



Standing Committee on Private Members' Bills

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STANDING COMMITTEE ON PRIVATE MEMBERS' BILLS
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Shellbrook-Spiritwood

Jack Goohsen, Vice-Chair
Cypress Hills

June Draude
Kelvington-Wadena

Jack Hillson
North Battleford

Jack Langford
Saskatchewan Rivers

Pat Lorje
Saskatoon Southeast

Sharon Murrell
Battleford-Cut Knife

Larry Ward
Estevan

Grant Whitmore
Saskatoon Northwest

The Chair: — So I guess I will call things to order. I think we're running a few minutes behind the official time to call. The procedure that we'll follow, since we have three Bills, I'll just kind of go quickly through it and also it's basically we'll call the Bill, then have the MLA (Member of the Legislative Assembly) that is introducing the Bill introduce the people. We'll have a report from the Law Clerk as to where the Bill is at, anything that occurs from that direction; hear representation for and against the Bill; and at that same time, take any questions that committee members may have. Move a motion to adopt the preamble; consider the Bill clause by clause; then follow through for reporting the Bill, etc.

I think I'll add one other thing to that if the committee will agree, and that is if it takes us . . . if we get into a Bill that it looks like we are not going to pass today, we will then at a reasonable length of time, move on to the other Bill so that we don't have to call everybody back because I think we have three different Bills here. So we will . . . I don't think that this is going to occur, but should it occur, we'll try and make sure that we're not . . . we'll only call the Bill back that has problems with it.

**Bill No. 301 — The Lutheran Church—Canada,
Central District Act**

The Chair: — So with that, I'd like to call Bill No. 301, An Act to provide for the continuation of the Lutheran Church-Canada, Central District. And, Doreen, if you would introduce the people who are here to provide information, etc., for the Bill.

Ms. Hamilton: — Thank you, Mr. Chair. This morning we have with us, Reverend Roy Holm; Lawrence Spetz, who is the treasurer and executive director of the central district; and their legal adviser, George Nystrom from Balfour Moss.

The Chair: — Okay, and do we have a report on this Bill, Mr. Cosman.

Mr. Cosman: — Thank you, Mr. Chairman. In compliance with the requirements of rules 69, 74, and 108 of the *Rules and Procedures of the Legislative Assembly of Saskatchewan* respecting private Bills, I've examined Bill No. 301 of 1997 — The Lutheran Church-Canada, Central District Act and am pleased to report that in my opinion it includes no unusual provisions.

The Chair: — Now is the . . . if we could have any comments about the Bill, and I would, Doreen, give you the opportunity to start, and then if anyone appearing with the Bill directly would like to comment, and then open it for questions, etc.

Ms. Hamilton: — Well thank you, Mr. Chair, and good morning, committee members. The Bill is before you for a few reasons. One, to be, I guess, consistent with the non-profit Act of the province which refers to other legislation. And Mr. Nystrom will take you through some of the technical aspects of how that is constricting the operation of the church right now.

But it also allows to be consistent with the church-Canada structure and to allow the church a full range of the activities that they conduct. In consultation with other churches, they asked how they were able to do these things and found that they had their own Bill that did accomplish it. And so we have before us this morning the Bill that would do this. Mr. Nystrom will give you at least two of the technical aspects that are provided within the Bill.

Mr. Nystrom: — Thank you, Mr. Chair, members of the committee. Two of the . . . really the two major reasons that the church has a desire to be incorporated under a private members' Act is, in section 9 of the Act there are some provisions to deal with real property. There are a significant number of small rural congregations which own land in the names of trustees for the congregation, and those are where the congregations are unincorporated.

And some of those congregations have ceased to exist and the land has never been dealt with. Some of the land is now registered in the names of trustees for congregations. Not only do the congregations not exist, but the trustees themselves have died. And in those cases it's become time-consuming and expensive to deal with that land because it requires an application to the Court of Queen's Bench for a vesting order in order to get the land into the name of the church that can then be dealt with.

That has become necessary at least three times in the recent years, and each time that that happens it can be as expensive as this whole process of incorporating under a private members' Bill has been for the church. That's one of the significant problems there is and we can see that becoming even more of a problem in the future because some of the congregations have dwindled off.

Another problem that we seek to remedy under . . . the church seeks to remedy with the Bill is that as part of the church there's the Lutheran foundation to which members of the church often make gifts. Those gifts may be either *inter vivos* or testamentary, but the funds in the foundation are used generally to advance the purposes of the church, which is to the teachings of Christianity.

The foundation has found itself in the last few years in a situation analogous to that of some of our seniors who had thought that they had sufficient capital put away to retire on and had it invested in safe investments — so-called safe investments, guaranteed investment certificates — and the return on those has been so minimal that they've had to encroach significantly on their capital and will run out of money before they run out of lifetime. The foundation is in the same situation.

The church, and the foundation is a part of the church, is presently incorporated under The Non-profit Corporations Act. It provides that non-profit corporations can invest in — and only invest in — those kinds of investments that are allowed for trustees. And that, to find what those restrictions are, you turn to The Trustee Act.

And in The Trustee Act for Saskatchewan they're very restrictive in what you can invest in. It really amounts to investments in lending institutions, deposits like guaranteed investment certificates, and the other major area is in any kinds of investments that are guaranteed by any level of government — federal, municipal, provincial. But those kinds of investments are the kind that have returned low rates of return in the recent years.

What the church seeks to do then in the new . . . in this Act, the Bill that's before you, is to be able to invest those funds and get adequate rates of return in those kinds of investments that the board of directors of the church consider to be appropriate. And you can invest in income funds that are very stable, where there's virtually no risk of loss of capital, like mortgage funds. And those funds have rates of return over the last few years in the average of 8 to 10 per cent, whereas the types of investments under The Trustee Act have been 2 to 3 per cent, and it's had quite an onerous effect. So those are the main, principal two things that the church is looking for.

The Chair: — Thank you. I would now . . . if any of the members wish to ask any questions, I have Pat on the list for doing that. There's no . . . okay.

Ms. Lorje: — My name is Pat Lorje. I represent Saskatoon Southeast, and I have a couple of questions and I'm going to try to say them as tactfully as possible because I have no reason to assume that the question I'm asking has anything to do with the Lutheran Church. Indeed I guess I will preface my remarks by saying that one of my close personal friends is Dr. Ishmael Noko and I was very pleased to spend some time with him this summer when I was in Geneva. He is the secretary for the World Lutheran Federation.

But I am concerned. And I note the clause on no personal liability, which I agree with, but I don't see any clauses in terms of liability for the corporation. And I'm concerned about winding-up of the corporation and noting that the assets shall be distributed to the synod. I don't know how the Lutheran Church of Canada's Act, governing Act, would deal with this. But I am concerned that in the extremely unlikely event that the Lutheran Church should find itself in a situation similar to the brothers in Newfoundland, that nothing could happen that by virtue of a technicality, any kind of assets could go offshore; so that there was not a proper way to provide adequate financial compensation for any kind of victims of any improprieties from a member of the church once that had gone through all the due course of justice in this country.

Can you give me some assurances in that respect?

Mr. Nystrom: — Well that provision actually was one that we put in fairly late in the day and it was at the request of the synod; so that it would be parallel with the constitution for Lutheran Church-Canada, in the constitution for Lutheran Church Canada, which is the Canadian church.

And this is just for Lutheran Church-Canada, Central District, this Bill. In the constitution for the Canadian church, it provides that the assets of the districts, if they ever do wind up, would go

to the synod. And the synod is defined in here to be the church, as he picked up on. So that was put in at their request to be parallel with the constitution.

As for whether or not if there was some significant liabilities as you mention and some unfortunate situations that have arisen — and your legislative . . . your counsel may be able to confirm this — but if there was a suit or a class action, I believe that there could be an order, an injunction put in place by the Court of Queen's Bench in order to say, okay, you're taking . . . winding up operations; there are actions against you here. You will have to stop. You can't proceed with any winding-up. You can't dissipate the assets of the church in this instance.

So I don't think that that could happen, that the church could take that kind of an action — wind up, say, all of its . . . distribute all of its assets elsewhere and virtually bankrupt itself.

Ms. Lorje: — Mr. Cosman, is that . . .

Mr. Cosman: — I would concur. And I would also point out that the exception to this clause is that, "except as expressly provided by any applicable statute." And that can be a reference to existing statute law or it could be a reference to any new Act that this Assembly might see fit to pass to embrace a particular situation such as the one you described, should it be necessary to enact legislation regarding civil liability in that regard.

So I think the legislature maintains an overall ability to control the flow of assets in any event.

Ms. Lorje: — And when you state, "except as expressly provided by any applicable statute," that is on the clause 6, the limitation of personal liability.

Mr. Cosman: — Yes.

Ms. Lorje: — What I'm concerned here with is the limitation of corporate liability, if one can call a church a corporation. I guess one can but it's kind of an offensive kind of concept.

Mr. Nystrom: — The Bill doesn't contain any limitation on the liability of the corporation itself other than, as he'd said, if the assets happened to all be distributed. You can do a . . . try to do indirectly what the church couldn't do directly. There's nothing in here to directly limit the liability of the church itself, the corporation, in the situation you're speaking about.

The only way that they could get out of that liability is by winding up — as you've pointed out, that they could, you know, do something that completely inappropriate — wind up and get the assets out into the hands of Lutheran Church-Canada instead.

As for the individuals, there is a limitation on personal liability there except as expressly provided by any applicable statute. Although it says in there that they are . . . there's no individual liability for any of the debts, contracts, or liabilities of the corporation, there's no absolution in this, in the section 6, for things that they have done themselves personally to harm other

people.

Ms. Lorje: — I hate the fact that in . . . at the close of this century we should have to plan for disaster and I certainly don't expect this kind of situation to arise, but I'm sure in Newfoundland they didn't expect it either.

I guess I would ask both counsel if you feel comfortable that the provisions in this Act and the presumed nimbleness in the future of the Saskatchewan legislature would prevent such a situation as happened in Newfoundland, in terms of distribution of assets for victims. Because otherwise I would hope that we could put in some sort of clause.

Ms. Hamilton: — Before Mr. Cosman might answer, Mr. Spetz wanted to also provide some information.

Mr. Spetz: — It's just a word that she used about offshore. And nine years ago, in 1988, the church took action to become a legal Canadian entity; that's where Lutheran Church-Canada came from. Before, we were part of and connected to Lutheran Church-Missouri, centred in the United States.

Ms. Lorje: — Right.

Mr. Spetz: — So in terms of our assets going offshore, we've actually taken action to make sure they stay here in Canada.

Ms. Lorje: — That's the comfort level I want then. And that's . . . you see as I've said right when I started out my remarks, I didn't know exactly what the Act is governing a synod. But there is an appropriate Canadian Act that . . . federal Act?

Rev. Holm: — Yes.

Ms. Lorje: — So again I would ask then, do both lawyers present feel comfortable that this Act would provide a fail-safe mechanism?

Mr. Nystrom: — I'm satisfied that if there are assets, sufficient assets, in the church when something like that, an action like that was commenced, that those assets wouldn't be distributed to a jurisdiction that they couldn't be followed into, yes.

Mr. Cosman: — I would concur. I note as well that we as a legislature still can come back in and amend section 10 if we thought it was necessary. And I don't think we'd need to wait for a petition from the petitioners. The Department of Justice and Attorney General could move on this.

Ms. Lorje: — Fine. Thank you. My final question then arises just slightly . . . it's the same kind of concern, and that is with respect to life leases. I note Luther Tower in Saskatoon and the . . . I don't know what it's called now, it's on "pest" hill in Saskatoon, the housing complex there. I understand that people, many people, have purchased housing on a . . . as senior citizens on a life lease basis. And I'm sure that the Lutheran Church in Saskatoon is in absolutely no danger of folding its tents and going away, but I heard that there are some rural congregations where the assets are sitting there.

I'm wondering how this Act would provide some protection for people who have purchased life leases, which is as yet in this province a grey area in legislation and hopefully something that this government will address in the upcoming . . . in the next legislative session.

Mr. Nystrom: — I don't know if, and Mr. Spetz may be able to tell us, if there are any of those life leases within any of the congregations of Lutheran Church-Canada, Central District.

Mr. Spetz: — Maybe I can explain something about the Lutheran Church. There are two Lutheran church bodies in Canada. One is the Lutheran Church-Canada and the other is the Evangelical Lutheran Church in Canada. And it's the Evangelical Lutheran Church that is running this operation in Saskatoon. I also believe they're in Estevan and Outlook. And consequently, we don't have that much knowledge about their operation.

I think they have a separate corporation to run it, but that is only a guess. I see a fellow nodding his head; maybe he knows the answer.

Mr. Whitmore: — Outlook definitely does.

Mr. Spetz: — So we ourselves are not into this yet.

Ms. Lorje: — Okay, then the question is irrelevant and I will still state that I hope that the provincial government moves on drafting appropriate legislation for life leases in the very near future. Thank you.

Mr. Spetz: — You're welcome.

The Chair: — Do any other members have questions? Okay.

Mr. Hillson: — I wonder if Bishop Holm or Mr. Nystrom could just explain to me yet briefly the connection of central district to the national, international church. Is there any — I gather you're simply a branch of the national church — is there any formal connection to the international church beyond being sister communions or not? Any legal connection?

Rev. Holm: — Mr. Chairman, and members of the committee, as it has been stated, our national church is federally incorporated and we did that in 1988 when we formed our Canadian organization and left the U.S. (United States) Missouri Synod. And the districts in our constitution are under the, I guess, the supervision of the national church. Like when resolutions are passed in national conventions, they're binding on the districts.

So there is a specific relationship between the national church . . . we have three districts, the East District, the Central District, the Alberta-British Columbia District. So there is a definite relationship between the districts and the national church and the national church tells the districts what to do as opposed to the federal government and provincial governments. I don't know — that's supposed to be a joke.

Ms. Lorje: — It would either make life easier or much more

incredibly difficult.

Rev. Holm: — But we have no legal or formal international connection. We do have . . . we use the term altar and pulpit fellowship, which is a communion, and we have that with the Lutheran Church of Australia and the Lutheran Church of England, but it is not a legal relationship. And we also have it with the Missouri Synod, where we can transfer pastors back and forth and we accept each other's attendance at the Lord's table. But that's our international relationship, which is not administrative or legal, but it's only in a church function.

The Chair: — Okay.

Ms. Hamilton: — I was remiss to mention that, for the presenters, the interesting microphones in front of us will provide no volume, but it does assist *Hansard* in their copies of the deliberations of the committee available to the public at any time. So it's important for our *Hansard* recorder to be able to pick that up. And that's why we were adjusting in front of you.

The Chair: — Okay. More questions?

Mr. Hillson: — Again just more by way of background, I wonder if you could just briefly speak then, bishop, on the number of members in Central District, the number of congregations. This is more than just Saskatchewan, though, we're talking about, is it?

Rev. Holm: — Yes. Mr. Chairman, if I may. Our first congregation started in 1890 — so we've been around for a few years — in a small place called Landestreu, Saskatchewan, which is near MacNutt, which nobody knows, which is near Churchbridge. Somebody might know that.

So we've been operating as a church in this area of Canada since 1890. We now have 103 congregations. About 60 of them are in Saskatchewan, about 20 in Manitoba, and 20 in north-western Ontario.

The congregations in north-western Ontario joined our district when we became a Canadian church. Prior to that they were linked with the Minnesota district of the Missouri Synod.

And we have around, I think, 23,000 members in these 103 congregations.

The Chair: — If we have no further questions, then I need a motion to adopt the preamble. Is there a specific one? Okay.

Ms. Lorje: — We should note that we probably have the highest rate of Lutheran MLAs in any legislature in Canada in Saskatchewan. And they do wonderful service for us.

Rev. Holm: — But they're all from the Evangelical Lutheran Church in Canada.

Ms. Lorje: — They're still good guys.

The Chair: — I'm going to have to call everyone to order before we can start on the procedures that we need to go

through, then. Would someone be prepared to move the motion to adopt the preamble, then? Do we have a specific one that needs to be done or just the . . .

Okay. Grant moves. All those members agreed, please indicate. Those opposed? It's carried.

Now we'll move to considering the Bill clause by clause. The first clause is the short title.

Clauses 1 to 12 inclusive agreed to.

The Chair: —

Therefore Her Majesty by and with the advice and consent of the Legislative Assembly of Saskatchewan enacts an Act as follows:

An Act to Provide for the Continuation of the Lutheran Church-Canada, Central District.

Is it agreed? Agreed.

Would someone please move that we report the Bill without amendment?

Ms. Lorje: — I so move.

The Chair: — Everyone agreed to that? Agreed. Okay.

I would like to thank Doreen and the officials that are here in regards to this Bill for coming, and wish them a pleasant trip home, and they can consider this having been a successful day for themselves.

The committee agreed to report the Bill.

Ms. Hamilton: — Thank you, Mr. Chair. Well on behalf of our delegation, we too thank the committee members for their thoughtful deliberation, and I guess for the wake-up call the member from North Battleford gave us when he wanted to amend our Bill. And I will look forward to, on behalf of those present, to present the Bill to the House. Thank you.

The Chair: — Okay, just prior to moving to the next Bill, I would ask if one of the members of the committee would move that the fees for printing this Bill, Bill No. 301, be refunded. This is a normal practice with Bills that are brought to this committee from non-profit organizations.

Ms. Lorje: — That means we don't have to do it for the Bank of Nova Scotia and the Toronto Dominion Trust companies.

The Chair: — That's not stated but understood.

Is someone prepared to move that?

Ms. Lorje: — I will.

Ms. Hamilton: — We thank you for that consideration as well.

The Chair: — All those in favour of that motion? Carried.

**Bill No. 302 — The Bank of Nova Scotia
Trust Company Act, 1997**

The Chair: — Okay, we will than I guess move to calling Bill 302. This Bill is An Act respecting the Bank of Nova Scotia Trust Company, Montreal Trust Company of Canada, Montreal Trust Company.

John, I would ask you to introduce your supporting staff. This will be something new for you.

Mr. Wall: — Thank you, members of the committee, and so forth. I'd like to introduce not my supporting staff, but the one who know all about this, of which I am not very well versed.

Beside me is Eileen Libby, who is a lawyer with MacPherson Leslie & Tyerman.

The Chair: — Okay. Mr. Cosman, do you have any statements to make on the Act?

Mr. Cosman: — Thank you, Mr. Chairman. I'm pleased to present my report to the Standing Committee on Private Members' Bills. In compliance with the requirements of rules 69, 74, and 108 of the *Rules and Procedures of the Legislative Assembly of Saskatchewan* respecting private Bills, I have examined Bill No. 302 of 1997, The Bank of Nova Scotia Trust Company Act, 1997, and I'm pleased to report that in my opinion it includes no unusual provisions.

The Chair: — Okay. If we could have now, someone to give us an overview of the Bill, John and . . .

Mr. Wall: — Thank you, Mr. Chairman. With regards to the Act respecting the Bank of Nova Scotia Trust Company and the Montreal Trust Company of Canada and the Montreal Trust Company, the purpose of this proposed legislation is to appoint the Bank of Nova Scotia Trust Company, the BNS Trust, as successor trustee to Montreal Trust Company of Canada and Montreal Trust Company, relating to personal trust as opposed to corporate trust functions and to vest in BNS Trust all property associated with the trusteeship and agency business.

Now the nature of the transaction giving rise to the proposed legislation — in or about April of 1994 the Bank of Nova Scotia acquired control of Montreal Trustco Inc., which included its wholly owned subsidiary, Montreal Trust Company of Canada and Montreal Trust Company. The Bank of Nova Scotia Trust determined — the Bank of Nova Scotia, sorry — determined that the retail deposit-taking functions and related deposit products would remain with BNS, and that personal trust functions would be assumed by the Bank of Nova Scotia Trust, and corporate trust functions would remain with Montreal Trust.

Such organization is not unlike what the Toronto-Dominion Bank has done with TD Trust and what the Royal Bank of Canada has done with Royal Trust. In order to effect the organization of the personal trust function, it is necessary for

the Bank of Nova Scotia Trust to be substituted in place of Montreal Trust in respect of all personal trusts.

There are certain provinces where the legislation has already been enacted. And it has been enacted in New Brunswick; it has received first reading in Nova Scotia in April of 1997; in Prince Edward Island, also in April of 1997; and it's been approved by the Private Members' Bills Committee in Ontario, and it's expected, the second and third reading, when the Ontario legislature resumes sitting in late April. Thank you.

The Chair: — Okay. I have Pat on the list of members that want to ask some questions. Anyone else want to be on the list at the present time? Seeing none, okay.

Ms. Lorje: — Being consistent with my theme of planning for disaster here, first of all I would direct my question to the counsel for Nova Scotia Trust. This Act is similar across the country?

Ms. Libby: — Yes, that's correct.

Ms. Lorje: — Okay. So it's just . . . go on . . . you're picking off province by province to ensure that . . . all right. As far as I know, I have no RRSPs (registered retirement savings plan) with Montreal Trust so I don't think I have any conflict on this one.

I would note, with some degree of comfort, section 7, legal proceedings. And particularly, may I assume that this means that we would not get into a similar situation such as we have with Principal Trust and that there would be an opportunity for people who have . . . who feel that they have problems with respect to their assets and how they might have been dealt with by Montreal Trust and then subsequently by Bank of Nova Scotia Trust, that they do have a legal remedy.

Ms. Libby: — Yes, that's correct. All of the assets and liabilities have been assumed by Bank of Nova Scotia Trust.

Ms. Lorje: — The liabilities is what I'm really concerned about. As I said, I'm planning for disaster here.

And the clause 8, rights of third parties, that also is sufficiently broad then, is it? That people's creativity can be limited?

Ms. Libby: — Well I guess one can always envision a situation where somebody might attempt to be creative. But certainly the intent of the provisions is to ensure that any person who potentially had a claim against Montreal Trust with respect to their trusts that were held by that entity, would similarly have the same claim against Bank of Nova Scotia Trust and could advance it in the same fashion.

Ms. Lorje: — So basically then you're telling me that this Act does provide sufficient comfort level to look out for the little guy, the small investors. Is that correct?

Ms. Libby: — Yes, I believe that's true.

Ms. Lorje: — Okay. Thank you. Mr. Cosman, is that also your

understanding of this Bill?

Mr. Cosman: — That would be my interpretation as well, Mr. Chair.

Ms. Lorje: — Fine, thank you.

The Chair: — Do any other members have any questions? Seeing no other questions on that, then I need a motion for someone to move that we adopt the preamble.

Mr. Langford moves that we adopt the preamble. All those in favour, please indicate. Those opposed? Carried.

Now we need to consider the Bill clause by clause.

Clauses 1 to 9 inclusive agreed to.

The Chair: —

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts an Act as follows:

An Act respecting The Bank of Nova Scotia Trust Company, Montreal Trust Company of Canada and the Montreal Trust Company.

Who will move that motion?

Mr. Ward: — I will move that motion.

The Chair: — Is everyone agreed?

Agreed.

The Chair: — Is someone of the committee prepared to move a motion that we report the Bill without amendment?

Ms. Murrell: — I so move.

The committee agreed to report the Bill.

The Chair: — We're not going to have a motion regarding costs.

Ms. Lorje: — They would have been vigorously . . . (inaudible) . . . they needed regardless.

Mr. Hillson: — One assumes they wanted to donate the funds to charity anyway.

Ms. Lorje: — I'm assuming that the Bank of Nova Scotia, like all the other major financial institutions in this country, is accepting donations for the Winnipeg flood victims and will be appropriately dispersing them.

A Member: — You're right.

The Chair: — Okay. We will move on. I would like to thank everyone . . .

Mr. Wall: — . . . and for their thoughtful deliberations on the passage of this Bill, and I look forward to presenting it to the House. Thank you.

The Chair: — Okay. And I'm assuming that we're in the situation where Bill No. 303 is being presented by Ms. Murrell.

Bill No. 303 — The TD Trust Company Act, 1997

The Chair: — Ms. Murrell, would you introduce those that are appearing for this Bill?

Ms. Murrell: — Good morning. I'd like to present Eileen Libby, from MacPherson, Leslie & Tyerman, and she is here on behalf of the Toronto Dominion TD Trust Company Act, 1997.

This Act will provide for the transfer of the trustee and agency business of Central Guaranty Trust Company to TD Trust. TD Trust has been operating . . .

A Member: — You're ahead.

Ms. Murrell: — Sorry.

The Chair: — Could we just follow the procedures here. It probably isn't that important and I'm running things rather loose, but Mr. Cosman may have something to say about it.

Ms. Murrell: — Sorry.

Mr. Cosman: — Thank you, Mr. Chairman. I'm pleased to present the Law Clerk's report with respect to this Bill. In compliance with the requirements of rules 69, 74, and 108 of the *Rules and Procedures of the Legislative Assembly of Saskatchewan* respecting private Bills, I've examined Bill No. 303 of 1997, The TD Trust Company Act, 1997, and am pleased to report that in my opinion it includes no unusual provisions.

But I might add at this point for the committee's benefit, there's a small amendment that is needed at clause 4 of the Bill necessitated by the omission of the word "even" in the reprint being done by my office, for the benefit of the members here.

A member of the committee has agreed to move the motion to amend, and I'll be distributing copies of the amendment immediately as I complete my report — which completes my report, Mr. Chairman.

The Chair: — Thank you. Okay. Now, Ms. Murrell, would you carry on with your presentation?

Ms. Murrell: — Thank you. This Act will provide for the transfer of the trustee and agency business of Central Guaranty Trust Company to TD Trust. TD Trust has been operating and managing Central Trust, and given the number of trusts this involves, this Act would save years of unnecessary work. It would be effective as of January 1, 1993 to expedite the trusts that are there.

And other provinces such as Ontario, New Brunswick, Nova

Scotia, Prince Edward Island, Newfoundland, have already enacted this legislation, and it will be considered in the spring session in '97 for British Columbia, Alberta, and likely to be considered in Manitoba and Quebec.

The Chair: — Do any of the members of the committee have any comments?

Ms. Lorje: — Thank you. I would ask the legal counsel for the TD Trust Company to answer the same question that I put with respect to The Bank of Nova Scotia Trust Company. Is this Act (a) similar all across Canada; and (b) does provide protection for smaller investors, does it?

Ms. Libby: — The answer to the first part of that question is yes, it is similar; in fact in many instances, exactly the same in all respects in every jurisdiction it's been introduced in Canada and is intending to be introduced in Canada.

With respect to the second question, that is, protection of investors, this Bill is slightly different than the one that we've just considered for Bank of Nova Scotia Trust. And part of the rationale for that of course, is that the Bank of Nova Scotia situation was a reorganization internally, whereas the TD Trust-Central Guaranty Trust is a little bit different. It's a third-party organization being assumed by TD Trust, and in this particular circumstance, Central Guaranty Trust has a receiver presently acting for it. It is not completely wound down but ultimately will be.

The assumption of liability by TD Trust commences as of January 1, 1993. In other words, TD Trust is not assuming, and has not assumed in other jurisdictions, historical liability for those matters which may be advanced against Central Guaranty Trust prior to that time.

Having said that, that's not to say that TD Trust does not have some obligation with respect to the trusts that it is assuming for Central Guaranty Trust. Really in essence, its obligations are those imposed by the common law as it relates to trusts and trusteeship.

In essence, it is required to review any and all of the trusts that it assumes responsibilities for as of January 1, 1993, and if there are any situations where the trust has been mis-administered, funds misappropriated, fraudulent activity in connection with any of those trust arrangements, then there is an obligation at common law still, irrespective of this legislation, for TD Trust to attempt to rectify that situation — to advance claims on behalf of those people who may find themselves in that particular situation.

So that's in essence what has happened, is January 1, 1993, a firm transfer with the attendant assumption of all liabilities of Central Guaranty Trust prior to that time. It is assuming those matters that it would have assumed at common law in any event.

Ms. Lorje: — Thank you. Finally, Mr. Cosman, the amendments that I gather an hon. member will be putting, does that necessitate . . . Who made the mistake and left out the word

“even” when the Bill was printed?

Mr. Cosman: — Let the record show, learned counsel.

Ms. Lorje: — Let the record show that it was a member of . . . right. And does that necessitate additional costs then to have that printed?

Mr. Cosman: — None whatsoever. We have to reprint the Bill at what is called the separate chapter Act stage in preparation for the *Statutes of Saskatchewan* and at that point, we make any of the little tidying up corrections that the Law Clerk can make or that have been moved in committee; so there's no reprint costs whatsoever.

Ms. Lorje: — Good, because notwithstanding the fact that I do believe that the majority of banks in this country operate at some considerable profit, it does seem to me if we've made the mistake, we shouldn't be forcing them to pay for our mistake. Okay, thank you.

The Chair: — Okay. Any further discussions or questions by anyone?

Okay, just a quick question then that I have myself. It relates to the clause 4 . . . whoops, yes, okay, it's in clause 8, but I guess it's item (4) in clause 8. This is not . . . it says it comes into effect '93, which is a retroactive statement. So what is the rationale behind that or how that works?

Ms. Libby: — Yes, the effect of the business transfer is that it is retroactive to January 1, 1993 and in fact TD Trust has been operating this business for Central Guaranty Trust as agent under an operating agreement in fact since that date. So that's just to formalize that arrangement.

The Chair: — Okay, okay.

Ms. Libby: — If I answered the question, I'm not sure that . . .

The Chair: — Yes, that . . . so in reality though, it is asking that this Act be as a total. Then why was it not as a coming into force clause, which would be effective that date rather than this?

Ms. Libby: — Rather than which?

The Chair: — Well rather than having it as a part of a clause 8, that it be a . . . or clause 9, sorry, clause 9 rather than being a coming into force, that this whole Act then comes into force, separate clause? Or is that just . . . well most Bills in the province of Saskatchewan seem to have a coming into force date clause at the end of them. I'm just wondering what the reason is to have this included in 9 rather than having a separate clause that says it comes into force.

Ms. Libby: — There's no real difference in that respect. Clause 9(4) was to effect the change in the personal property registry as of that date.

The Chair: — As of that date?

Ms. Libby: — Yes, that was the intent.

The committee adjourned at 10:32 a.m.

The Chair: — Okay. We need a motion to adopt the preamble then.

Mr. Whitmore: — I so move.

The Chair: — All those in favour? Carried. Now we will consider the Bill clause by clause.

Clauses 1 to 3 inclusive agreed to.

Clause 4

Mr. Hillson: — Mr. Chairman, I would like to move an amendment. I would like to move that we:

Amend Clause 4 of the printed Bill by adding the word “even” immediately after the words “described in that subsection” where they occur in Subclause (2) thereof.

Mr. Chairman, I so move.

The Chair: — Okay. We have an amendment. Does everyone understand what it does? Okay. Then on the amendment, is everyone agreed? Okay. Then back to clause 4 as amended. Is it agreed?

Clause 4 as amended agreed to.

Clauses 5 to 9 inclusive agreed to.

The Chair: —

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

An Act respecting TD Trust Company and Central Guaranty Trust Company.

Ms. Lorje: — Mr. Chair, I move:

We report Bill 303 with amendment.

The Chair: — Okay. Pat Lorje moves that we report the Bill. Is everyone agreed? Agreed.

The committee agreed to report the Bill with amendment.

Ms. Lorje: — I move we adjourn.

The Chair: — We need a few little items in here.

Ms. Murrell: — I would just like to also express our appreciation for the committee's attention to this and I look forward to presenting it to the House.

The Chair: — Again I'd like to thank everyone for appearing, and in doing so, I accept the motion to adjourn.