

Legislative Assembly of Alberta

Title: **Monday, November 19, 2001**

8:00 p.m.

Date: 01/11/19

[Mr. Shariff in the chair]

head: Government Bills and Orders

head: Committee of the Whole

THE DEPUTY CHAIRMAN: We'll call the committee to order.

Before I recognize the next speaker, could we briefly revert to Introduction of Guests?

[Unanimous consent granted]

head: Introduction of Guests

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

MR. MacDONALD: Thank you very much, Mr. Chairman. It's a pleasure tonight to rise and introduce to you and through you to all hon. members of this Assembly a considerable delegation from the neighbourhood of Ottewell. These are the 120th Ottewell Cubs. There are 14 children, and there are 10 adults, five leaders and five parents. The group leaders of the Ottewell Cubs this evening are Mr. Lee White, Mr. Mike Maidens, Mr. George Wharry, Mrs. Beverley White, and Mr. Blair Himmelrich. The devoted parents in this group this evening are Mr. Dean Rosychuk, Mr. Brian St. Pierre, Mr. Rick Woodward, Mrs. Damaris Crawford, and Mrs. Gale Hanasyk. I would now ask them to rise – they're in the public gallery – and receive the warm and traditional welcome of this Assembly.

Thank you.

Bill 22 Builders' Lien Amendment Act, 2001

THE DEPUTY CHAIRMAN: For the benefit of the guests seated in the galleries, this is the committee stage of the Legislature. It's a little more informal than the normal procedure. You will see people moving around, being able to take off their jackets. That doesn't happen normally in the regular proceedings. It only happens during committee stage.

On Bill 22, Builders' Lien Amendment Act, 2001, are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you very much, Mr. Chairman. At this time for the record I would like to indicate in committee as the spokesperson for the opposition that we certainly agree with and support this amendment. There has been a consultation process, as was said earlier, and I look forward to any comments from other members of the Assembly regarding this amendment to the Builders' Lien Act.

Certainly the Association of Oilwell Drilling Contractors seems anxious for this increase in the 45-day period to a 90-day period. We need to ensure that there is a system in place where people, if they need to, can register in due time a lien as it would arise in the normal process of doing business. Now, the extension was required so that the holdback period will again correspond with the lien registration period. I think that everyone will be well suited by this amendment. I'm not going to go into any details. If the members want to refer to second reading, they certainly may.

In conclusion, I would like to remind all hon. members just how important the oil well drilling contracting business is to the economy of this province. As I said before, we need to ensure that there are processes where people can receive the money that is owed them.

Thank you.

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

MR. BONNER: Thank you, Mr. Chairman. I'd also like to speak briefly tonight in regards to Bill 22, the Builders' Lien Amendment Act. Certainly, in looking at this piece of legislation, it is one that is dearly needed by contractors in this province. We do know that wells are drilled in the province on a day-work basis, and it is a contractual arrangement which finds service companies essentially renting their equipment and personnel to the operator for a specific procedure and time period. The operator independently purchases any materials required and functions as the prime contractor directing the work program. Now, particularly in the province and with the volatility of this particular industry, when oil prices are high, we do get a tremendous amount of drilling activity, and in periods of downturn, which we are experiencing presently, then what happens is that some of these people can go out of business. It doesn't leave these people that drill these wells much opportunity to recover their costs. They're also in a very delicate position in that they cannot go after some of these oil companies because at that point they are virtually ensuring that they would not get any more contracts. So the amendment here to increase the lien period from 45 to 90 days is a good amendment. It will certainly help these people, give them more of an opportunity to collect their money, and certainly make the whole industry much more stable.

So with those few comments I will cede the floor to some other members who may wish to add something to this debate. Thank you very much.

[The clauses of Bill 22 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 23 Regulated Accounting Profession Amendment Act, 2001

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

MR. MacDONALD: Thank you very much. Bill 23, which was discussed at second reading, was introduced by the hon. Member for Calgary-Currie. Again, we need to have a look at this section by section. It certainly is legislation that, as I said before, is going to bring existing legislation into a consistent format with other similar pieces of legislation.

Now, perhaps the sponsor of the bill can update all members of the Assembly on how this corresponds to the Health Professions Act. Specifically, this amendment addresses registration, practice

reviews, and information on protected titles. Also, we are going to be addressing the structures for the three self-regulating accounting agencies: the Institute of Chartered Accountants of Alberta, the Society of Management Accountants of Alberta, and the Certified General Accountants' Association of Alberta.

Now, some may feel that all of these changes are very much about housekeeping, but if we have a look at the act in a section analysis, section 2(a) and (b) represents corrections in the titles of these positions and groups, and (c) is amended to acknowledge that the practice areas are specific through bylaws, not regulations. Section 3, for all hon. members, includes "applicants for registration" to registrants and former registrants as those covered by regulations on maintaining information files. Section 4 includes regulations as items which a governing body may make bylaws in response to. The section 7 provision requires accounting organizations to "maintain complete applications for registration."

8:10

Now, finally, Mr. Chairman, section 10 replaces 96(2)(b)(v) with a new clause (v), that clarifies and expands supervision to provide information on employers in the interests of the public when an employee is being investigated. This is to include both paid and unpaid employees, consultants, contractors, and volunteers. As I understand it, sections 12 and 13 are corrections in titles and abbreviations.

I think there has been a very good consultation process. Our office has received calls, Mr. Chairman, and the Liberal research staff has received calls of reassurance from various groups that the Member for Calgary-Currie is certainly on the right track with this legislation. Again, I'm not going to go into detail like I did this afternoon with the groups that are endorsing this, but it's certainly legislation that we are delighted to say that we support.

Thank you, Mr. Chairman.

[The clauses of Bill 23 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 24
Regulated Forestry Profession
Amendment Act, 2001**

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

MR. MacDONALD: Thank you very much, Mr. Chairman. This legislation is, again, similar to the legislation that was presented by the hon. Member for Calgary-Currie. I listened with interest this afternoon to the remarks from the hon. Member for West Yellowhead at second reading on this bill.

Again, at this stage, in committee, I think we need to consider the extensive consultation process. There were 200 individuals consulted from various places in the province. I believe the meeting in High Level was held in the Stardust hotel. It's an establishment that I'm not familiar with, but it certainly has a noteworthy name. Now, if the hon. Member for West Yellowhead was there, I would

like to hear the description from that hon. member about the meeting that was held in High Level and that 25 people were attending. One of the questions I had, Mr. Chairman – and I would like to share this with all members – is that in the consultation process that was developed, there were many groups represented. As I understand it, there was industry, there was the forestry technologists professional association, as well as the professional association of the foresters. In light of that, one can only assume that the Alberta Registered Professional Foresters Association is satisfied with this initiative and that the Alberta Forest Technologists Association, or the AFTA, is also satisfied with the amendments proposed by the hon. member.

Now, when we consider the consultation process, we have to ensure that everyone has confidence in the system. Earlier today I expressed my opinion that whenever people are using the RITE line to phone opposition members when they have concerns about legislation like this and this specific piece, they're not comfortable talking to government members, and it is odd. It's sort of a reflection on a democracy that perhaps is not as healthy as we would like to think, Mr. Chairman, whenever individuals are just not comfortable coming forward with their opinions because they feel there may be some retribution, whether it be in the employment field or not. I don't know, but certainly what was expressed to me on the RITE line is, "No, I don't feel comfortable with that consultation process because I would like my opinions to remain confidential." That is noteworthy. I feel that at this time, after the meeting we held this morning, this should be a matter of public record: that there are some people outside the 200 that did attend the consultation process that was arranged who are just not comfortable with that process. For whatever reason, they feel intimidated. I don't know what it is, but maybe other hon. members of this Assembly can provide me with an answer.

With that, Mr. Chairman, unless I hear back in the next day or two from those individuals, I will have to support this bill, the Regulated Forestry Profession Amendment Act, 2001, in committee but with the reluctance that I expressed at second reading this afternoon.

Thank you.

[The clauses of Bill 24 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Carried.

**Bill 26
Trustee Amendment Act, 2001**

THE DEPUTY CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to this bill? Are you ready for the question? Is the hon. Member for Edmonton-Gold Bar rising to speak?

MR. MacDONALD: Yes, Mr. Chairman. I have one question, and I would like to put this question on the record at committee on Bill 26, Trustee Amendment Act, 2001.

This afternoon during second reading the hon. Member for Edmonton-Centre was speaking, and I noted with interest her remarks and what was said earlier in the afternoon during question

period. Perhaps hon. members on the other side of the House can clarify this for me. The Trustee Amendment Act, section 5, authorizes trustee investments.

8:20

Now, section 5(c) says:

debentures issued by a school division, school district, drainage district, hospital district or health region under the Regional Health Authorities Act in Alberta that are secured by or payable out of rates or taxes.

I was led to believe in question period that this would never occur with a regional health authority, that there was going to be no form of deficit financing in this manner. I wonder if at this time a member opposite could explain the rationale of even having the regional health authority mentioned in there. Perhaps in the flow of question period and the excessive noise from the members of the third party I didn't hear that exchange correctly. Maybe I did not, but I thought I heard specifically that regional health authorities would not be running a deficit in that way, and I'm obligated at this time in committee to point that out.

Specifically what this would mean – another point, Mr. Chairman, would be clients on AISH. A couple of years ago we had a significant debate in this Assembly on setting a ceiling on the value of the assets of individuals who are . . .

MR. BONNER: It was \$100,000.

MR. MacDONALD: It was \$100,000, the hon. Member for Edmonton-Glengarry reminds me, the ceiling that was set for clients of AISH. Now, how will this be handled with the new Bill 26, the Trustee Amendment Act, Mr. Chairman? Will there be a list somewhere that will conveniently be available to individuals in Alberta Human Resources and Employment as a means of cross-referencing to ensure that this ceiling is correct or is not above it?

Now, there are issues here that I think we need to talk about, and one is the issue specifically of that list. What information is there? Who would use it? Would they use it or could they use it? That is also an issue of concern, as well as the regional health authorities. Earlier this afternoon when the hon. member was speaking, that was one of the concerns that I also had.

This existing trustee act lists authorized trustee investments. I don't know whether section 5 is that attached list or not.

In conclusion, I would like some answers in due time regarding my question on clients of AISH who perhaps have a trust fund set up that is \$100,000. I assume not, but I think it is worth while to investigate, if there was a list of individuals such as this, if it could be used, perhaps, against them to deny or to reduce benefits.

With those comments on the record, Mr. Chairman, I will cede the floor to another hon. member of this House regarding Bill 26, the Trustee Amendment Act.

Thank you.

[The clauses of Bill 26 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 25

Victims Restitution and Compensation Payment Act

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

DR. TAFT: Thank you, Mr. Chairman. There are two sides to the issues that are being addressed by this particular act. I feel like I can offer it support but not without some concerns and doubts. At least there are some issues that need to be thought through perhaps more than has been done so far so that we don't have this bill coming back for amendments and corrections and adjustments next year, which seems to happen with bills from time to time.

In particular, we've heard concern raised in this House that the court system, the civil court system and the provincial courts, are already overloaded, bogged down, and moving very, very slowly. One of the risks or spin-off effects of this Bill 25 could easily be a surge in the number of civil actions in provincial courts, and that would only add to the burden that we are already experiencing here. I would be interested to know if there has been any prediction or any analysis done on the impact of this bill on the workload of the provincial courts and on delays and staffing levels and costs required to meet the parameters of the bill.

I'm also concerned about the liability of peace officers who may be acting in good faith under this bill but may nonetheless be making an error. If property is seized under the act on the peace officer's advice and then it turns out that a mistake has been made, we need to ensure that the peace officers will not be held liable, assuming that they are operating in good faith. So there is a concern here for the well-being of our police and other peace officers.

One other point I will make is that this bill focuses very much simply on property crimes and not on victims of violent crime. So while it's of course commendable to address the rights of victims of property crimes, we also need to be looking at ways of addressing the rights of victims of violent crime: sexual crime, assault, and so on. I think it's a gap in the concept behind this bill and a gap in the bill itself that the rights and the concerns of victims of violent crime are not addressed, as I understand it. I think we need to take steps to ensure that victims of violent crime enjoy the same protections and the same possibilities of restitution and compensation that victims of property crime get. Victims of violent crime will have lost wages, medical costs, and of course the costs associated with the stress or distress of the crime itself.

So there are some concerns with this bill. All of that said, I think we will be offering it our qualified support. So I will make those comments my last.

Thank you, Mr. Chairman.

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

MR. MacDONALD: Thank you, very much, Mr. Chairman. I listened with interest also earlier today to the hon. Member for Edmonton-Strathcona and the hon. Member for Edmonton-Centre and now the hon. Member for Edmonton-Riverview discussing Bill 25, the Victims Restitution and Compensation Payment Act. Certainly the goal of this is encouraging if this legislation is to direct initiatives that will make it easier to regain property or obtain court order restitution for losses suffered as a result of an illegal act. Well, fine, but there are a few cautions, one, of course, which was just discussed. One of the objectives is that the action or any other proceedings under the act can proceed under this whether or not the person responsible for the illegal act has been charged or convicted.

8:30

Now, we are also allowing the minister to direct the Crown to commence a legal action for the purpose of taking property away from a person if a peace officer reasonably believes that a person has acquired the property from an illegal act, and that is noteworthy. There doesn't seem to be anyone across the province with any issues with this. Certainly I haven't heard of any. When you think that there has to be a balance – and we have to recognize this, Mr. Chairman, that there is a balance between the rights of victims and alleged criminals, and we have to emphasize “alleged” – where should the scales tip? It's hard to say. But I would remind members that the powers outlined in this legislation are already available to victims in the Court of Queen's Bench, and the shift is that the Crown can now pursue the remedies in our Provincial Court system, and the victim can pursue, as I understand this, the same remedies in Queen's Bench.

Now, the Minister of Justice should take into account the wishes of the victim in exercising his discretion or in future times maybe her discretion – his or her discretion – under the act. For example, if the victim is seeking remedy in the Court of Queen's Bench, then the minister should not do anything incompatible or counterproductive to the victim's efforts.

It has been noted by other speakers that the legislation deals only with property and does not deal with victims of violent crime. A sexual assault victim has no ability to obtain a judgment for lost wages or medical costs or anything like that from the criminal in criminal court. The victim can only obtain remedies again in Queen's Bench. However, the power to freeze assets or issue restraining orders in criminal court could really help victims of crime, Mr. Chairman.

The question outstanding is: what resources is the hon. minister making available to enforce orders and collect on orders given that police, prosecutors, and civil lawyers at Alberta Justice are already overwhelmed? This issue was discussed by previous speakers as well. What accounting and recording mechanisms does the minister have in place to adequately manage the collection on orders and distribution of settlements to the victims of crime fund or to victims?

Now, this also would make me think of what Mr. Valentine from the Auditor General's office had to say on the mechanism and the procedures in place to collect outstanding traffic fines from individuals who were in violation in this province but who live in another province. All these matters would seem related, because in my view a crime is a crime, Mr. Chairman.

With those remarks on the record for Bill 25, Victims Restitution and Compensation Payment Act, I will cede the floor to another hon. member.

Thank you.

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

MR. BONNER: Thank you very much, Mr. Chairman. I'd like to make just a few comments here as well on Bill 25, Victims Restitution and Compensation Payment Act, 2001. In reading over the bill and looking at some of the objectives of the bill, it reminded me very much of the powers that are currently held by Canada Customs in that when people are trying to cross the border from the United States into Canada or if they arrive on international flights and they have contraband or whatever, then the powers of Canada Customs are quite extensive, and it can be seized. In that regard, I see some strengths in this particular bill in that when a crime has been committed and we do have victims of that crime, then the court can

issue a restraining order to prevent the disposal of any assets. Now, I think this is a very strong piece here in this legislation and certainly will ensure that victims of property crimes will have an opportunity to have some restitution for the crime that was perpetrated against them.

Now, also with this legislation, Mr. Chairman, a peace officer can direct that property to be held until a restraint order can be issued. Again, this is a strong recommendation and part of the act since it will ensure that assets cannot be disposed of while the courts get involved. As well, if the Crown proves on the balance of probabilities that the property is the proceeds of an illegal act, then civil action will be used to institute a property disposal order. The property will be returned to the lawful owner, and certainly we see examples of that now. When the police do uncover large amounts of property they feel is stolen, they make every effort they can to return that, but in this particular case I think it will strengthen what we currently do have in there.

Now, another area that I think this bill addresses is restitution. Under restitution in this bill, Mr. Chairman, the court can order that the property of a person convicted of an illegal act be transferred to a victim, so we do have the restitution aspect of this bill as well. When we look at compensation in the case of where there is no lawful owner, property will be sold and the proceeds directed to an agency or a program devoted to remedying the social harm caused by the illegal act. As well, compensation payment orders can be issued to ensure that the offender does pay.

Now, then, under administration in regards to this particular bill, Mr. Chairman, provisions are made for disclosure to the courts of financial information from the offender, again a very good recommendation. As well, the act does contain penalties for contempt. Those, as I see it, are very strong points with this particular act.

8:40

As well, I must note, as did the members for Edmonton-Riverview and Edmonton-Gold Bar, that this legislation deals only with property. It does not deal with victims of violent crimes. I think that when we look at this bill, we certainly should be looking at how it could be strengthened to involve all victims, whether they be victims of a sexual assault and particularly where those people have no ability to obtain a judgment for lost wages, medical costs, or whatever from the criminal in criminal court.

As well, Mr. Chairman, the victim can obtain remedies in Queen's Bench. However, we do know that when we do get involved in the court system, this is a very lengthy, a very cumbersome system, and while I do have confidence in the system that the proper outcome will occur, we still must look at the impact on victims who are left in a rather compromising position because they are left without any assets or with assets. Until that restitution can be made, then they certainly are put in a position of jeopardy.

So with those comments, Mr. Chairman, I will take my chair and certainly look to comments from other hon. members of the Assembly. Thank you very much.

[The clauses of Bill 25 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.

MRS. McCLELLAN: Mr. Chairman, I would move that committee now rise and report.

[Motion carried]

[Mr. Shariff in the chair]

MR. LOUGHEED: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: bills 22, 23, 24, 26, 25.

THE ACTING SPEAKER: Does the Assembly concur in the report?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? So ordered.

MRS. McCLELLAN: Mr. Speaker, I would move that the Assembly now adjourn until 1:30 p.m. tomorrow.

[Motion carried; at 8:44 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

