



# **STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE**

**Hansard Verbatim Report**

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**Legislative Assembly of Saskatchewan**

**Twenty-Eighth Legislature**

**STANDING COMMITTEE ON INTERGOVERNMENTAL  
AFFAIRS AND JUSTICE**

Mr. Fred Bradshaw, Chair  
Carrot River Valley

Mr. Buckley Belanger, Deputy Chair  
Athabasca

Mr. Ken Francis  
Kindersley

Mr. Hugh Nerlien  
Kelvington-Wadena

Mr. Eric Olauson  
Saskatoon University

Ms. Laura Ross  
Regina Rochdale

Mr. Corey Tochor  
Saskatoon Eastview

[The committee met at 11:38.]

**The Chair:** — Well good afternoon, committee members. I'm Fred Bradshaw, Chair of Intergovernmental Affairs and Justice. We have Ms. Sarauer substituting for Buckley Belanger. We have Mr. Francis, Mr. Nerlien, Mr. Olauson, and we have Mr. Buckingham substituting for Ms. Ross, and we have Mr. Tochor.

First on the agenda, I'd like to table document IAJ 10-28, Ministry of Justice: Responses to questions raised at the April 24th, 2018 meeting.

This afternoon the committee will be considering four bills: Bill No. 73, *The Insurance Amendment Act, 2017*; Bill No. 99, *The Interpretation Amendment Act, 2017 (No. 2)*, a bilingual bill; Bill No. 103, *The Land Contracts (Actions) Act, 2017*; Bill No. 106, *The Missing Persons and Presumption of Death Amendment Act, 2017*.

#### **Bill No. 73 — *The Insurance Amendment Act, 2017***

##### **Clause 1**

**The Chair:** — We will now begin our consideration of Bill No. 73, *The Insurance Amendment Act, 2017*, clause 1, short title. Minister Morgan, would you like to introduce your officials please and make any opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined today by Jane Chapco, senior Crown counsel, legislative services; and Janette Seibel, a lawyer from the Financial and Consumer Affairs Authority. I also have my chief of staff, Clint Fox; and MA [ministerial assistant] Molly Waldman here.

I am pleased to be able to offer some brief opening remarks concerning Bill 73, *The Insurance Amendment Act, 2017*. This bill amends *The Insurance Act* to reflect changes to the law on medical assistance in dying and to make a series of housekeeping and technical improvements to the new Act in response to ongoing industry consultation.

*The Insurance Act* was passed in spring of 2015. The ministry is currently planning for the new Act to be proclaimed into force on January 1st, 2019. Mr. Chair, since *The Insurance Act* was passed in 2015, the Supreme Court of Canada issued the Carter decision, and the medical assistance in dying provisions were added to the Criminal Code. These changes will incorporate the definition of "medical assistance in dying" in the Criminal Code and to both the new insurance Act and the current Act, *The Saskatchewan Insurance Act*. The changes will also confirm that the sections in the two Acts respecting suicide do not apply with respect to a death resulting from medical assistance in dying.

Mr. Chair, this bill will also add a section to the current Act respecting recovery by innocent persons. This section is already in a new Act. In an interpersonal violence situation involving joint-property ownership where one owner damages the property, this provision protects the joint owner who did not cause the loss or damage, which means that the innocent person remains eligible to recover, with respect to their personal

portion of the property. It is being added to the current Act so the provision can be used by victims of interpersonal violence and by others, as soon as possible, before the new Act comes into force.

Finally, Mr. Chair, the amendments will make a series of housekeeping and other improvements to the new Act that have been identified as part of ongoing and extensive consultations with industry representatives. Making these amendments now will address several minor issues with respect to interpretation and application of the Act and will support the official implementation of *The Insurance Act*.

Mr. Chair, with those opening remarks, I would welcome questions respecting Bill 73, *The Insurance Amendment Act, 2017*.

**The Chair:** — Well thank you, Minister. And I would like to remind the officials, if you are speaking, could you please state your name for *Hansard*. Any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you. And thank you, Minister, for your opening remarks. My first question is around consultation with respect to this bill. Could you explain what sort of consultation was done for these changes?

**Ms. Seibel:** — Janette Seibel from the Financial and Consumer Affairs Authority. I can address that. The consultations that we do with regard to these particular changes were a part of an ongoing process that started as a part of our development of the Act, *The Insurance Act* itself.

In particular, with these changes we've focused most of our consultations regarding the medical assistance in dying within the life insurance industry. And in particular the Canadian Life and Health Insurance Association was one of the parties that we spoke to because they're the industry association that represents insurers in the life and health insurance industry. But throughout that process, we've been speaking about the new Act, about the regulations that were developed as a part of that process, and then of course with the emergence of the medical assistance in dying issue, with the industry on that.

**Ms. Sarauer:** — Thank you. Aside from section 118.1, the medical assistance in dying piece, and section 122.1 — and that's the provisions that you talked about, Minister, around victims of interpersonal violence — are there any other changes in this bill that wouldn't be described as housekeeping in nature?

**Ms. Seibel:** — I think one that wouldn't be housekeeping would be with regard to the provision regarding restitution as a power that the insurance councils will now have as part of their suite of enforcement tools. So that provision will have some structure built around it within the regulations regarding a cap on the limit of restitution that they'll be able to award and the circumstances within which they can award that. But this gives them a bit stronger enforcement tools and mirrors other legislation that we have, such as *The Real Estate Act* and *The Securities Act*, that has that kind of enforcement tool to help protect consumers.

**Ms. Sarauer:** — Thank you. Can you speak a little bit further as to why there was a need to add these restitution provisions?

[11:45]

**Ms. Seibel:** — That need developed through consultation with the insurance councils. You know, they have noted throughout their processes limitations that the current tools have, and our discussions led us to consider that this might be another useful tool that they could use.

**Ms. Sarauer:** — Thank you. This new provision around medical assistance in dying, 118.1, can you speak a little bit more about that and whether or not this provision is in line with what we're seeing in other jurisdictions?

**Ms. Chapco:** — Jane Chapco, legislative services. This provision is being added to *The Insurance Act* in Saskatchewan, which is a different approach from the approach that was taken in Quebec and Ontario. Quebec actually came out first on this issue, and they have a very general provision saying that people cannot be denied a benefit under a contract if they choose to seek medical assistance in dying. And Ontario followed suit with a similar amendment to their *Excellent Care for All Act*. And it's again the same thing, that if a person chooses to seek medical assistance in dying they can't be denied a benefit under a contract or statute unless there's a contrary intention.

So this provision here is different from that in that it's strictly related to the application of *The Insurance Act*. It's consistent with the publicly stated policy of the Canadian Life and Health Insurance Association, and it's just a way that we've codified what they've stated they're already planning to do.

**Ms. Sarauer:** — It seems like a positive step to make for those who have gone through so much, as well as their families. Did you receive any pushback from insurance providers?

**Ms. Chapco:** — No. No we did not.

**Ms. Sarauer:** — Thank you. Understanding that medical assistance in dying in Canada is relatively new, is the ministry considering any other legislative changes that are necessary as a result of this change?

**Hon. Mr. Morgan:** — We don't think there's necessarily a legislative change, but we understand that the ministries of Health and the coroner's office are looking at it to see how the implementation works and what kind of investigations might take place.

**Ms. Sarauer:** — Thank you. This wouldn't be the Ministry of Justice. I've heard some concerns about how the death certificate is being dealt with and how it's not necessarily consistent. So that might be what you're actually speaking about.

**Hon. Mr. Morgan:** — Health has to determine what's going to take place on a death certificate, and I think they're working through some resolutions on what they were going to put in. They were doing some consultation. I can't speak for Health. But leaving it as a suicide was something that they didn't want to have, so they were looking at what other things they could

put on the certificate.

**Ms. Sarauer:** — Thank you. Moving on to the provision 122.1, which is the change for survivors of interpersonal violence, could you provide a little bit more detail as to why that change was needed?

**Hon. Mr. Morgan:** — In most simple terms, if a couple is in a house, a home, and one person chooses to damage or burn the house, it's unfair to the other person to have the victimization go so that they're not even able to claim insurance proceeds. So this would allow the victim to be able to maintain whatever insurance rights they have they would otherwise not be entitled to because the person that perpetrated is one of the named insured.

**Ms. Sarauer:** — Thank you. What sort of proof is going to be needed for an individual who wishes to utilize this provision?

**Ms. Chapco:** — There's a provision right in there that the person whose coverage would be excluded but for this rule has to co-operate with the insurer with respect to the investigation, and they have to produce documents that relate to the loss. So I think it'll come down to a case-by-case basis of the insurer working with the insured.

**Ms. Sarauer:** — So it'll be up to the insurer to determine what sort of documentation they'll require to appease themselves that there is a situation of domestic violence here.

**Ms. Seibel:** — I think it's less of an issue of determining whether or not domestic violence was involved, but whether or not the person was truly an innocent co-insured, that they weren't also partly responsible, so you don't have a situation of collusion where people are trying to use the provision to get a partial payout for a loss caused by one of the parties.

**Ms. Sarauer:** — Right. And this will largely be determined on a case-by-case basis?

**Hon. Mr. Morgan:** — I think that would be a fair statement. I think with any insurance claim, it's always up to the insurer to make the determination what's there. And if an insured is not happy with that outcome, they've got a variety of options that are open to them to pursue.

**Ms. Sarauer:** — Thank you. No further questions.

**The Chair:** — Are there any further questions from the committee? Seeing none . . . And I want to thank the minister for being a lawyer and saying he was going to put it into understandable terms, because that isn't often done by a lawyer. Anyway, so continuing on. Short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 29 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent

of the Legislative Assembly, enacts as follows: *The Insurance Amendment Act, 2017*.

I would ask a member to move that we report Bill No. 73, *The Insurance Amendment Act, 2017*, without amendment. Mr. Nerlien moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

**Bill No. 99 — *The Interpretation Amendment Act, 2017*  
(No. 2)/Loi modificative n° 2 de 2017 sur l'interprétation**

**Clause 1**

**The Chair:** — We will now begin our consideration of Bill No. 99, *The Interpretation Amendment Act, 2017* (No. 2), a bilingual bill, clause 1, short title. Minister, could you please introduce your new officials and make your opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined by Darcy McGovern, director of legislative services, and Doug Kosloski, Crown Investments Corporation.

Mr. Chair, this government has always been of the view that our Crown corporations support economic growth and quality of life in Saskatchewan. Members will be aware that last session Bill 40 was passed, allowing for a partial minority equity position in a Crown corporation. To provide a definition of the term, "privatize" was defined in a manner that would allow for the sale of up to 49 per cent of a Crown corporation.

This legislation would have enabled a Crown corporation to enter into a partnership beneficial to the province while ensuring that government remained the majority owner of the corporation. Over past months the government has heard from many Saskatchewan people concerned about this legislation and the potential sale of even a small stake in a Crown corporation. We have listened to the people and we are now acting.

Consequently, this government will repeal the provisions implemented by Bill 40 that allow for the sale of a partial equity position of a Crown corporation. With this bill, *The Interpretation Act, 1995* is being amended to repeal the recently added definition of "privatize" and to repeal the ability to add additional methods of transfer of control that would constitute privatization by regulation. Instead, the term "privatize" will simply be defined to confirm that it does not include a winding-up and dissolution of a Crown corporation, was how the bill was initially when it went through second reading. But, Mr. Speaker, I understand that one of the members will be proposing a House amendment that will change the provisions of the bill so that "privatize" will be just removed in its entirety.

We have said from the beginning that when we hear from the people of the province that we have done something that they disagree with, we want to be responsive and to reflect the views of the people of the province, so we accept the wisdom and benevolence of our citizens and accordingly are making these changes.

Mr. Chair, with those remarks, I would welcome your questions

regarding Bill 99, the interpretation . . . 2017, no. 2. The opposition critic is here and has seen the proposed House amendment, but I leave it to the Chair and House services to determine when they want the motion made.

**The Chair:** — Well thank you, Minister. And I would like to remind the officials, would you please introduce yourself if you're going to make any comments. Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you. I'm wondering if it might be appropriate to move the motion now and then we can speak about the motion and the entirety of the bill. Or do you want me to ask questions? Because some of my questions are with respect to the motion as well.

**Hon. Mr. Morgan:** — Mr. Chair, if it's necessary to go through the bill line by line and then reopen for questions with regard to the House amendment, I'm amenable to whatever works.

**The Chair:** — Okay. Ms. Sarauer.

**Ms. Sarauer:** — Thank you. Just to clarify, I'm going to ask questions about Bill 99, but also will likely include conversation around the proposed amendment that will be coming forward as well.

Now, Minister, you spoke in your opening comments about the importance of listening to the people of Saskatchewan and that since passage of Bill 40, that there has been concerns heard about the changes that were made to the Act, to the interpretation Act, and how that plays out to the protection of our Crowns. What sort of . . . Now for Bill 40 to have gone through the legislative process, it took a while frankly, as all legislation typically does, from the day we were given notice to the day Bill 40 passed. What sort of feedback had you been hearing prior to passage of Bill 40 but subsequent to providing notice in the House that Bill 40 was tabled?

**Hon. Mr. Morgan:** — You know, I can't speak to any form of formal consultation that was done. It would be mostly anecdotal from what we heard from the MLAs [Member of the Legislative Assembly]. After the session, people went back to their constituencies and we were contacted individually by individual citizens, sometimes by small groups of citizens, just saying . . . The effect of it was, the Crown corporations are part of the backbone of this province. We need the services that they provide. We think that they should continue to be totally publicly owned. We know they may have to enter into partnerships or contractual relationships, but the shareholdings of those corporate entities, while there may be business reasons to want to do that, we don't think that's something that we, as citizens, want you, as legislators, to do on our behalf, and think it's wrong.

[12:00]

So having heard that, we discussed it amongst ourselves and the vast majority of our MLAs had heard similar concerns expressed and felt that it was an appropriate thing to do, to give the citizens some comfort that we wouldn't use a definition of privatize to sell 20 or 30 or 40 per cent, a minority stake in the

company. They just didn't want it to happen at all, and we accept that.

**Ms. Sarauer:** — Thank you. Were those concerns raised to MLAs prior to the passage of Bill 40?

**Hon. Mr. Morgan:** — I think with anything like this, there probably would be some concerns that would have been before, some after. I didn't log what I heard in my office. I don't think I heard a lot on it either way. But I know after, during the summer, we went out door knocking and we certainly heard it when we were door knocking.

**Ms. Sarauer:** — So after hearing that, we all know that just a few days before the following session, the premier announced that he was going to be repealing Bill 40. And as a result, here we are with Bill 99, which was in fact a partial repeal of Bill 40. I understand that this House amendment will now make it a full repeal. Could you explain to the committee why it was only a partial repeal at first?

**Hon. Mr. Morgan:** — Around that time STC [Saskatchewan Transportation Company] was in the process of being wound up or dissolved, and there was concern that by repealing the portion about windup and dissolution, that it would be an argument that the province didn't have the authority to do a windup or dissolution of STC. So out of abundance of caution, they chose to leave it in until STC is wound up which has now happened.

So the advice that we have now is that those remains need not be in the legislation. And it's certainly consistent with what we heard from the public. They wanted that gone. So we're doing some listening.

**Ms. Sarauer:** — This change, this amendment that will be coming to make what was a partial repeal a full repeal of Bill 40, is something that we have been calling for, well since the bill was tabled, Bill 40 was tabled, but in particular this session with Bill 99, since we started sitting in March, Minister. I know you and I have had a few exchanges in question period about the importance of listening to the people of this province and also honouring the words made by our former premier. Could you explain to the committee why this amendment took so long?

**Hon. Mr. Morgan:** — Yes. This is the process that it takes for a bill to go through. It has to be prepared, it has to go through a committee, it has to go through the House. During the time that the legislation was in force, nothing was sold, privatized. There was no agenda that was taking place during that time. The bill went through the ordinary process.

The only thing that was taking place at that time was the wind down of STC, so that portion of the bill was there. That's complete. So at this time, certainly, the direction of the people is repeal it all, so we are.

**Ms. Sarauer:** — Thank you for that. As I've said, this is something that we've been calling for for a few years now, since Bill 40 was passed. This is something that . . . An amendment to Bill 99 is something that we've been calling for as well in question period. We've had a couple of exchanges

where there was a suggestion that if we put forward an amendment, then you would look at it. We had an amendment ready for today, but very happy to see that committee members on government side will be putting forward an amendment that we are satisfied with.

Again I hope that this is a lesson for all government members to listen to the people of Saskatchewan. Initially, had that consultation happened when Bill 40 was initially tabled, we wouldn't be here right now. Because what we heard loud and clear as soon as that was tabled was that privatizing in any form of our Crowns was not on for the province. So it is important to listen, but it is important to listen prior to tabling a legislation, I would suggest, Minister. So hopefully we don't . . . we're not in a situation like this again in the future. And while we are grateful for the amendment and for listening, we do hope that that is something that is a lesson that is taken.

You've spared me from having to go through *Hansard* and look through all of our exchanges and all of the discussion that we've had about Bill 40, by having an amendment come from government side, and I'm personally grateful for that. And we're happy to see that what has been a collective, a large voice from the province that were quite upset with the passage of Bill 40, be finally listened to by this government, and Bill 40 to be fully repealed as it should be. So with that, I have no further questions.

**Hon. Mr. Morgan:** — I would only want to add — and I certainly don't want to debate the point on it because we've agreed on where the bill goes — we always will as a government want to listen to the people of the province. And one of the challenges about being in government is sometimes somebody will be, a small group of people will be opposed to a lot of things that the government does.

And when this was put forward by Minister Wyant, I think his view was at that time that there was strong support for it throughout the province. And when, after the bill was passed and we went back out door knocking and having discussions with people and our constituents, it appeared that the opposition was maybe not there at the outset but was certainly growing after the fact. And we're always willing to listen and admit that something should be changed, and that's what we've done.

So I appreciate your concerns that we should be listening, and I think all of us should be listening, but this was one where it was a situation that grew over time. And of course we'll want to respond to that.

**The Chair:** — Thank you. Are there any more questions from the committee? Okay, then we shall continue on. Clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

**Clause 2**

**The Chair:** — Clause 2. I recognize Mr. Francis.

**Mr. Francis:** — Thank you, Mr. Chair. I would like to put forward a motion as a proposed amendment for this bill. And it is pursuant to clause 2 of the printed bill and presented as to:

Amend Clause 2 of the printed Bill by striking out subsection (2) and substituting the following:

**(2) Subsection (1) is amended by repealing the definition of “privatize”.**

**The Chair:** — Okay. Well thank you. Mr. Francis has moved to amend clause 2 of the printed bill:

Amend Clause 2 of the printed Bill by striking out subsection (2) and substituting the following:

**(2) Subsection (1) is amended by repealing the definition of “privatize”.**

Do committee members agree with the amendment as read?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Clause 2 as amended, it’s agreed. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 2 as amended agreed to.]

[Clause 3 agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Interpretation Amendment Act, 2017 (No. 2)*.

I would ask a member to move that we report Bill No. 99, *The Interpretation Amendment Act, 2017 (No. 2)*, a bilingual bill, with amendments. Mr. Francis moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

**Bill No. 103 — *The Land Contracts (Actions) Act, 2017***

**Clause 1**

**The Chair:** — We will now begin our consideration of Bill No. 103, *The Land Contracts (Actions) Act, 2017*, clause 1, short title. Minister would you please introduce any new officials and make your opening comments. I’d like to remind the officials when you speak, for *Hansard*, would you please state your name.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I’m joined by Maria Markatos, senior Crown counsel, legislative services branch. I have some brief opening remarks concerning Bill No. 103, *The Land Contracts (Actions) Act, 2017*.

Mr. Chair, this bill will repeal and replace the existing land

contracts actions Act with a new Act that builds on the recommendations contained in the 2014 report of the Law Reform Commission. Most of the lawyers in the province will be aware that we have a long history of debtor protection law that goes back to the 1930s. It’s been updated and changed over a period of time. The idea that came forward with the report of the Law Reform Commission that this should be updated and simplified. Often there was many steps that a creditor had to go through before the debtor was even aware that processes were beginning to start.

The Act is consumer protection legislation that was originally enacted to provide borrowers with time to address outstanding payments before foreclosure proceedings were commenced. The new Act will maintain the existing protection for borrowers while modernizing the language and procedures in the over 70-year-old Act to make the legislation easier to follow.

Mr. Chair, lenders will be still required to obtain leave before commencing a foreclosure proceeding, but two steps from the old process have been eliminated. Lenders will no longer be required to give prior notice to Provincial Mediation Board, or apply to the court for an appointment to hear the application for leave. The Provincial Mediation Board will still receive notice but at the same time as the borrower. Applying for an appointment to appear before the court will no longer be required. This is an antiquated practice, dating back to a time before there were regular court dates.

The Law Reform Commission recommended, and the new Act provides, that the first step towards foreclosure proceedings is a plain-language notice of application for leave to commence. The notice will be in a prescribed form and served on the borrower and the Provincial Mediation Board at least 60 days before the initial hearing date. During the 60-day period, the borrower will be able to negotiate a payment plan, sell the land, or prepare for court. The new process will ensure that both the borrower and the court will have the most up-to-date information when an application is heard. The Act does not apply to farm land and the new Act does not apply to properties used solely for commercial purposes at the time of default.

Mr. Chair, the bill will repeal *The Agreements of Sale Cancellation Act*. Any requirement for an application to court, in all cases, for a cancellation of an agreement for sale will be moved into this Act.

The bill will also repeal *The Home Owners’ Protection Act* which is meant to apply to a specific situation between 1981 and ’82 and is no longer necessary.

With those remarks, I would welcome questions respecting Bill No. 103, *The Land Contracts (Actions) Act, 2017*.

**The Chair:** — Well thank you, Minister. Ms. Sarauer, do you have any questions?

**Ms. Sarauer:** — Thank you, Minister. I think you answered many of the questions I already had, in your opening remarks. I do want to confirm . . . So the pre-application process has changed a bit. Have the timelines changed at all?

**Hon. Mr. Morgan:** — None in the statute.

**Ms. Markatos:** — Maria Markatos, legislative services division. The timelines are about the same. So now the notice will be served on the borrower and the Mediation Board at the same time, and then there's a 60-day period. And before, the timelines were 15 plus 30 days and then a few days in between so . . .

[12:15]

**Ms. Sarauer:** — I will say it's a much more simpler read than it was before. So I'm quite happy to see that.

I understand that this is largely flowing from work that the Law Reform Commission did. I have the consultation paper but I don't have the recommendations, if there was a recommendation paper created by the Law Reform Commission. So I'm just going to ask some questions around that because I've seen the consultation paper that the Law Reform Commission sent out looking for feedback.

So first I'm curious to know if the ministry has knowledge of what sort of feedback the commission received in their consultations or if the ministry did their own consultations separate.

**Ms. Markatos:** — The Law Reform Commission did release a final report that included 12 recommendations, and all of those recommendations are incorporated into this bill. They consulted with Canadian Bankers Association, Genworth Canada, Royal Bank of Canada, Canada Mortgage and Housing Corporation, and several sections of the Canadian Bar Association. And the information that we received from the Law Reform Commission, and that's in their final report, is that all of those consultees were largely supportive of a new Act and not a repeal of the Act. So they wanted to keep it in place.

And then we subsequently consulted with the Provincial Mediation Board, the office of public administration, and those sections of the Canadian Bar Association that were consulted by the Law Reform Commission, as well as the Court of Queen's Bench and the Court of Appeal.

**Ms. Sarauer:** — Thank you for that. When I read the consultation paper, I understand that we are one of the only jurisdictions that has a pre-application process. Is that correct?

**Mr. McGovern:** — Yes.

**Ms. Sarauer:** — Okay, thank you. And a pre-application process has been maintained in this new legislation, although it's changed a bit. Is that correct?

**Hon. Mr. Morgan:** — You no longer need to apply for an appointment. You don't need to give notice ahead of time to Provincial Mediation Board. You give notice to Provincial Mediation Board at the time you serve the debtor. So the process that you would've gone through on an old-style application about applying for an appointment for an application for leave, that's gone.

**Ms. Sarauer:** — So does this make us more in line with other jurisdictions then?

**Hon. Mr. Morgan:** — Yes, because that didn't exist I think anywhere else.

**Ms. Markatos:** — But no other jurisdiction has the notice of leave application.

**Ms. Sarauer:** — Right. So there is still that extra piece that existed, an extra pre-application piece that existed in Saskatchewan previously that will continue to exist in the future. Although it looks different than it did before, there's still that extra step that will exist in Saskatchewan that doesn't exist in other provinces. Is that correct?

**Ms. Markatos:** — That's correct. The other provinces don't have the notice of leave provision application that we have. So borrowers don't get that extra time to try to resolve their issues with the lender. In other jurisdictions, they would be relying on the authority of the court to do that during their foreclosure action.

**Ms. Sarauer:** — Thank you for that. I noticed in the consultation paper there was some numbers in terms of home foreclosures in Saskatchewan. I understand the Provincial Mediation Board tracks those numbers. Do you have any data around home foreclosures that the Saskatchewan Provincial Mediation Board received annually over the last several years that you could provide the committee?

**Ms. Markatos:** — I do. How far back would you like me to go?

**Ms. Sarauer:** — If you have . . . I was looking over, for the last decade, if you have the last decade, each year.

**Ms. Markatos:** — Okay. 2008 to 2009, 428 notices of intent to foreclose were received; 2009-2010, 547; 2010-2011, 659; 2011-2012, 688; 2012 to 2013, 621; 2013 to 2014, 649; 2014-2015, 772; 2015 to 2016, 981; 2016-2017, 1,162; 2017 to 2018, 1,236; and to date, in this fiscal year, 101. So you'll see that they've slowly been increasing, which could be why the consultees thought that it was important to keep the legislation in place.

**Ms. Sarauer:** — Thank you. And I think you already mentioned this, Ms. Markatos, but all of the recommendations that were made, that were presented by the Law Reform Commission are included in this piece of legislation?

**Ms. Markatos:** — That's correct.

**Ms. Sarauer:** — Okay. Thank you. I have no further questions.

**The Chair:** — Are there any more questions from the committee? Seeing none, clause 1, the short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 25 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent



of the Legislative Assembly of Saskatchewan, enacts as follows: *The Land Contracts (Actions) Act, 2017*.

I would ask a member to move that we report Bill No. 103, *The Land Contracts (Actions) Act, 2017* without amendment. Mr. Olauson has moved. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

**Bill No. 106 — *The Missing Persons and Presumption of Death Amendment Act, 2017***

**Clause 1**

**The Chair:** — We will now begin our consideration of Bill No. 106, *The Missing Persons and Presumption of Death Amendment Act, 2017*, clause 1, short title. Minister, do you have any opening comments?

**Hon. Mr. Morgan:** — I do, Mr. Chair. I am once again joined by Maria Markatos and Darcy McGovern. I'm pleased to offer a few brief opening remarks concerning Bill 106, *The Missing Persons and Presumption of Death Amendment Act*.

This bill amends *The Missing Persons and Presumption of Death Act* to add new provisions that will expand the ability of the law enforcement agencies to access information and obtain search orders in missing persons investigations. Where a person is reported missing and there is no reason to suspect a crime has taken place, law enforcement cannot rely on the Criminal Code to obtain a production order to obtain information, and this can stall investigations.

In 2009 Saskatchewan was the first province to include access-to-records provisions in its missing persons legislation. The existing provisions were added to permit both family members and law enforcement to apply to a court for an order permitting access to information with respect to missing persons. Since 2009, other jurisdictions have passed legislation providing broader access and search powers to law enforcement agencies in the court of an investigation into a missing person. The Uniform Law Conference of Canada has also adopted uniform legislation which forms the basis of the proposed bill.

Mr. Chair, this bill creates new provisions that will provide more comprehensive search powers in the investigation of a missing persons case, including obtaining a search order on application to the court; accessing a broader range of records including GPS, employment records, and school records; accessing information about persons who might be in the company of a missing person who is a minor or a vulnerable person; and making an emergency demand for records where certain criteria are met.

Mr. Chair, the proposed amendments will offer more tools to law enforcement agencies while still protecting a missing person's personal information by including safeguards such as limiting the time frame for records that can be obtained as part of an emergency demand for records, and creating reporting requirements where an emergency demand has been made, and also restricting the type of information that can be released to

the public by law enforcement agencies as part of a missing person investigation. With those opening remarks, I would welcome questions respecting Bill 106, *The Missing Persons and Presumption of Death Amendment Act, 2017*.

**The Chair:** — Well thank you, Minister. Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you. Minister, could you expand a little bit as to why these changes were needed?

**Ms. Markatos:** — Thank you. As the minister mentioned, we were the first jurisdiction to include an access to information provision, which will continue to exist in the Act for family members or other interested parties on application to the court. But after we introduced that provision in 2009, there was a coordinating committee of senior officials, criminal missing persons working group, in 2012 referenced our Act and recommended the need for legislation in every jurisdiction, that would allow police access to personal information.

Following that, Manitoba was the first jurisdiction to introduce access to information provisions specific to police. And then in 2014 the Uniform Law Conference of Canada recommended the *Uniform Missing Persons Act* be adopted by Canadian jurisdictions to govern access. And this bill is based on that uniform Act.

**Ms. Sarauer:** — Okay, thank you. Can you explain how this process worked or is working now, I suppose, prior to the implementation of this bill?

**Ms. Markatos:** — So right now we have two forms that are prescribed in the regulations that would allow a family member, someone making an application for someone to be deemed a missing person, or police or RCMP [Royal Canadian Mounted Police] to apply to the Court of Queen's Bench *ex parte*, so without notice, to get access to information.

**Mr. McGovern:** — And one of the points that is important, I think, with the uniform law proposal was recognizing that the criminal law as the trigger in a missing persons case is sometimes irrelevant. There's no crime that's been involved. And that's one of the key elements here is to say, when you're in a circumstance where it's not, where you're not thinking of it as a criminal instance, this provides for a method to provide information about the missing persons to best help families who really need the tools that are available here to help them find the person they're looking for.

**Hon. Mr. Morgan:** — The vast majority of situations where a person's gone missing, especially a young person, the person has chosen to leave of their own, and this is a tool that would allow family members or police to identify if the person is a runaway or is somebody that is in need of more serious protection. And I'm sure you have as well, would have heard people speak about the panic or the trauma that a parent goes through in the first few hours when they realize that the person is not coming home or not there right now. And there's a desperation that sets in and they're wanting to try and recover information as fast as they can. So I think this goes specifically to address those.

**Ms. Sarauer:** — Thank you for that. How are any issues around privacy addressed in these provisions?

**Ms. Markatos:** — Of course there's a balance here between the privacy rights of the missing person and maybe there's someone who disappeared voluntarily and the police needing to know why that person disappeared.

We did consult with the Office of the Information and Privacy Commissioner and he did recommend some changes, and those are the instances where we do deviate from the uniform Act. So for example, where an emergency demand is made, record access is restricted to records created no earlier than 14 days before the alleged disappearance date. And also recommended by the Privacy Commissioner was that when the police release a statement that a missing person has a medical condition, no details are released about that condition.

**Ms. Sarauer:** — Thank you for that. And it segues into the next question I had which is about those who are not minors but frankly don't want to be found for whatever reason. How is that addressed in this legislation?

**Ms. Markatos:** — It's not directly addressed but, like I said, the police need to balance the privacy rights of the missing person if they disappeared voluntarily against finding out if there was criminal activity around the disappearance. I don't know what their process is if they find someone and they say, no, no, no, I left because of domestic violence or because I don't love my family anymore. We don't address that in this legislation.

[12:30]

**Hon. Mr. Morgan:** — I think it comes down to the ability of the police to make a judgment call as to what information should be disclosed. I think if a person has voluntarily left, tells the police they don't wish to be found, that's it, full stop. The police go back and say, we're done.

**The Chair:** — Well thank you. Are there any further questions from the committee? Okay. Clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 9 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Missing Persons and Presumption of Death Amendment Act, 2017*.

I would ask a member to move that we report Bill No. 106, *The Missing Persons and Presumption of Death Amendment Act, 2017* without amendment. Mr. Tochor has moved. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. That completes our business for this afternoon. Mr. Minister, do you have any closing remarks?

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I have a few thank yous I would like to make. I was remiss earlier. We're also joined by Danielle Schindelka, who is a new lawyer in this part of the ministry. She is the new Mary Ellen Wellsch and is a new replacement. So you will see her at this table providing answers in the future that I hope are at least close to the quality that were provided by Mary Ellen Wellsch in a long and distinguished career with the ministry. So I want to thank Mary Ellen and look forward to working with Danielle.

Mr. Chair, I'd like to thank yourself, the committee members on both sides, Hansard, the building staff, officials from the ministry that are here today, and all of the people in the ministry and elsewhere throughout the public service that support us. I know my colleague from the other side of the House has always been very gracious in thank yous and I don't think we can say thank you often enough to the people that support government.

**The Chair:** — Thank you. Ms. Sarauer.

**Ms. Sarauer:** — Thank you. I would like to join with the minister in first thanking him for his responses to my questions this afternoon, as well as all of the ministry staff, including the new ministry staff for, as always, providing their thoughtful responses and all the hard work that goes into all of the legislation that we end up seeing through this House as legislators.

I'd also like to thank members of the committee for their work this afternoon, as well as the committee staff and Hansard as well for their good work, as well as the folks behind the camera as well.

**The Chair:** — Well thank you. And I also would like to thank everybody for sitting through here through our lunch hour, and I know that everybody's wasting away and wants to get to the dinner table. So seeing that we've completed our business this afternoon, I would ask for a motion of adjournment. Mr. Nerlien has moved adjournment. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. This meeting is adjourned until Monday, May 28, at 8 a.m.

[The committee adjourned at 12:33.]