

[Chairman: Mrs. Black]

[10:36 a.m.]

MADAM CHAIRMAN: Good morning, ladies and gentlemen. I'd like to call the meeting to order. First of all, I'd like to apologize for having to sit and wait. Unfortunately, the first presenting group did not arrive. With your concurrence, I'd like to proceed with the second group that has arrived, and as such, could I have approval to adjust the agenda to hear Bill Pr. 4 first? All in favour?

HON. MEMBERS: Agreed.

MADAM CHAIRMAN: Thank you very much.

I'd very much like to welcome the people from the Canada West Insurance Company. Mr. Alain Gaumier is the chief executive officer and Mr. David Rowand is the solicitor for Canada West Insurance. We are the Private Bills Committee and, as such, do hear representations from individuals such as yourself when you come forward. Our tradition has been that we hear your presentations and then at a subsequent meeting have discussions and review the presentations, and then we make a report to the Assembly as to our recommendations.

I'd like to first of all turn the meeting over to Mr. Clegg, and he will make some introductions.

MR. M. CLEGG: Madam Chairman, I'd like to give my report on this Bill pursuant to Standing Order 99. Bill Pr. 4, Canada West Insurance Company Amendment Act, 1990, removes the limit on the capital stock of the company and provides for a minimum of \$2 million capital stock. It also clarifies the application of the Business Corporations Act to the company. The Bill does not ask for any powers which I consider to be exceptional, and there is no model Bill on this subject, although the company was originally incorporated by the model Bill provided for in Standing Orders for insurance companies.

MADAM CHAIRMAN: Would you like to proceed with the swearing in, Mr. Clegg?

[Mr. Gaumier was sworn in]

MADAM CHAIRMAN: Mr. Gaumier, do you have any opening remarks to make?

MR. ROWAND: Madam Chairman, ladies and gentlemen of the committee, the petition asks for two changes to the Bill, the first being to remove the limit of \$5 million on the authorized capital of Canada West Insurance Company but to retain the minimum authorized capital of \$2 million, the second being to amend section 8 to include reference to the applicable provisions of the Business Corporations Act as opposed to the Companies Act, which has been replaced by the Business Corporations Act. The reasons for requesting this relief are, firstly, that consistent with normal corporate practice and financing practice, most corporations now incorporated do not have capital limits any more, as they used to under the old Companies Act, and it's much easier for them to arrange their financing and to contribute capital as needed to the corporation. Secondly, the Business Corporations Act did replace the Companies Act when it was enacted in 1982, and this is more or less a housekeeping item to bring it under the current legislation that's in effect and to remove references to a statute that no longer applies to this corporation.

Mr. Gaumier would be pleased to answer any questions of the committee members.

MADAM CHAIRMAN: Thank you very much.
Are there any questions? Mr. McEachern?

MR. McEACHERN: Yes. I have a couple of questions. On the first point about removing the limit on the capital stock, is it not common to have some kind of provision setting a minimum percentage that you have to have compared to some figure? I'm not sure what it would be in the insurance industry, but in other industries it's compared to deposits, for example, in a trust company. Is there no provision or need for that under the Insurance Act?

MR. GAUMIER: In fact, under the Insurance Act the insurance companies have to comply with several tests, and there is a regulation about the amount of capital and surplus compared with the amount of written premiums the insurance company has. In the Canada West example, as we wanted to expand and have substantial growth, we were facing the limit of the capital, because since we need to have more capital and surplus, we need to ask for some funding from the main shareholder. This funding has to be done naturally through issuing of shares, issuing of stocks, and we were limited by the amount of \$2 million, that is now too little to enable Canada West to comply with these regulations. For remember, there is an important test that requires that when the insurance companies write \$3, I would say, of a written premium, they have to have \$1 of capital and surplus.

MR. McEACHERN: The second question has to do with the second provision. I understand the changing of the name to the Business Corporations Act – you know, because it's no longer the Companies Act – but it says that the Business Corporations Act applies to the company except insofar as it is inconsistent with the provisions of the Insurance Act.

That I agree with. But are you saying that this Act – and I assume this Act has a lot more things in it than this amendment we've got – can specifically override the Business Corporations Act? I guess the Parliamentary Counsel can probably answer that better.

MR. M. CLEGG: Madam Chairman, the provisions of this Act do not really have very significant conflict with the Business Corporations Act, but essentially an insurance company is a company of a different kind of nature than an ordinary business corporation and is subject to much more rigorous controls. There are some provisions laid out in this Act which may not be exactly the same provisions as are provided for the administration of a corporation under the Business Corporations Act. However, this corporation is subjected to the Insurance Act, which is the most important safeguard because the Insurance Act is the Act which gives proper consumer protection and proper regulation of the operation of insurance companies. When the Act was originally passed, it provided that only certain of the provisions of the Companies Act should be applicable to the corporation. In discussion with counsel in the examination of this Bill, we agreed there was no reason why the corporation should not be subjected to essentially all the provisions of the Business Corporations Act, which has come into force since this company was originally incorporated, and that's why the provision has been made this way.

MADAM CHAIRMAN: Does that answer your question, Mr. McEachern?

MR. McEACHERN: Well, sort of, I guess. As long as there's no conflict between this Act and the Insurance Act, I guess if I'm assured of that, then I would agree that the Insurance Act should take precedence over the Business Corporations Act because it has more specific application to this particular company. But the way this is worded, I guess we have to assume that the Act – and there's more to this Act than we see before us; we see only a couple of amendments to it – is not in conflict with the Insurance Act for sure, or else it would not be right to have it override the Business Corporations Act.

MR. ROWAND: Perhaps I can comment here. I think insofar as the operation of the corporation itself is concerned, the provisions of the Business Corporations Act need to apply so that it will be operated consistent with other corporations, as opposed to the Companies Act, which no longer exists. Insofar as the operation of the business of insurance, the Insurance Act specifically applies to this company by virtue of the original Act, which remains in effect. Therefore, in terms of its licensing and its ability to write policies and the requirements on reserves and capital, those are all dictated by the Insurance Act that applies.

MR. McEACHERN: Yeah; I understand all of that. My point is just that I guess we have to take it on faith that this Act when originally passed was in no way in conflict with the Insurance Act. I assume that was the case.

MADAM CHAIRMAN: For clarification, I think what Mr. McEachern is getting at: in section 8, at the very end of it it says "or this Act." I think that's what you're . . .

MR. McEACHERN: Meaning that this Act could override the Business Corporations Act. Well, I accept that . . .

MADAM CHAIRMAN:

The Business Corporations Act applies to the company except insofar as it is inconsistent with the provisions of the Insurance Act or this Act.

I think it's the "or this Act" that Mr. McEachern is referring to.

MR. McEACHERN: I guess what I'm saying is that I'm okay with this as long as we are assured that this Act – which we do not see before us; we only see a small part of it – is not in any way in conflict with the Insurance Act. Then I'm happy, okay? And I guess I can assume that.

MR. M. CLEGG: Madam Chairman, there is one area in which the original Act does provide some clarification about the application of the Insurance Act. That is actually shown on the explanatory note side of page 2, the right-hand side of page 2, where it talks about the application of section 174 of the Alberta Insurance Act. That isn't exactly excluding the application of section 174, but clarifying how it applies to affect

the distribution of assets . . . to its shareholders in consequence of the redemption or purchase for cancellation of any shares.

At the time this original Act was passed, there was some uncertainty about the exact way in which section 174 would apply to these circumstances. Maybe Mr. Rowand can expand on this particular point. What I'm talking about is the present wording of section 3(6), which is printed in the explanatory notes on the right-hand side of page 2. It's not exactly an exception

to the Insurance Act, but it is an interpretation of the Insurance Act as to how it will apply to this company.

MR. ROWAND: Madam Chairman, I believe that section 174 is the equivalent of now section 181 of the Insurance Act, and in that codification there are specific requirements as to how capital can be reduced by an insurance company and the procedures that are in place to protect the shareholders of an insurance company if it decided to reduce its capital and make a distribution of its assets.

MR. WOLOSHYN: Further on this point, is this company subject to the Insurance Act in its totality?

MR. ROWAND: Yes, it is.

MR. WOLOSHYN: If that is the case, then I think, with all due respect, we should perhaps rewrite that section 8 or at least clarify it, because the way it's written there . . . I think the questions posed are very valid, and perhaps somewhere in this revision there should be that statement, that quite clearly it's subject to the Insurance Act. That would clarify the whole thing.

MR. M. CLEGG: Madam Chairman, the original incorporation of this Act was the incorporation of an insurance company under the terms of the Insurance Act. The present wording of section 3 of the Bill, where we're providing new wording for section 8, does not in any way limit the application of the Insurance Act. Where it does, it provides that there might be some limitation on the Business Corporations Act. For example, there's one provision in this Act we're putting in right now that is not consistent with the Business Corporations Act, and that is providing a minimum capital stock. The Business Corporations Act does not provide a minimum capital stock for companies, although it doesn't prevent them from establishing their own. But the new section 8 will not limit the application of the Insurance Act. What it does: it widens the application of the Business Corporations Act. The original Act was an incorporation under the provisions of the Insurance Act, and the Insurance Act provides that insurance companies are to be incorporated by private Act of the Legislature, and that's the way it was done. So it is completely covered by the Insurance Act.

MADAM CHAIRMAN: Are there any other questions?

Mr. Gaumier, would you like to make a summation of any sort?

MR. GAUMIER: I just would like to explain why we need to go further than this limit of \$2 million capital. I think the Canada West Insurance Company operates in an industry that today requires further funding, further capital. The insurance industry is increasing, has a substantial growth. It's necessary to comply with the regulations first but also to invest in new technologies, in new functions needed to compete in this more and more complicated market. It's necessary to have more capital. I think there has been a change in this industry during recent years, and today we need much more capital to compete in this market. Canada West has about the same profile as the other insurance companies, especially the provincial companies operating in provinces like Alberta. Canada West now needs to have much more capital to be able to grow, first to enhance its reserves as most of the main insurance companies in Alberta and

Canada. Canada West is a little bit underreserved today and especially since the tornado of 1987. We noticed that the companies needed more money, more capital, and more reserves to face their claims. That's the first reason why we need more capital.

Another reason why is that today it's impossible for an insurance company to continue to operate without having new functions, a new structure, without investing in the marketing side and the computer side, making market studies and so on. A small company like Canada West cannot afford that if it only has the capital just to have the reserves needed by the policies. So that's why Canada West – which was taken over by AGF, an international group, last year – now can be supplied with new, additional funds to support this growth in Alberta, and naturally this funding can be made through issuing of shares. That is why we were really embarrassed by this limit of \$2 million.

To give you an idea of what we need, if we consider the long-term horizon – three years from now, for example – probably Canada West will need something like \$8 million to \$10 million more in capital. That's to give you an idea of the additional funds Canada West requires within three years. So that's why instead of keeping very small capital and putting all the money in the surplus, I think it's a good thing to balance the part that is under the [inaudible] of capital, under policies and other surplus. So those are the main reasons why we absolutely need this, the possibility to go further, and as I mentioned, within three years that's probably between \$8 million and \$10 million we'd have to put in.

MADAM CHAIRMAN: Thank you very much.

Mr. Rowand, did you have any closing comments?

MR. ROWAND: No, Madam Chairman.

MR. M. CLEGG: Madam Chairman, a couple of brief comments. First, with respect to the capital, just to complete the record, the present provision does allow the company, without any amendment here, to increase their capital to \$5 million. The present wording provides that. However, I appreciate what Mr. Gaumier has said, that they would anticipate having to go up to \$8 million or \$10 million. The other point I'd just like to

mention very briefly: Mr. Rowand has pointed out that the Insurance Act has been re-enacted recently, and what was section 174, mentioned in the explanatory notes, is now section 181, and perhaps at the same time we might incorporate a change of reference, as a very minor point, to update that reference. Although there is a provision in the Interpretation Act that if a provision is repealed and replaced, the references to it are deemed to be references to the new section, I think it would be convenient to change that reference by an amendment to the Bill. I can research it and make sure it's the same, that that is the new number, and I'll discuss that with Mr. Rowand if the committee's agreeable.

MADAM CHAIRMAN: Is the committee in agreement?

HON. MEMBERS: Agreed.

MADAM CHAIRMAN: Well, thank you very much for appearing before us this morning. As I said, we will be making a report to the Assembly, and we'll notify you of that report. Thank you very much.

Committee members, we've just had a note passed to us from Ms Hodgson's office, I gather. Mr. Clegg, do you . . .

MR. M. CLEGG: Well, Madam Chairman, their office has telephoned in. I'm not clear what the situation is, but it just says: shall she still come? She was due at 10 o'clock. She is waiting for our . . .

MADAM CHAIRMAN: This is the lady who was to make presentation on behalf of Bill Pr. 3, and I gather she has not arrived. What is the wish of the committee? Do you wish to reschedule this petition for a later date?

HON. MEMBERS: Agreed.

MADAM CHAIRMAN: Thank you very much. Could I have a motion for adjournment then, please? Thank you very much.

[The committee adjourned at 10:57 a.m.]

