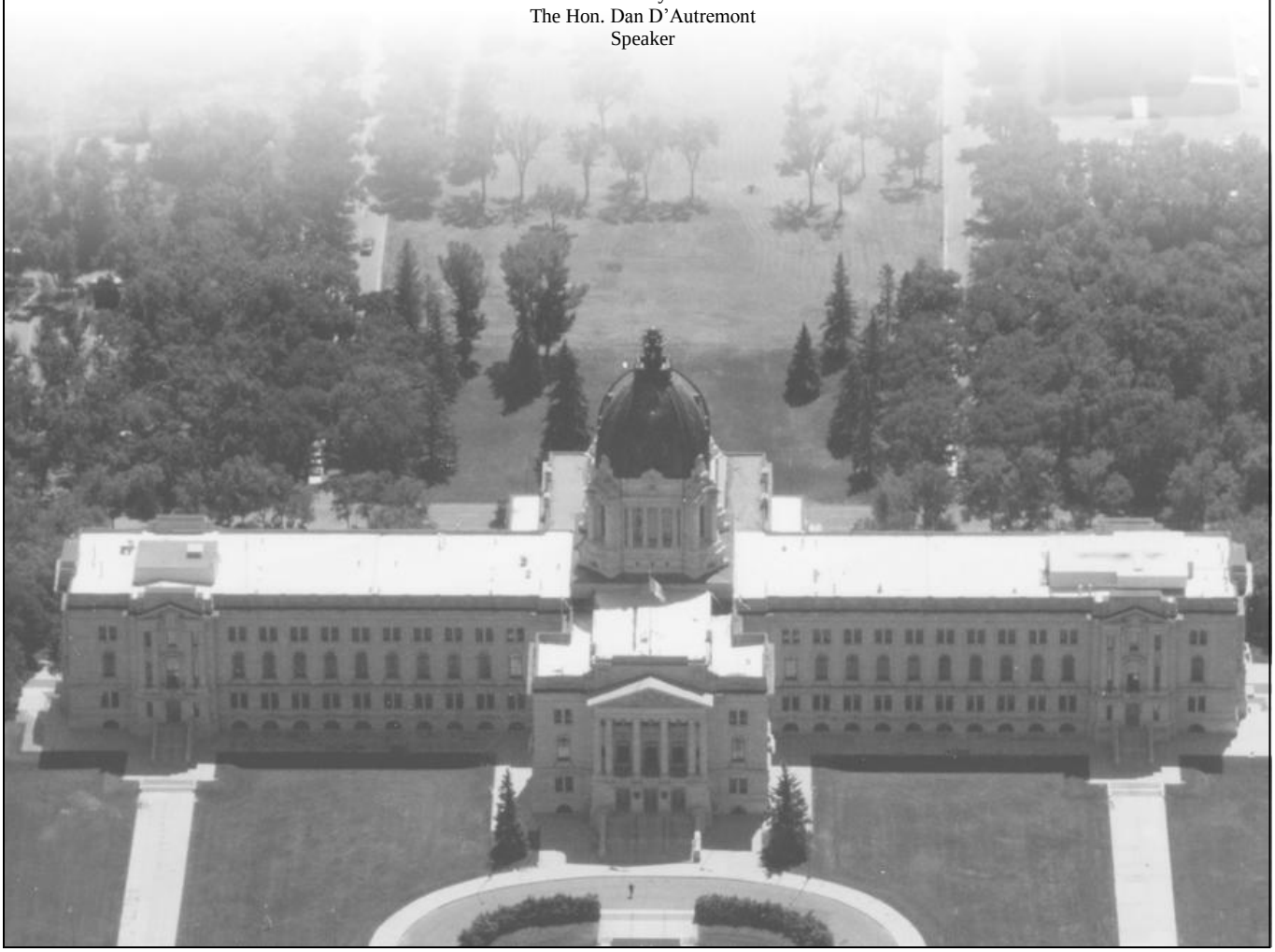
SECOND SESSION - TWENTY-SEVENTH LEGISLATURE

of the

Legislative Assembly of Saskatchewan

DEBATES and PROCEEDINGS

(HANSARD)
Published under the
authority of
The Hon. Dan D'Autremont
Speaker



N.S. VOL. 55 **NO. 15B TUESDAY, NOVEMBER 20, 2012, 7 p.m.**

MEMBERS OF THE LEGISLATIVE ASSEMBLY OF SASKATCHEWAN

Speaker — Hon. Dan D'Autremont
Premier — Hon. Brad Wall
Leader of the Opposition — John Nilson

Name of Member	Political Affiliation	Constituency
Belanger, Buckley	NDP	Athabasca
Bjornerud, Bob	SP	Melville-Saltcoats
Boyd, Hon. Bill	SP	Kindersley
Bradshaw, Fred	SP	Carrot River Valley
Brkich, Greg	SP	Arm River-Watrous
Broten, Cam	NDP	Saskatoon Massey Place
Campeau, Jennifer	SP	Saskatoon Fairview
Chartier, Danielle	NDP	Saskatoon Riversdale
Cheveldayoff, Hon. Ken	SP	Saskatoon Silver Springs
Cox, Herb	SP	The Battlefords
D'Autremont, Hon. Dan	SP	Cannington
Docherty, Mark	SP	Regina Coronation Park
Doherty, Hon. Kevin	SP	Regina Northeast
Doke, Larry	SP	Cut Knife-Turtleford
Draude, Hon. June	SP	Kelvington-Wadena
Duncan, Hon. Dustin	SP	Weyburn-Big Muddy
Eagles, Doreen	SP	Estevan
Elhard, Hon. Wayne	SP	Cypress Hills
Forbes, David	NDP	Saskatoon Centre
Harpauer, Hon. Donna	SP	Humboldt
Harrison, Jeremy	SP	Meadow Lake
Hart, Glen	SP	Last Mountain-Touchwood
Heppner, Hon. Nancy	SP	Martensville
Hickie, Darryl	SP	Prince Albert Carlton
Hutchinson, Bill	SP	Regina South
Huyghebaert, D.F. (Yogi)	SP	Wood River
Jurgens, Victoria	SP	Prince Albert Northcote
Kirsch, Delbert	SP	Batoche
Krawetz, Hon. Ken	SP	Canora-Pelly
Lawrence, Greg	SP	Moose Jaw Wakamow
Makowsky, Gene	SP	Regina Dewdney
Marchuk, Hon. Russ	SP	Regina Douglas Park
McCall, Warren	NDP	Regina Elphinstone-Centre
McMillan, Hon. Tim	SP	Lloydminster
McMorris, Hon. Don	SP	Indian Head-Milestone
Merriman, Paul	SP	Saskatoon Sutherland
Michelson, Warren	SP	Moose Jaw North
Moe, Scott	SP	Rosthern-Shellbrook
Morgan, Hon. Don	SP	Saskatoon Southeast
Nilson, John	NDP	Regina Lakeview
Norris, Rob	SP	Saskatoon Greystone
Ottenbreit, Greg	SP	Yorkton
Parent, Roger	SP	Saskatoon Meewasin
Phillips, Kevin	SP	Melfort
Reiter, Hon. Jim	SP	Rosetown-Elrose
Ross, Laura	SP	Regina Qu'Appelle Valley
Sproule, Cathy	NDP	Saskatoon Nutana
Steinley, Warren	SP	Regina Walsh Acres
Stewart, Hon. Lyle	SP	Thunder Creek
Tell, Hon. Christine	SP	Regina Wascana Plains
Tochor, Corey	SP	Saskatoon Eastview
Toth, Don	SP	Moosomin
Vermette, Doyle	NDP	Cumberland
Wall, Hon. Brad	SP	Swift Current
Weekes, Hon. Randy	SP	Biggar
Wilson, Nadine	SP	Saskatchewan Rivers
Wotherspoon, Trent	NDP	Regina Rosemont
Wyant, Hon. Gordon	SP	Saskatoon Northwest

[The Assembly resumed at 19:00.]

EVENING SITTING

The Speaker: — It now being 7 o'clock, the House is reconvened.

ADJOURNED DEBATES

SECOND READINGS

Bill No. 54

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Wyant that **Bill No. 54 — *The Seizure of Criminal Property Amendment Act, 2012*** be now read a second time.]

The Speaker: — I recognize the member for Saskatoon Centre.

Mr. Forbes: — Thank you very much, Mr. Speaker. It's great to be back. It's great to have this audience. It's great to be on TV at 7 o'clock talking about something very, very important. What a crowd. What an audience. It's great to look out and see people's smiling, happy faces to be back at work, talking about their legislation.

So I am happy to be talking tonight about Bill No. 54, *An Act to amend The Seizure of Criminal Property Act, 2009*. And this one is a significant one because, you know, Mr. Speaker, as I said earlier, we have to have confidence in our judicial system, and clearly when they introduced and passed the bill, *The Seizure of Criminal Property Act, 2009*, they found that there were challenges that they had to address. And so that's what we are here doing tonight and over the next few weeks and into the spring, looking at the amendments so that the Act can carry out the intentions of what it is. And really that is to enable the forfeiture of criminal property that will either be used in a criminal activity or property that was acquired through criminal activity.

And this is not a small thing. This is quite a significant thing, Mr. Speaker, because clearly as we see more and more activity, particularly around organized crime, we can't let that go. We can't turn a blind eye to that omission that had existed before that allowed a significant amount of economic activity to be carried on through various means of criminal activity. You know, as the face of that kind of activity has changed over the years, but as I will talk about later in my speech, it really hasn't either. In fact, it goes back hundreds of years. It goes back hundreds of years and clearly we need to make sure that the justice system seems to be pursuing those who have profited from criminal activity. And this is one way of doing that.

Of course it's not just a clear-cut case. We have to ensure and there are critics of this type of process by Justice because you have to make sure that you protect the rights of those until they are proven guilty and that they've exhausted all their appeals. And sometimes in the case of some of the properties that are seized or about to be seized, there is a time factor. And clearly this is what we've talked about. One of the amendments talks about extending the period of time that the director can apply before the courts from 30 days to 60 days.

But as I said that sometimes there are those, and rightfully so, to make sure that justice is a balanced process, that we do protect the rights of those who are innocent, and we also protect the rights of those who unknowingly and unwillingly got caught up in something that they were unaware of and then found out that they were part of some process that they were able to acquire property. And so you have to protect that, and we have to make sure that all those bases are covered. So clearly this, as I said, is an important one, and you clearly don't want to have any unintended consequences.

So, Mr. Speaker, I want to go through some of the processes here because I think it's important that we spend some time talking about this Act tonight. I know it's one that . . . I was here in 2009 when the major piece of legislation was passed, but it's time that's well spent if we can review what got us to this place. And we can all benefit from that because what we want to do is make sure we have a good, solid, rigorous debate about this and then when we go to committee we can ask those specific questions and determine whether or not there needs to be more work done on the Bill. But tonight what we do is the debate, and I hope I can contribute in some way to the understanding of this.

And as I said, it's just really important that we think about this as part of the justice system. We think of what we try to do when it comes to criminal activity. We think about deterrents. What is a deterrent that will make criminals think twice before they continue with their ways? That if it leads to the seizure of their house, their cars, their property that before was shielded or was unreachable or untouchable but now isn't, will be a deterrent, and I think that's a good thing. And of course as well, a sense of punishment that the law will reach you no matter where you are, and if you've benefited from criminal activity that the law will make sure that rights are carried out and that you will not be able to keep those that you've benefited from.

But as I said, the seizure of property is not a straightforward thing. There's whole issues around ownership. Who owns the property? Is it clear, direct so only one person owning it? Are there multiple people owning it? And sometimes there's even mortgages involved, so credit unions, financial institutions are involved unknowingly, and their interests have to be protected as well. And the original bill that was passed in 2009 does address those things and will continue to do that.

So, Mr. Speaker, I want to review some of the pieces of information that I've been able to gather because I do think it's an important topic and we need to spend the time. And the folks at home, you know, they're wondering, what are the issues before the House this fall? What are the important concerns that are brought forward? And clearly this is one, and they want to make sure that we're being . . . keeping up to date, keeping legislation current, and that no rock will be left unturned so that we make sure we get our work done.

So, Mr. Speaker, as the government website talks about:

> *The Seizure Of Criminal Property Act, 2009* provides that property that is acquired, directly or indirectly, as a result

> of unlawful activity or that is, or has been, used to commit a crime may be seized and, when appropriate, sold by an order of court.

Because it's not in the interests and it's not in the business of the courts to maintain property. It's to liquidate the property, get a financial settlement, and then proceed with that. And I will talk about that in a few minutes. I've been able to print off the financial statements for the year ending March 31st, 2012, and I'll talk a bit about that later on because it is interesting how the fund, the forfeiture fund has been growing and what is it used for.

And, Mr. Speaker, the seizure of the property by the province is intended to prevent crime by taking away the proceeds of crime so they can't be subsequently used for further crime. Property under the Act includes both real and personal property and any interest is real or personal property. So it covers the whole gamut of what might be confiscated and what the purposes are. It's to stop crime and to stop any further uses in crime.

Now the Act provides that a director appointed by the Minister of Justice and Attorney General may apply to the Court of Queen's Bench for a forfeiture order respecting property located anywhere in Saskatchewan. The director then applies to the registrar of titles and to the personal property registry to register an interest in that property. This ensures that an innocent third party is not affected by the forfeiture processes. The people with an interest in that property have an opportunity to be heard prior to the property being liquidated. So there is a process and it's a clear process and it protects those third parties that find themselves caught up in this kind of process. And whether it's a bank or a credit union, a family member, there is a process for them to protect their interests. So this is important that we have this kind of thing in place.

The director may apply to the court for an interim order to ensure that the property that is or may become the subject of application for a forfeiture order is not wasted or disposed in anticipation of that order. So they don't go and sell the house or sell the car, thinking that it's better to get the cash and move the cash somewhere else so that there is a way to act quickly and in response to this.

And so, for example, this page talks about the court may make an interim order authorizing the director to investigate or list the property in an inventory, an order for search, seizure, an order for delivery, safekeeping of the property.

So it goes through all of this type of thing and it talks about the processes that happens that the court will make . . . shall order a forfeiture of the property and make a protection order to protect third parties who have an interest in the forfeited property, holders of the prior registered interest of the property. And they talk about banks, financial institutions. In fact the Canadian government's co-owners or owners of property who were unaware of the criminal activity are entitled to the protection order.

And so it talks about what happens here. And then the Act establishes a Criminal Property Forfeiture Fund to hold all money received through the property forfeited to the Government of Saskatchewan. And that property is subject to an interim order.

And then what this happens with this is that under the direction of the Minister of Justice and the Minister of Corrections, Public Safety and Policing, it may be distributed to the police operations and to the Victims Fund under section 6 of *The Victims of Crime Act, 1995*. And so, Mr. Speaker, it's interesting. I pulled down off the Internet the financial statements for the criminal property fine forfeiture fund because it's interesting to know, how much money are we talking about here? What is the extent of the fund, and how much money have we got in that account? And so tonight might be a good night to be talking about that.

And of course, there's the audited statements. The Provincial Auditor has signed off, and in her opinion the financial statements present fairly the financial position of the Criminal Property Forfeiture Fund as at March 31st, 2012. And it seems to be relatively straightforward when I looked through it. I don't see any glaring things that jump out at me.

But these are the numbers that I think that members may be interested in for the year ending March 31st, 2012. The revenues for the . . . in 2012, the forfeitures were $750,000. Three-quarters of a million dollars. That's a significant amount of money, $750,821. Out of that we also were able . . . The fund got about $4,800 awarded costs and the interest about 2,500. So we're talking about total revenue for the fund was, for that year, 758,000.

The previous year it was 44,620. So there must have been some significant activity, because they gathered more than $700,000 in forfeitures. So clearly as the expertise is built up, that they're being more effective in their forfeitures processes.

It would be interesting to know how many they felt that they didn't get or how many people got away, and that's why we have the amendments today. Because if I were to read this only I would say, boy they're pretty effective. But clearly the police feel they could be doing better. The director feels he could be doing better, that some are clearly not happening.

But I assume, you know, we're talking about houses. We're talking about cars. We're talking about other properties that may be of significant value. And so it's not, I don't think it's totally unusual to hear a number about 750,000. But it would be interesting to know more about that, and maybe that's something that we could ask the minister in terms of some written questions. What exactly have been the lists of forfeitures that have been established?

The expenses: the commissions, about $10,800; legal fees, 2,400; some registration fees. The biggest thing is property management, and of course this is something that every government wrestles with. You've got to rent an office space. And the office space rental, it looks like the property management is $225,000. So clearly a bit of an expense. So that's the expenses for the year.

I am curious to know, what about the staff, if there's any staffing costs involved. Or is the director part of the Ministry of Justice and there's not really any extra cost?

So the surplus for the year is 512,000. At the end of the day, it looks like they have over a half a million dollars.

[19:15]

Now what I am interested in hearing is what did they pay out in terms of . . . And I don't actually see any claims yet being paid out, and I don't know why that is and whether it's because it's a relatively new fund and they haven't been able to establish that. They do need to establish the fund, and so they can't be going into debt. And of course what they do talk about is how this will be split evenly between police operations and to the Victims Fund. Now it doesn't say that the total amount will be split evenly, but that whatever the Victims Fund gets, it sounds like the police operations will get.

So that's an interesting way, and I think that clearly they have done a good job of accounting for this and it raises . . . I think when we get into committee it will be a good discussion about, what have they claimed? What have been the major claims under the forfeitures? What major forfeitures have occurred to date? And that will be of a lot of interest.

I know, for example, the government did do a news release and this was back in April, April 23rd, 2010 when they actually did their first . . . And the headline says, "First success under *The Seizure of Criminal Property Act, 2009*." And I'll read this: "The Saskatchewan Ministry of Justice successfully completed the first application for forfeiture of property used in the commission of a crime."

Now this one was a relatively small one, Mr. Speaker: "The property forfeited was $2,290 in cash and 3 cell phones." So that was a first success and now they're up to $750,000, so there must've been some big catches in between. But to get $2,200 they feel was a success. It was "used in the operation of a drug trafficking scheme known as a 'dial-a-dope' operation," and the fact that "this application is a separate case from the prosecution of the actual crime." And this was actually prosecuted under the federal Department of Justice.

And actually the minister of Justice at the time, the member from Saskatoon Southeast, was quoted as saying that, "Even though it is a relatively small amount of money and the value of the cell phones is not high, it is the first test of the new legislation brought in last year. This legislation gives us the right to seize larger ticket items, like houses and expensive cars."

So you can see that that's how we can get up to $750,000 if that's what they were able to raise through *The Seizure of Criminal Property Act*. But the question really becomes, here we are tonight and we're talking about this but . . . And this is actually, it seems like the Justice department is actually focusing in a big way on this.

This is a news release from last year, May 13th, 2011: "Saskatchewan to share information on criminal property forfeiture cases with other provinces." And this is an agreement with six other provinces to share information related to seizing the proceeds of crime. And of course the member from Saskatoon Southeast, the Justice minister at the time, felt that this was an important thing to make it a level playing field right across the province.

The other jurisdictions participating under this agreement are British Columbia, Alberta, Manitoba, Ontario — essentially everybody west of Quebec — New Brunswick and Nova Scotia. The provinces that weren't included, looks like, were Quebec, Newfoundland, and Prince Edward Island. I'm not sure what's happening there. We know that Quebec has a different kind of judicial system, and I'm not sure if we were able to dovetail with theirs or what the issues were.

But it goes on to talk about "In Saskatchewan, civil property forfeiture is covered by The Seizure of Criminal Property Act . . . [and it's] intended to seize the proceeds of crime so they cannot be used to further criminal activity." And so the minister at the time goes on talking about how it's important to ". . . strengthen the joint efforts of provinces to enhance the safety and security of our communities." But what is interesting in that is talking about how it's important to make sure the legislation is correct, is strong, is rigorous, can withstand the challenges of lawyers, and if it's not, then we have to go back to the drawing board. And of course that's why we're here tonight and then the next few months to talk about how we can strengthen that.

It's important that we do coordinate with other provinces, particularly when we talk of all the provinces west of Quebec, with Ontario, Manitoba, BC [British Columbia], Alberta, and Manitoba. That way there's some consistency and that we can make use of that. And as I said, it's really important that we make sure that our laws are seen to be effective and that people have confidence in our laws, and they're not seen to be weak and easily challenged. And people, especially when we talk about organized crime and the kind of abilities they are to make the money that they do, and whether it's through, as we talk about this dial-a-dope, drugs, illegal drugs, or other activities, it's really important that we can be able to make it a strong deterrent, that they will lose their houses, their cars, other valuable pieces of property and that the police will go after that, will go after that and be quick about it and liquidate it. And the assets will go to both further policing and to those victims who have suffered under the criminal activities.

I think this is an important aspect of our laws in Saskatchewan. And I think that it's critical that we understand this as fully as we can and that we don't take it lightly, you know. And I know that this is something that, as we've seen, it seems to be a relatively new phenomenon in the last decade or so or maybe even longer, but it seems when I look across the country that, whether it's Ontario and the work that they had done in the early 2000s, Manitoba in the mid-2000s, and then us in 2009, that it's important that we get it right.

I just want to review. This is another review talking about asset forfeiture, a form of confiscation of assets by the state pursuant to the law. And it typically applies to the alleged proceeds or instrumentalities of crime. Now some places call it confiscation instead of forfeiture, and although it's mostly used in the USA [United States of America], other jurisdictions have introduced this civil forfeiture legislation, including Italy, South Africa, Ireland, UK [United Kingdom], Fiji, most of the Canadian provinces, Australia, the individual states, Antigua and Barbuda. In addition, the Commonwealth has introduced model provisions to serve as templates, and that's important because

it's good for us to have those templates so the law can be consistent right across the country.

So it's important to do that, but as I said earlier that some civil libertarians feel that there's issues when there are greatly reduced standards for conviction and financial conflict of interest that arise out of this. But I think that we have to strike that balance and it's important to do so. I think that we cannot shy away from this. We absolutely cannot shy away from this. We cannot turn a blind eye to this and if we do, in many ways people would argue that we are only encouraging organized crime and crime that creates a lot of financial reward for those who should not be rewarded, who should not be rewarded. In fact they should be punished and know that we are after that.

So, Mr. Speaker, I think that it's important . . . We came across this review from Ontario, but it's very informative, and I think it would serve the people at home and members across the way to talk about civil forfeiture. Clearly we are on the same page here in Saskatchewan as they are in Ontario, so I think that it's important to review what is civil forfeiture, what does it mean in the history of civil forfeiture around the world, so we can clearly understand why it's important to do these amendments and why Bill 54 is important, why it's important to get it right and that we do send a clear message that we're going to be vigilant on this. We're going to make sure that there are no loopholes that organized crime or others can take advantage of and retain their significant financial rewards. And I think that would be wrong. That would be wrong.

So he talks about civil forfeiture. What is it? Well it's the judicial transfer of title to proceeds and instruments of unlawful activity through civil proceedings.

Now they talk about Ontario, and I imagine much is the same here in Saskatchewan, that civil forfeiture legislation focuses on the connection of property and unlawful activity. And the standard of proof required for this forfeiture is the same as all civil suits, a balance of probabilities. And we have to determine that and I believe, as I've gone through my reading, that that's what we look at for that.

Now in contrast, criminal law deals with people and their criminal liability for specific acts. The Criminal Code of Canada, the *Controlled Drugs and Substances Act*, and numerous other statutes contain provisions that allow for the seizure or restraint of tainted assets in the course of criminal investigation and provide for forfeiture on conviction. Other federal statutes also provide for seizure, restraint, and forfeiture through adoption of the Criminal Code regime. Criminal seizure, restraint and forfeiture apply to assets derived or obtained directly or indirectly from the commission of almost all criminal offences. So this is just one part of the tool kit, but a significant tool kit.

Criminal asset forfeiture is primarily conviction-based, meaning the Crown usually must first obtain a criminal conviction against an offender in order to seek a forfeiture order, and the Crown must establish on a balance of probabilities that the target asset arose from or was used in the commission of the offence. And so that's what we're talking about tonight.

Now interestingly, Mr. Speaker, as I said earlier, that while this may be seen to be relatively recent — it may be only a decade old or so — but as this writer describes, forfeiture law is based on, or built on one of the oldest concepts in law that dates back to the ancient Saxon law prior to the Norman Conquest of 1066. So it does go back quite a ways that criminals were not getting away with keeping the goods or the bounty of their criminal activity. People were making sure for over 1,000 years that that was not going to be the case.

But modern civil forfeiture law is now covered by statute in the same way as remedial property laws. Civil forfeitures are brought *in rem*, a legal action directed solely against the property, seeking a judicial finding that the origin of property lies in illegal activity or is being used as an instrument of unlawful activity. It's not an action against the person but against the property involved. So I think that's interesting, and we'd like to clarify that, if that's the case here in Saskatchewan because you're really after the property. The person has already been dealt with in the court of law and has been convicted and therefore that's not the case, that it's after the person but after the property.

Now this is an interesting paper because it talks about what happens in the United States, Australia, New Zealand, Ireland, United Kingdom, and reviews what happens in Canada. And I think it'd be worthwhile to just take a minute or two to talk about what happens in other parts of the world.

So in the States, these kind of forfeitures will have been part of the legal tradition for a long, long time. Initially forfeiture law was used to protect revenues coming largely from tariffs and to protect shipping from the threat of piracy. So we often, we do think about piracy. Of course in recent years we think of piracy around Africa, but of course, you know, we think of those days when piracy down in the Caribbean and that type of thing. And this forfeiture really stems back to, in the American tradition, to protection from pirates seizing property and being able to seize their property because of what is really derived from criminal activities.

[19:30]

So that's an interesting aspect that we're really talking about: old crimes that we think about in olden days when we're thinking now about new crimes and new times. But really we have to change with the times to make sure, at the end of the day, criminals are trying to acquire property, trying to distance themselves — particularly in organized crime — distance themselves from the direct activities of criminal activity and so that they're not seen to be . . . actually their hands are not touching the criminal activity, but we know it is. And this is how they're getting the property and sometimes fairly extensive properties. And so it's important that we go after it as hard as we can.

It talks about, in the later half of the 20th century, the US [United States] pioneered the use of legislation specifically to go after unlawful assets. Congress passed the racketeer influenced and corrupt organizations, or the RICO Act, in 1970 to deal with the rising organized criminal activity, and these laws at both the federal and state levels include civil remedies. That same year the US Congress also passed the *Comprehensive Drug Abuse Prevention and Control Act*, which

authorized the government to seize and ask the courts for a forfeiture of property used in connection with illegal drug activities.

In the late 1980s and early 1990s, Congress expanded forfeiture law and created the Department of Justice Asset Forfeiture Fund. So there you go, and that could be perhaps where we really were able to see what was happening and we needed to do the same. Proceeds from the sale of forfeited assets are deposited and subsequently used for victim restitution, as well as for law enforcement initiatives. So you see a parallel, a parallel to what we are doing here in Saskatchewan — the Victims Fund and police initiatives.

In 2000 the federal forfeiture laws were amended by the *Civil Asset Forfeiture Reform Act* to address specific issues, including the onus of proof with the government bearing the onus to prove, on a balance of probabilities, the property was used for illegal activity. In the US there are state and even local forfeiture laws creating hundreds of provisions.

Now what happens in Australia and New Zealand? Well criminal forfeiture has been in place in Australia since 1987. The state of New South Wales amended its forfeitures laws in 1990 to create a civil forfeiture regime for a range of unlawful activity. And more states followed with the federal government with the *Proceeds of Crime Act 2002*. This Act strengthened the existing conviction-based forfeiture scheme that was in the *Proceeds of Crime Act 1987*, and incorporated both the imposition of monetary penalty orders and the civil forfeiture of property used in, intended to be used in, or derived from crime. It goes on to talk about the *Proceeds of Crime Act 2002* further created a national confiscated assets account from which, among other things, various law enforcement and crime preventions programs could be funded. So they've expanded a little further, not just having a dual purpose, but a third purpose, that crime prevention initiatives could be funded as well.

Now that *Criminal Proceeds (Recovery) Bill* 2007 is currently before the New Zealand parliament and is expected to provide for a civil forfeiture regime for property and profits derived from significant criminal activity. So clearly, probably, most likely in the five years since then we would assume that they've passed that bill and it's now actually in place.

Ireland passed the *Proceeds of Crime Act, 1996* and created the Criminal Assets Bureau to implement civil asset forfeiture in response to the public calls for action to follow the murders of a police officer and a journalist investigating organized crime in Ireland. And Ireland now has one of the most successful asset forfeiture programs in Europe.

So an interesting trigger for how Ireland decided that it had to move on this and that they were going to do something about organized crime. And it was the murder of a police officer and a journalist that really moved that further, moved that ahead. And I think that, while it's tragic, that they really clearly got down to work and made sure that their civil asset forfeiture program was successful and met the target.

And again, it's about deterrents and it's about punishment. Clearly in Ireland they saw a situation where they needed to do something. They needed to do something and they did and it was successful. It would be interesting to know more about that. I mean it would be interesting to know, did it act as a deterrent to organized crime or are they just acquiring a significant amount of funds in their programs, and what are they using their program for?

Now United Kingdom, they have a *Proceeds of Crime Act 2002*, with amendments under the *Serious Organised Crime and Police Act 2005*, addresses the detection, recovery of criminal property under the overall supervision and control of the Assets Recovery Agency. The agency has the power to enforce its own civil forfeiture or tax cases and works to recover assets which are or represent property attained through unlawful conduct in England, Wales, Scotland, and Northern Ireland.

And again in 2007 they introduced it, and if it was passed and we wanted to create an agency called the serious organized crime agency, again it would be good to have an update to that to find out if that was the case.

So it talks about what's happening in Canada. Ontario set the precedent in Canada for doing this but British Columbia, Alberta, Saskatchewan, Manitoba, and I understand then Quebec, Quebec has since introduced or passed similar legislation. So, Mr. Speaker, then here's an interesting conundrum we have. If Quebec has this kind of legislation, why is it that they're not part of the six provinces that signed on? That would be a very, very important reason but maybe it's because of their court system. It's really important.

Ontario's *Civil Remedies Act*, formerly known as the *Remedies for Organized Crime and Other Unlawful Activities 2001*, came into force 2002, but it concerned itself only with civil matters at that time. And then it moved on to December 2005 with amendments to the *Civil Remedies Act* under the *Law Enforcement and Forfeited Property Management Statute Law Amendment Act* came into force.

And so they had a constitutional challenge June 2005, but it was dismissed, and the Ontario Superior Court of Justice agreed with Ontario's position that the Act regulated property and civil rights, the administration of justice in local matters which all fall within the provincial jurisdiction. So we have some strength that this actually is something that the provinces can be doing, and I think that's important.

As I said, that it's important that the legislation be as strong as it can be because, as you know and as we know, that the criminals with a large resource, financial resources can work hard to challenge laws that are set up to be a deterrent and punishments, and it's in their interest that if they can strike these down, they will. And so when we see that the courts agree that civil forfeiture of property does not infringe the Charter of Rights and Freedoms, it's an important ruling. And it's one that in Canada, I think that we think it should be a good thing. And as well then in May 2007, the Ontario Court of Appeal upheld the lower court's decision, and then the court also upheld the lower court's findings that the monies in that case were unlawful proceeds.

Now interesting, this is one that I found very interesting, Mr. Speaker, because it may be something that we want to think

about here in Saskatchewan. I don't know if the minister has thought about this or looked at what's been happening in Ontario. Maybe they have; we would have this question for him. But they have what they call the *Safer Roads for a Safer Ontario Act, 2007*. What happens here is it allows civil courts to impound and order the forfeiture of instruments of an unlawful activity, vehicles used or likely to be used by people who have two or more previous licence suspensions related to drinking and driving offences or who have continued to drive while their licence is suspended for drinking and driving.

So that's an interesting twist on this. It speaks specifically to driving issues and vehicles used in that circumstance. So while it could be maybe one that they would think is already covered under this legislation that we have, *The Seizure of Criminal Property Act*, in Ontario they wanted to go further, and they wanted to focus on vehicles that were used by drivers who should not be driving. And whether they've been suspended a couple of times or whether they've been caught drinking and driving more than they should be, I think that's an interesting idea, and maybe that's one that we can raise when we get to committee. Is this something that we want to go down that road, the *Safer Roads for a Safer Ontario Act*?

And you know, it is interesting because we've talked about this. And I talked about this in our Throne Speech response about the number of deaths in Saskatchewan on our roads and how we do have to send a clear signal that drinking and driving is not, it's just not acceptable and that those who will, will pay for that and as both a deterrent and a punishment.

And I think it's always interesting when we look across the world and across the country. What are other provinces doing? What are they doing to make sure people who engage in criminal activity get the message that it will not be tolerated? The police will come after you, and society will just not turn a blind eye but in fact think it's important to go after these people.

So what they did, they talked about how they renamed some of their legislation, and go on from there. So now Ontario, I mean clearly this is an Ontario paper. They talked about how they feel that they're a leader in this area now. And it's always interesting when you read a paper that's five years old. And now is it still the case today?

But what they did is they created the civil remedies for illicit activities office in 2000 to implement and enforce the *Civil Remedies Act*. And it's a way of dealing with its civil forfeiture and has a specialized team of civil lawyers who bring civil forfeiture proceedings to court on behalf of the Attorney General. So again I'm not sure what our office is called and how it's run, and this will be questions that we have during committee.

But it would be interesting to know if Ontario is still maintaining this. They claim that they're considered to be an international authority on civil forfeiture, and it regularly shares its expertise and best practices around the world including to the Philippines, Ireland, the UK [United Kingdom], Australia, Hong Kong, the United States, and South Africa, and it's offered assistance to other provinces in Canada. And it would be very interesting to know whether this is the case that . . . whether it is still the situation. And it goes on about working with the European Union and New York and the Caribbean and so forth.

So it's an important, it's a very important . . . It's very important that we understand what happens here. I mean I will talk about this. It's very interesting. This part, this could be like our, you know, the evening criminal news, what happens. We talk about in Saskatchewan where we have our dial-a-dope bust in that ring and we got $2,300. But Ontario case profiles and results . . . I'll just take a few minutes. We've got some time tonight. I wouldn't mind highlighting some of these.

But since November 2003, forfeiture proceedings have been launched in over 170 cases. 170 cases. So I think I'm going to go home tonight and write some written questions. I'd be interested to know how many cases we've launched here in Saskatchewan, what the nature of the crime has been, the criminal activity, how much the assets were involved. As of July 31st, 2007, $3.6 million in property has been forfeited under the Act and the province has an additional 11.5 million in property frozen under this Act pending completion of civil forfeiture proceedings.

[19:45]

So it's interesting — about 4 million in the fund and they have about 11 million, 11.5 million that's frozen because they're working it through the courts. Now I don't know how long it takes to go work its way through the courts, but up to 2007, 170 cases, 3.6 million in property forfeited, 11.5 million in property frozen, but almost $1 million distributed to victims. That's significant. About a third of the money and more than $900,000 awarded in grants to help prevent victimization. That's very important.

So I assume then that another . . . It'd be interesting to know how much the police initiatives got. But this is what happens in Ontario. It'd be interesting to know what happens here in Saskatchewan, and maybe we'll get those details. But 73 per cent of their cases have been related to drugs — approximately $500,000 in property including real estate, cash, guns, cars, grow operation equipment, has been forfeited to the Crown as proceeds or instruments of unlawful activity linked to marijuana grow operations. So that's interesting. I would like to know what happens here in Saskatchewan.

They have some case studies and I think these would be interesting for us, just to take a minute to go through because I think that it's interesting.

Forfeiture of King Street East crack house in Hamilton. So on March 28, 2006, a crack house at 193 King Street East in Hamilton, along with an associated bank account containing $10,000, was forfeited by the court order to the Crown. Police say the property, the former Sandbar Tavern, was the source of the crime, drug dealing and almost daily police calls for over 10 years. The building was the location of two crack-related murders, numerous stabbings and drug offences, including crack cocaine possession, use, and trafficking. According to police, neighbouring businesses and residents were plagued with crimes associated with the drug trade, including robberies, burglaries, and violence. And following the forfeiture of the

property, ownership was transferred to the city of Hamilton as compensation for victimization of the community.

So that's interesting that what they did in Hamilton is the city of Hamilton got the crack house. And I'm not sure what . . . It would be interesting to know what's happening with it today. But that's an interesting example of what can be done.

They talk about cash seizures. Almost $1 million in illicit cash has been seized under this Act. In 2006, $99,000 in cash was found in a rented car during a motor vehicle search by the Ontario police near Kirkland Lake, and it was forfeited to the Crown as proceeds. Another case, 120,000 was found. The bundled cash was found during a traffic stop and seized by the Ontario police. It was forfeited —$120,000.

So now what they talk about is that Thunder Bay is often seen as a mid-point for money to be exchanged for drugs from British Columbia. Very interesting.

And they talk about marijuana grow operation forfeited in Oshawa. This time it was . . . Police seized the grow op equipment, plants, and dried marijuana with a street value of more than 540,000. Now I don't think the police would then liquidate the seized marijuana. Would they go out and try to get the cash value of the marijuana? Probably burn it. And I think it's . . . Well it's worth a lot of money. I don't think they would actually get the value of the money. But it's really an issue.

And this is one, I mean it's interesting because they did seize the grow op, but they note that a grow op, current or past, can drastically lower the value of the property because of resulting electrical, plumbing, mould, and drywall damage. And this is something that we've heard. We've heard this from real estate agents. In fact I think probably the other side has heard this as well from the real estate agents, that when you have a house that's been used as a grow op, that is severely damaged for a whole host of reasons, not the least is mould in the walls. And this can be, as they say in this paper, totally unusable and maybe impossible to finance and insure.

So here in 2002 alone, grow ops were estimated to have cost Ontario nearly $100 million mostly due to electricity theft. It'd be interesting to know if SaskPower has done the same study here in Saskatchewan. How much have we lost because of electricity theft because of grow ops?

And so they talk about violence and around grow ops is a very real issue, and weapons, and all sorts of things. So 52 properties have been seized that are associated with marijuana grow operations and they're currently frozen under the Act.

Fraud is another big issue. Credit card fraud alone resulted in over 201 million to credit card companies, 70 million debit card fraud, and so on and so forth. So that's a big, big issue.

Now the other one — we haven't really got too much into this, but I know in BC it's a big issue, Ontario it's a big issue — that two cars have been seized and forfeited by court order under the Act as a result of street racing incidents. And naturally the cars were destroyed. And, Mr. Speaker, if you don't believe it, I have a picture here of the car being destroyed by the police. So they clearly weren't going to sell this street car to somebody else and get the . . . you know, to get the money. They did not want the car to exist. And it was the first time street racing cars were destroyed under civil forfeiture legislation. The York Regional Police had impounded cars after they had been stopped for speeding and dangerous driving in separate incidents involving street racing in 2003 and '04. But this time they had it with the cars and they were just going to take them out of commission and they had done that.

Gang house, clubhouse, gang clubhouses frozen. This was one in Oshawa. Hells Angels clubhouse. That was among other things allegedly used to sell alcohol illegally. I think that that's an interesting one.

It talks about the different grants and what they've used to use the money for: sometimes for fingerprint identification; Peel police Internet child exploitation unit; canine unit; vehicle to help locate missing kids and elderly people quickly.

So they are doing this and I'm sure . . . And it would be interesting for us to see, as we're starting out on this process, what we'd be using the funds. And as I said, now that we've got over $500,000 in our account and it's growing quickly, that we want to make sure that we're doing the right thing with it.

So as they look forward to . . . You know, they conclude by looking forward to where they would go with this and that the caseload has been steadily increasing. It's expected to continue as enforcement personnel from government bring forward more and more cases for civil forfeiture proceedings, especially in the areas of mortgage and telemarketing fraud.

So, Mr. Speaker, I think that it's an interesting thing to review what happens around the world, what's happening in Ontario. They seem to be leading the way in those concerns. And it's not just getting the money, but if it's getting property and how to dispose of that property, whether it's destroying street racing cars because you really can't sell them; you've just got to run them over with a big front-end loader. That's what you've got to do to take them out of commission, but that's what you've got to do.

And so I wonder, Mr. Speaker, if they allowed the people who had those cars to watch as they were being destroyed. That would be an interesting thing. That would hurt, watching your car being run over by a front-end loader and having nothing being done about that. That would be an . . . They've got pictures but did they actually, you know, who was allowed to watch this?

But it's an interesting solution and I think like what they did with the crack house in Hamilton — they turned it over to the city of Hamilton. I'm not sure what they're doing with it. But clearly it's a way of being creative to compensate society for the kind of things that criminals are doing. And we will not tolerate this. We will not turn a blind eye to this and I'm hoping that the minister has covered all the bases with this. And clearly in committee we'll be asking the questions to make sure that there are no more loopholes in this.

And we'd be interested to know some of the lessons we've learned from other provinces. Are they doing something around specializing in confiscating cars that have been used by people

who are habitually drunk drivers or driving without a licence? And will that be part of this process too? I think that's an important thing when we talk about safer roads in Saskatchewan. And that's something that we really do need to address in Saskatchewan. We've talked about the challenges that we have here that for some strange reason . . . And it's just something that we have to do as much as we can to stop the deaths and accidents that we have on our provincial highways, in our streets, in our cities. And whether you're driving or walking, this cannot be tolerated.

So I hope in some small way I've been able to add something to the discussion tonight. I think it's an important discussion that we have. I think that we want to make sure, as I've said, that it can be both a punishment for those people who have committed the crime but also to a deterrent for those who are thinking about committing a crime or to engage in a process, that Saskatchewan Justice will not stand idly by, will not turn a blind eye but in fact go after proceeds from a crime, whether they be real or property or whether they be used in the crime or as a result of crime.

People should feel rest assured though that if there are proceeds from a crime — and let's say it's a mortgage or an expensive car — that there is protections in place for those who are innocent third parties. And whether that be a financial institution, whether that be a bank, credit union, a family member, if there is proof that they did not knowingly participate in the crime or had anything to do with it, that there are processes in place.

But we will be asking questions about this. Clearly when you have an account of 500,000, and it's grown quickly from really essentially over just a few years, what is the plan? The auditor has given it a clean audit, and so they must be doing things well. We'd be curious to know about the staffing because clearly they talk about costs involved in terms of property management. I'm not sure what that is, and we'd ask more questions about that.

And I think that it's a good time to reflect. Over a couple of years this is what the minister has done. Well what are the problems? What can we do to make sure that all the bases are covered? And in fact in many ways if this is one more tool in the tool kit to fight crime as it changes over periods of time, as we said earlier from previous before 1066 to seizing the property of pirates in the Caribbean to the drug trade in our province here, dial-a-dope, I think that we need to do all that we can. But it's our job as the opposition to make sure we ask the questions for this and that there is confidence in the system that when you see these major crimes, or small crimes, that in fact that justice will prevail and that we will see that justice is carried out, and that's so critical.

So, Mr. Speaker, clearly this is an initiative that the government wants to see move forward and they see that they want to continue on. And I see the good things that have happened in Ontario and other provinces. We see the coordination between the six provinces across the western part of Canada. So this is important that we make sure we're able to cross provincial lines so that if there is criminal activity and if they think they can get away just by hiding in another province, that won't happen. That won't happen. We will ensure that the innocent are protected, but those that are not, we will go after them.

So with that, Mr. Speaker, I know that members here have many items they want to talk about tonight, and I know that they will have a lot to say about this bill and other bills. It's our job to do that. And so, Mr. Speaker, that the bill before us, Bill No. 54, *An Act to amend The Seizure of Criminal Property Act, 2009*, while it's a relatively straightforward one, there's some three pages, that I think it's important that we take some time to review all that it means and that we get it done right. And we won't be back here too many more times, but if we have to be, we will be with that. So, Mr. Speaker, I would move adjournment of Bill No. 54, *An Act to amend The Seizure of Criminal Property Act, 2009*. Thank you.

[20:00]

The Speaker: — The member has moved adjournment of Bill No. 54, *The Seizure of Criminal Property Amendment Act, 2012*. Is it the pleasure of the Assembly to adopt the motion?

Some Hon. Members: — Agreed

The Speaker: — Carried.

Bill No. 55

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Wyant that **Bill No. 55 — *The Consumer Protection and Business Practices Act*** be now read a second time.]

The Speaker: — I recognize the member for Saskatoon Nutana.

Ms. Sproule: — Thank you very much, Mr. Speaker. It is my pleasure to rise tonight to speak to Bill No. 55 which is *An Act respecting Consumer Protection and Business Practices, to repeal certain Acts and to make consequential amendments to other Acts*. So it's a long name. It's a long bill, and we'll just start at the beginning.

The minister indicated in his opening remarks to the bill on November 6th that this bill is attempting to accomplish quite a few things actually, and it's a fairly ambitious project. What I did first of all, Mr. Speaker, is I had to go back and look at the existing Act. And what I've discovered is that probably about two-thirds of the bill is actually not new; although it repeals the old Act and replaces it, about two-thirds of it has already been in place for some time.

What I've also discovered is that there were amendments made to other bills in the spring that are now being amended again, so it seems like this is an ongoing cleanup of a cleanup in some cases. On the financial . . . What's the name of the bill? *The Financial and Consumer Affairs Authority of Saskatchewan Act*. It's a new authority that was established by this government in the spring, and they're already making amendments to that bill. So you can see there's a lot of details here that appear the government is dealing with and getting caught up with and trying to look after all the issues related to consumer protection. The minister indicated he's looking to update and rationalize the framework for consumer protection

in Saskatchewan, and he's indicated this is a consolidation and simplification of the existing Act.

But before we get into that, Mr. Speaker, I just wanted to talk a little bit about consumer protection and where it comes from. And what I was immediately reminded of when I started thinking about this was going way back to my first year of law school, and in there we took a class called torts. It was a long, long time ago, in 1991 actually, Mr. Speaker, and it's certainly something I remember with great fondness. It was a good time, and we learned a whole heck of a lot about consumer protection. What happened with consumer protection back in the old days is that it was the courts who finally intervened because things were not fair for consumers.

I have an article here that I found from an Australian journal, and they talk a lot about the role of consumer law and why it developed as it did. Consumer protection has always become more necessary as we have more goods and services. As we consume more obviously, there are more reasons for protection, and the common law offered a lot of protection recently. But that's something that started really back in the 19th century.

So the explanation they have here is that consumer law came out of English law. If we look at before the industrial age when people were basically living in subsistence societies, in that case imagine most people, provided it was a close community where goods and services were provided within a very rural kind of community, people consumed far fewer goods than they do today, and obviously there weren't a lot of products to choose from. So if you could imagine, there was really . . . The only place to get milk was from the farm down the road, and maybe they made cheese there too. There could be some chickens and eggs from the farmer on the other side. The rule in those days was *caveat emptor*, which is buyer beware. And that's something that we've heard about a lot: let the buyer beware. So it's up to the consumer to make sure that they check that the eggs aren't broken before they buy them or barter them with some other goods.

There were very few laws in those days that had things like weights and measures. If you're going to buy a pound of cheese, was it really a pound of cheese? And we hear about expressions like a baker's dozen, and often in those days consumer protection was afforded through self-help and self-regulation by shop owners and guild's craftsmen. So people produced and sold their own goods, and they knew their customers personally. So they would go out of business if they offered poor services.

Now comes along the Industrial Revolution. And what happens now is that we have large-scale manufacturing of cheap goods, and certainly that hasn't stopped since the 18th century. What happens now though is instead of people buying from their neighbours, they're manufacturing products, receiving wages, and then they go and buy goods and services that people had always looked after themselves, like vegetables, meat, and clothing. If you're working in a factory, you're going to have to buy your food from somewhere else. And also at that time more products came available.

So what's happening then, we are now switching from subsistence to a mass consumption society. And still the concept of *caveat emptor* operated. So that means at that point if there was something that the consumer was treated unfairly by a seller, there was very little that the consumer could do about it, and that led to very unjust results.

Now at that point in time there was no government interference in the deals made between buyers and sellers. And the philosophy that they referred to here, and this is one that members will have heard of before, and it's the concept of laissez-faire. So in those days the concept was the government should not interfere in private negotiations between people. And it was a laissez-faire kind of arrangement — let things be as they will. Laissez-faire is a French expression that just means leave it alone, leave things be.

So at this point the courts had to start intervening, and there was various changes in the courts that brought more fairness to the relationship between the buyers and the sellers. And in fact in 1893 was a seminal year when the first *Sale of Goods Act* was passed in Britain.

The article goes on to talk about then the mass consumption society of the 20th century. And in the '50s and '60s, you will recognize the name of Ralph Nader. He was one of the leaders for safety of consumer goods and consumer safety and giving consumers greater bargaining power.

But one of the first things we can talk about here is the law itself and how it developed. And one of my favourite cases from first year law school in 1991 was in our torts class and it's the famous . . . It was the first case where consumer protection came into being and it's called . . . The case is referred to as *Carlill v. Carbolic Smoke Ball Co.*. And that was in 1893. And I'll just tell you the story of this particular case. It's the beginning of consumer protection in the courts. This is before the governments intervened in consumer protection.

So the Carbolic Smoke Ball Co. was an English company, and they made an influenza remedy. So they were saying, if you take our smoke ball, you won't get the flu. And in an advertisement it offered £100 to anyone who contracted influenza after using the product as directed. So Mrs. Carlill faithfully used the product in accordance with the directions, but she still contracted influenza. So she sought payment of her £100. And the company argued that there was no contract between Mrs. Carlill and itself because she had not communicated her acceptance of its offer to the company. In that case, the court found in favour of Mrs. Carlill. And that was the first time where the courts impugned that if you bought the services, in this case the carbolic smoke ball, that that was a contract and there was a legal relationship between the vendor and the purchaser. This was, as I recall from my early law school days, this was a revolution in the equity law and in the law of tort, and it really began a big change in consumer law over the years.

So at that point the governments at this point were still dealing with the laissez-faire: let the markets be as they will, let the buyers protect themselves, c*aveat emptor*. But there was great pressure on the governments to start enacting legislation to protect consumers because as you can imagine with the larger mass production and more distance between the vendor and the purchaser, the law really had to evolve and intervene. But still

in 1893, the thought that parliament taking a broader public policy role and begin legislating was not established. It was only in the 20th century when we start seeing that the courts and parliament started looking at the idea of consumer protection law.

So the article goes on to describe that when you get into the 20th century with lots of cars on the road, there's ways people can contract with others that can hurt each other and humans are having a bigger impact on each other than ever before and technology has taken a greater role, there still was a huge reluctance to change because the law of tort was based on moral duties. And the courts were really reluctant to open . . . There was a real floodgate argument. They didn't want to allow greater and greater claims to arise from these new laws that are applying to manufacturers, especially, if you think about it, duties that, you know, with the floodgate argument, these would spread across to consumers generally.

So there was another pioneering decision by the English courts to set the stage for consumer protection law for the rest of actually the 20th century. This is another famous law court decision that we learned in first-year law, and it's the court case called *Donoghue v. Stevenson* from 1932.

Now this is an interesting fact scenario as well, Mr. Speaker. In this particular case, it was a bottle of ginger beer, and Mrs. May Donoghue purchased this bottle of ginger beer. And what the problem was is that the bottle contained the decomposed remains of a snail which could not be detected because the contents of the bottle had not been consumed and the bottle was opaque. So she took a good swig of this ginger beer, Mr. Speaker, and what happened is she didn't see the decomposed snail, and she suffered nervous shock and gastroenteritis. So she had a serious stomach complaint, and it went on for quite a substantial period of time. And this was a classic case of a small consumer versus a large manufacturer. So this went back and forth in the courts, and it finally went to the appeal courts in England and it was . . . Finally at that time, the court said there was a duty from the manufacturers to protect these kinds of things with the consumers.

Then I think kind of . . . Everything kind of broke loose at that point, and we started seeing in the United States consumers becoming very litigious. And I think you'll hear stories of, you know, someone finding a worm in their hamburger at McDonalds and winning these huge court cases with huge awards. So again the courts kind of . . . You know, the pendulum swings back and forth. We see the courts going way far the other side. And now the parliamentarians come along, and they're going to create the laws that bring the balance to that.

There was another interesting case in Australia that I'll share with you, Mr. Speaker. This is 1936, and the case was *Grant v. The Australian Knitting Mills*. And what happened here in 1936, a Dr. Grant from Australia got damages for dermatitis that he got from wearing woollen long johns which he didn't wash when he bought them. And what happened is the manufacturer forgot and left some chemicals in his underpants, and he actually got damages for wearing his long johns without washing them. And we've all been told by our mother, Mr. Speaker, that when you buy new clothes, you should always wash them first. And that's probably the damages that we would all get if we didn't listen to what our mothers told us.

The member across is asking what kind of damages. In this case, we know there is actually financial damages that he received. We're not sure the extent of the physical damages that he may have suffered as a result of the woollen long johns and the chemicals that impacted him.

At any rate, consumer law has really changed more since the Second World War. As I said, society became much more litigious and people started going to courts to enforce their rights, and of course the word would spread as well, as people knew if you went to court you might have a good chance. And I think that's when you started hearing people say, I'll sue. I'll sue. And indeed I think that still continues to this day.

So there we have the background of a little bit of where consumer law has developed from those early cases where you have the carbolic smoke ball and the bottle of ginger beer with the decomposed snail in it — all very interesting fact scenarios and certainly leading to the changes that we see today. Governments now are much, much, much more involved in consumer protection.

The previous Act was 80 pages long, and this new Act that is a consolidation in many ways of the previous Act, is almost as long. It's 50 pages. This minister has, what he's done is removed a lot of the legislation and moved it into the regulatory authorities in the Act. So that's some of the changes that we see in this bill.

The minister indicated that one of the things they've got in the Act is a new part called designated activities and licensing. And by putting this new section in the Act, and I believe it's part VII. . . Yes, part VII in the Act, designated activities and licensing. And what this does is allow to consolidate a number of other pieces of consumer legislation, if I understand it correctly. So there's 12 other statutes in Saskatchewan that deal with consumer protection with different standards, enforcement mechanisms. And some of them are licensing Acts and contain licensing provisions. So what this bill attempts to do, if I understand it correctly, is to actually consolidate all the licensing authorities within this one bill, now *The Consumer Protection and Business Practices Act*.

So in that section, in part VII we see a definition of section 55, designated businesses. And that's where we have the authority now for the Lieutenant Governor in Council to make regulations to identify that this part, designated activities, ". . . applies to the whole or part of a trade, business, industry, employment or occupation designated in the regulations." So it's a very wide scope. I think that the Minister of Justice is attempting to incorporate all these other bills into this bill so that we don't have to deal with all the other pieces of legislation as a consolidation.

[20:15]

The licensing again, there's a whole division on licensing here and how these applicants will apply for licences, the type of financial security, how the licences will be issued, and how the licences are suspended when they expire, and a few

opportunities for individuals to be heard if they're refused by the director to get their licence or have it renewed or what have you.

Section 74 of this new Act has a long, long list again of the types of things the Lieutenant Governor in Council can make regulations for. And once again the concern that we have as legislators is when the government chooses to delegate decision-making authority to the regulatory sphere, we lose the opportunity as legislators to comment. And often it just shows up on our desks as a passed, done deal, and it's an order in council and it's already done. So there's not as much scrutiny. There's no ability to comment on those decisions when we take things out of legislation and put them into the regulations.

In this case the list is long. They go all the way up to probably over 20 different types of things that can now be in the regulations, including things like defining consumer — which is a big definition, Mr. Speaker, and that might be something that we would prefer to see in the legislation itself. That's the whole purpose of this protection. And so it's not clear to me why the Lieutenant Governor in Council would want to be able to do that in the regulatory sphere when this is of the actual definition of the Act itself. So that's a question we have.

It goes on to the types of things that they can make regulations now or that the Lieutenant Governor in Council can make regulations: deal with types of financial security that the business must have, the duties and obligations of those people in that business or the class of business, prescribing the rules governing the carrying on the business, or the experience or educational requirements required, the type and condition of premises, the type and condition of equipment, the conduct of people, the conduct of persons engaged in carrying on a designated business.

Now I'm not sure, Mr. Speaker, what kind of conduct we are talking about here, and certainly we'll have to watch for the regulations to see what kind of conduct is acceptable and what is not, given the new announcements we've heard today regarding activities related to liquor and gaming and that kind of conduct. We're not sure if those will . . . The designated businesses that were identified there will have to wait for regulations to determine what kind of conduct they can actually carry on. Different classes of licences, how the licences are, the circumstances in when they are going to require to file for financial security. There's a whole list of fees for licences, the length of terms of licence and so on.

So you can see that the opportunity for Lieutenant Governor in Council here is immense and the discretion that's being given in section 74 is wide. And I would argue, Mr. Speaker, that it's the same for section 75. This is the section where the Lieutenant Governor in Council can make regulations about registration — so who has to register, what kind of classes of persons have to register before they get a licence, what kind of registration scheme there will be, and all kinds . . . And then of course there's the usual dealing with any matter on which the Lieutenant Governor in Council may make regulations under the previous section for the purposes of the registration scheme.

So you can see this part VII actually is a fairly comprehensive part, and if I understand this bill correctly, what it does is it allows the part X to take effect. And in part X we see a number of consumer protection laws being repealed. We see *The Auctioneers Act* being repealed, *The Charitable Fund-raising Businesses Act* being repealed; *The Collection Agents Act*, *The Consumer Protection Act*, *The Credit Reporting Act*, *The Direct Sellers Act*, and *The Motor Dealers Act* are all repealed. So presumably all the requirements that were in those pieces of legislation are now being delegated down to the Lieutenant Governor in Council's regulatory authority, and that the minister responsible for this bill will then be responsible for ensuring that the consumers are protected in a standard fashion. And I think that's the attempt of the minister in this legislation.

So in his opening comments he indicated that this new part of the Act I just referred to is attempting to consolidate other consumer protection legislation. So the goal is for consistency of treatment and coordination of administration. Now you can see what these different activities, where things are being repealed, there was a big difference between *The Motor Dealers Act* and *The Auctioneers Act*, for example. So those all had their own personal characteristics and flavour and their own history. So we'll be needing to watch carefully if this bill passes, to ensure that when you try to put everything and treat everything the same, often cracks start forming in the standardization. So that's something we'll be looking to, the consumers and the protection of consumers, and the types of concerns and complaints that come out of this type of consolidation.

The minister went on to also indicate that: "The Act will allow for individuality of rules governing the businesses depending on the particular needs of the industry being licensed." So I wasn't able to identify exactly where that is in the Act, but I guess it will show through the regulatory schemes that are passed once those regulations come forward. Again, we haven't had a chance to look at those.

He also talks about consumer contracts. And typically, apparently, in *The Consumer Protection Act* there's five types of consumer contracts that . . . There was a long section in the previous Act dealing with the regulation of those contracts. The five types of contracts he refers to are Internet sales, future performance, personal development services, travel club, and remotely formed contracts.

And those are interesting. I just couldn't help but wonder why those five types of consumer contracts were singled out. But when I looked at the previous Act, I could see that there was long, long sections on those types of activities in the previous Act. So starting at section 75 in the previous Act . . . And these weren't passed all that long ago, Mr. Speaker. In fact, these changes appear to be . . . came to the Act in 2006 where there was a whole new section added on these five types of consumer contracts.

And so we're not sure exactly why the minister felt that they needed to remove them from the Act and delegate them down to regulation, but I guess the goal of the minister is to ensure that this new Act would provide a simple mechanism to allow the government to regulate other types of contracts. He indicated at this point that consultations haven't been undertaken yet, and how this is going to affect industry groups and consumers and business groups, legal profession and the

public. So again it's difficult to debate a bill in the absence of that type of consultation, but I guess we will have to wait until the bill is passed and see what happens when the regulations are brought in.

There is one other area in the bill that the minister indicated is a very small change but important change to the bill, and it's in relation to some cases that have come from the Supreme Court of Canada recently. And he said what they're attempting to do is "add clarification to the section of the Act that prevents contracting out of the protections of the Act." I wasn't able to locate that particular section. I've been through the bill and I'm missing it somehow, so I'm going to ask the minister to maybe provide some direction on exactly what section that is intended to be in, and once he's done so perhaps some of my other colleagues will be able to comment on that, because we're not sure where that change is.

Now he says that the "provision has been enhanced to ensure that standard form contracts cannot tie consumers into arbitration clauses or prohibit them from participating in class actions." So we're hoping that that's indeed the case and we certainly do not want to prevent people from participating in class actions because that's an important mechanism these days, again a new and developing area of law. The class actions in this day and age when there's mass production and mass purchasing, they seem to be an effective tool to help ensure that the sellers are behaving appropriately, Mr. Speaker.

So we will look more closely at that section and I look forward to some further clarification from the minister in terms of where that section is in the Act and what it's intending to do. So we want to make sure that the consumers are being protected here, and it's not entirely clear at this point whether that's been achieved by the proposed changes in this bill.

There's another small change allowing courts to have jurisdiction, which is entirely appropriate, and then the administration provisions. There's some . . . The enforcement administration provisions have been moved now to a part that applies to the whole Act and if I think I've . . . Not sure exactly where those are in the new bill because . . . I think it's the general matters and then offences and penalties. So it's near the end in Part IX of the Act. And what his indication there is that this will make it easier for consumer protection division of the new financial and consumer affairs authority to do its job. So presumably those are the types of provisions that will make the new authority be more successful.

And these are the types of things I think, Mr. Speaker, we're going to want to have more questions for in committee in particular, because these are fairly detailed questions and they are ones that are very technical in nature. So the minister's staff will be available at that time to help us sort through this and ensure that it is achieving indeed what the minister is hoping that this bill will achieve.

So I think at this point, Mr. Speaker, that will be probably the extent of my comments on this bill and at this point I would like to adjourn debate on Bill 55, *An Act respecting Consumer Protection and Business Practices, to repeal certain Acts and to make consequential amendments to other Acts*.

The Speaker: — The member has moved adjournment of debate on Bill No. 55, *The Consumer Protection and Business Practices Act*. Is it the pleasure of the Assembly to adopt the motion?

Some Hon. Members: — Agreed.

The Speaker: — Carried.

Bill No. 56

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Wyant that **Bill No. 56 — *The Court of Appeal Amendment Act, 2012*/*Loi de 2012 modifiant la Loi de 2000 sur la Cour d'appel*** be now read a second time.]

The Speaker: — I recognize the Opposition House Leader.

Mr. McCall: — Thank you very much, Mr. Speaker. And thanks to the fans over yonder, such as they are. It wasn't quite the table banging that ended the last speech, Mr. Speaker, but we'll see what we can do on Bill No. 56, *An Act to amend The Court of Appeal Act, 2000*.

Again, Mr. Speaker, in terms of as befits a piece of legislation dealing with the very fundamental legal institutions of this province, happy to see that this particular piece of legislation is brought forward, both in an English and a French rendition, Mr. Speaker. And it's again, as you would hope with the amendments being brought forward around Court of Appeal legislation, so it should be, Mr. Speaker.

But just going through the notes for the piece of legislation and the particular items in the legislation itself, the bill sets out to do a number of things. Of course, Mr. Speaker, first of which, well there's the new section 5.1 being brought in, added after section 5. And under judgment by a former judge, you've got:

> **5.1**(1) A judge who resigns his or her office or is appointed to another court or otherwise ceases to hold office may, within six months after the resignation, appointment or date that he or she otherwise ceases to hold office, give a decision in an appeal or matter he or she heard while holding office, and the decision is effective as though he or she still held office.

And again, Mr. Speaker, in terms of what would seem to be a fairly reasonable approach to the fact that on the bench, as with many other sectors of this economy and in society, we've got people approaching the age of retirement where they want to move on to a different stage of their lives, but again, Mr. Speaker, in terms of how to best sequence that with the retirement and the matters outstanding before the court. So that one would seem to make fair sense, Mr. Speaker.

[20:30]

> **5.1**(2) A judge who is appointed to another court may continue with the hearing of an appeal or matter of which he or she was seized, and the jurisdiction to hear the appeal or matter and give a decision is effective as though he or she still held office**".**

Again dealing with the fact that you've got different judges being seconded off to other courts and again not interrupting the due process under proceedings as relates to proceedings currently under way.

Moving on to section 15 being amended to the following, wherein:

Subsection 15(3) is repealed and the following substituted:

The new (3), Mr. Deputy Speaker:

"(3) Subsection (4) applies in the following circumstances:

(a) an appeal or matter has been heard and is standing for judgment; and

(b) one or more of the judges who heard the appeal or matter:

(i) dies before the decision is given.

(ii) is, because of illness or for any other reason, unable to participate in giving the decision; or

(iii) resigns his or her office and is appointed to another court, or otherwise ceases to hold office and does not participate in giving the decision as allowed by section 5.1.

Again, Mr. Speaker, in terms of ensuring the wheels of justice continue to roll despite these sort of circumstances that may arise due to death or illness or resignation or appointment to another court. This as well seemed to be a fairly common sense proposal, Mr. Speaker.

There's also a new sub (4) under subsection 15(3). So the new subsection 15(4) is:

"(4) In the circumstances mentioned in subsection (3), notwithstanding subsection (1) but subject to subsection 16(1), the remaining judges may give the decision, and the decision is deemed to be the decision of the court**".**

Again, Mr. Speaker, ensuring that the flow of these things is properly identified and rooted in the law and governing the Court of Appeal.

Moving on through the legislation, Mr. Deputy Speaker, section (16) is amended to the following:

Subsection 16(1) is repealed and the following substituted:

"(1) The court shall rehear an appeal or matter that has been heard and is standing for judgment if a majority of the judges who heard the appeal or matter:

(a) die before the decision is given;

(b) are, because of illness or for any other reason, unable to participate in giving the decision; or

(c) resign their office or are appointed to another court or otherwise cease to hold office and do not participate in giving the decision as allowed by section 5.1**".**

So in that case, Mr. Speaker, again it goes to decisions being heard by the whole Court of Appeal and those judges on the bench, and again extending that principle that is enshrined earlier in the legislation, in the amended legislation, so that again you've got an orderly proceeding of the matters before the court, and proceedings and punitive decisions not being put at risk for matters such as death, illness, or appointment to other benches, Mr. Deputy Speaker.

I guess one of the things that was interesting following the minister's second reading speech, Mr. Deputy Speaker, the minister had made reference to the allowances in most other provinces, referencing that the time period varies from 90 days to six months. To quote, "The six-month period contained in these amendments is consistent with British Columbia, Alberta, New Brunswick, and Newfoundland and Labrador." Again good to see these things brought in line with the best practice with other jurisdictions, Mr. Deputy Speaker. And again if we're going to have that justice not just being done but being seen to be done, it's pretty important to pay attention to what is best practice in other jurisdictions.

I guess some things I'd like to add alongside by way of observation on the importance of a bill like this, Mr. Deputy Speaker, in terms of ensuring that . . . I think we've discussed a number of times in this Assembly and in other forums, Mr. Speaker, the overcrowding that is taking place in our corrections system and the way that that negatively impacts the way that a correctional system is supposed to work in terms of not just being punishment on the one side for misdoings and crimes, Mr. Speaker, and being found guilty in a court of law, but also the possibility of rehabilitation. Or you know, we have a correctional system, Mr. Speaker. It takes its name from the idea of corrections — correction of a wrong path, correction of wrong choices, and the idea that you can get people on a better footing in their lives and equipped to make better decisions in their lives.

And if your criminal justice system is going to be operating appropriately, Mr. Speaker, you need not just a well-functioning corrections system in terms of the incarceration of individuals and, you know, the importance of that. You need a good police force, Mr. Speaker. You need good law. But you also need a good legal system. You need a good system in the courts, and you need a system that ensures that due process is being fostered and enabled by the resources available by ensuring that you've not got undue holdup in terms of the proceedings and that's, you've not got people spending undue amounts of time on remand because of disorganization on the part of the courts. And again, Mr. Speaker, in terms of seeing a piece of legislation like this coming forward, in terms of trying to make their allowances to ensure that orderly and consistent progress that needs to be there, you're going to have a justice system worth its name, Mr. Speaker. Something like this is very important.

And certainly we've seen in other jurisdictions, Mr. Deputy

Speaker, where the prosecution side of things or the court side of the equation is so screwed up that you have people spending undue amounts of time on remand and meeting with early release dates. And again, Mr. Speaker, it's not just a miscarriage of justice, but it's almost an anathema to justice, Mr. Deputy Speaker, where, you know, we can't get the court system organized. So you've got someone who's been charged and is awaiting trial, can't get to that trial, and then, you know, the people that are the, possibility the victims in this circumstance, the wrong that has been done, the individuals themselves not being held to account for justice denied, Mr. Speaker.

All of those things are a consequence of a court system that is not functioning properly. And we don't need to look too far in the West, Mr. Speaker, to see other jurisdictions where that kind of tragic circumstance is being carried out. And again I don't think tragic is too heavy a word to use, Mr. Speaker, because, you know, imagine for yourself if that was your circumstance, there'd been a crime done to you or your family and because the court proceedings couldn't get it straightened out, couldn't be organized efficiently and effectively, that eventually the case falls apart and the person, the person goes free without facing a day in court.

And again, Mr. Speaker, it's not alarmist. It's something that has happened through other jurisdictions in Canada right now. And again if you're not taking the kind of precautions that I believe this piece of legislation is partly, at least partially informed by, you're not going to have an effective, efficient functioning court. And if you don't have an effective, efficient functioning court system in your justice system, then other things suffer as a consequence.

So there are other questions on different aspects of that that I've touched upon tonight, Mr. Speaker. But in terms of the items in the legislation itself and again, in terms of that broader observation that I'd make around comparison to the experience in other jurisdictions and something that we definitely do not want to see in the province of Saskatchewan in terms of justice being denied as a function of an inefficient, ineffective, poorly organized court system, under-resourced court system. Those are things we do not want to see, Mr. Deputy Speaker.

I know that there's a greater job of consultation to be undertaken on this piece of legislation. I know that other of my colleagues are interested in participating in the debate on this bill, Mr. Deputy Speaker, and with that in mind I would move to adjourn debate on Bill No. 56, *The Court of Appeal Amendment Act, 2012*.

The Deputy Speaker: — The member from Regina Elphinstone has moved to adjourn debate on Bill No. 56, *The Court of Appeal Amendment Act, 2012*. Is it the pleasure of the Assembly to adopt the motion?

Some Hon. Members: — Agreed.

The Deputy Speaker: — Carried.

Bill No. 57

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Wyant that **Bill No. 57 — *The Condominium Property Amendment Act, 2012*** be now read a second time.]

The Deputy Speaker: — I recognize the member from Regina Rosemont.

[Applause]

Mr. Wotherspoon: — You know, Mr. Speaker, it's awfully special to receive that sort of greeting when I take the floor of this Assembly, Mr. Speaker. The side opposite's in good humour tonight. That's good. Hopefully they'll be open to some reasonable amendments as well, Mr. Speaker, as we speak constructively about the legislation before us here this evening.

Tonight it's my pleasure to weigh in to discussion as it relates to *Bill No. 57, The Condominium Property Amendment Act, 2012*. I understand this is a fairly broad bill with significant implications. I've read through the minister's comments. I've read the suggested aims of this legislation and the intended consequences that the minister's put forward. Some of the changes certainly seem to be reasonable in nature. It's been reflected by the minister that this has been accomplished through very broad consultation.

Part of our work, at this point in time as the official opposition, is in fact to make sure that that broad consultation has occurred and to listen to the stakeholders to ensure in fact that this Act, these changes in fact are making the improvements that are required and that there's not a whole host of unintended consequences being brought forward by a government that has in many cases pushed aside consultation and has pushed ahead with bringing forward legislation that has consequences that aren't in the best interests of Saskatchewan people and that have impacts for many stakeholders for whom should have been consulted. But in this Act here, as it relates to *The Condominium Property Act*, there's like I say a fair body of work on this front by way of consultation that we've done to date as well. And certainly it is reasonable to make sure that we're providing improvements for those living in condominiums, for those that are purchasing condominiums, and for those selling condominiums.

Recognizing that there's some — about four — different areas of specific change in this piece of legislation, I'll speak to each of those here tonight and of course bringing to the attention that we'll be working with stakeholders all across this province in inviting participation as it relates to this piece of legislation. And quite frankly some of the pieces that are touched do impact many people here in Regina, in Saskatoon, and in small communities, small communities and large communities all across this province

The first piece of legislation or the first aspect of this legislation revolves around consumer protection. And this adds several new protections for purchasers of new condominium units converted from apartments. It's an interesting piece because certainly there are many apartments that are converted to condominiums over the past so many years in this province, and it has created a hardship to the supply of housing in this province. And it seems in some ways that government's acting,

and I see some recognition that they now need to put some provisions in place to better regulate when conversions can occur and if they can occur.

[20:45]

My thought would be that this comes awfully late, after we've been in a very tight supply of housing, and many of those rental units that were on the market have in fact been converted, sold as units, and no longer available to provide the buffer within the rental market that we require. But because of the massive conversion of condos, we do have many individuals who have purchased those condos, and certainly they do have rights as well. And certainly we should make sure that we're fair in our laws that govern their property and that govern their co-existence with their fellow condo owners, and so I'm looking here specifically. I think there's some new protections that I would welcome around providing some protections for those that are moving into buildings that have shortfalls or inadequacies that weren't addressed upfront by the developer.

And I understand and I have heard personally from individuals who have moved into these sorts of units and then recognize that there's significant deficits that the building has from a common perspective, from a structural perspective. And these can be very significant costs that are then being incurred by, in many cases, new homeowners, new young families, those on fixed incomes, and typically being resolved by way of very large levies placed upon the owner of that property.

When many of these individuals that I've spoken with that have come across this challenge, many of them aren't in a position simply to access further financing by way of a credit line or expand their debt level. In many cases, a lot of the new young families that are purchasing these dwellings have in many ways maxed out their borrowing capacity, and so when they've purchased a unit, they certainly deserve the certainty and peace of mind that what they're moving into will serve them well into the future and that what they're buying is what's been sold. And I know on many, many fronts that just simply hasn't been the case and that there's many properties that have significant deficits, structural repairs that are required that have been masked in some cases by a developer and leaves a hardship on the owner.

And if you can imagine, Mr. Speaker, and picture, you know, a young family coming into a home that's worked hard to save that money for that down payment in a rental market that's really, really difficult, worked hard to save those dollars, finally moved into that new condominium that they might be speaking about here, and then all of a sudden realizes that they were sold a bill of goods by way of the structural integrity of that unit. And the next thing they know, they're dealing with a roof or boilers or other aspects of a building for which can be exorbitant costs. And spread across the units that are within the building, that can be a significant levy. And for many of these families quite frankly, Mr. Speaker, that have been stretched just to enter into that sort of housing and aren't in a position to start putting costs into something that they should have had provided to them as a certainty.

So I recognize that there's, by way of the minister's comment here, that "This Act is being amended to require a declaration from the developer describing the improvements to the common property that are promised as part of the conversion." As well, "The completion of these improvements is secured by a bond or a letter of credit."

So this is an example of where you come in, and you look at the brochure and it tells you, this is what you're going to be moving into. This is what we've committed to. And then you have all these young families or maybe seniors on fixed incomes moving in, Mr. Speaker, and then those improvements simply never coming along and the developer reneging on their responsibility, Mr. Speaker. And it might be as simple as some of the aesthetics to the building, but it might also be some structural aspects. And quite frankly if that's been a commitment of the developer, it's one that needs to be fulfilled, and certainly I support legislation that provides that to be achieved.

The idea of having a bond — so that's securing this by a bond and a letter of credit — seems to be a reasonable approach to making sure that those provisions are in place and that we provide some protection to individuals who, as I say, are reading the brochure and maybe read the MLS [Multiple Listing Service] listing and then move into a place, and simply the developer doesn't fulfill what's been promised to the individual, by way of a contract as well, Mr. Speaker. And that's where we need to recognize that these are contracts. These are contractual commitments, and they're now requirements I would hope by way of strengthening the Act and strengthening legislation. And this is a requirement that's going to need to be in place now, is my understanding, before units are going to be sold. That's important.

And further to that, a reserve study needs to be in place to a building. And this is actually something very important which provides a real sense of transparency to a potential purchaser or to a new homeowner, to a new condo owner, to understand the liabilities or lifespan of all the different structures and aspects of that building, whether it be the windows or the roof or the furnace or the electrical system, the flooring — all the aspects that are shared within a condominium which in some cases can be overlooked by a purchaser or dismissed by a developer. It is important to understand, by way of a reserve study, when these different aspects of the building are going to need to be replaced or maintained or improved and as well some allocation of what sort of dollars are going to be required to do that, and then of course a statement by way of the estoppel that would then state back to the owner by way of the board what sort of dollars have already been in place or what sort of regime is in place by way of setting aside dollars for a reserve fund.

So the idea of making sure a reserve fund or a reserve study is in place is very important. It provides a more fulsome picture of what a new homeowner, a new condo owner is getting into, understanding that the integrity of the windows or the structural integrity of the building or the boiler itself . . . and also understanding then its projected lifespan and the costs which then allows that owner to, or potential purchaser, to then look at the reserve fund plan and study to see if the dollars in fact are being collected to take care of that infrastructure to make those improvements that are going to be required. And if not, Mr. Speaker, it allows them the understanding that they are either going to be facing a building that's in a deficit position from an

infrastructure perspective and is going to require at some point significant levy upon its owners . . . And this can be a challenge because if owners don't have the dollars when you come to a levy, all of a sudden you're dealing with very, very difficult matters to resolve with these sorts of common properties.

I recognize that by way of the Act that these improvements have received support, have been built out of consultation with the condominium sector, with stakeholders. And this is something we'll continue to review and make sure that that's the case and making sure that these are as strong as they can be to make sure the protections of young families and seniors, condo owners, are being protected.

I recognize as well that there can be a challenge between owners within a common environment that a condominium presents, a whole host of different types of challenges that can present themselves. And I understand that this legislation aims to improve dispute resolution mechanisms available to condo owners and to condo boards. And I understand the minister has suggested that his office regularly hears from condo owners who feel that they've been treated unfairly by their neighbours or by the condo board, and certainly I'm sure that he does.

I can say that I've come across a couple circumstances of this nature and, you know, I would hope . . . And this is through our consultation that we'll gain a broader understanding of this. But whether or not, it would be my hope that this in fact does achieve a fair dispute mechanism process, a dispute resolution process for condo owners and a board because it is an important valve. And those can be stressed and strained environments. And they have complications that can be financial in nature, but they can also be social in nature. And in many ways, when you're blending relationships, stress, strain, financial, social harmony, these certainly impact one's piece of mind. And putting forward reasonable provisions to provide an opportunity for condo owners and neighbours and condo boards to resolve these matters is something that I see as important. It's going to be important for us to make sure that the tools this government's brought to bear are the most effective tools and reflective of what's been shared with them through consultation.

Another aspect that strengthens some of the dispute resolution mechanisms would be access to courts, and this is certainly an important tool to condo owners. And this is available to an individual, board, corporation, developer, or an owner, if someone is acting in an oppressive or an unfair manner and if it can't be resolved within a fair way within the condo board itself or from a local perspective. And this I understand would take Saskatchewan in line with the rest of Canada for the most part and would place us in the same place as other Canadian jurisdictions, which certainly seems a reasonable place to pursue, and it would certainly seem reasonable that individuals, developers, owners, condo boards should have access to the courts to resolve matters that can't be resolved otherwise.

There's other strengthening of some of the supports for those in condominiums by way of making sure that when dispute arises between the owners and a board as it relates to the performance of duties of the corporation and the board . . . And this is important for owners because in many cases they have a relationship with their condo board that establishes what common services will be provided, what level of maintenance, what level of care. And if the board is reneging on its responsibility, not providing its contractual responsibility as directed by the condo board and budget, then this provides some measures in dispute resolution for the type of conflict that can arise out of these circumstances. And this might be maintenance of common, shared hall space, or in some places in condominiums there might be a shared rec room of some sort, or there might be entries that are of shared interest and of common interest.

So all these different services and products that are of a shared nature would fall into this category. And again, certainly supportive of making sure that we're allowing these sorts of conflicts to be resolved in a fair way and as well making sure that there's mechanisms to do so that are effective.

Moving along and looking at just some of the other changes that have been put forward, there's also changes here that would allow for compensation to an owner in the circumstance that the condo corporation didn't fulfill its duties in a way that then caused damage to a unit. And I'm trying to think a little bit of the types of scenarios that that might be. Maybe that would be maintenance that might have to occur for maybe a fire protection system, Mr. Speaker. And I suspect that if there was a schedule of maintenance that was required to be delivered by the condo corporation to the fire maintenance system in a building, and that was failed to be fulfilled by the corporation and damage then was caused to an individual unit, then I believe it's certainly fair to make sure there's a mechanism that allows the owner to be compensated for the damage that's been caused by someone else's or the condo corporation's negligence.

And again this highlights the very nature of condominium living and the common space, the common interest. And of course I'm sure there can be great harmony in many circumstances, but I'm sure there can also be conflict in these sorts of circumstances. And there's a shared interest as well by way of a financial interest in these buildings and a level of maintenance, and so certainly it's understandable where conflict could sometimes occur.

[21:00]

A third area that's addressed in this bill and this legislation is around condominium conversions, and it's putting forward a regulation-making authority as it relates to condo conversions. And I would argue that this is a little late — more than a little late, Mr. Speaker — in bringing around some sorts of controls and protections of the rental supply that we have in the province in that in these very cases here, we've seen a lot of our rental stock over the past decade in fact be converted, be sold as condominiums. And it's placed a lot of pressure on the affordability of our rental market, on the supply directly. And we had an opportunity to be more strident as a government here in this province, and that simply hasn't been the case by the current government. At a time where we've seen this significant transformation of what were rental units turned into condo units, flipped, Mr. Speaker, it's created a very tight supply on housing.

And in a growing population, when you have a growing

population within the province, something we should be proud of, we should be equally proud of our ability to respond to it and to meet the needs of families and seniors and people all across the province. And housing is such a critical aspect, and without a doubt this is an area where this government truly has failed the people of this province, has failed to make the investments that are required to make sure that they're balancing off the housing supply and has failed to make those sorts of protections even where it doesn't cost government any direct dollars, which would be an example of providing more robust, stronger laws and regulations around condo conversions and protecting the rental stock that exists.

So I find this, you know, I don't quite have all the information as it relates to this new regulation-making authority to prescribe a rental vacancy rate. I understand that there's some reference that it will be linked to the surveys conducted by Canada Mortgage and Housing Corporation on a quarterly basis. But beyond that, we don't have a whole lot of information or how this will work.

What it does have is some broader statements around that it's aimed to provide additional criteria that could be added to the Act. And the flexibility that the new regulation-making authority will provide when concerns arise in the future have been welcomed, I understand, by some of the city administrators, as suggested by this piece of legislation. But I would certainly defer any statements that would summarize a position on this specific aspect until I'm able to engage some of those stakeholders and ascertain a broader understanding of what exactly is being projected or proposed by the minister.

But certainly providing protection of, better protection of ensuring that we protect our rental supply and don't have it easily converted and flipped to condominiums that are sold is something that's important, particularly . . . Well it should have happened a long time ago, but now this government is going at addressing some of the affordability pressures by building incentives to build out new rental units. But we want to make sure that those rental units that are being built out with some public dollar incentive by way of this government in fact will remain part of the rental supply and not simply built for 10 years for example, Mr. Speaker, and then sold and flipped as a condo, and at that point a loss for the rental supply. Because these are public dollars, public dollars that have been required in the building of these new projects that this government speaks of.

When I look at a few other areas here, we look at . . . There's some provisions around insurance. They seem to be reasonable in nature. They speak to ensuring that bare land is also insured. It speaks as well to make sure that corporations are required to carry directors' and officers' liability insurance, something that I understand has been important because in many condo boards, it's been shared with the minister that individuals have been reluctant to let their name stand for board positions because of a concern around subsequent liability that's then placed onto them by way of responsibilities of being on the condo board itself, assuming liabilities for the decisions of the board. And I understand that the provisions put forth by way of insurance in fact should alleviate these concerns and if they do, I think that sounds reasonable, but again I think this is something that we need to go out and do some broader consultation on.

I recognize as well there's some changes that will require standard unit descriptions to be built out for what is a standard unit and then what is separate from that, which would then be covered by the owner by way of improvements to that unit. And certainly that seems that that should be a clearer way of, a better understanding of what's insurable by the owner, what's insurable by the condo, condominium board.

And just pointing out, I guess, maybe just a couple of other aspects that have been highlighted in this bill that there needs to be, there needs to be the authority of granted or the approval of all owners before any common property or any service units are sold or divested or titles are changed. And that makes a lot of sense, Mr. Speaker, because if you're thinking about that, these are common spaces that when an owner has entered into contract by purchase of a property, they've had the full understanding that that's their common space, their common share of the building. And anything that would subsequently change that should require approval of all owners, and certainly seems to be something that would provide some protection and some peace of mind for condo owners.

And then there's some strengthening, it suggests, of making sure that bylaws can be enforced. And that's an area that I want to review in a broader context with stakeholders to make sure that the mechanisms that are suggested to enforce bylaws are reasonable and don't infringe on the rights of owners and that do reflect the consultation that we'll be having with a broad sector of those that are impacted throughout the condominium sector and residents and developers and owners, lawyers, right across the piece, Mr. Speaker.

So I think at this point in time what I would say is that we're going to require further information, both from the minister and of government, by way of what these changes mean, what the specifics are to some of the plans. We're going to be doing thoughtful consultation with Saskatchewan people in all communities with respect to this piece of legislation. I would argue that it's late in its arrival if its intent was to address condo conversions because that's been, in many ways that's been a very active market over the past few years. And we've had the loss of many, many rental units in this province that are now owned as condominiums. That being said, we certainly do support strengthening and improving the rights and protections for those owning condominiums in this province.

But you know, as well as we're looking at this, I wonder just how this connects as far as the sale of a rental unit as a condominium, how this connects to some of the incentives that the government's put forward to build out rental units right now. Because what I would hate to see is for those rental units to come online and serve as rental units for a short number of years, only to be flipped by the developer and sold and profited once again, and done so on the backs of the public dime, Mr. Speaker. I really do believe that if government and the public is placing dollars into incenting and ensuring the development of rental units, that we need some level of certainty and protection to ensure that those rental units will service well beyond a short few years, but for the lifespan of the building, Mr. Speaker.

So that gets us into the whole broader discussion around housing and with a government that really has failed Saskatchewan people to ensure proper housing balance in this

province, has really failed to make sure that affordability and accessibility is something that many can access. And we've seen significant declines. And it's too bad that we didn't see some of the provisions brought in place some time ago by way of some of the protections that renters deserve, or protections to make sure that rent supply is protected. And then certainly something that was required which was a subsequent investment back into making sure that we have true affordable and social housing in this province, when we have a government that truly does little more than tinker around with market affordability, is incenting the development of buildings that are often unaffordable by far too many in this province, Mr. Speaker.

And if this government truly does want to do something meaningful on the housing front, they have to be more innovative. They have to be more bold. They have to look for other solutions that will allow them to address true affordable and social housing, Mr. Speaker. And certainly roles of co-operatives and all sorts of mechanisms can be very important to this. But there's an active role that's required on behalf of government to do just that.

The bill also clarifies how tax assessments and enforcement proceedings apply to parking units. All condominium units and residential purposes for parking is something that's important to Saskatchewan people and condo owners, and certainly that's something that we'll be looking to make sure is appropriate. So at this point in time, Mr. Speaker, I will adjourn debate for Bill No. 57, *The Condominium Property Amendment Act, 2012*. It's been my pleasure to weigh in on discussion here this evening. Thank you, Mr. Speaker.

The Deputy Speaker: — The member from Regina Rosemont has moved to adjourn debate on Bill No. 57, *The Condominium Property Amendment Act, 2012*. Is it the pleasure of the Assembly to adopt the motion?

Some Hon. Members: — Agreed.

The Deputy Speaker: — Carried.

Bill No. 58

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Wyant that **Bill No. 58 — *The Workers' Compensation Act, 2012*** be now read a second time.]

The Deputy Speaker: — I recognize the member from Regina Elphinstone.

Mr. McCall: — Thank you very much, Mr. Deputy Speaker. I'm glad to rise in debate tonight on Bill No. 58, *The Workers' Compensation Act*. Now I know that others having participated in this debate have made the same observation that I'm about to make, Mr. Speaker. But in terms of the work you do as a Member of the Legislative Assembly, to be quite honest, some of the toughest work, some of the toughest casework that will walk through the doors in your constituency office, come in over the phone or by letter, quite honestly, Mr. Speaker, it's often related to workers' compensation and the functioning of the board and the challenge that some folks have had working their way through the process with the board in terms of making sure that injuries sustained on the job site, that they in turn are able to access the insurance that they have been paying premiums for under workers' compensation.

And you know, right from, even before I became a Member of the Legislative Assembly, Mr. Speaker, I can remember in, certainly in the by-election, in the nomination that led up to that, way back in the summer and fall of 2000, Mr. Deputy Speaker, talking to individuals that had some pretty, pretty horrendous circumstances that they're dealing with. And you know, there's not more than a few months would go by to this day, Mr. Speaker, where some of the most complex, demanding, often heart-rending casework that we deal with in the constituency office that is often very much related to workers' compensation and whether or not people feel they are getting a fair shake, and in some cases whether or not they are getting a fair shake from the Compensation Board, Mr. Deputy Speaker.

And I know you yourself, as a past Labour critic for the then official opposition and somebody that does a fair amount of work in the constituency, I don't want to make any suppositions, but I'm sure yourself and other members in this Assembly can relate in terms of again oftentimes the most difficult casework we face as MLAs, and some of it that is protracted and has gone over years, Mr. Deputy Speaker, is often related to workers' compensation.

[21:15]

Now I know that certainly there have been changes made over the years, sometimes piecemeal, sometimes more sort of thorough-going in nature. And certainly not long after I'd become a Member of the Legislative Assembly in February of 2001, there was a fairly significant set of reforms brought out and again trying to make sure that not only was the system seeking to act fairly on behalf of people but being seen to act fairly. But I know that in terms of even the evolution that has taken place in the earlier part of the last decade up to this day, Mr. Deputy Speaker, there would still be those that would say that in terms of the kind of oversight available to perform an ombudsman-type function, to advocate, you know, there have been some good advances made. Don't get me wrong, Mr. Deputy Speaker.

But in terms of, you know, where do people go for appeal if they disagree with the decision of Workers' Comp? How do you ensure that you've got somebody helping to navigate the system? And how do you really ensure that the medical professional advice that is being preferred is not just being recognized but is recognized as independent and directly related to the best medical health advice possible? Again, Mr. Speaker, in terms of being a compensation system or insurance system, there is oftentimes a fair amount of contention in terms of people don't always line up in terms of agreeing, in terms of the adjuster said this, and I'll have extra insurance. Oftentimes, Mr. Deputy Speaker, that in any kind of insurance system, that can be a difficult line to mediate.

And again, Mr. Deputy Speaker, that's not to say that time has stood still, that there haven't been reforms made, but to this day, there are different problems that kick up. And the different sort of checks and balances in the system are much appreciated,

Mr. Deputy Speaker, certainly. But I would venture to guess or venture an observation that in terms of incidence of cases related to WCB [Workers' Compensation Board] and the complexity of them, I think is still very much as complex as it ever was. But in terms of the frequency of them, Mr. Speaker, I think they diminished over the years, at least in my constituency office.

And again, I think that is hopefully a comment to a more responsive system, a more . . . again, not just a system that is practising in a fair and impartial way, but is seen and accepted to be practising in that way. So, Mr. Deputy Speaker, again what comes forward today is the latest raft of changes to be made to Workers' Compensation Board's legislation. And I know, Mr. Deputy Speaker, one of the things that we in the official opposition are very interested in gaining a very precise understanding of is the way that this piece of legislation is informed by the committee of review process.

And again, Mr. Speaker, there have been some positive changes made, certainly to the system over the years. And I think one of the very encouraging changes that have been made to the system over the year is the introduction of the committee of review process. And again, that's to take employee representatives, employer representatives working together to give that a very thorough going and clear-eyed look at the system — the legislation, how it's functioning, how it is working, and how it is not working, Mr. Speaker.

And certainly the committee of review came forward last fall in 2011. And one of the things that is remarkable about the report — again the committee of review coming forward over the years, Mr. Deputy Speaker — there was in the final report, there were 57 recommendations in the Act, or in the committee of review report, Mr. Deputy Speaker. And one of the things that we want to gain a very clear picture of, Mr. Deputy Speaker, is whether or not these recommendations — all but two of them on which they couldn't reach consensus on, one concerning maximum wage and recommendation 51 concerning incentives — all but two of the 57 recommendations achieved consensus and support on the part of the members of the committee of review.

Again, Mr. Speaker, individuals convened from the employee side, from the employer side, right back to the initial sort of iteration of this legislation, the initial committee of review dating back to July 1st, 1945, Mr. Deputy Speaker. So again, a pretty important institution in terms of how Workers' Comp is reviewed over the years, but again something that we want to see just how the legislation lines up alongside those recommendations, Mr. Deputy Speaker, and something that we will be doing greater consultation on and analysis thereof.

One of the things that is of particular note, in terms of the different cases that I've had the experience of working on over the years, is the way that information is either withheld or has an opportunity to go to the individuals when they are making their claims. And I can think of two individuals in particular, Mr. Deputy Speaker, who having finally gotten their files from Workers' Comp after significant efforts, Mr. Deputy Speaker, you know, is the kind of pride involved in the thing and the kind of relief at finally having wrested this information from the government. You know, it's pretty significant in terms of the joy that they had.

But one thing that is interesting, Mr. Speaker, is in terms of getting that information on your file from Workers' Comp and getting all the things that you should be entitled to from the government and from the board, it'd be interesting to know what the Information and Privacy Commissioner would have to say about this latest effort of the government and what is the immediate sort of history on this file, and whether or not people are having a problem in terms of accessing their files, going to the Privacy Commissioner saying, can you help me out in this regard, and then how that has been responded to immediately by Workers' Compensation and then the government more broadly, Mr. Speaker.

Well we have the privilege of having received a letter from the Information and Privacy Commissioner. It's dated November 19th, 2012, Mr. Speaker, so relatively recent in authorship. And it's addressed to the Minister of Workers' Compensation Board and was copied to our opposition labour critic and to our Deputy Leader. And I'd like to quote at length from that letter, Mr. Deputy Speaker, because I think the record would benefit from its airing. And again, it for me has resonance with the experience of people who come to the constituency office and the kind of troubles they've had getting information out of WCB. The letter states as follows:

> I note that Bill 58, *The Workers' Compensation Act, 2012* is currently before the Legislative Assembly. I further note your observation that, "This bill represents a positive step forward for workers' compensation in Saskatchewan." I respectfully suggest that in achieving this laudable objective, there is an issue that warrants the focussed attention of the Legislative Assembly and yet which is not apparently addressed in Bill No. 58.

Carrying on, Mr. Deputy Speaker:

> I wish to remind you of long standing concerns that my office has raised over for a number of years over the interpretation of the Workers' Compensation Board of *The Freedom of Information and Protection of Privacy Act* and the current workers' compensation Act. Most recently I recounted the issue and our concerns over the prejudice to the Saskatchewan injured workers in my annual report of 2011/12, pages 24 to 28, in my review report F-2012-005, F-2012-002, and investigation reports F-2012-004, F-2012-003, F-2012-002, F-2009-001, and F-2007-001.
>
> I note that the 2006 committee of review made specific recommendations consistent with the changes recommended by this office. The latest committee of review acknowledged the issue and the concern, but declined to make recommendations pending further study of the issue. I have no idea when the legislature will address the concern noted above and in the attachments, but I would encourage it to do so as part of its deliberations of Bill 58.
>
> The relevant excerpt from my latest annual report is as follows [carrying on with the quote, Mr. Deputy Speaker]:
>
> Jurisdictional Issue with the Saskatchewan Workers'

> Compensation Board
>
> I have now issued four different reports with recommendations for WCB with respect to improved compliance with *The Freedom of Information and Privacy Act* and *The Health Information Protection Act*, (Investigation Reports F-2007-001, F-2009-001, F-2010-001, and review report F-2010-002).
>
> A fundamental problem is that WCB takes the position that section 171 to 171.2 of *The Workers' Compensation Act, 1979* are somehow paramount to the requirements of FOIP and that section 4(4) of HIPA operates as an exclusion of the records and the custody or control of WCB from HIPA.
>
> Our office receives a significant number of requests for review and complaints involving WCB; 44 WCB related files have been opened since July 2003. We also receive numerous inquiries about WCB which do not result in a file being opened.
>
> In recent years, we have issued two investigation reports involving a breach of privacy on the part of WCB:
>
> > Investigation Report F-2009-001 — the Commissioner determined that WCB disclosed the complainant's personal information to an independent claims advisor without authority and that WCB failed to satisfy its obligations under section 27 of . . . [*The Freedom of Information and Privacy Act*] to ensure that the complainant's personal information in its possession was accurate and complete.
>
> Investigation Report F-2007-001 — the Commissioner found that WCB disclosed to the complainant's employer more personal information and personal health information than was necessary. We further found that WCB failed to adequately safeguard the complainant's information when it sent copies of the individual's personal information and personal health information to the complainant by ordinary mail, which was not received by the complainant and could not be accounted for.
>
> Overall, the complaints and concerns we hear regarding WCB include the following:
>
> > WCB demands personal health information that is not relevant to the compensable injury;
> > WCB shares more information about an injury with the employer than is necessary or relevant; and
> > WCB does not let complainants see their own case management files unless and until an appealable issue has been identified, and even then may not allow the complainant to view their entire file.

Again, Mr. Deputy Speaker, you know, we have independent officers of this legislature for a reason. And certainly I've heard, you know, different sides of people's take on advice provided by independent officers over the years, Mr. Speaker. But one thing I've learned is this, that that advice is given for a reason, and when it's given you should pay attention.

And the Privacy Commissioner has come forward in this juncture because there's a fair amount of work that is coming onto the desks of the Privacy Commissioner's investigators related to the Workers' Compensation Board. And that there have been, you know, again the great number of reports that have been issued in terms of requests for action. And these represent some significant oversights in terms of work that again the government should be aware of on the part of the Privacy Commissioner, work that that Privacy Commissioner has called for it to be addressed, and work that apparently has gone undone when it comes to this legislation.

[21:30]

And again that's not us saying that, Mr. Speaker. It's the Privacy Commissioner saying that. And again for myself, Mr. Deputy Speaker, that certainly tracks in terms of the complaints I've had registered at our office over the years that's part of WCB casework, where people are very concerned about how their individual information is being handled by the board. And that is borne out by the Privacy Commissioner, Mr. Speaker.

So we have an opportunity here to remedy that situation in the situation with Bill No. 58. Again there's some good work that is done and has been done systematically over the years through the committee of review process, that bringing of the two sides together to see the problem in the round and to try and come up with some solutions to problems, Mr. Speaker, and to make it more responsive to the injured workers that are at the base of what this whole regime seeks to serve. And again, one of the key components to that, Mr. Deputy Speaker, is the role that information plays and the role that that information plays in terms of the people knowing what's been done on their case with the board, and being able to, if the situation arises, be able to marshal that information, often in times of appeal, Mr. Deputy Speaker.

So this would seem to be a fairly reasonable request being made by the Privacy Commissioner. And it's something that we want to see a definite response on the part of the Minister for the Workers' Compensation Board to see what that minister's going to do to address these concerns.

And again, Mr. Deputy Speaker, we don't have independent officers just because all the other legislatures have them. We have them for a reason. We have them to provide that independent oversight. We have them to provide that outside observer that understands the legislature but can also help to advocate and to recommend positive change to make this Legislative Assembly and the different agencies of government work more responsibly for the people that they proclaim to have the interests at heart of.

And we're going to be looking very closely to see how this minister, how this government responds to what is a pretty significant set of concerns that have been raised by the Privacy Commissioner, and again which has been very conveniently brought together in this compendium in terms of the concerns not just being raised over the years — and again I might add the years of this government's tenure, Mr. Deputy Speaker — but how again Bill No. 58 seems to be silent in terms of the response.

So that was something that I definitely wanted to get into the records, Mr. Deputy Speaker. I know that other of my colleagues are very, very interested in this issue of the Workers' Compensation Board legislation and, you know, both the way that it presents in their work as legislators and as advocates on behalf of their constituents on a daily basis, Mr. Speaker. And certainly we've got a greater piece of analysis and consultation to do on this legislation again, as I say, to make sure that it lines up favourably with the important work of the committee of review, but also to gain a better understanding, Mr. Speaker, of how that Minister for Workers' Compensation and how that government is going to respond to the very legitimate and long-standing concerns being raised by the Information and Privacy Commissioner. So with that being said, Mr. Speaker, I would move to adjourn debate on Bill No. 58, *The Workers' Compensation Act, 2012*.

The Speaker: — The member has moved adjournment of debate on *The Workers' Compensation Act, 2012*. Is it the pleasure of the Assembly to adopt the motion?

Some Hon. Members: — Agreed.

The Speaker: — Carried.

Bill No. 59

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Stewart that **Bill No. 59 — *The Animal Identification Amendment Act, 2012*** be now read a second time.]

The Speaker: — I recognize the member for Saskatoon Centre.

Mr. Forbes: — Thank you very much, Mr. Speaker. It's a pleasure to rise tonight to enter into Bill No. 59, *An Act to amend The Animal Identification Act* and it's one that . . . You know, it's always interesting to prepare for these bills because it's not one that I have thought much about, you know. I do come from a farm background, but we were wheat growers and basically that was it; did not have animals. And so you learn a little bit every time you rise to enter into debate, but it's one that's clearly important.

You know, we saw that this summer with the crisis at XL in Brooks, Alberta when consumer confidence in the agricultural system was really shaken. And it has huge impacts and sometimes, rightly or wrongly, confidence is eroded and challenged. And it's important that we do all that we can to ensure that people have the confidence in the system, and that when we need to improve things, we clearly will do that. And so this is what this bill here really speaks to — how we can do and innovate and make sure we are doing the right thing.

Now there has been other speakers and I know my colleague from Regina Lakeview talked about, is this simply a method to allow contracting out? We don't know. It'll be interesting to see what impact it has on the Ministry of Agriculture that really did look after the brand services. But we'll go through this. And I do want to first . . . What I'll do is, you know, I'll take a look at *The Animal Identification Act*. And it was revised in 1978 — this is the bill — and then again revised '96, '98, and 2000. And it talks about . . . I mean the full title is *An Act respecting the Registration, Application, and Implantation of Animal Identification Marks*. And of course the marks really are the way to identify . . . In fact I should be clear about that because I'll go through these definitions here because it's important to understand what we're talking about, that we're not just talking about cattle, but we're talking about ". . . any head of cattle or [any] other animal of the bovine species, any horse or other animal of the equine species, any sheep, goat or swine or any inter-species hybrid of the same."

So it's much more than just cattle. And this gets back to one of the questions I have in the bill. The amendments seem to focus on cattle, and maybe that's what the direction they want to go, but we'll have a question about, is the same happening? And of course clearly the others are not nearly the . . . Well swine is a significant number there too, but cattle is really the focus of the amendment bill before us as well. But I want to talk about what the mark means. The mark means any brand or ". . . permanent mark applied to the exterior of an animal or any device implanted beneath the skin or within the body of the animal, but does not include any mark registered under the authority of the *Livestock Pedigree Act*."

And I'm not sure what that Act is. I don't have a copy of that. But it does talk about what we traditionally think about brands that are applied or burnt to the skin, marks like that, or ear brands. So I think that it's important that we know that. And we know with science now today too that it's important that there are different ways, more humane ways of doing this, and whether, I don't know whether . . . I assume ear tags would be part of this, devices implanted beneath the skin or within the body of the animal. So that's very important.

And then this whole new section is put in between section 2 and section 3 and that's where it goes, but I do think that it's important. This is a pretty thorough piece of legislation. At the beginning it does provide the frame, the framework for our discussion here. So this is an important piece of legislation. It talks about inspectors. Interestingly, "Every member of the Royal Canadian Mounted Police is, by virtue of his position, an inspector under this Act and has the same powers and duties that are conferred or imposed on an inspector by this Act and the regulations."

I did not know that. It's interesting that an RCMP [Royal Canadian Mounted Police] officer is a brand, a mark inspector. So that's very interesting. And routine inspections talks about all of that kind of stuff. So very important that we understand the framework for which this legislation is part of.

I think that I do want to say that I've read the minister's remarks, and I have to say that the minister's remarks are more full and more in plain English than many of the other ministers, and so I do appreciate that. And you know, it was interesting, Mr. Speaker, that it did come up . . . It's interesting where things come up but, Mr. Speaker, as you may know, I did this series of labour consultations throughout September and lo and behold, somebody made a comment about the consultations that the Minister of Agriculture is doing and how his were so much different, so much different than the Minister of Labour. The Minister of Agriculture was taking much more time, approximately six months, and doing this kind of work and having the buy-in, the support of the affected stakeholders and

clearly had a stronger understanding of appropriate consultations. And clearly we're seeing the results of that.

Now he's not saying the consultations are over, but he's preparing for the end and he's saying that he doesn't want to be caught in a box where it seems that this is where this committee is going. This is where they're landing, that they want to have more flexibility in terms of brand inspection services, and that that would be done by parties outside the government. And that's where they're landing. And it seems that that's, if you do the consultations in an appropriate way that you do get support and people do rally behind, and I think this is important.

So he goes on and I just want to quote some of the things that he says, and this is very important because for all of us in the House, some of us may be up to speed on what brand inspection services are; some of us may not be. But he clarifies that by saying, "Brand inspection ensures that animals offered for sale are rightfully owned and verified through a brand registry. The messages come in loud and clear from livestock producers that they want and need a brand inspection service." And then he says that the changes will allow for that service.

Now I'm not sure he meant a new, improved service because it seems that we already do have a service, but that these folks want something improved. Interestingly he talks about what's happening across Western Canada, that the role of government is unique here in Saskatchewan. No other agricultural commodity is purchased or sold in the province with a government service to verify ownership. In fact Alberta, BC, both have industry-led and -delivered brand inspection services. And Manitoba interestingly has no brand inspection services at all. That's very interesting. I'm not sure why that is. Clearly their programs work. I'm not sure. But it's interesting that the member made those comments.

Now as he said, he announced on July 30th that he announced the formation of an industry advisory committee to review the delivery of brand inspections in Saskatchewan, and he's met several times. And clearly that is something that people have noted and said, why can't we be doing that with other kinds of consultations. People in the labour movement have noted that they're taking more time to talk about brands and animal identification than they are talking about the 15 pieces of labour legislation that took 100 years to put together. So this is really interesting.

[21:45]

Now I just want to touch on one other point that he talks about. Towards the end he talks, and I quote:

> Mr. Speaker, this proposed legislation is enabling in nature. It is necessary to allow for the new delivery model when it is finalized in 2013. The exact details of the new model remain to be determined as the committee works towards its final recommendations. We want to ensure that we are not limited by the current inability of this Act to allow for third party delivery in 2013.

Now I think those are important words because he talks about how it is enabling. But if you look at the legislation, he talks about the new section 2.1(2), for the purposes of carrying out the minister's responsibilities, the minister may do. And he talks about may create, develop, adopt, co-ordinate, implement policy strategies, and so on and so forth; undertake and coordinate planning, research, investigations, and so forth; provide information and do any other thing that the minister may consider appropriate to carrying out the minister's responsibilities.

But this is the part that I think is important. The minister talks about in section 2.2(3) . . . And when we talk about agreements and clearly whether this is contracting out or just a new model of how to do business in agriculture, he does say that the ". . . animal identification inspection administration agreement must include provisions that specify all of the following . . ." So I think this is a good thing. That while it's empowering, there are requirements that the minister is setting out. That if they are entering into agreements, all of the following . . . And there's several agreed parts to it. I won't go through all of it.

But that it's important that we recognize that there are requirements and that they must be there, for example the expected outcomes to be achieved by the person; the powers and duties being delegated to the person with whom the agreement is being entered into. And it's not . . . A person means more than just . . . A person can be a corporation, a group, a co-op, that type of thing. The acceptance by the person of their responsibilities; the requirement that the person must report to the minister and when these requirements must be done; requirements for records management, and so on and so forth; that the person must carry out adequate insurance, all of that type of thing; the obligation of the parties if the agreement is terminated; settlement of disputes. So these things are all laid out.

So, Mr. Speaker, I appreciate that there are requirements within the agreement. That it's not a may or leaving it up in the air. That it clearly . . . The duties are laid out because this is a significant change for a significant industry, agricultural sector, that a lot of people are hoping and looking forward to the results of this, the advisory committee and the minister's work. But if this is the kind of work that's coming out, it looks like that they're taking it very seriously. And of course we'll have questions in committee.

But I think that that's good that we see some of the extensions that they may be doing. And, may, is the key word in terms of the kind of, as I say, extensions or the things that people would like to see done. But there are obligations that the minister will ensure will be done, and that's very, very important. So when we see these kind . . . And we're not sure whether it's one agreement or many agreements, but this is important.

So, Mr. Speaker, I think that while there's more things that we would like to say about this Bill No. 59, it is an important one because as you know that we, as consumers . . . And I think more and more I know . . . And we see the billboards up in our cities about farms and ranches and how they take care of their animals. And they're very sensitive about how consumers view the production of food in our society that when we see an Act like this that it's done in a thoughtful way.

So, Mr. Speaker, I think that it's one that I know that many of us will have a lot of questions about and one that we'll watch

the work of the committee very closely and one that will be taken very seriously because, as I said, consumer confidence is critical. And in Saskatchewan we have such a great reputation in terms of the provincial herd, the cattlemen, and I think that, you know, we've talked about this many times, many forums, about being great stewards of the land but also the great caretakers of the animals that they are looking after and bringing to market.

So with that, Mr. Speaker, I know that many of us will have lots to say about this. But at this time I would like to move adjournment of Bill No. 59, *An Act to amend the Animal Identification Act*. Thank you.

The Speaker: — The member has moved adjournment of debate on Bill No. 59, *The Animal Identification Amendment Act, 2012*. Is it the pleasure of the Assembly to adopt the motion?

Some Hon. Members: — Agreed.

The Speaker: — Carried.

I recognize the Deputy Government House Leader.

Hon. Mr. Wyant: — I move that we now adjourn, Mr. Speaker.

The Speaker: — The Deputy Government House Leader has moved that this House do now adjourn. Is it the pleasure of the Assembly to adopt the motion?

Some Hon. Members: — Agreed.

The Speaker: — Carried. This House stands adjourned to 1:30 p.m. Wednesday.

[The Assembly adjourned at 21:51.]

TABLE OF CONTENTS

GOVERNMENT OF SASKATCHEWAN
CABINET MINISTERS

Hon. Brad Wall
Premier
President of the Executive Council
Minister of Intergovernmental Affairs

Hon. Bill Boyd
Minister of the Economy
Minister Responsible for The Global Transportation Hub Authority
Minister Responsible for Saskatchewan Power Corporation

Hon. Ken Cheveldayoff
Minister of Environment
Minister Responsible for Saskatchewan Water Security Agency
Minister Responsible for Saskatchewan Water Corporation

Hon. Kevin Doherty
Minister of Parks, Culture and Sport
Minister Responsible for the Provincial Capital Commission

Hon. June Draude
Minister of Social Services
Minister Responsible for the Status of Women

Hon. Dustin Duncan
Minister of Health

Hon. Donna Harpauer
Minister of Crown Investments
Minister Responsible for Saskatchewan Government Insurance
Minister Responsible for Saskatchewan Liquor and Gaming Authority

Hon. Nancy Heppner
Minister of Central Services
Minister Responsible for the Public Service Commission
Minister Responsible for the Lean Initiative

Hon. Ken Krawetz
Deputy Premier
Minister of Finance

Hon. Russ Marchuk
Minister of Education

Hon. Tim McMillan
Minister Responsible for Energy and Resources
Minister Responsible for Tourism Saskatchewan
Minister Responsible for Trade
Minister Responsible for SaskEnergy Incorporated

Hon. Don McMorris
Minister of Highways and Infrastructure
Minister Responsible for Saskatchewan Telecommunications
Minister Responsible for Saskatchewan Transportation Company
Minister Responsible for Information Services Corporation
Minister Responsible for Saskatchewan Gaming Corporation
Minister Responsible for SaskBuilds

Hon. Don Morgan
Minister of Advanced Education
Minister of Labour Relations and Workplace Safety
Minister Responsible for the Saskatchewan Workers' Compensation Board

Hon. Jim Reiter
Minister of Government Relations
Minister Responsible for First Nations, Métis and Northern Affairs

Hon. Lyle Stewart
Minister of Agriculture
Minister Responsible for Saskatchewan Crop Insurance Corporation

Hon. Christine Tell
Minister Responsible for Corrections and Policing

Hon. Randy Weekes
Minister Responsible for Rural and Remote Health

Hon. Gordon Wyant
Minister of Justice and Attorney General