonable legislative response. There are some continuing concerns about tobacco reduction strategy, but we are advised from Treasury that the purpose of this bill is really the enforcement of tax policy. It's really a revenue bill; it's not a health bill. In my mind, though, I see the two intersecting. I would encourage the Treasurer to perhaps sit down with his Minister of Health to see how they might be able to dovetail their initiatives a little more closely so that Alberta can have a comprehensive tobacco policy instead of what is appearing to be a little bit of a piecemeal one.

But with that criticism, I must say that this legislation is appropriate and supportable, and I don't often say that in this House. So I'm pleased to be able to offer my support for Bill 9.

THE DEPUTY CHAIRMAN: Are you ready for the question? Edmonton-Rutherford.

MR. WICKMAN: Thank you, Madam Chairman. I thought you had recognized me earlier.

I, too, want to speak a bit on the bill, not to any great length. I always find it sort of ironic that we raise the amounts of revenue we raise from the so-called sin tax, in this case approximately \$345 million a year, and at the same time we want to do everything possible to preserve that tax base and in fact increase it while acknowledging that the added health care costs as a result of the sale of tobacco are \$216 million a year. So, on the one hand, we're

saying that we want to get this revenue, in fact increase this revenue, and make sure we don't lose out on a penny of it because it becomes so valuable to the government coffers. I don't want to get into the VLT issue, but it is similar in that particular sense, Madam Chairman.

It's a given that tobacco is with us, unfortunately. I'm not sure how many members in this House, for example, would smoke anymore, but the number is reduced. I don't think we're going to see any major impact on the revenue that is received by government on the sale of tobacco for two reasons. One, there seems to be more and more young people getting into tobacco use, and secondly, if revenues start to fall somewhat, government of course has the option just to increase the amount of tobacco tax on the product, thereby achieving the projected revenue they want.

Now, this particular bill of course attempts to close -- let's call it a loophole -- a mechanism where unfair advantage can be taken of an exemption that has been granted but granted very specifically to a segment of the population for their own personal use, not to profit. Estimations are that there are millions and millions of dollars lost in revenue as a result of individuals taking advantage of the exemption that is applied in those particular cases. It's improper in the sense that some people, yes, are making money and are making money improperly. They're making money taking advantage of, I guess, an opportunity provided to them because of the nature of the legislation to date. So this attempts to close that, thereby increasing that revenue that government now gets by several million dollars more.

It's difficult, however, to argue against the bill, and of course this side of the House is known for supporting legislation when the legislation does appear to be beneficial. We periodically do criticize some legislation which we feel is not to the benefit of Albertans, but this is one of those instances I can support. Just by the very nature of the product that we're dealing with in the particular bill, one can't really take pride and say, "Boy, we accomplished something great; we're going to receive X number of dollars more in terms of revenue, because now we're going to even extend the revenue on this tobacco," which most of us are ashamed of as it is, particularly when we see young people getting caught up in that habit.

I don't want to philosophize my personal point of view, and I know you, Madam Chairman, would be one of those that would respect my views on nonsmoking, I am sure. So on that particular note, I'll conclude and thank you.

[The clauses of Bill 9 agreed to]

[Title and preamble agreed to]

THE DEPUTY CHAIRMAN: Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 7
Alberta Health Care Insurance
Amendment Act, 1999

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you. I have a few comments on Bill 7 this evening. Any time we see a bill that is related to health care in this Assembly, I believe it's only prudent to approach it with

caution. We have no idea in what direction we will go down the road with this bill.

On the surface this bill is going to provide the minister with more power to make regulations with regard to our public health care system. It allows he or she, the minister of the day, to deny payments to providers under the plan if claims are not submitted properly. Well, I would like to know just exactly how much of a problem that is for the members in the Department of Health. I know that there are certainly problems with collecting health care premiums, and I understand there are even problems with shortages in the tills at the end of the day and who's to pay for that. But as far as withholding of payments, I would be curious to know from the hon. minister just exactly how much of a problem that is.

This bill also allows for fines of \$1,000 for the first offence and \$2,000 for the second and subsequent offences of physicians or dental surgeons who bill clients for insured services. We saw a version of this bill in the last session. To go through this with care, this housekeeping bill -- with all the issues that are going on in health care, why are we dealing with this separately?

Section 2, Madam Chairman, extends fines currently issued under the act to allow them to be levied against doctors or dental surgeons who extra bill patients for insured services. Now, if in due time the minister could provide all members of this House with the answer to this question, and the question is: just exactly how widespread a problem is this?

9:20

We're looking further on here at section 3(a). This extends the minister's powers to make regulations to include those who many submit claims. Further, it also allows the minister to refuse to pay benefits where a claim is not submitted as required by the regulations. It prohibits dental surgeons and physicians from extra billing patients. Well, I'm sort of relieved to know that the minister is concerned about extra billing. Once again we're relying on the regulation. I have concerns, and I've expressed them in the past. I'm not going to get into them tonight, but we seem very anxious to want to govern by regulation.

Further on here section 3(b) provides for the minister to make regulations on any other matter considered necessary for the proper administration of the Alberta health care insurance plan. Now, I wonder what will happen in two years. Will we need, as the health care delivery system in this province changes, another housekeeping bill like this, or will we go on in the same pattern as we are now with health care and health care delivery? That's a bit of money here, a bit of money there. We'll try to fix this pressure point, or we'll go on some exotic foreign visit and have a vision there, and we'll know what's wrong with our health care system, and we'll be very anxious to fix it.

If this bill, as it presently reads, is going to help the minister and his department publicly administer health care for all Albertans in a timely fashion and in a fashion that is wise with our tax dollars, then I will support it.

Thank you.

[The clauses of Bill 7 as amended agreed to]

[Title and preamble agreed to]

THE DEPUTY CHAIRMAN: Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 8

Provincial Court Judges Amendment Act, 1999

MR. SAPERS: This legislation comes about primarily as the result of the report of the judicial selection review committee. The legislation is largely consistent with the recommendations. I note that the fixed term for the Chief Judge is being set, maximum term for the deputy chief, and maximum term for the assistant chief. It allows for the grandfathering in of the current chief judges.

I'm a little bit surprised that it didn't go further in some regards. The Minister of Justice is well known for some of his feelings about judicial term limits. Of course the government from time to time has had to deal with the notion of election, and I guess I was expecting something a little bit more controversial when I first saw Bill 8.

There are some other things that are absent as well from the legislation, and I would note that the legislation came into the Assembly in that rather awkward period of time between when the judicial review report was provided to the government but after the government had the benefit of the justice summit. I know there was a whole range of issues raised at the summit including that of representation on the bench of First Nations peoples.

While it may be technically outside the scope of Bill 8, I really would be remiss if I didn't comment that the criminal justice process in Alberta is not one that is absolutely devoid of the kind of systemwide evidence of racism that has been noted in other jurisdictions. I don't want to get into the debate of targeting Alberta as being particularly problematic in this area, but it hasn't been that many years since we saw the Cawsey report in Alberta or the Sinclair report in Manitoba. Certainly more recently we've had the royal commission. We cannot be complacent. We cannot take for granted that the face of racism is so far back in the shadows that it's not a problem, because it is. I would certainly hope that the provincial government takes whatever action it can to help deal with that. I think appointments of judges should take into account the rather poor representation of First Nations men and women on the bench when that is possible.

As you go through the bill itself section by section, you see that it addresses some drafting errors. It addresses, as I say, some of the recommendations. It gets into some changes in pension provision, and I will note that there may be some concerns still forthcoming about the changes in pension. There's pension reform going on. There are at least two other bills on the Order Paper right now dealing with pension reform throughout the public service, if for a moment I could include judges within the public service. So it seems to me that once again we're faced with some rather piecemeal changes.

I'm not sure where the impetus came from for the pension reform that's contemplated in Bill 8. I don't know whether it flows from the bench itself or whether this is part of the government's overall review of its own pension obligations or whether this is part of an even larger issue of which we're not being fully informed, but it does seem to me that there are some questions about the changes in pension.

Now, the flexibility is probably considered to be a good thing by members of the bench, and in the absence of any comment from them directly, I'll simply put a little red flag up and say that I'll be watching to see whether or not this is a stand-alone initiative or whether this is part and parcel of something larger that, as I said, is not fully explained.

Another section of the bill deals with freedom of information provisions. There's a restriction that is probably appropriate in this

context, although I must say I am dismayed every time I see an exclusion or a restriction enacted in this province. It seems that ever since we saw the Premier's freedom of information initiative as Bill 1 and all the fanfare that went around that, government's commitment to freedom of information and access to government records has been eroded. So it always peaks my interest when I see a restriction or exclusion being brought into law. In this case I'll give it a qualified okay.

I think that if we take a look at the proposed section 8.1 regarding records, we can probably agree that the records that are developed during the process of selection of judges should be considered confidential as they may have direct bearing on an individual's career in the future.

9:30

Of course, in spite of everything the government is purporting to be doing to depoliticize the issue, the fear is that at the Provincial Court level there is still a high degree of political interference or political judgment that goes into the appointment of Provincial Court judges. That's not to say that people with political involvement by definition can't make good judges. It's just to say that we'd like to see some balance and that if political involvement is going to be a feature of judicial appointment, then at least consider it in an all-partisan, if it can't be done nonpartisan, way. I hope I've made that point.

I would have liked to have seen the bill go a little bit further to deal with the Judicial Selection Process Review recommendations regarding qualifications and criteria for appointment, but as I said, the bill itself, while it may be limited and not perfect, is really not terribly offensive.

Madam Chairman, I'll leave it to other members in the House to raise other issues. Those are my comments regarding Bill 8.

[The clauses of Bill 8 agreed to]

[Title and preamble agreed to]

THE DEPUTY CHAIRMAN: Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 11
Public Sector Pension Plans
Amendment Act, 1999

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you, Madam Chairman. I have a few further comments this evening on Bill 11, the Public Sector Pension Plans Amendment Act. I am anxiously awaiting answers to my questions from the Treasury Department and the officials there on reciprocal transfer arrangements, but I realize they're very, very busy. Hopefully we will hear from them in due time. With the budget coming down on Thursday and the budget TV, they're very, very busy. But these are very important questions, and I would appreciate at some point an answer.

The section 2 amendments, Madam Chairman, also allow the government to clarify through regulations that certain indemnities by exiting local authorities pension plan employers to the government do not have to be signed prior to the government setting the rules of

withdrawal and transfer for the plan. The 1998-2000 business plan of the local authorities pension plan outlines the actions the organization will take to accomplish a successful transition to an independent organization. These include, I believe, developing a trust document and plan document that meets the requirement of an independent plan. It will also provide for the withdrawal in the independent plan, discussions with the governments of Alberta and Canada to ensure the new plan will be in compliance with the Employment Pension Plans Act and the Income Tax Act, establish a pension board officer and select a CEO and staff, developed in conjunction with the investment management division.

Madam Chairman, the investment management division is an investment structure for an independent plan, and it oversees the orderly transfer of assets and liabilities from the existing local authorities pension plan to the independent plan.

The amendments, as I understand, in schedule 1 provide the following. They eliminate the requirement that the pre-1992 unfunded liabilities of the local authorities pension plan be eliminated by December 31 in the year 2036 through annual additional contributions or surcharges on contributions through section 2(a).

Now, the amendments also repeal the section of the Public Service Pension Plans Act which deals with the various requirements respecting the local authorities pension plans' liability in respect of service that was recognized as pensionable service and the benefits that were in place as at December 31, 1991.

The amendments under schedule 1 also provide insurances that the government has no further liability for the pre-1992 unfunded liability of the local authorities pension plan as outlined in 2(d).

The amendments also eliminate the government's liability for additional contributions to and benefits provided by another plan's pension fund.

The amendments also eliminate the government's liability for additional contributions to and benefits provided by another plan once the assets and liabilities of the employers and employees have been transferred to the other plan by the employers and employees who have terminated their involvement in the local authorities pension plan, and this is in section 2(f).

Now, the amendments also allow the government to make regulations regarding the conditions of the transfer of assets and liabilities between the local authorities pension plan and other plans. These transfer regulations become effective only if those employers who do not wish to join the other plan are given an opportunity to withdraw from the plan before it is terminated. The terminating employers and the owners of the fund must first identify for the government regarding any claims made by any person that arise directly or indirectly from the termination, and this is in section 15(3).

Now, in section 3, schedule 3 I would like to talk about the withdrawal of employers from the UAPP and the termination of the UAPP. These amendments establish withdrawal and termination provisions for current UAPP members. We need to talk about this specifically. There is a clarification that the indemnity provided to the government by withdrawing and terminating employers of the UAPP is from the UAPP itself and not from individual board members and directors of the UAPP. This is indicated in section 3(a).

In section 4, schedule 5 we need to discuss regulations establishing provisions of a legislative nature for the MEPP. These amendments provide the government with authority to establish regulations regarding the exit of employers from the MEPP and the terms and conditions of that exit.

Now, I understand that presently two of the organizations

involved in the management employees pension plan are the ATB and the Workers' Compensation Board. They have \$51 million in assets, and this is going to allow them an orderly transition to their own plans if they wish.

9:40

ATB management employees and Workers' Compensation Board management employees have expressed interest in exiting or withdrawing from this management employees pension plan. They believe it is unfair to have individuals with dissimilar compensation provisions in the same plan. Because these individuals have higher salary levels, when they exit the management employees pension plan the amount of assets to be transferred or the assets they can take with them can be adjusted by the government by regulation to ensure there's no detrimental impact on the MEPP from the withdrawal of these salary contributions from the MEPP. The amount of assets to be transferred from the MEPP can be reduced to take into account the detrimental impact on the plan where the pensionable service of an exiting employee not under the Public Service Act exceeds that of an employee within the public service holding a similar position.

Now, in section 4(b) we have to talk about the amounts of the assets to be transferred from the management employees pension plan. The amounts of assets to be transferred can also be reduced

by some or all of the liabilities of the closed plan [that] at the time of . . . termination, were employees of the exiting employer.

In effect, the assets charged against the closed plan from the exiting employer must be returned to the closed plan. The obligation of the government to guarantee the benefits arising from service prior to 1994 under the management employees pension plan is not applicable to employers that exit from the management employees pension plan.

In section 5, schedule 6, we are talking about the effect on a closed management plan of the exit of an employer from the active management plan. These amendments provide the government with the authority to establish regulations for the closed management plan as it relates to the exit of a prescribed employer from the active management plan. Regulations pertaining to the closed management plan can be made effective from the date of the exit of the employer from the active management plan.

Now, section 6, schedules 1 to 5, is the reciprocal transfer of pension entitlements. We had a few questions about that earlier. As I said before, I'm very hopeful that in due time our questions will be answered. The amendments to the schedules of the local authorities pension plan, the public service pension plan, universities academic pension plan, the special forces pension plan, and the management employees pension plan allow for the increased portability of pension benefits between public-sector plans through these reciprocal transfer arrangements. The amendments I believe give the government the authority to establish through regulation the terms and the conditions of the transfer of pension entitlements between public-sector plans.

Many members have stood and have spoken and have commended this idea. They think it's a sound one because it encourages public-sector employees to have mobility because they know that their pension is going to follow their job. This amendment is largely a result of transfers due to government reorganization. Over the past several years the government of Alberta has made a number of organizational changes, particularly in the health care sector. We're all aware of that. These changes resulted in approximately 6,000 employees potentially being transferred to the local authorities pension plan. That's a lot of people, 6,000 people. These employees are currently grandfathered under the public service pension plan.

For the past two years the boards of the local authorities pension plan and the public service pension plan have been working on a

method of transfer which will provide for full service to be recognized without the employee having to pay more and without subsidization by the plans. Unfortunately, the local authorities pension plan and the public service pension plan have not been able to arrive at an acceptable arrangement. Therefore, they requested that the government prescribe the terms and conditions, affordability and transfer, with the consent of the respective boards.

Now, section 7, schedules 2, 3, and 4. We need to discuss actuarial variations or government contributions for pre-1992 service, and this is whenever there was a noticeably large unfunded liability. These amendments give the government the authority to request the boards of the public service pension plan, the universities academic pension plan, and the special forces pension plan to prepare an actuarial valuation of the plan to determine the unfunded liabilities of the plans for pre-1992 service. This provision is designed to ensure that the government does not continue to provide payments to the plans even after they've been fully funded for past service.

If there is still an unfunded liability for pre-1992 service, the government is required to make payments in the general revenue fund to meet its obligations to fully fund pre-1992 service. If the actuarial valuation shows that the plans' unfunded liability has been eliminated as of the effective date of the valuation, the government has no further liability in any additional contributions made by the government, and the excess of what was payable could be refunded. Now, in some situations I believe there has been money returned, and I would like Treasury Department officials to confirm that to all members of this House. I'm sure that at some point there was a \$12 million refund or adjustment to pension contributions. If they could do that for the benefit of all members, I would be very grateful, Madam Chairman.

With those remarks on Bill 11, I would like to conclude by once again stating that I am anxiously awaiting the answers to my questions. This is a good piece of legislation that works for both employers and employees.

Thank you, Madam Chairman.

MR. RENNER: Just very briefly, I want to acknowledge the request from the member regarding some questions he has and assure him that I've had discussions with the Provincial Treasurer and he assures me he will either be in personal contact with the member or will be able to respond to him in writing with his questions.

MR. MacDONALD: Thank you.

[The clauses of Bill 11 agreed to]

[Title and preamble agreed to]

THE DEPUTY CHAIRMAN: Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

The hon. Government House Leader.

MR. HANCOCK: Madam Chairman, I would move that the committee now rise and report.

[Motion carried]

9:50

[Mrs. Gordon in the chair]

THE ACTING SPEAKER: The hon. Member for Calgary-Egmont.

MR. HERARD: Thank you, Madam Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following: bills 7, 8, 9, 10, 11. 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 in this report?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? So ordered.

[At 9:53 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]