LEGISLATIVE ASSEMBLY OF ALBERTA

Standing Committee

on

Private Bills

Wednesday, May 4, 1983

8:30 a.m.

TRANSCRIPT NO. 83-3

Chairman: Mr. Stiles *8:30 a.m.*

MR. CHAIRMAN: I will call the committee to order. On the agenda for this morning, we have three Bills. We propose to deal with them in the following order: Bill Pr. 4, Mennonite Mutual Relief Insurance Company Amendment Act; followed by Pr. 11, Edmonton Canadian Insurance Company Amendment Act; and Pr. 10, Alexander La Fleur Minerals Title Act. Gentlemen, the proceedings are relatively informal. We don't ask you to rise; you can speak from your seats. We will ask, if you have a witness who will be presenting any evidence or answering questions, that the witness be sworn. Is that your intention?

MR. TINGLE: I think we'll just answer questions, unless they're questions that require evidence.

MR. CHAIRMAN: You will need to be sworn if there are factual questions to be answered, so it's probable that we'll swear your witness in any event. Mr. Clegg, if you'd like to give us your report on Pr. 4.

MR. CLEGG: Mr. Chairman, this is my report on Bill Pr. 4, Mennonite Mutual Relief Insurance Company Amendment Act, 1983, pursuant to Standing Order 89. The main purpose of this Act is to introduce the power to cover public liability and employers' liability insurance. The Bill also slightly reduces the notice period for meetings, and alters the provisions for disposing of the assets of the company in the event it was wound up.

There is no model Bill on this subject, and the Bill does not ask for any powers I consider to be exceptional.

Mr. Chairman, the petitioners have asked for a minor amendment in the Bill which will have to be made the subject of a House amendment if the committee recommends it. They wish to have the words "living in Alberta" struck out where they occur in section 4. That is because the company does participate in insurance pools which carry insurance risks outside the province. The Superintendent of Insurance has indicated to the petitioner, and I have a copy of the letter, that he has no objection to any of the provisions of the Bill.

MR. CHAIRMAN: Very well. Mr. Tingle, I think we'll swear your witness before we begin.

Mr. Schellenberg was sworn in

Mr. Tingle, if you'd like to go ahead with some opening remarks, then the members will ask questions.

MR. TINGLE: As you'll note in the explanatory notes, the existing Act provides that the Mennonite Mutual Relief Insurance Company can write insurance in primarily two areas, fire and storm damage. In the loss through fire risks, it's felt they would like to broaden the areas where they can write insurance; hence the request for the amendment.

The company operates in the province and, since it was formed in 1960, has written risks essentially for members of the Mennonite faith in the province, and reinsures risks over a particular level with the Central Mennonite Insurance Company. If there are any specifics that are required, Mr. Schellenberg is familiar with the operations of the company in detail and can answer any questions you may have.

There are two housekeeping amendments. One deals with notice. It was felt that six weeks was a difficult period of notice to give to make timely decisions. Everyone kept forgetting that the meeting was being held, the

period of notice was so long. They thought that four weeks would be more appropriate. As has been mentioned, the amendment to section 11 is primarily a change in how they handle surplus funds in the event of a winding up. Again, I don't think the amendment is a consequential or material one.

MR. CHAIRMAN: Are there any questions to be put by members of the committee?

MR. STROMBERG: Yes, sir, not dealing directly with the Bill. How much insurance is written by your company, say, last year?

MR. SCHELLENBERG: Last year I believe it was $122 million at risk, and this year it's about $127 million.

MR. STROMBERG: In the province of Alberta?

MR. SCHELLENBERG: Yes.

MR. CHAIRMAN: Perhaps for clarification, Mr. Tingle, initially the company was basically a mutual aid type of organization in which members of the Mennonite church formed this pool of funds to assist members of the congregation who suffered losses by reason of storm or fire, and it is now your intention basically to move more into the general insurance business.

MR. TINGLE: Again, just with members of the Mennonite faith. There were indications from those already being insured that they would like, for example, insurance against loss of their cattle from sickness, which we're not entitled under the current Act to write. If they're insuring against fire, the feeling was that instead of getting a separate policy to cover the public liability portion, they would like that included in their fire insurance policy. Again, under the existing Act that policy could not be written.

MR. CHAIRMAN: Are there any other questions? There don't appear to be any further questions, Mr. Tingle. I don't believe there's anything you can add unless wish to add something in the way of closing remarks?

MR. TINGLE: Thank you.

MR. CHAIRMAN: Thank you very much.
The next Bill we have to deal with is Bill Pr. 11. Again we're dealing with an insurance company, Edmonton Canadian Insurance Company Amendment Act, 1983. Mr. Coulter, we probably don't have to explain the procedure to you. If you'd like to have your witness sworn, we will be prepared to do that in just a moment.

Mr. William Holt and Mr. John Coulter were sworn in

Mr. Clegg, could you give us your report please.

MR. CLEGG: Mr. Chairman, this is my report on Bill Pr. 11, Edmonton Canadian Insurance Company Amendment Act, 1983, pursuant to Standing Order 89. The purposes of this Bill are, firstly, to reflect the change in name to Peace Hills General Insurance Company, effected by Order in Council No. 1218 of 1981, pursuant to the powers contained in section 183 of the Insurance Act and, secondly, to increase the maximum capital the company may establish.
There's no model Bill on this subject, and the Bill does not ask for any powers which I consider to be exceptional.

MR. CHAIRMAN: Thank you, Mr. Clegg. Mr. Coulter, if you'd like to go ahead.

MR. COULTER: Thank you, Mr. Chairman, members of the committee. This request for an amendment emanates from the Department of Consumer and Corporate Affairs, primarily for the protection of the public. The Act to incorporate the Edmonton Canadian Insurance Company was assented to on March 29, 1957. At that time, the authorized capital was $1 million. Since that time, the Department of Consumer and Corporate Affairs has felt that for the protection of the public, capitalization of the company should be in excess of the allowed limit. Accordingly, they have requested that we present this petition. We have, therefore, requested that section 3 be repealed and a new section be added, increasing the capital not to exceed $10 million with the shares to be divided into a value of $100 each.

The other matter we are taking upon ourselves to include in the petition is a change of name to the Peace Hills General Insurance Company or the Peace Hills General Insurance Company Act, as a result of the change of name mentioned by Mr. Clegg pursuant to the order in counci on December 16, 1981. This is primarily a housekeeping matter so there won't be confusion with the public.

Those are the two major amendments. The other amendment relates to section 8. Section 8 relates to the Companies Act, and we are asking that that be repealed as there is the new Business Corporations Act presently in effect, and the old Companies Act basically controls the actions of the insurance company in any event and is somewhat redundant.

Those are my comments.

MR. CHAIRMAN: Thank you, Mr. Coulter. Do any of the members have questions?

MR. THOMPSON: Mr. Chairman, I just want to clear up one little point. You say that the Department of Consumer and Corporate Affairs requires you to increase your capital.

MR. COULTER: One of the omnibus rules that the Superintendent of Insurance works under is that he can decide how much capital the company should have. Accordingly, because it is an older Act, he has requested, in order that we continue to operate under our existing licence, that we we ask for this amendment.

MR. THOMPSON: A supplementary then, Mr. Chairman. Do you mean this fellow has the arbitrary power to say you have to do this or you can't operate?

MR. COULTER: He basically has an omnibus clause in the Insurance Act that allows him to decide whether or not a licence can be issued to an insurance company to operate in the province. He has basically stated that he would like us to have a larger capitalization. He has been good enough to allow us to operate under the present circumstances before the increase in the capitalization, on our undertaking that we will at least attempt to have the capitalization increased for the protection of the public.

MR. THOMPSON: Mr. Chairman, I'm not debating the merits of the thing. I'm debating the procedure where you have this fellow that says you can't have -- you have a licence now, do you not?

MR. COULTER: That's correct.

MR. THOMPSON: He could take it away if you don't do this?

MR. COULTER: I haven't carried it that far, sir.

MR. THOMPSON: Is he threatening?

MR. COULTER: No, he has stated he would prefer that our capitalization be increased, and we have certainly tried to conform with his requirements.

MR. THOMPSON: No further questions.

MR. CLEGG: Mr. Chairman, is the Superintendent's requirement to do with the ratio between the amount of insurance business that you cover and the capital of the company? In other words, is his requirement because of the volume of business which you are now doing?

MR. COULTER: Basically I think that would be his . . . While at this stage it is not the situation,. I think what he is trying to do is to include the concept that as the company grows, there will be the protection.

MR. STROMBERG: Mr. Chairman, will there not be confusion with the proposed new name of your company, Peace Hills General Insurance, with a major trust company in central Alberta called Peace Hills Trust?

MR. COULTER: Quite possibly. There are a number of companies in the province with the first two names, Peace Hills. I should point out that the Peace Hills General Insurance Company and the Peace Hills Trust Company are basically owned by the same people. The shareholders are the Samson Indian Band.

MR. STROMBERG: I was unaware of that; that was my next question. I see. Fine.

MR. CHAIRMAN: Are there any more questions?

MR. STROMBERG: Mr. Chairman, a supplementary. What connection will there be in decision-making between Peace Hills Trust and Peace Hills General Insurance Company?

MR. COULTER: As the two companies are set up, the structure is that the Samsom Indian Band owns shares in Peace Hills Trust Company, which has a separate board of directors. With regard to the insurance company, Samson Management Ltd., which has as its shareholders the Samson band or the chief in council of the Samson Band, holds the shares of the Peace Hills General Insurance Company. They are two separate entities, with two separate boards of directors.

MR. STROMBERG: A third supplementary, if I may, Mr. Chairman. If Peace Hills Trust were to go down the tube, this would in no way affect your operations?

MR. COULTER: They are entirely separate.

MR. CHAIRMAN: Are there any further questions?

MR. CLEGG: Mr. Chairman, I would just like to clarify two points for the committee's benefit. Firstly -- and I am sure members will have appreciated this -- we are not changing the name of the company by this Bill. The name of the company has already been changed by the order in council passed in 1981.

What we are doing here is to change the name of the Act so the Act bears the same of the company which it now incorporates.

The second thing is that members may wonder why we have repealed section 8 of the Act, on the last page of the Bill, which provided for certain provisions of the Companies Act to apply to the company. The reason for that is that there is now a provision in section 4 of the Companies Act which states which sections of that Act should apply to private Act companies. Those sections are the ones already referred to in the existing Act, although the existing Act refers to old sections of the previous Companies Act, before it was revised and the section numbers were changed. So it wasn't necessary to carry this section forward. It is covered in the public law, the application of the Companies Act. It is merely a redundancy; that's why it's being taken out. There is no change in the actual application of the Companies Act to this company.

MR. CHAIRMAN: Thank you, Mr. Clegg. If there are no further questions -- unless you have some closing remarks you'd like to make.

MR. COULTER: No thank you, Mr. Chairman. Those are my comments.

MR. CHAIRMAN: Fine, thank you, Mr. Coulter and Mr. Holt. That will conclude your presentation then.

Mrs. Landry and Mr. Rossall were sworn in

MR. CHAIRMAN: We will now hear the presentation on Bill Pr. 10, the Alexander La Fleur Minerals Title Act. Mr. Rossall, if you would like to make some opening remarks.

Oh, I'm sorry. Mr. Clegg, would you like to give your report first.

MR. CLEGG: Mr. Chairman, this is my report on the above Bill, pursuant to Standing Order 89. This is Bill Pr. 10, Alexander La Fleur Minerals Title Act. The purpose of this Bill is to restore to the children of Alexander La Fleur an interest in a mineral title that, pursuant to the law on intestate succession, has passed to the Crown.

There is no model Bill on this subject. The Bill does not contain any powers which I consider to be exceptional, but it does provide for an exemption from the operation of the public law in the special circumstances.

MR. CHAIRMAN: Very well. Mr. Rossall.

MR. ROSSALL: Mr. Chairman, members of the committee, sitting beside me is Rose Landry, the administratrix *de bonis non* of the estate of Mr. Alexander La Fleur, her natural father. Before the members of the committee is a bundle of documents, contained in a folder, which we have prepared and distributed and which contain the pertinent facts I intend to refer to this morning. In addition it contains a number of the documents which are pertinent to this particular petition. What I propose to do is give a brief run-down of those facts, then simply have Mrs. Landry adopt the materials as contained as her evidence, and then make her available for any questions which the committee may have. We're dealing with a somewhat complex fact situation, and I feel it's important to run over a few of the importnat ones.

The application deals with a one-third interest in a mineral title which, as Mr. Clegg has pointed out, by virtue of the operation of law has passed to Her Majesty the Queen in right of the province of Alberta. In or about 1918, Mrs. Landry's father, Alexander La Fleur, became the registered owner of that mineral title in its totality. Mr. La Fleur died on November 11, 1918,

leaving his widow, Marie Anne La Fleur and four children, one of which is Mrs. Landry. At that point in time, the entire mineral title in question passed to his wife by virtue of the operation of his will, a copy of which is attached to the summary of the facts, as document number three. In 1935 the widow, Marie Anne La Fleur, married one Norman Charles Edwards, who at the time of the marriage was a bachelor and had no natural children of his own. There was no adoption proceedings in relation to the four natural children of Marie Anne La Fleur.

As a result of a desire on the part of Imperial Oil to lease the mineral rights under this particular piece of land, on July 17, 1947, Marie Anne Edwards, at this time, entered into an agreement with her children, a copy of which agreement is also annexed to the documents, to transfer to the four children a one-sixth interest in the property; keeping in her own name a one-third interest. So as of July 17, 1947, the children were each vested in a one-sixth interest in the mineral title. Marie Anne Edwards was the registered owner of the one-third interest. They then entered into a lease agreement with Imperial Oil.

This is an aside, Mr. Chairman. I think it's interesting to note that this particular mineral title was the subject of some litigation in the Supreme Court of Canada around that period of time. There was a very distinguished case, referred to as Kaup and Kaup v. Imperial Oil Company Ltd., which formed the basis of a good deal of my land titles training when I was in law school.

On August 26, 1961, Marie Anne Edwards died, and by virtue of the operation of her will, a copy of which is attached, her one-third interest passed to her husband, Norman Charles Edwards. So as of that particular date, Norman Charles Edwards would have been vested with one-third interest in the mines and minerals, and the four children would have had a one-sixth interest each.

From the date of his wife's death until the time of his death, it had always been the expressed intent of Norman Charles Edwards that his one-third interest would be conveyed back to the children of his wife at the time of his death. Further to that end, he attended at the offices of Messrs. Bryan Andrekson, spoke with Mr. Alexander Andrekson, and gave instructions for the preparation of a will which would have had the effect of conveying the remaining one-third interest to the four natural children of Marie Anne La Fleur.

Norman Charles Edwards died on August 21, 1972. A diligent search of the offices of Messrs. Bryan Andrekson failed to turn up a will. A search of the effects of Norman Charles Edwards failed to turn up a will. As a result, on October 5, 1977, the Public Trustee for the province of Alberta elected to administrer all the property of Norman Charles Edwards who, in essence, had died intestate without issue. A copy of that election is attached; it's document number four in the materials. As a result of the Public Trustee's administering the estate, the one-third interest in the mines and minerals was transmitted to Her Majesty the Queen in right of the province of Alberta, and a copy of the title showing Her Majesty the Queen to be the registered owner of that mines and minerals interest is attached.

Rose Landry, the applicant today, was granted letters of administration *de bonis non* with will annexed of the remaining property of Alexander La Fleur on October 26, 1979. It is our submission that the remaining property is in fact the one-third interest in the mines and minerals. That property has been conveyed, as we have indicated, to the Public Trustee's office. But it is the position of Mrs. Landry, that after a review of the history of this mineral title, combined with her knowledge of the intention of her natural mother, Marie Anne La Fleur and that of her stepfather Norman Charles Edwards, the one-third interest in the said mines and minerals should in fact have stayed with the four children. Unfortunately, by virtue of the intestate succession provisions in the province of Alberta, it did in fact convey to the Crown.

Therefore it is the respectful petition of Mrs. Landry this morning that the said mines and minerals interest be conveyed back to Rose Landry as administratrix *de bonis non* of the estate of Alexander La Fleur, at which time the one-third interest would be distributed amongst the four children.
Mrs. Landry, you have read the materials which are before the hon. members of this committee, is that correct?

MRS. LANDRY: Yes, I have.

MR. ROSSALL: And you adopt the facts and materials contained therein as your sworn testimony?

MRS. LANDRY: Yes, I do.

MR. ROSSALL: Mr. Chairman, if there are any questions the members of the committee may have, Mrs. Landry will be happy to address them.

MR. CHAIRMAN: Thank you, Mr. Rossall.

MR. ALGER: Good morning. I can't help but wonder if, when Imperial Oil took the lease, did they drill on the lease and were they successful?

MRS. LANDRY: No, they did not. They never drilled.

MR. ALGER: There's been no drilling so far?

MRS. LANDRY: No, there has not been any.

MR. ALGER: Do they still have the lease?

MRS. LANDRY: We have a lease but with another company, not with Imperial Oil.

MR. ROSSALL: Mr. Chairman, I have before me today a copy of a lease between Rose Landry and TriUnion Resources Ltd. That lease provides for an annual rental of $320 a year. In addition there is a provision for a royalty in the amount of 18 per cent. To date there has been no oil or natural gas discovered on this property. There is also an assignment attached which conveys a one-third interest in that lease to the Public Trustee's office. I would be prepared to table this for the benefit of the members also.

MR. STROMBERG: I have to ask the Law Clerk: if this Bill is passed, would any income earned by the Crown through the leasing of this land be retroactive? Would that go back to the original estate?

MR. CLEGG: Mr. Chairman, the way in which the Bill is drafted it is not in a retroactive form. What it does is authorize a transfer back to Mrs. Landry as administratrix. It further requires her to transfer the one-third in one-twelfth portions to the four children. But there is no retroactive provision in the Bill as it stands at the moment. Therefore, any rents up to this point in time would remain in the hands of the Crown. The Crown would have the capability on an administrative basis or by properly authorized order in council, if they felt it was warranted in the case, to return those royalties. The amount of money isn't very large in any event. They wouldn't need legislative authority, but the Crown does need legislative authority to return the title to Mrs. Landry because there was a provision in legislation which says that no mineral title may be granted by the Crown to an individual unless there is legislative authority for that. The minister has stated that he sees

no impediment to this being done except that he would need legislative authority to do it.

So all we need to do if we wish this to be done and the matter to be put back to where the apparent intention of the parties were, would be to authorize the transfer of the title.

Any adjustments on royalties could be handled outside direct legislation, but it isn't a major issue. The title is what the petitioner is really after.

MR. SZWENDER: Mr. Chairman, I think Mr. Clegg answered my question. I was wondering whether we were trying to determine ownership of the title or just the mineral rights. I think we are looking for the title. So when Mr. Edwards died, one-third of the interest passed into the hands of the Crown. Is that correct?

MR. ROSSALL: Mr. Chairman, I should have made this more clear. This morning we are dealing only with the title to the mines and minerals, not the title to the land itself. The land is not vested in the administratrix or any of the children. It's just the title to the mines and minerals beneath the land.

MR. SZWENDER: A supplementary question. We're talking here about interest. Could you explain in terms of size how large one-third interest is?

MR. ROSSALL: Mr. Chairman, it's a half section of land we're talking about, so we'll be dealing with basically one-third of the half section. But again, it's difficult to refer to the mines and minerals title in the same sort of sense as we do with land; it's not something that we can sort of grasp and point to. We're referring to the mines and minerals lying beneath one half section of land, a one-third interest in that estate.

MR. ALGER: Mr. Chairman, in the first place, how did he get these minerals in 1918? Was there a purchase of land with minerals? Was that possible, Mr. Clegg, at that point in time? It seems to me the freehold stopped in 1905, but I didn't know it was transferable after that.

MRS. LANDRY: My father bought this land from a Mr. Staples, who had acquired the land as a homestead. I cannot tell you what year this happened, because I was just a little child. After my father bought this land from Mr. Staples, he acquired the mineral rights. He went to Mr. Staples and bought the mineral rights.

MR. ALGER: It could be done, Mr. Clegg, at that point in time? I guess it still can be done, if you want to pay enough for them.

MR. CLEGG: Existing mineral rights in the hands of a private individual can still be transferred, but most of those mineral rights are now in the hands of the Crown. The Crown did not sell mineral rights to individuals after the relevant date. Maybe Mr. Rossall can refresh my memory as to what that date was.

MR. ROSSALL: 1905.

MR. CLEGG: But if the mineral rights were in private hands subsequent to that date, they could have been transferred.

MR. ALGER: A subsequent question. Mr. Chairman, I keep thinking of the monetary value of these mineral rights. Is there some relative nearby production that makes this a kind of worthy project? Like you, I feel you

should have it. I don't know how you lost it in the first place. I think that was a fallacy. But is there something in the neighborhood, say within a mile or two, that makes it kind of interesting?

MRS. LANDRY: No there isn't.

MR. ALGER: Funny. There are a lot of wells drilled around there, aren't there?

MRS. LANDRY: There are to the east and to the west, but I don't know how close they are. This is in the Morinville area, you know; between St. Albert and Morinville.

MR. PAPROSKI: My question revolves around Mr. Alexander Andrekson. I think he has played a key role here. I'm just wondering if you have any type of documentation from Mr. Andrekson or his firm that outlines that communication occurred, and that indeed a will was discussed. Is there anything like that?

MR. ROSSALL: Mr. Chairman, I suppose I omitted to mention that I am in fact a representative of that particular firm, and I have had an opportunity to review what little file there was in relation to this particular matter. There are notes on the file which reflect an intention at one point that the mines and minerals estate would be transferred as per this petition. However, I discussed the matter with Mr. Andrekson prior to coming here this morning, and Mr. Andrekson is not in a position to be able to say that those notes reflect the final meeting between him and Norman Charles Edwards.

As an aside, I should indicate that Norman Charles Edwards was a schoolmate, a classmate, and a friend of Mr. Andrekson, but Mr. Andrekson was not prepared to state in the form of a letter or affidavit that for a fact those notes reflect the final intention of Norman Charles Edwards. They simply reflect an intention at one point during the solicitor/client relationship. Further to that, Mr. Andrekson is not able to say whether or not a will was prepared based on those notes. All we can say is that we have searched our offices, our files, and the effects of Norman Charles Edwards, and no will was discovered.

MR. ALGER: Isn't there a certain naturalness, Mr. Chairman, in the fact that Norman Charles Edwards came into these mineral rights in the first place by marriage, which is sort of uncommon? It seems to me that there would be a certain naturalness for them to fall back to the children, without going to the province or the Crown. I just don't understand that part of the ethical world. Could you or Mr. Rossall describe that, Mr. Clegg?

MR. ROSSALL: It's my understanding that by virtue of the fact that Norman Charles Edwards did not proceed through adoption procedures in relation to the children, he in fact is deemed to have died intestate without issue of his own. By virtue of that fact, without issue and without a will, the mines and minerals would eventually transfer to the Crown.

MR. ALGER: It's strictly a legal phrase someplace in the books.

MR. ROSSALL: That's my understanding, Mr. Chairman.

MR. CHAIRMAN: If I could make a comment in that regard for hon. members' assistance, perhaps, the Intestate Succession Act essentially is a situation where, if a person dies intestate, without having made any will and without having any heirs who would naturally come into this property, the property is

sort of left dangling in mid-air unless some provision is made for it. So the Intestate Succession Act simply says that where there are no heirs and where there isn't any will, the property, if any, will go to the Crown. I believe if you look at exhibit four in the submission, you will see that Mr. Edwards' estate was of no great consequence, other than this mineral title. The value put on it is $541. It was just that this mineral was really the only thing of any consequence, or might be of some consequence at some future date.

MR. ALGER: I appreciate that. Mr. Chairman, I'm thinking that if it weren't for the validity of the adoption which he failed to go through -- he sounds like he operates a good bit like I do, just doesn't ever get his estate straightened out. In effect if not in fact, it is more or less a shame that the children did not inherit the two-sixths of the total six-sixths, which would have been split in twelfths and they would have taken a little more advantage of what little rent there is now, but possibly a gusher there one day. It makes sense. I'd go after it too, if I were them.

MR. CLEGG: Mr. Chairman, there's one further consideration with respect to the question that's been brought up, and that is that there were two ways in which Mr. Edwards could possibly have secured the succession: one, by will, which he apparently started and never completed -- it may have been that a will was drafted and he never came to sign it, or he just didn't finalize the matter -- the second by adoption, but we have to bear in mind that because of the dates it's quite likely that during most of the time of his marriage to Mrs. Landry's mother, the children were probably past the age when they could have been legally adopted anyway. It's not possible to adopt people over the age of 18.

MR. ALGER: That's the case here.

MR. CLEGG: That's the case here. This means that a quite natural process, which often does happen in the case of small children who need the adoptive care because the parental relationship is more important, is not dealt with in that way when the children are in fact adults, and it sometimes places a greater onus on a person under this position.

MR. PAPROSKI: I have two more quick questions, one to the petitioners. I just wonder how long, especially you, Mrs. Landry, have been pursuing this. Secondly, you are here presenting a private Bill. What has been done before you entered this Chamber to try to overturn this? Have there been other things you've done in the courts before coming here?

MRS. LANDRY: While my stepfather's estate was in the Trustee's office, we offered to purchase these mineral rights from the estate through the Public Trustee. We were told that that could not be done because at that time the mineral rights were not registered to Norman Charles Edwards. Now, that happened in '77 or '78; I'm not too sure.

MR. PAPROSKI: This is not something that's been going on for only a year or two. You've been pursuing this since 1977. And this is the last resort, Mr. Counsellor?

MR. ROSSALL: Mr. Chairman, that's quite correct. There have been a number of attempts made, as Mrs. Landry indicated, involving either purchasing the mines and minerals, a large amount of correspondence between the Public Trustee's office and our office to attempt to have this matter resolved without having to take this step. I would further indicate that I believe there is

legislation in Alberta which, in exceptional situations, allows for a person who feels he has a valid legal claim to the title, to take proceedings. I believe I'm referring here to the Ultimate Heir Act in Alberta. However, I think we had resolved ourselves to the fact that the operation of law was quite correct in this instance. The fact that there was an intestacy without a will and without issue quite correctly transferred the property to the Crown, and this was the only alternative one left open to us at this point in time.

MR. ZIP: It's interesting to note that no real value has been established on these mineral rights on this one-third interest. Is that correct?

MRS. LANDRY: Right.

MR. ZIP: A nominal value of a dollar is placed here by the Public Trustee.

MR. ROSSALL: Mr. Chairman, I think it's important for us to note at this point in time that although it would obviously be to the benefit of the various beneficiaries and the various children if in fact this was a windfall, in essence I would submit that this is not in fact the intention of Mrs. Landry at this time. It appears to me from discussing it with Mrs. Landry -- and I'm sure she will confirm this -- that this is more of an emotional issue with her, more of a personal matter. She wishes her mother's intentions to be completed and have the title consolidated. There certainly is no indication in any of the materials that there is any value on these mines and minerals at all. Now if in fact that came about, I think that would be wonderful for the purpose of the children. But my understanding is that that certainly isn't the intention at this time. Is that correct, Mrs. Landry?

MRS. LANDRY: That's right.

MR. ZIP: A subsequent question. So what you're telling me is that there is no real current market value established for these mineral rights.

MRS. LANDRY: Not today, but no one knows what's in the future. We feel that morally and sentimentally, it belongs to the family. That's our feeling and, through human errors along the way, we've been deprived of what is ours. I've discussed this with my brother and my sisters, and this is why we've gone this far.

MR. HYLAND: Just a few questions. Firstly, does the family or any member of the family hold the surface title on that land?

MRS. LANDRY: No.

MR. HYLAND: I always thought the Public Trustee held something for somebody in trust. Maybe the Chairman or the Law Clerk can explain how one could lose the ownership of the rights back to the province.

MR. CLEGG: Mr. Chairman, the Public Trustee holds these items in trust for the parties concerned while a determination is made as to who is the legal owner. The Public Trustee had to conclude, by the operation of the Intestate Succession Act, that the Crown was entitled to these mineral rights because Norman Charles Edwards died intestate and without issue. Therefore, that is why the Public Trustee had to decide that they should be transferred to the Crown.

My understanding is that the Crown is not unwilling to transfer them back to Mrs. Landry but requires legislative authority to do that. There is no other way in law in which they can be transferred back. Responding to the question the Member for Edmonton Kingsway raised, I agree with what Mr. Rossall said. It is also my opinion that there is no litigation which could solve this problem. It has to be a matter of legislation.

MR. HYLAND: How long were your mother and stepfather married?

MRS. LANDRY: They were married in '35 and Norman Edwards died in '72. That makes what -- 37 years? Oh, pardon me. Mother died in '61. So it was from '35 to '61; that's 26 years.

MR. HYLAND: There were no children from that?

MRS. LANDRY: No.

MR. SZWENDER: Mr. Chairman, just for the information of the Member for Calgary Mountain View, the Americans purchased Alaska from the Russians in 1867 for $3 million.

I admire your tenacity, Mrs. Landry, in pursuing this matter. I think there are some clear principles involved here. But over the course of time that you've taken to pursue this matter, and being directly involved myself with the firm of Bryan Andrekson in the past, I just wonder how much this has cost you in terms of legal amounts or other costs in order to retrieve what you believe is rightfully yours.

MRS. LANDRY: Should I say that? I don't know. I'm going to be like people say to Gordon Sinclair: should I answer that?

MR. ROSSALL: Mr. Chairman, with all due respect to the hon. member, I'm not sure we've established just yet what the cost of this will be. A lot of that is contingent on how long this morning's proceedings go.

MR. CLEGG: For the record, Mr. Chairman, the price of Alaska was $12 million; it was Louisiana that cost $3 million.

MR. CHAIRMAN: The island of Manhattan at $24 was probably a better bargain.

MR. OMAN: Mr. Chairman, in looking at the documents, there is the will of Mrs. Landry's father which indicates that the surviving spouse would receive the benefits and then be turned over basically to the four children, if I read it correctly, although that dealt with insurance policies and not with the mineral rights. Is there a will existing of Mrs. Landry's mother, who would be Mrs. Edwards at the time? What would that will have stated?

MR. ROSSALL: Mr. Chairman, if I'm not mistaken, I believe a copy of Mrs. Landry's mother's will is attached. If it is not, there was in fact a will and that will left all her estate, whether it be real or personal property, to Norman Charles Edwards, the stepfather, with no specific reference to the children.

MR. OMAN: I suppose you can't go back and say why the children were overlooked in that situation.

MR. ROSSALL: It's my understanding from discussion with Mrs. Landry that her mother had in fact evidence and intention that these mines and minerals should

go to the children. Mrs. Landry, perhaps you could just detail that period of time, a week before your mother's death, for the benefit of the hon. members.

MRS. LANDRY: Our mother repeatedly said that this should go to her children. Her intentions were definitely that it should go to her children. She repeatedly said, I must make my will; I must change my will. This was about three days before she died. We were returning from a friend's funeral, and she said to me: oh, I just must change my will. I said: okay, let's go, any time. Oh, I'm too tired, I'm too tired.

So we took her home. The following Saturday, our dear mother passed away suddenly. This is how it happened.

MR. THOMPSON: Mr. Chairman, my question would be to Mr. Clegg. Has there ever been a similar situation where we have passed a Bill? Is this something that has never happened before? Or has there in the past been some similar cases? They wouldn't be identical, of course.

MR. CLEGG: Mr. Chairman, I'm not aware of any similar legislation to this, but I have not researched to find out if there were any. I don't know whether Mr. Rossall has been able to search the previous legislation to see if there was a similar disposition.

MR. ROSSALL: Mr. Chairman, I've been unable to locate any similar types of applications or petitions such as this. I've taken a look through some of the lists of private Acts annexed to the statutes, and I can't see anything quite like this.

MR. ALGER: One more question, Mr. Chairman, in the legal department. I would like to know what right the Crown had to take these minerals back from the estate when indeed Norman Charles Edwards was never listed on the title of the mineral rights in the first place. How can you take something away that he never really had?

MR. CLEGG: Mr. Chairman, I believe it's clear that he was entitled to become registered -- he may not have been registered at that time -- because he had acquired those mineral rights under the will of Marie Anne La Fleur. By operation of law, when he died he was entitled to become the registered owner of that land. Therefore, the Crown being his heir because he had not made a will -- he hadn't got around to completing that disposition, which he had evidently started and intended to carry out. Having no natural heirs of his own because the children had never been actually adopted by him -- perhaps because they couldn't be adopted because of their age -- the operation of law passed those to the Crown automatically.

MR. ALGER: One further little question. Did Mr. Edwards die a natural death, was he killed in an accident, or was he sick?

MRS. LANDRY: A natural death.

MR. ALGER: Didn't he have time then to even make out a will? I don't know why I'm even asking this; it's history now. But it seems strange to me that he didn't write it on something.

MRS. LANDRY: No, he had no will. We couldn't find it. He always said he had a will. He said repeatedly to my brother and myself: when my time comes, go to Andy; Andy has everything ready for me.

MR. CLEGG: Mr. Chairman, if I might make a comment. It's been my experience in the practice of law -- and I know Mr. Rossall has had the same experience, because we discussed it -- that clients will come to a law office and give instructions for the preparation of a will. Having given those instructions, they then feel the job is finished. They fail to remember that they have to execute the will. Sometimes you have great difficulty in getting them to come back in again to sign the thing. Several letters will be sent out. Then you'll say, well, if they want to come, they'll come. They may have changed their mind. You don't feel like pressuring them. You stop writing anymore to a client. Your client is quite satisfied that he's done all he feels he should do. It may just have been that kind of situation.

It's a psychological thing to sign your will, particularly if you're at an age where you feel that it may soon be put into effect. It's easier to write your will when you're 40 than when you're 70.

MRS. LANDRY: I was present in Mr. Andrekson's office one day with my stepfather, Norman Charles, when I heard him definitely discuss with Mr. Andrekson that he wanted these mineral rights -- that's when he was discussing his will -- returned to the four children: my brother, my two sisters, and me.

MR. CLEGG: He was at that time discussing the drawing up of a will with Mr. Andrekson?

MRS. LANDRY: Yes. That's what I heard.

MR. LYSONS: Mr. Chairman, Mr. Edwards did not have any other relatives, no brothers or sisters?

MRS. LANDRY: No family at all.

MR. LYSONS: So there was never any contest as to his estate?

MRS. LANDRY: No.

MR. ZIP: How old was Mr. Edwards at the time of his death?

MRS. LANDRY: He was 79.

MR. ZIP: I think that explains a lot. Things just don't seem to have that same urgency as you get older.

MR. CHAIRMAN: If there are no further questions -- Mr. Rossall, if you have any closing remarks to make, if you feel that's necessary.

MR. ROSSALL: Only, Mr. Chairman, that I would like to thank the members of the committee and you for the consideration they've given and the obvious interest they've had in this particular application.

MR. CHAIRMAN: Thank you. That concludes the presentation with respect to Bill Pr. 10.

We do have time remaining. There are three Bills that were dealt with earlier that we might wish to look at in camera. Accordingly, I would entertain a motion that the committee go in camera at this time. Moved by the hon. Member for Camrose. Are the members agreed?

HON. MEMBERS: Agreed.

The committee moved in camera at 9:25 a.m.