



Special Committee on Regulations

Hansard Verbatim Report

No. 4 – February 7, 2001



Legislative Assembly of Saskatchewan

Twenty-fourth Legislature

**SPECIAL COMMITTEE ON REGULATIONS
2001**

Don Toth, Chair
Moosomin

Kevin Yates, Vice-Chair
Regina Dewdney

Denis Allchurch
Shellbrook-Spiritwood

Brenda Bakken
Weyburn-Big Muddy

Ron Harper
Regina Northeast

Glen Hart
Last Mountain-Touchwood

Debbie Higgins
Moose Jaw Wakamow

Carolyn Jones
Saskatoon Meewasin

Andrew Thomson
Regina South

The committee met at 10 a.m.

The Chair: — Ladies and gentlemen, welcome. We'll get moving forward with our agenda this morning. We have officials here from Justice and the Department of Agriculture that have come to share some things in regards to some concerns that were raised the last time we met . . . just for some clarification. We just didn't feel we had enough information to really make a final decision in regards to regulations on a number of issues, and so we're pleased to have officials here from the Department of Justice and Agriculture to address those issues and answer any questions we may have.

And my guess is once we've had a chance to just hear exactly why the regulations have been printed as they are, we may not have a lot of questions neither, once we've got a better understanding of it.

So we're pleased to have you with us this morning.

But before we actually proceed, it may not hurt for us just to introduce ourselves just so we get a . . . we probably have a good knowledge of who everyone is and have introduced ourselves. But to move around the table and I'll begin over here. I'll ask Glen to start, and we'll just go right around the table and introduce ourselves so we get familiar with . . .

Mr. Hart: — Good morning. I'm Glen Hart. I represent Last Mountain-Touchwood.

Mr. Allchurch: — Good morning. I'm Denis Allchurch. I'm the MLA (Member of the Legislative Assembly) for Shellbrook-Spiritwood.

Ms. Woods: — Margaret Woods, the committee Clerk.

Mr. Toth: — I'm Don Toth, the MLA for Moosomin and the Chair.

Mr. Ring: — Ken Ring, Legislative Counsel and Law Clerk.

Mr. Yates: — I'm Kevin Yates. The MLA for Regina Dewdney and the Vice-Chair.

Mr. Harper: — Ron Harper, MLA, Regina Northeast.

Ms. Jones: — I'm Carolyn Jones, Saskatoon Meewasin.

Ms. Higgins: — Debbie Higgins, MLA from Moose Jaw Wakamow.

Ms. Sinclair: — I'm Heather Sinclair from the Department of Justice.

Mr. Spencer: — I'm Ernie Spencer, assistant deputy minister from the Department of Agriculture and Food.

Mr. Winsor: — Doug Winsor, policy branch, Agriculture and Food.

Mr. Haase: — I'm Greg Haase, director of lands branch for Saskatchewan Agriculture and Food.

The Chair: — Thank you very much. What we have in front of us this morning are four issues regarding the Department of Agriculture.

We have The Short-term Hog Loan Regulations, Domestic Game Farm Animal Regulations, Provincial Lands Amendment Regulations, 1997, and The Provincial Lands Amendment Regulations, 1999.

What I would suggest we do, we'll go through and discuss all four of the regulations and the concerns in regards to each one of them. And then once we've had . . . presented all our questions, had responses, we won't tie up the time of the officials who have so graciously come to join with us, and as a committee we'll then discuss where we move from here.

But before we get started and have the officials respond to some of the concerns, just so that everyone's clear as to the issues we were raising, it may not hurt for us to have Mr. Ring just — and we'll do them one at a time if you don't mind, Mr. Ring — just to relate the issues of particular concern in regard to the specific regulation. And then we'll have the officials respond, open questions, and move through the format that way. If that's okay with you?

So I'll turn it over to Mr. Ring, and we'll discuss Short-term Hog Loan Regulations.

**The Short-term Hog Loan Regulations
(R.R.S. c. F-8.001 Reg 12)
The Farm Financial Stability Act
Section 5
Saskatchewan Gazette January 22, 1999**

Mr. Ring: — With respect to these regulations, they're a grant program and yesterday the chief or the . . . yes, the chief legislative Crown counsel, Ian Brown, spoke to the committee and addressed some of the issues with respect to these regulations because it also related to a similar type of . . . a similar set of regulations through the Department of Highways.

So we've had the advantage of hearing from Mr. Brown yesterday. And basically the information that I believe the committee's looking for today is an outline of how the loan program works, how many loans you may have, can you still apply for loans — that type of thing.

The discussion we had yesterday with respect to the Department of Highways regulations centred on section 9 of those regulations which are section 11 of the short-term hog regulations with respect to the waiver by the minister on any terms and conditions the minister considers appropriate.

So with that introduction we could hear from the officials.

The Chair: — We'll just ask the officials to respond please.

Mr. Spencer: — I think we would like to begin by just giving you a short overview of the program. This program was introduced as an emergency measure by the government in 1999 when the price of hogs fell to an unprecedented low, and it was meant and has operated as a short-term program that

provided advances for a period of time ending in May of 1999.

And I'll ask Doug Winsor to outline the scope of the program and where we are at at the present time. There are no loans made since then but we're in the process of collection of those loans now that hog prices have improved. I'll ask Doug to go over the amounts loaned and where we're at in terms of collection.

Mr. Winsor: — As you will know from the regulations, the period in which producers could qualify for a loan under this program has ended. It ended in 1999 as Mr. Spencer mentioned. The loans were based on hog sales during the period which were outlined in the regulations. During the period that producers were able to access a loan, there were 197 producers that took the opportunity to obtain a loan based on the price at the time they sold their hogs and compared to the prices as laid out in the regulations.

Those 197 producers borrowed \$11.7 million, and the sales during that period related to that loan were 475,000 hogs. So roughly a half of the year's production was covered during the low-price period, and that was the period that the prices began to recover fortunately after the end of the loan period.

To this point, there is still outstanding \$7 million to repay. Producers have until March 31, 2003 to finish making the repayments on that loan. The administration is confident that provided prices stay relatively good — which is where they sort of are at the moment, producers are still making their cost of production — the administration is confident that the loans will all be repaid at the end of the program period.

In terms of the default rate, there have been a small number of people that are technically in default. In other words, they have not kept up to their repayment schedule. All of those have been accommodated for with a rewritten, repayment schedule. And it's sort of the balance between ensuring that producers have the ability to, over time, catch up to their obligations under the program without putting undue hardships on producers, as long as they're making an attempt to repay their loans.

So it's always that kind of balance, which is something I guess your committee has raised. It's not spelled out specifically in the regulations but there's accommodation for producers to continue as long as they're operating in good faith and repaying the loans.

No one under this program is at the point where they are — how should we put it — in default to the extent that there are any legal actions for recovery or anything of that sort. Everybody that has borrowed money is making appropriate steps to catch up to their repayments, even the very small number that have been in default.

I don't think I have anything more to add unless the committee has some specific questions.

The Chair: — Thank you very much, and certainly we'll open up the floor for questions. I just want to remind committee members though that we don't really want to enter into discussion with officials regarding government policy. I think basically we're just discussing the regulations. And for the

officials, it's not our endeavour to try to discuss whether or not government made the right policy or a right decision and expect you to try and guess what government was thinking. We're just here to address the concerns that we felt may not have been totally laid out as in regards to what the legislation may have specified.

So thank you for coming and I'll now open the floor for any questions from committee members.

Mr. Allchurch: — Thank you, Mr. Chair. You were stating that there was \$7 million left to repay from the people that have the loans and there's a small percentage of them that are in default. Is that a very, very small percentage or . . . a very small percentage of the \$7 million that are in default?

Mr. Winsor: — It's a very small percentage of the 197 producers.

I think the administration told me there was something like five producers that technically are in default because they missed a payment. I don't have the value of those . . .

Mr. Allchurch: — I don't need the value.

Mr. Winsor: — . . . loans, but they are all making attempts to catch up to payments they got behind in.

Mr. Allchurch: — Thank you. Also the program ends in 1999. You expect the money to all be repaid by what date? Is there an end to when the money will be paid back?

Mr. Winsor: — The absolute final end is March 31, 2003. All loans must be repaid by that date.

Mr. Spencer: — You will note from the regulations that the program provided for producers to repay in the initial stages if prices were above cost to production, and then in the event that that system did not provide for repayment, the loans were termed out. And the terms end, as Doug has indicated, in 2003.

The Chair: — Any further questions, Mr. Allchurch? No.

Mr. Thomson: — Mr. Chairman, this would seem to me to be analogous to the circumstances we found ourselves looking at yesterday with the short term . . . no, that was the short-line railway regulations.

I simply want to renew again my concerns about the wording of the waiver of default clause that we've seen in both of these Acts and want to make sure that I understand completely.

Now this program that we're looking at today or at least the regulations that govern it, the program, it's now concluded? There's no further applications being made under it, no further loans being made . . . or grants and we expect it to be repaid by 2003 as Mr. Allchurch has asked?

Okay. Now, in the case where . . . could I ask what is the reporting mechanism that the department will use to — I don't want to say reveal — but what is the reporting mechanism in terms of the amount of default by 2003? Will it be reported back to the Provincial Auditor or will it simply show up on the

department's books?

Mr. Spencer: — Well certainly the program is subject to audit by the Provincial Auditor, and he would be free to comment if he wished. But in any event, any amount of default will need to be expended from the department and those expenditures will show up.

Mr. Thomson: — I'm also interested, has the minister permitted a waiver of a default under these regulations at this point?

Mr. Spencer: — No, he hasn't.

Mr. Thomson: — And is there an anticipation that default will be waived in any cases?

Mr. Spencer: — We do not expect so.

Mr. Thomson: — Okay. Thank you, Mr. Chairman.

The Chair: — Thank you, Mr. Thomson. Any further questions?

I do have one question and that is in regards to the current hog prices. I've noticed of late they've somewhat slipped a bit. If you should reach that March 31, 2003 deadline and some producers still are . . . have not been able to make full payment, would there be some provisions that would allow through some negotiation and ability to recover after that date? Or is it just cut and dried and payment, final loan repayments must be made by that time?

Mr. Spencer: — To date we have negotiated with producers who are in arrears and have satisfactory arrangements in place with all of them. Should we reach the situation you're talking about, it would likely be necessary to amend the regulations in order to carry on beyond the date that is now prescribed.

The Chair: — Okay, thank you. Any further questions? If not, then thank you. We'll then move on to discussion with officials regarding The Domestic Game Farm Animal Regulations. I'll ask Mr. Ring just to bring us up to date regarding the concerns.

**The Domestic Game Farm Animal Regulations
(R.R.S. c.A-20.2 Reg 10)
The Animal Products Act
Section 15 and 18
Saskatchewan Gazette June 4, 1999**

Mr. Ring: — With respect to The Domestic Game Farm Animal Regulations, the regulation appears to deal with an issue that's covered in the Act. Section 7 of the regulation attempts to deal with the suspension of licences for domestic game farms. However, section 18 of the Act does not appear to provide authority to suspend licences.

The preamble to section 18 speaks to the Lieutenant Governor in Council making regulations that are not inconsistent with the Act. However, 15.01 of the Act already deals with amendments, suspension, and cancellation of licences. And so we were interested to find out how the provisions worked and how they related to each other.

Mr. Spencer: — I'm going to ask Ms. Sinclair to respond to that question.

Ms. Sinclair: — There is an additional provision in The Animal Products Act, which is the Act under which these regulations have been passed, which in our view provides sufficient authority for section 7 of these regulations. And that is subsection 15(4) of The Animal Products Act which wasn't mentioned in the deliberations of the committee, but subsection 15(4) says that:

the Lieutenant Governor in Council may prescribe by regulation:

(b) the conditions under which a licence may be granted, refused, cancelled, suspended or reinstated;

So while there is also a provision in the Act itself which deals with suspension and cancellation of licences, it's our view that because of this additional regulation-making authority in subsection 15(4) that it's open to the regulations to provide more detail on the subject of grounds for licence suspension, which is essentially what section 7 of the regulations does.

The Chair: — Thank you very much. Any questions from committee members?

As the Chair, I've just got a question or two in regards to domestic game farm regulations and not having . . . and actually suspension of licence. And I guess the question I do have is what would be the type of thing that would really cause the department to suspend a licence? And has the department actually suspended any licences to date of game farm operators?

Mr. Spencer: — No, we have not suspended any licences to date. But in the event that a game farmer were in default of the regulations, we do have the authority if it were necessary to do that. We would certainly use every means possible to make sure that the game farmer came into compliance without suspension of his licence. But we do have this authority as a final lever, if you like, in terms of ensuring that game farm producers follow the processes that are set out by these regulations.

This was a matter of real concern to producers when we discussed these regulations with them. And as you'll know, we do have a mechanism in place in the regulations where producers themselves or a committee of producers are empowered to recommend on this issue of suspension because it is of such importance to the producers.

The Chair: — Just in response to that, I noticed that and I thought that would be appropriate, having met just recently with certainly the white-tailed deer game farmers. And a real concern in the game farming industry is that CWD (chronic wasting disease) rate, and making sure that . . . And I think the organizations themselves are certainly really trying to police their own organizations to make sure that their producers are complying so that this doesn't become a major factor as we've seen in some herds.

And I'm assuming that that might be an area where you may end up having to suspend a licence if a producer doesn't comply with some of the guidelines in regards to health issues.

Mr. Spencer: — It's possible, yes. But to date it has never happened.

Mr. Thomson: — I want to just make sure I understand this completely. Section 7 of the regulations deals entirely with the suspensions issued under section 15.01(2) of the Act. Is that correct?

Ms. Sinclair: — You mean subsection (2) of 15.01?

Mr. Thomson: — Right.

Ms. Sinclair: — Both sections deal with suspension of game farming licences. It's just that section 7 of the regulations provides additional detail around the grounds upon which a game farming licence may be suspended and also detail around the procedure to be followed by the minister in doing so.

Mr. Thomson: — If you read section 15.01(4) of the Act, it says:

Notwithstanding subsection (3), if the minister considers that it is necessary to protect the public interest, the minister may immediately amend, suspend or cancel a licence . . . without giving the holder of the licence an opportunity to be heard . . .

Is this section consistent with that? Are the regulations consistent with the minister's ability to do that in the interest of public health?

Ms. Sinclair: — I would suggest they're consistent. What section 7 is dealing with is requirement for the minister to consult with the industry consultation committee as well as giving the operator an opportunity to be heard. But I don't think it displaces the application of 15.01(4).

Mr. Thomson: — The reason I have some concern is just in the wording of section 7(2) of these regulations.

It says:

(2) The minister shall not suspend a domestic game farm licence unless:

(a) industry consultation . . . (has recommended it); (or)

(b) the minister gives the . . . operator an opportunity to be heard.

There's no inconsistency between these two sections. The minister still has the power to suspend without giving the . . . in the interest of public safety without giving the operator an opportunity to be heard?

Ms. Sinclair: — He still has to give the operator an opportunity to be heard under 15.01(4). He just may do that after the initial suspension decision.

The Chair: — Mr. Ring would like to make a comment, if that's fine, as well in regards to the . . .

Mr. Ring: — I was just going to add a comment. 15.01(1) starts

out with:

Where a person is convicted of an offence pursuant to this Act . . .

And that was added after the original Act was passed, and so it was perhaps used as a mechanism to deal with offenders to suspend their licences. Whereas 15 was in the Act all along and deals with suspensions on a general basis or a routine basis. And that may be the difference between the two sections. And I think that's what the committee was attempting to get at.

Mr. Thomson: — I just want to say that I share your views, Mr. Chairman, that clearly the game farm operators in this province are doing I think a very good job of both developing their industry as well as making sure that there's a high degree of public confidence in the industry itself. As we watch what happens across other parts of the world, clearly these kinds of issues are very important to us to make sure that the herds are looked after and that we have a good, safe food supply.

And so I'm pleased to see that the regulations recognize the importance of the association, and inherent within that the responsibility that the producers have taken among themselves to maintain high standards. So I have no other questions.

The Chair: — Any further questions from committee members? Thank you very much. Then let's move on to the . . . (inaudible interjection) . . . Sorry, Mr. Thomson.

Mr. Thomson: — Is there anything in these regulations which would prevent herds of buffalo from trampling on any member's vehicle or should we consider this in future regulations?

Mr. Spencer: — . . . regulations don't deal with buffalo but I believe that the buffalo in question were in contravention of The Stray Animals Act.

The Chair: — Let's move on to The Provincial Lands Amendment Regulations, 1997 Act.

The Provincial Lands Amendment Regulations, 1997

(S.R. 145/68 as Amended by S.R. 110/97)

The Provincial Lands Act

Sections 14, 20 and 22

Saskatchewan Gazette January 2, 1998

Mr. Ring: — With respect to The Provincial Lands Amendment Regulations, 1997, these set of regulations were brought before the committee by Mr. Holtzmann and at that point they asked, the committee asked Mr. Holtzmann to write the department to ask for copies of the leases to be provided to the committee so they would have a better understanding of how the lease worked and what type of leases there were.

It was at that point that I undertook the duties of Law Clerk. I wrote to the Department of Agriculture and Mr. Spencer responded and provided a number of different types of leases that are used.

And the issue that was before the committee at that point was that the . . . although a person signs a lease for the use of the

land, the rental on the lease can be changed through the regulations a year later depending on certain circumstances — climate or whatnot.

And I am of the view, as Mr. Holtzmann was, that the minister is on firm legal ground in passing the regulations and the scheme that's in place. And it was really a question of the discussion the committee wanted to have with respect to the leases and perhaps there could be some refinement to the regulations.

But on a general point of view, it's very clear when you look at the leases themselves. The earlier leases had the section about this lease is subject to any changes or amendments to the regulations was further down. Now I believe that's . . . if not the first provision, certainly on the front page of the lease. So it's very clear to people, and it's probably pointed out to them that that's the case, that the regulations may change and that will change the rentals.

But that was the issue that the committee was looking at.

The Chair: — Are there any comments from officials in regards to those concerns?

Mr. Spencer: — May I ask Greg Haase to respond.

Mr. Haase: — Perhaps it might be useful for the committee to just have a little bit of background on Crown land — what it is, how we manage it, and what some of the day-to-day issues are.

We've got about 8 million acres in this province that is administered by our department. And of that, about 5.4 million is out to producers as grazing leases, about 750,000 is out for cultivation leases, and 1.2 million is in the two pasture programs in the province. The rest of it is, for the most part, unused. It's of very low quality and there's no agricultural potential of it currently.

On this land we've got about 12,000 leases to farmers and ranchers, and these leases are, for the most part, for a 33-year term. The leases . . . the legislation gives us authority to give a lease up to 33 years and unless there's some reason on our part why we don't want to give that term or the lessee doesn't want that term, they're pretty much for 33 years.

The rental, as was pointed out, on both the cultivation and grazing side is in the regulations, set out by a formula, and that formula takes into account and fluctuates annually, for the most part, with commodity prices. And really the theory behind the formula is to try and approximate a crop share or a percentage of the value of the product that's produced. So both on the cultivation side, we take from . . . around from 20 to 24 per cent roughly if the . . . depending on the soil quality, and on the grazing side, we take twelve and three quarter per cent of the formula of value of the product that's produced.

And I guess that's pretty much . . . I guess maybe the one other thing I would say is that we do consult with stakeholders; we have sort of ongoing dialogue. We have what is called a Crown land stakeholders forum which brings together everyone with an interest in Crown land; some representatives of those interests to talk about things, and certainly rental has been

talked about in the past.

But generally, producers I think appreciate the fact that when commodity prices are higher, they're prepared to pay more and when they're lower they pay less.

The Chair: — Thank you very much. Do we have any questions from committee members?

Mr. Allchurch: — Thank you, Mr. Chair. You indicated that you deal with a group that consult with you quite regular on the leases as such. Has there been any cases where the leases have gone down in years, where weather has caused it to go down, or do they go down?

Mr. Haase: — Yes they do. I have a graph here that shows that. Should I pass it around?

The Chair: — It would be appropriate if you have enough copies, certainly.

Mr. Haase: — Yes, I think I do.

It's gone down for a couple of reasons I guess. As I indicated earlier and when you get the graph, you'll note in particular from '94 to '95 to '96 to '97 cattle prices were going down and so the lease rate went down.

The graph here shows the charge that we make on an animal unit month. And an animal unit month is how we determine the productivity or assess the productivity of leases. It's a term that range scientists use to represent the amount of feed that a 1,000-pound cow would eat. And so we charge on that basis.

And so you can see that it went down for those reasons in '94, '95, '96, and then as cattle prices strengthened it starts to climb back up again. The other reason that we've charged less than formula is that there's a provision in the regulations that says when prices go up the minister can charge . . . he doesn't necessarily have to follow it; he can charge . . . leave it at a lower level, but he can't go down.

So you'll notice from '87 to '92 we were charging actually less than what the formula predicted, so that would be the other reason why the rental would have gone down, or be less than formula in that case.

Mr. Allchurch: — In cultivated acres then, do you have a graph to show the cultivated acres?

Mr. Haase: — I do. It's a . . . I just noticed as I got here, the last two years aren't on it, but it's a similar sort of thing. I can hand that out as well and if you want it updated for 2000 and 2001, I could do that. But it does, as well, go down as prices go down. It's gone down, I guess regularly now since '97 as crop prices have gone down.

Mr. Allchurch: — Getting to where I was going to go. If the grazing rent has gone up because the cattle prices have gone up or seem to be going up, whereas your cultivated acres, the pricing of that has gone down, does the graph show that it goes down?

Mr. Haase: — Yes.

Mr. Allchurch: — One of the other concerns I have regarding leases. A person renting — or I shouldn't say renting — leasing land, grazing leased land, they've taken on the contract but they don't find out what their payments are going to be until the fall time. Is that correct?

Mr. Haase: — Typically what we do is we will write them a letter in the spring and tell them what the rent is going to be, but they don't have to pay until fall. So people get a lease that's effective January 1; they get to use it for the year, and then it's billed in the fall. But we will tell them in the spring what the rent is going to be.

Mr. Allchurch: — It's an approximate price, though, right?

Mr. Haase: — Well we would know exactly what the dollar figure per animal unit months, so he would be able to calculate what his rent is, and we will actually tell him that. The only sort of caveat we put on that is if there's some adjustments to the land base or something happens, you know. If he gives up some land or takes more land or there is a reassessment over the course of the summer, that could affect the rent in the fall. So the bill doesn't actually occur until the fall.

Mr. Allchurch: — And that letter goes out to all lessee participants?

Mr. Haase: — Yes.

Mr. Hart: — You had mentioned that the lease can have a term up to 33 years but the annual lease fee is set on the yearly basis. Is that correct?

Mr. Haase: — It fluctuates every year with commodity prices, yes.

Mr. Hart: — And you're using current commodity prices to determine . . . to plug into your formula to determine the annual lease . . .

Mr. Haase: — We use, in the case of a grazing lease, we use cattle prices from the previous July to November so it's last year's prices. And in the case of cultivated leases, we use the last complete crop year. So for this coming year, we will be using 1999-2000 final prices to determine the rent.

Mr. Hart: — And you also indicated that the lessees are notified early in the calendar year as to what their annual lease fee will be? And seeing that it's a 33-year lease, what options do the people who have signed the lease and may not be satisfied or feel that the upcoming year's rental is too high — can they cancel, withdraw from the lease? And is there any ramifications? Is there a time frame as far as notifying the department as to when, you know, whether they want to continue or I guess probably more correctly put, if they want to discontinue the lease?

Mr. Haase: — Yes, if they come in and they let us know by the end of May then they don't have to pay any lease fee. If they let us know over the course of the . . . you know if they let us know in June, July then we start to pro-rate the rent and so they might

end up owing a quarter or a half or three-quarters of a year if they give up during the growing season.

Mr. Harper: — Thank you, Mr. Chair, and thank you gentlemen. Just a couple of questions.

Has the number of lessees holding grazing leases changed dramatically in the last 10 years?

Mr. Haase: — I would say no. I don't know the specific numbers but it wouldn't be dramatically. No.

Mr. Harper: — And would the same be said for agricultural leases?

Mr. Haase: — No, they . . . The biggest factor I guess that's changed the number of cultivated lessees over the year is the various sale programs that the department has had. So if we sell leases, typically it's been the cultivated leases that have been sold first. And then of course they wouldn't be lessees any more, they would be owners.

Mr. Harper: — Okay. Now, if a lessee was holding some marginal agricultural lease land and because of the climate and grain production and the attraction of increasing livestock production wished to take that agricultural lease land and turn it into grazing land, what would be the process that the lessee would have to go through in order to receive permission to do that?

Mr. Haase: — Basically, all we would ask him to do is to let us know that that's his intention.

We have a professional agrologist on staff who . . . if it's the situation that you describe — it's marginal land, it's probably best suited for forage — we would encourage that and he would be able to do that. The lessee would be able to do that and we would adjust the rent accordingly.

Mr. Harper: — Okay. And my final question. How would these regulations apply and how would the department handle a situation where a lessee is leasing land from the department but sublets it to his neighbour?

Mr. Haase: — Basically, that's in contravention to his lease agreement.

As you I'm sure appreciate, we don't typically always know that that's going on unless someone tells us or we happen to come across it in an audit. So what we would do is we would approach that individual, make sure he understands it's in contravention of his lease agreement. We always provide an opportunity to correct that so he can . . . We actually have a policy in place that says in case of that sort of a situation he would have a time period to make sure that he's farming it himself, and we would ask him to sort of sign an agreement to that effect. And if he failed to do that, then his lease would be subject to cancellation.

Mr. Harper: — Okay. If there was a lessee in that particular situation that was brought to your attention and you approached the lessee and he denied it, would you investigate it to see whether he was being truthful with you or not?

Mr. Haase: — Yes we would. Again, I'm sure as you can appreciate, there are things that are difficult to prove and if we can't prove it, then we . . . it takes a fair bit of investigation and a fair bit of time and in some cases, particularly if it's a custom farm arrangement and not a sublease, then there's no recourse that we can take.

But usually what we find is, given the sort of latitude that we give for people to correct those actions, that I would say the vast majority of them are corrected and it's only on a rare occasion that we would actually cancel a lease for that effect.

Mr. Harper: — Okay. Thank you very much. Thank you, Mr. Chair.

Mr. Allchurch: — Thank you, Mr. Chair. I have quite a few more questions, but I didn't want to take up the time at first with all the questions.

In regards to a lessee leasing land on a 33-year lease, if a time comes to them that they want to give up that lease for whatever reasons, what happens to that leased land after it's been given up? What is the protocol of it?

Mr. Haase: — If he comes in and says I'm no longer interested in this lease and I want to unconditionally surrender it, then what we will do is we will talk to him about the improvements that are out there. And if he has improvements, there is a requirement that we reach settlement with him on that, so he may likely have some equity in it that he would get paid out, of course offset with any arrears or rental arrears that he might owe us.

Then that land would be — if it's eligible for sale — it would be advertised for sale first. And we would do that typically October, November of any given year. We set an upset value. If that upset value is not reached, bids aren't high enough, then it would be put up for lease and advertised for lease typically November, December, sort of after the sale ad has concluded.

And then we take application, and we have a scoring system that we go through and give it to the most eligible individual.

Mr. Allchurch: — If the said land is land that has also been deemed as critical wildlife habitat land, what happens then if this person does give up that lease and it is critical habitat land? What happens then?

Mr. Haase: — If it's wildlife habitat protected land, under that legislation, grazing and forage production is an approved use of that land so we wouldn't . . . But it's not eligible for sale and so it would go directly to being advertised for a lease.

Mr. Allchurch: — In case of land of that nature, what is the protocol of First Nations applying to purchase that land?

Mr. Haase: — Specifically to wildlife habitat protected land?

Mr. Allchurch: — Yes.

Mr. Haase: — They're, as I understand . . . what basically I should point out, I guess, that Environment and Resource Management manages The Wildlife Habitat Protection Act and

First Nations can apply to purchase under treaty land entitlement any lands that they, I guess, are identifying an interest in.

Where it has a designation under The Wildlife Habitat Protection Act, it then becomes SERM's (Saskatchewan Environment and Resource Management) decision whether or not they want to remove it from the Act so that it can be sold. And I know that they have done so in the past, but I also know that they're under some pressure I think. And maybe I shouldn't speak for them, but they're under some pressure I think to sort of review that process. So I don't . . . I'm not aware of any decision, sort of at a policy level in that regard.

Mr. Allchurch: — If the said land was under a 33-year lease agreement with a lessee, first of all, and then it became part of the wildlife protection land Act afterward, would it not still fall under the land under the agricultural land where they would have to advertise for lease first?

Mr. Haase: — I'm not quite following your question. All of the lands that were identified under The Wildlife Habitat Protection Act, going back to when the Act was first enacted in the mid-'80s, were typically under lease or the vast majority of them were anyway. So once they're designated under that Act, it stops the sale of that land and it stops the further development of that land. In other words, clearing and breaking.

But it doesn't change. We don't handle it any differently other than not advertising for sale when it comes vacant. So it would be advertised again for lease if it's given up.

Mr. Allchurch: — Okay. The leasing land though wouldn't come up for sale, it wouldn't come up for lease again then?

Mr. Haase: — If it's just designated under The Wildlife Habitat Protection Act, it won't come up for sale.

Mr. Allchurch: — It won't?

Mr. Haase: — No.

Mr. Allchurch: — It will only come up for lease.

Mr. Haase: — That's right.

Mr. Allchurch: — Can then it be leased to a First Nations band rather than a group of people that want to have it as agricultural grazing lease land then?

Mr. Haase: — It could be, but typically for treaty land entitlement purposes, First Nations have to purchase it in order to take it to reserve status. So we do have some leases to First Nations, but then we treat them just as any other agricultural client and they have sort of the same provisions that have to be applied to their lease agreements.

Mr. Allchurch: — So then they cannot purchase that land? They can only lease it then?

Mr. Haase: — Not until SERM takes it out of The Wildlife Habitat Protection Act, and once it's out of there then it's no longer designated that way and it would be eligible for sale.

Mr. Allchurch: — So as long as SERM has it under the wildlife protection Act, that it can only be leased, it cannot be sold.

Mr. Haase: — That's correct.

Mr. Allchurch: — Okay.

Mr. Thomson: — . . . that point. Do I understand it correctly that lands designated under this are actually designated in the legislation itself and not by regulation? So when you say SERM designates it, is it actually the legislature designating the land?

Mr. Haase: — For the most part. I don't believe there's still some lands — and, Heather, maybe you know — that are just designated by regulation?

Ms. Sinclair: — Some of them is designated by regulations.

Mr. Allchurch: — Is there a difference between agricultural farm leased land versus forest-fringed land?

Mr. Haase: — Well there's a difference in administrations. SERM also administers Crown land but typically that's within the forest boundary. So when you say forest fringe, I guess I think of the forest fringe as sort of crossing the settled area of the province as well as the provincial forest.

So we manage the land in the settled area of the province for agricultural purposes so there's no difference how we administer land from the north to the south than other than sort of carrying capacity and regional differences in landscape. But policy wise there's no real differences.

Mr. Allchurch: — The reason I asked about forest-fringed land, forest-fringed land is a piece of land between the northern forest and I guess you'd call your agricultural land, is it not? I don't know how wide the section is or whatever but it's land that SERM regulates.

Mr. Haase: — Okay, the land that SERM regulates would typically be within the forest and they do issue grazing permits on some of those lands. And we've had discussions over the years and we've tried to harmonize and make our policies as consistent as they can . . . but I believe there would be some differences. And one of the major ones, in the forest they give annual permits, as I understand. They don't give long-term leases.

Mr. Allchurch: — But are the regulations for agricultural farmland the same as SERM forest-fringed land or are they different?

Mr. Haase: — They're a different set of regulations.

Mr. Allchurch: — They're totally different?

Mr. Haase: — Yes.

Mr. Allchurch: — Would it be fair to ask to obtain the regulations for forest-fringed land — not now but at a later date — regarding forest-fringed land versus agricultural land?

Mr. Haase: — Sure.

Mr. Allchurch: — I have no more further questions, Don.

Mr. Hart: — Thank you, Mr. Chair. You mentioned earlier that when a lease is terminated or the lessee no longer wants to lease a parcel of land, that you assess the improvements that the lessee may have made to the property or to the lease and then establish a value on that, on those improvements. I wonder could you expand in that area? Just give us an example of what type of improvements may be made and how the evaluation . . . and then how that impacts on the people, on the person who then would rent the land?

Mr. Haase: — Okay. Well typically when I talked about improvements to a lease, I'm in a grazing lease for the most part, talking about fencing, grazing or fencing, water sites, perhaps some handling facilities. And that would probably be the bulk of it.

On cultivated leases it would be summerfallow for the most part and that would be pretty much it.

So basically what the Act requires is that we establish a resale value and so we sort of have to try and balance what the individual . . . what the outgoing lessee, what it's worth to him and then we have to charge that back to the incoming lessee. So we would depreciate the value of a fence for example and say that here's the new value and it's this old, and so we come up with a value that way. Typically water sites, dugouts are what it costs to sort of excavate and replace that dugout and, like I say, we charge back then to the lessee that comes in.

Mr. Hart: — If I could have one more question, Mr. Chair. At one time, I believe, the department and lands branch had a provision that lessees could clear and break, do some clearing and breaking on cultivation leases and I believe there even was some assistance in that area. I'm just wondering is that still in effect on cultivation leases?

Mr. Haase: — There is still the ability for a lessee to cultivate. There is no more assistance. There hasn't been for, oh, 15 years maybe. The only sort of form of assistance that we give is a rental waiver for a period of time, and it depends whether it needs clearing or just breaking.

And I would also say that for the most part there's a lot more concern I guess about breaking native prairie. So if you're talking about land in the South, typically we don't normally authorize that unless there's some really outstanding reason for that happening. So while we haven't said no to that, there's got to be a really good case before it's allowed to happen.

In the North there hasn't been a lot of clearing and breaking either, for the most part I think because of commodity prices and trying to get enough return back on it.

Mr. Hart: — But if a lessee undertakes to do some improvements, clearing and breaking and that sort of thing — you mentioned that there's an adjustment to the rent for a period of time and that sort of thing — has that been deemed to be an improvement to the land that would . . . that the incoming lessee would have to compensate the . . .

Mr. Haase: — It depends when it happens. We have an actual contract that depreciates that improvement out. And I just . . . off the top of my head, I can't remember how long it is. But there comes a period of time when it becomes the Crown's improvement then and so the outgoing lessee wouldn't recoup anything from it.

The Chair: — Thank you very much. Any further questions? Last question, Mr. Allchurch.

Mr. Allchurch: — Thank you, Mr. Chair. I just thought of something when Glen was asking some questions. In regarding to agriculture farm-lease land that a lessee is leasing with the purpose of grazing, if there is timber on that land and he himself or some other person wants to log out that timber, what is the process in logging that timber?

Mr. Haase: — The process I guess is sort of under review as we speak, and we're working with SERM and Economic Development and other folks to try and come up with a process. One of the keys though I think is sort of an underlying principle that the lessee needs to be involved in that discussion somehow. And I expect down the road there's going to be some public debate about that to some extent. I'm just not sure of the exact process yet.

But right now if somebody came in today and said I wanted to cut some trees on there, he probably isn't going to be able to get authorization to do that until we get through this review that we're in the middle of.

Mr. Allchurch: — The lessee that's leasing that land, like he pays all the taxes on that land, does he not?

Mr. Haase: — Yes.

Mr. Allchurch: — So if there was logging to be done and he wanted to do it, he would have to work with SERM and the government in order to take those logs out, but he could take them out? But somebody else coming in couldn't.

Mr. Haase: — There needs to be dialogue on that and so it's . . . today I'm not sure what the answer is but certainly down the road I think, as this process unfolds, there's going to be . . . wherever that interest comes from, whether it's from the lessee or someone else who maybe wants to take that timber off, I believe it's important for the lessee to be a part of that discussion. So if he says no, I don't want those trees taken, I think likely that will stand.

But if he says, let's take these trees under these conditions, I think if those conditions are reasonable, I don't see any problem with it.

Mr. Allchurch: — So just because he pays the taxes on that land, he doesn't have full control of that land though. He has to go to the government with any . . .

Mr. Haase: — From a legal perspective, The Provincial Lands Act gives . . . doesn't dispose of the trees to the lessee, they reserve the trees for the Crown. So the Crown, in strictly legal sense the Crown could give . . . sell those trees or allocate those trees to somebody else, and still have the right to go on and get

them. But that typically isn't how we've operated over the years.

Mr. Allchurch: — If that happened, what would . . . I could see a problem being, because the lessee that's paying all the taxes on there for a year-to-year basis, would he be compensated then in tax?

Mr. Haase: — I think there'd have to be some compensation of some sort, and taxes would be certainly part of that.

Mr. Allchurch: — Okay thank you. I am finished now, Don.

The Chair: — Thank you very much. Seeing no further questions to be asked, let's move then to the final area of the current officials, and that's The Provincial Lands Amendment Regulations, 1999. And again, I'll call on Mr. Ring.

The Provincial Lands Amendment Regulations, 1999

(S.R. 145/68 as Amended by S.R. 35/99)

The Provincial Lands Act

Sections 14, 20 and 22

Saskatchewan Gazette June 4, 1999

Mr. Ring: — With respect to these regulations the issue is quite narrow, and the officials have been called to indicate when and what type of terms and conditions are used when the Minister of Environment and Resource Management consults with the Minister of Agriculture with respect to allowing someone to lease the provincial lands, and what occurs when and how the rentals are adjusted.

And I think really the committee was looking for a general explanation of how the scheme works to give it a better appreciation of what . . . how it works.

Mr. Spencer: — A bit of background and then Greg may want to add some detail. At one time the game farming policy in the province did not allow for game farming on provincial lands. And through a consultation process with stakeholders, it was determined that there was interest in having the government amend the policy so that game farming, in certain circumstances, could occur on provincial lands.

But there were some issues that were of concern, such as the possibility that large tracts of land, if they were fenced, might result in the migration patterns of wildlife being inhibited.

And so those are the kinds of issues that it was envisaged would be discussed with the Minister of the Environment before any leases were issued. In actual fact no leases have been issued at this point in time for game farming on provincial lands.

The Chair: — Any questions from committee members?

Mr. Allchurch: — Just a clarification. Thank you, Mr. Chair. You said there was no game farming on provincial lands, or there won't be allowed any game farming on provincial lands?

Mr. Spencer: — No. The regulation provided that it could be allowed, but a request has never been received.

Mr. Allchurch: — Okay. Thank you.

The Chair: — Well, seeing no further individual's requests or asking time to ask questions, I would like to thank the officials at this time for coming and just clarifying some of the issues and concerns.

I think you can appreciate the fact that this committee tends to change fairly often as well and so some of the issues may have been discussed with former members. And at times as well, it's not always as clear to us what specifically we . . . how we understand the legislation and the regulations that follow.

So I would certainly like to thank Heather, Ernie, Doug, and Greg for the time you have given to us this morning out of your busy schedules just to clarify some of the concerns that have been raised. And thank you very much for coming and being with us this morning.

Well then, for committee members, I guess we have to come to a final conclusion.

Maybe I'll just ask Mr. Ring to just give us some guidelines as to the direction I think we need to follow. I think it's fairly clear but just to make sure we've got the proper format here. If you wouldn't mind, please.

Should we start with The Domestic Game Farm Animal Regulations or short-term hogs? Yes, I've got my order mixed up here — short-term hogs I guess.

**The Short-term Hog Loan Regulations
(R.R.S. c. F-8.001 Reg 12)
The Farm Financial Stability Act
Section 5
Saskatchewan Gazette January 22, 1999**

Mr. Ring: — The committee received information as to how the program is running and what stage they're at in their program. Although it's similar in set-up to the short-line railway regulations, as you could appreciate from the information it is somewhat different, in a different type of program with more people involved in it.

Now whether that makes a difference to committee members as to how they'd like to deal with this one as opposed to how the committee dealt with the short-line railway issue would be one issue to discuss or investigate or we handle them both. The committee could handle them both the same way with a similar type of letter going to both ministers.

The Chair: — May I seek the guidance of committee members in that regard, please?

Mr. Thomson: — Mr. Chairman, I'm satisfied with the presentation this morning and the explanations we received. I think if we undertook a consistent treatment with what we did yesterday, I think that would be sufficient.

Mr. Harper: — I agree. I'm satisfied with the explanation the officials had for us.

The Chair: — Maybe I could just have one of the committee . . . Sorry about that.

Mr. Ring: — Just for the committee Clerk's purposes and for my purposes as well, I'll just seek the committee's mood as to, in responding to both of the ministers, would it be fair to say — in the letter that goes out — the committee certainly reviewed the regulations and following the presentations felt there was no reason . . . consider both the regulations or the issue to have been resolved although it did express some concern with respect to some of the discretions being used by the minister in certain areas, as opposed to simply saying resolved.

And then at least the committee's on record that they're watching for this type of provision in the future and that government departments then should be . . . If they need to use it or want to use it, they'll know that they'll have to substantiate its use. Thank you.

The Chair: — Thank you, Mr. Ring. I think it would be appropriate at least to have that as a form of a motion, recommendation from the committee.

Mr. Yates: — I would move:

That we have our counsel write the respective deputy ministers accepting their explanations but reiterating our concerns about the discretionary clauses in the regulations and that we still have those concerns.

The Chair: — Is that agreed?

Members: — Agreed.

The Chair: — Just one thing before . . . (inaudible) . . . While I accepted the agreed, it caught my attention — I think you mentioned deputy ministers. It probably would go through the ministers, would it not, Mr. Ring? The letter?

Mr. Ring: — Yes.

The Chair: — Very good. Thank you. Moving on to item no. 2, Domestic Game Farm Animal Regulations. Again I'd ask Mr. Ring just to give us a response and then we'll move on from there.

**The Domestic Game Farm Animal Regulations
(R.R.S. c.A-20.2 Reg 10)
The Animal Products Act
Section 15 and 18
Saskatchewan Gazette June 4, 1999**

Mr. Ring: — With respect to these regulations, I'm not sure how the committee wanted to deal with them. There wasn't a lot of discussion. I believe the situation has been addressed and perhaps was resolved, again with respect to the presentation that was made by the officials.

The Chair: — Can I have a motion from a committee member?

Mr. Yates: — I move:

That we accept the clarification of the officials and that we write the minister saying there's no further concern.

The Chair: — Is that agreed? It's agreed. Thank you.

Moving on to The Provincial Lands Amendment Regulations, 1997. Again, Mr. Ring.

**The Provincial Lands Amendment Regulations, 1997
(S.R. 145/68 as Amended by S.R. 110/97)
The Provincial Lands Act
Sections 14, 20 and 22
Saskatchewan Gazette January 2, 1998**

Mr. Ring: — Yes, with respect to these — the leases — there was certainly a larger and a broader discussion than . . . with respect to the leases. Now it seems to me there was not . . . the explanation that was given with respect to the leases and the regulations as they're presently drafted was received by the committee and accepted. And as I said at the outset, both Mr. Holtzmann and myself are of the view that the minister is certainly on firm legal ground in changing the regulations with respect to the rentals at that point because it's in the regulations, and it's also contained in the leases when they're entered into.

The Chair: — Thank you, Mr. Ring. Oh, pardon me. One question here.

Mr. Allchurch: — Thank you, Mr. Chair. In light of these two amendments that's coming up, I took part in the discussion for questions to be asked, but I think I should dismiss myself from voting in regards to my capacity of having or knowing about leases regarding my family or whatever. So I believe I should just bow out from voting on these next two.

The Chair: — Thank you very much, Mr. Allchurch.

Mr. Yates: — I would move:

That we accept the explanation of the department officials and write a letter to the minister accepting the regulations on both cases.

The Chair: — Is that agreed to by committee members? It's agreed? Thanks. Carried.

And the final one for 1999, The Provincial Lands Amendment Regulations.

**The Provincial Lands Amendment Regulations, 1999
(S.R. 145/68 as Amended by S.R. 35/99)
The Provincial Lands Act
Sections 14, 20, and 22
Saskatchewan Gazette June 4, 1999**

Mr. Ring: — Again with these regulations, it appeared from the presentation of the officials that no leases have been made to date and so the issue that was raised is . . . It's not a moot point but there's certainly nothing that's going on. It was an explanation as to why that provision appears there in the regulations.

The Chair: — Can I have a motion from the floor then please?

Mr. Yates: — I would move:

That the committee accept the explanation of the officials and write the minister saying that we have no predicaments

there.

The Chair: — Is that agreed to by committee members? It's agreed? Thank you very much. Carried.

Earlier on we did communicate with Justice in regards to . . . regarding a condominium properties Act and an official being available at 1 p.m., suggesting that we might be able to meet earlier. And as I understand it there will be someone arriving — I believe it's Susan . . . or Madeleine, pardon me. Madeleine Robertson is going to attempt to be here by around 11:30. So we can discuss that at that time rather than coming back at 1 o'clock.

However, while we are waiting for Madeleine to arrive, we could possibly move to the follow-up reports and 1999 concerns. And I'll turn this all over to Mr. Ring and just to let us know exactly what has transpired since our previous discussions.

Mr. Ring: — This would be in the last package that you received, the smallest package — refer to it that way. It's entitled follow-up reports, and the five follow-up reports are listed on the front page of the document.

**The Provincial Court General Regulations
(R.R.S. Chapter P-30.11 Reg 3)
The Provincial Court Act, 1998
Section 65
Saskatchewan Gazette January 29, 1999**

Mr. Ring: — The first follow-up was with respect to The Provincial Court General Regulations. And just for committee members, that was the issue where the regulation was worded . . . the sick leave was coupled to the same . . . in the same subclause as special leave. And I wrote the minister with respect to that. My letter was sent out to you, and the minister's response is attached.

It is special leave. And with respect to the . . . I suppose there were two concerns. With respect to the first concern regarding leaves of absences for the Chief Judge and the criteria being that is in the best interests of the administration of justice. I think given the minister's response with respect to concern no. 1, I would recommend that the committee consider the matter resolved. It was brought to the minister's attention. He indicated that at that time he was comfortable with that, and I think we could consider that concern resolved.

The Chair: — Are there any questions? The committee in agreement with that recommendation? Agreed. Thank you.

Mr. Ring: — Now with respect to concern no. 2 and the particular wording of the provisions where they had sick leave in the same subclause as special leave. While I'm in agreement with the minister's officials that the benefits listed in the subclauses were not meant to be an exhaustive list because the preamble to the subclause says including benefits, including. I believe the regulations would be clearer if special leave were in its own subclause as opposed to being in a subclause with sick leave.

And as I indicate on the bottom of the report, when you get two

or more words linked in the same subclause they tend to colour each other. And if special leave were in a separate subclause, then it would be clear that it's special, it's a unique circumstance, and it's completely unrelated to sick leave.

Sick leave is something over which a person has no control, whereas special leave that would fit under the category of deferred salary leave is something that certainly you decide on doing and organize your life and your affairs accordingly. So I believe it would be clearer to have sick . . . special leave in a separate subclause. And that's the recommendation I would make to the committee and leave it for the committee's deliberation.

The Chair: — Do committee members have any comments or questions? Is it the wish then of the committee to accept the recommendation of our counsel? Is that agreed? Agreed. Carried. Thank you.

Mr. Ring: — So to clarify for myself, I'll follow up on concern no. 2 with a further letter to the minister. Thank you.

The Justices of the Peace Amendment Regulations, 1999
(R.R.S. c. J-5.1 Amended by S.R. 11/1999)
The Justices of the Peace Act, 1988
Sections 3 and 15
Saskatchewan Gazette February 26, 1999

The Chair: — Moving on to The Justices of the Peace Amendment Regulations, 1999, I'll again call on Mr. Ring.

Mr. Ring: — With respect to The Justices of the Peace Amendment Regulations, it's a somewhat longer report. And with respect to the first concern which was that there were no criteria set out in the regulations with respect to the guidelines that were established by the Chief Judge regarding pressing necessity leave, the minister's response was that the provision as drafted allowed for the Chief Judge to provide a discretionary benefit and therefore not limit the availability of that discretionary benefit to the situations listed in the regulations.

And on that point, when reviewing the response from the minister and the minister's officials, it occurred to me that they could use the same drafting device that they had used in the provincial court general regulations to include the word including, and as such that would not limit the situations to the list that they had in the regulations. And they could provide . . . and there would be an opportunity to provide some type of indication as to what type of things would be looked at at that point.

I also note that the regulations indicate that this entire process is subject to the approval of the Chief Judge, so that there are actually two independent people looking at the situation in order for the . . . before a decision is made. That the minister is not making a decision on . . . that will impact the Chief Judge and the Chief Judge not having a chance to have some input into that decision.

Therefore, with respect to the first concern, my recommendation would be to ask or to urge the minister to include the guidelines in the regulations in such a manner that

the regulations would not be limited to the situations listed there.

And with respect to the second concern, that the Justices of the Peace perform some judicial and quasi-judicial duties but were required to be a part of an employee pension plan. The minister provided an explanation there that it has been brought to his attention. They do not, as you'll note in the minister's response, they do not decide constitutional questions, and for that reason the minister felt there was no difficulty in having them participate in employee benefit plans.

And my recommendation with respect to that would be to consider the . . . that issue resolved satisfactorily.

The Chair: — Any questions from committee members? I would ask the committee then if they are prepared to accept the recommendations of counsel?

Agreed, that's agreed. Carried. Thank you.

Trust and Loan Corporation Regulations 1999, again, Mr. Ring.

The Trust and Loan Corporations Regulations, 1999
(R.R.S. c. T-22.2 Reg 1)
The Trust and Loan Corporation Act, 1997
Section 87
Saskatchewan Gazette June 9, 1999

Mr. Ring: — With respect to these regulations, the issue resolved around whether or not the superintendent had the authority to issue any directions with respect to the interpretations used in the regulations.

The minister's response indicates that the regulations were made in conjunction with the federal Act and the federal regulations regarding trust and loan corporations. And more importantly, the minister indicated that with respect to directions, the superintendent had not issued any directions to date. That means that the entire administrative scheme will be understood by someone who has a copy of the Gazette, and they know exactly what the rules of the game are when they read those regulations and not have to rely on some external source.

In that case I would recommend that the committee consider the situation resolved.

The Chair: — Any questions? Are we agreed with the recommendation? It's agreed. Thank you.

Let's move on then to The Swimming Pool Regulations, 1999. Again, call on Mr. Ring, please.

The Swimming Pool Regulations, 1999
(R.R.S. c. P-37.1 Reg 7)
The Public Health Act, 1994
Section 46
Saskatchewan Gazette April 16, 1999

Mr. Ring: — With respect to these regulations, although the explanation looked somewhat longer, it should be easier to deal with. The response from the minister or the minister's official — excuse me, from the minister's official — indicated that the

preferred route would be to have the section indicate or include the words the regulations and the bylaws.

And they further indicated that the next time The Public Health Act is up for an amendment they would include that change to the Act. And I think that's . . . I'm glad to see that.

The only caution I would have with respect to these is that the issue came before the committee with respect to swimming pool regulations. The section in the Act that we're considering does not deal only with swimming pool regulations but with the authority that local authorities have with respect to The Public Health Act.

And in that case with respect to these, my recommendation to the committee would be that we ask the minister to consider an amendment to The Public Health Act, 1994 at the earliest possible time, instead of waiting until the next time they want to make changes to the Act for some other reason.

The Chair: — Any questions regarding these regulations?

Mr. Thomson: — Mr. Chairman, I just want to clarify we are still specifically dealing with swimming pool regulations. I'm interested in how this would be more broadly applied or how such a legislative amendment would be more broadly applied.

Mr. Ring: — The Swimming Pool Regulations came to the committee's attention because it said that local authorities had the authority to enforce the regulations within their jurisdictional authority.

When you look to the Act though that speaks to what powers local authorities have, it indicates that the local authorities have the power to enforce provisions of the Act and that's where the wording stopped. Whereas other places in the Act, it speaks to enforced provisions of the Act, the regulations, and bylaws.

And while I do agree with the minister's officials' indication that when you read the Act in a global sense, certainly the intent was there that local authorities would be able to have that authority. In that particular instance though, those words aren't there.

So when push comes to shove, then a court looks at it and says well, why aren't those words there, and perhaps the words were excluded for a reason.

Certainly there would be nothing untoward if the . . . you were to wait to make that amendment the next time the Act were to be opened up. But it would be better to clarify it sooner rather than later.

Mr. Thomson: — Is there, Mr. Chairman, any ability for a local authority to pass bylaws that would be inconsistent with the regulations? That's not possible?

Mr. Ring: — No.

Mr. Thomson: — Okay.

The Chair: — Any further questions? Mr. Ring has recommended that the committee urge the minister to consider

an amendment to The Public Health Act, 1994 at the earliest possible time. Is that the desire of the committee to accept this recommendation? It's agreed? Thank you very much. Carried.

Follow up to The Urban Municipalities Revenue Sharing Amendment Regulations, 1999, and again I'll call on Mr. Ring.

**The Urban Municipalities Revenue Sharing
Amendment Regulations, 1999
(R.R.S. c.M-32.1 Reg 2 as Amended by S.R. 31/1999)
The Municipal Revenue Sharing Act
Section 13
Saskatchewan Gazette May 21, 1999**

Mr. Ring: — I included these as a way of a follow-up report to get a better sense from the committee as to how they feel . . . they feel the committee ought to operate and the direction and the discretion that I have.

You'll notice the response from the minister with respect to these regulations indicates that they're currently studying it. They want to see what they're going to do. They have policy in place, although the policy isn't translated into the regulations and certainly putting the broad strokes of the policy into the regulations would be the preferred approach.

And so at that point the recommendation I would put forward to the committee would be to receive the minister's response and indicate that we're looking forward to hearing from the department once the department officials have had an opportunity to review the situation in light of the committee's concerns.

And also indicate at that time that adding criteria to the regulations should not be viewed as something that's redundant if it's in regulations and in policy. Ideally what's in the policy manual should also be reflected in the regulations.

So this is just a recommendation to receive the minister's letter and indicate that we'll be following what the department might be doing and look forward to a further response from the minister.

The Chair: — Comments?

Mr. Yates: — I would just move that we accept Mr. Ring's recommendation.

The Chair: — Is the committee agreed to that? Agreed? Carried, thank you. And I see . . . That's good timing, Madeleine.

We just went through some follow-up reports while we were anticipating your arrival and we've just completed that, Madeleine. So we'll invite you to come to the chair and we'll deal with this Condominium Property Amendment Regulations and not hold up your time or our time.

So thank you so much for adjusting your schedule to accommodate the committee this morning, and welcome.

Ms. Robertson: — Thank you.

**The Condominium Property Amendment Regulations, 1997
(O/C 798/1997, dated December 17, 1997)
The Condominium Property Act, 1993
Section 112
Saskatchewan Gazette January 2, 1998**

The Chair: — Committee members, we're going to go to an item that we had actually thought we might have to deal with after lunch, and it's The Condominium Property Amendment Regulations, 1997. And I will first of all ask Mr. Ring just to bring us up to date as to the previous discussion, the concerns that were raised, and then we'll invite Madeleine to respond. Thank you.

Mr. Ring: — These regulations are in the package entitled, officials invited, although it is somewhat of a follow-up report as the regulations were brought forward and discussed at the committee that was previous to this committee. Mr. Holtzmann brought the regulations forward and they had an interesting discussion with respect to assessment, taxation, and setting the mill rate, and the way that was expressed in the regulations.

And one of the committee members at that point said, well it's always been stressed to me that taxation is not the same as assessment and we should be very careful with that. And then at this committee's last meeting, we discussed these regulations and it was decided to invite officials to discuss that issue as to assessment, taxation and give the committee some background on the regulations — how they're working, if they're working, and some background information.

The Chair: — Thank you very much, Mr. Ring. I believe as well we had endeavoured to have somebody from SAMA (Saskatchewan Assessment Management Agency) available but they weren't, so we're pleased to have Madeleine here from Justice and invite her to respond to the questions that were raised. Thank you.

Ms. Robertson: — Yes. My understanding, reading the background material of the committee, was that they were concerned because the Act talks about division of assessment among owners in a condominium and we — in the regulations — we used the words for the purposes of proportioning taxes.

And they said, well assessment's one thing and taxes is another. And that is true. However, it's all really part of the same process and the whole point of assessment is for the purposes of assessing taxes. And that is particularly so in the context of the condominium Act.

And in fact the condominium Act could just as easily be the words apportioning taxes, you know, as opposed to apportioning assessments. Basically the way taxes are assessed or the way condominiums are assessed . . . the rules for assessing condominiums per se are not in the condominium Act. They will be in other municipal Acts dealing with assessment. You know, sort of the way they value the property and the way they apply the rates — commercial versus residential or different types of residential — that kind of thing. They will be in other assessment statutes.

What the condominium Act attempts to do is to determine among the different owners who own units in a condominium

what share each person is going to have to pay in relation to every other person in the condominium who owns a unit. And what the condominium Act says is that the whole parcel, the whole condominium project is assessed on a global basis.

And then each owner's individual share of the assessment or the taxes — you could use either word just about — in terms of the condominium Act — is going to be determined on the basis of their unit factor share. And unit factors are determined by developers at the time the condominium is developed. They are just about always, in Saskatchewan, related to relative sizes of individual units. So that that is really . . . so you could say it's almost sort of based upon the unit owner's size of their square footage, or of size.

But the problem is that doesn't necessarily have a fair application for all condominium units. What that means is if one unit owner does enormous improvements to their suite, and it's all divided up by unit owner, that changes the assessment and every unit owner pays a portion of that.

And then there are particular sort of inequitable results for certain types. There's a few developments where you have mixed residential commercial, and what you end up doing is some of them share the payment of that.

And then for what are called bare land units, which is the particular one this committee looked at, bare land units are the developer . . . and they've only been allowed since 1995. Instead of putting up a building and dividing the building into the units, the developer can condominiumize land and sell the units, which are like lots. So it's sort of like a hybrid between a subdivision and a condominium.

The problem with those is that if you've got some with buildings on and some with no buildings on and you've got . . . and the unit factor is based upon the size of the unit, which is the land, what you can have is you can have the people who have only the land, who don't have a building on theirs yet, paying some of the taxes for the improvements on the other units.

And it was Saskatchewan Home Builders' Association, in particular, who brought that issue to us because they, during the course of development, were saying this has an unfair impact on us because we're the guys who are still . . . you know, we've got a contract to build this house for people on this unit and we're paying the taxes for the folks who already are living in and have houses on their units.

So we worked with the cities of Saskatoon and Regina, in particular, and Saskatchewan Municipal Affairs, Culture and Housing and with the Saskatchewan Municipal Board. And for the cities of Saskatoon and Regina, we had the assessors and the lawyers who advised the assessors meet with us. We asked them to . . . because they had sort of raised the problems. If the homebuilders are unhappy or the assessor is unhappy, they tend to hear about it.

And so we had a sort of a consultation group. We met with them, we shared drafts with them, and this . . . the wording in the regulations is the wording they come up with.

So I guess, you know recognizing that I don't have the expertise, my sense is they appreciate the difference between assessment and taxation.

When I got the dialogue of this committee previously, I talked to one of the solicitors from one of the cities and said, should we be changing this; is there a problem with this. And he said no, this says exactly what it should say. It gives clear direction to the assessors; it gives clear direction to the legal departments of the cities. They feel that . . . this is actually quite a popular provision, obviously, with the Saskatchewan Homebuilders' Association and people who live in these bare land condominium units.

In fact we've had other people in other condominium units phoning to ask if they convert to bare land condominium units so that they could get the benefit of this provision, which they can't do because it's really . . . it depends upon how the developer develops the project.

So we're comfortable that there is legislative authority for it because it really is . . . Yes, assessment is assessment, and taxation is taxation, but in the context of the condominium Act the whole purpose of it is apportioning for the purposes of sending out the tax bill to the different owners and deciding what proportion each owner is going to have.

So we feel like there's legal authority for it. We've obviously looked at it within our own department, but then as well we've had the lawyers for, you know, the Municipal Affairs, Culture and Housing Department and for the two municipalities where most of the condominiums are located have a look at it. In fact they drafted it with us.

The Chair: — Thank you very much, Madeleine. Do committee members have any questions for Madeleine at this time?

A question that I would have, Madeleine, is the tax on that property — is that reflective of the size of the condominium or the condominium suite? Because you will have different sizes that . . .

Ms. Robertson: — The whole thing with these bare land . . . That's a very good question because it wasn't only in terms of the bare land units in particular. Before bare land units, where it had to be a building that was condominiumized and you've got the square footage and the unit factor then was based upon the size of the actual unit, it tended to be fairly fair in terms of . . . the unit factor tended to reflect, you know, the improvements on that property. The problem with bare lands is the unit factor which is around the lot.

Yes it affects home builders during the course of development; but theoretically it could also affect owners because theoretically you could have different owners on the different units on the different lots build very different kinds of buildings. You could have some build mansions and some build bungalows.

Now I think that tends not to happen because developers probably have contracts with all these owners and they're going to be relatively uniform in size. But certainly theoretically that's

possible, which is another reason that the provision in the regulations was drafted to basically say you pay for the assessment of whatever property you own. If it's just the land, you know you pay that portion of . . . you know you're assessed a tax based upon just the land. If it's the land with an improvement, that's what you pay.

So that really is exactly, exactly . . . That's a very good point because it's not just in the developing stage but theoretically that's a possibility for the actual improvement on that land.

The Chair: — So then a tenant or an owner for example, if you've spoken for a parcel of land in a development area but you may not build on that for a year or a couple of years and those who are already on the property and have built, the tax then will kind of reflect the value of as it currently exists.

Ms. Robertson: — That's what this provision is.

The Chair: — Okay and then at the end of the day would that allow for . . . the total taxation has a certain value on all of the property. Then as more properties are developed would the individuals that currently live there now see some of that tax shift to the other value or how is that reflected?

Ms. Robertson: — I think basically what . . . Supposing we did not have this regulation, if we did not have this regulation, the assessors would go in there and do their global assessments on the whole project — which they do no matter what anyway. And if we did not have this regulation they'd look at the unit factor, the unit factor for the development, and it would be, say if there were 10 units, each one of them would have a 1,000 unit factors. And each owner would pay 1,000 unit factors, whether they had . . . pay for, you know, a tenth of those taxes, whether they were one of the units that had a building on or they weren't.

Now if after these regulations, it basically tracks the development much . . . it basically says you pay for your lot and your building if you have a lot and a building. If you only have a lot, you pay for your lot. And then each year, during the course of the development, the developer is going to have to go in there, come up with their global assessment.

But the way this provision works is each person basically pays for their lot if they only have a lot. So as it goes they're going to have to, which they have to do with an ongoing development, they have to keep assessing it to come up with the global value.

But the whole point is to make sure it reflects what people actually . . . People with the improvements pay for the improvements is basically the story, instead of people who don't have improvements pay for a portion of the improvements, which is why the home builders didn't like it. Which is why for owners down the road who may have different types of property, different sort of valued improvements, wouldn't like it. Is that clear?

The Chair: — I think that answers the question because I guess my personal impression was, okay you've got this property. You put a proposal toward and this is what it's going to eventually look at, and you've had an appraised value that all of a sudden start to be shared by tenants who may not be resident

there yet. Whereas what you're indicating the provision allows for is the development of . . . and as the value is added, then the taxes are then apportioned thereof.

Any further questions from committee members? At this time, well we'll thank you very much, Madeleine, for taking the time to come and explain that to us.

Ms. Robertson: — Thank you. Thank you for the opportunity to meet the committee and explain it. Thank you.

The Chair: — Okay. We've heard from department officials. Is anyone prepared to make a recommendation?

Mr. Yates: — I would move that we accept the explanation of the officials and consider this issue resolved.

The Chair: — Is the committee in agreement with that motion? Agreed? Thank you.

We'll move to a note in the agenda that was presented to me. There's a portion that may or may not be on your agenda regarding a couple of '99 concerns and I'm not sure if Mr. Ring wants to just bring those to our attention. Is there anything that we should debate or consider then.

Actually what it is is a couple of '99 concerns where the minister has been contacted but there has been no response to date in regards to The Forest Resources Management Regulations and The Municipal Water Treatment Filter Membranes (Education and Health Tax) Exemption Regulations. And maybe I could ask Mr. Ring just to fill us in in response here.

**The Forest Resources Management Regulations
and
The Municipal Water Treatment Filter Membranes
(Education and Health Tax)
Exemption Regulations**

Mr. Ring: — Yes, with respect to these two items, I'll deal with the second item first which is the municipal water treatment filter membranes. A letter went to the Minister of Finance with respect to that, but it really was an indication of there is authority in the Act to do it but the authority was not included in the order portion that is signed by the Lieutenant Governor in Council. So I was not particularly expecting a response with respect to that letter.

With respect to the forest management, Forest Resources Management Regulations, the letter went out. I haven't received a response and I'm wondering whether I should send a second letter to the department or whether I should wait until the next meeting to see if a response is received. And I seek some direction from the committee.

Mr. Allchurch: — When did you send the letter out to the department regarding the forestry?

Mr. Ring: — The letter went out on October 20. There's been a great deal of change in the interim. I certainly understand why I may not have received or the committee may not have received a response.

Mr. Yates: — I would move that we send a follow-up letter just reminding them that this issue is still outstanding.

The Chair: — Is the committee agreed with that as appropriate? Oh pardon me, Ms. Jones.

Ms. Jones: — I'm wondering if it might be a good idea to see when our next meeting is going to be scheduled for and then send a letter prior to that advising that we're meeting on this date and could we have an answer. If we're not going to meet until 18 months from now then it doesn't really matter how quickly they answer.

The Chair: — A concern I would have with that, Ms. Jones, is the fact that, as was indicated, there's been a number of changes and I'm not exactly sure whether or not the ministerial positions may change in the meantime. And I think a follow-up letter as Mr. Yates has indicated just brings it to the forefront and, if there happens to be a new minister, at least they may get on it right away rather than leaving it. It might get lost in the shuffle. I don't know. I'm not sure if that's a valid concern but I just bring that to the floor for the committee's discussion.

Mr. Ring: — If I might make a comment. The other option open would be if you were to direct me to contact the department through the departmental officials as opposed to sending out another formal letter to the minister. Perhaps contact the deputy minister's office to see what's happening. Perhaps a letter would be more appropriate as opposed to that type of conduct . . . or contact.

The Chair: — I would remind committee members we actually do have motions; we have to respond to that anyway. Any further discussion? In regards to Mr. Yates' motion that we do the follow-up, is the committee agreed? Agreed, thank you. Thank you very much.

A couple of administrative matters that we didn't deal with yesterday. And one is regarding an invitation to an international conference on regulation reform management and scrutiny of the legislation in Australia, July 9-13 of 2001. And we're bringing this to the committee's attention, just wondering if the committee would like to send representation to that conference in July.

And if so, there is a motion that has been typed up and the suggestion is that the Chair, the Vice-Chair, and legal counsel attend that conference if the committee so desires. But the floor is open for discussion, and in that regard whether or not the committee would like to or is prepared to send someone to that conference.

Mr. Harper: — Mr. Chair, I would be happy to move that motion and, as I say, a discussion on the motion but we'll have discussion on the motion itself. So I'd make the motion, Mr. Chair:

That we send the Chair, the Vice-Chair, and the Law Clerk or representative thereof.

The Chair: — Is there any discussion to the motion presented by Mr. Harper? Hearing no debate is the committee prepared to accept the motion as presented? That is carried. Thank you.

And there is provision for substitution.

We have two other areas of discussion. There was another item of administrative matters and it was regarding committee procedures and explanatory notes.

And I'd like to invite Mr. Ring just to comment regarding this item no. 3.

Mr. Ring: — With respect to that item on the agenda, I was just wondering if the committee felt they had enough information with respect to making the decisions that they need, and if there was a way that we could perhaps provide further information.

When regulations go forward they typically come with sort of an explanatory note that explains what it is they're trying to do, and some of that explanation is exactly what was presented to us here this morning.

And so instead of having to have departmental officials come the first time to simply make that presentation, we could perhaps look at a format where they would provide something in writing that would give us that information in order to make the decision, rather than calling officials down. And once we get the written explanation or written background material with the explanation that went forward with the regulations, if there were questions following that, then we could ask the officials to come down to actually answer the questions instead of the officials coming down to tell us something that they could have presented by way of written submission.

Mr. Yates: — I would agree with that, Mr. Ring.

Sitting on the Legislative Instruments Committee we get just what you're talking about — an explanation in writing and what the intent is, who's been consulted, what their opinions were — all those pieces of information that sort of bind some things together.

And I think that's very valuable information when we're considering what the intent of the regulation was. It may not always make a difference, but at least it will put some context for you when we're having that debate, and I think that's a very good idea.

The Chair: — Any further comments in regards to that, Mr. Ring?

Mr. Ring: — I didn't have a comment with respect to that. But I was just looking back at the presentation of materials, and I have . . . two people have indicated they'd like the material three-hole punched and we'll provide . . . I think probably the committee could provide one binder and then if that one goes astray, you're on your own maybe.

So I think all the material will come out three-hole-punched and those who would like to use a binder can, and if you need a binder we could . . . I mean I assume that could be . . . we could provide that.

Ms. Higgins: — Now for the items that are being returned to the committee that we have requested more information on or explanations on next meeting. Being new to this committee, do

you reissue this material, do we just carry it over — what's the normal process?

Mr. Ring: — With respect to the ones where there's a follow-up report that we . . . that has been before the committee before, that would fall into the same category of the condominium property regulations in that I think it would be helpful for members to have the previous verbatims handy to them in the package as well as a covering document that would outline the issue and a recommendation if any.

So it would make for perhaps a bit more . . . a bit more paper, but I think it gives you all the information you need to prepare. And if you have the package, no matter where you are you can always use it instead of, oh I've got the package but what was the committee verbatim. And although that's available through the Legislative Assembly's Internet and whatnot, it's not always convenient to get, to find to use. So I would continue doing that unless it's a large volume of information and provides you with the information I think you need to make a decision.

When we get to the meeting, if we feel we don't have enough information we can always move it to the . . . later in the agenda to the following day or the following meeting and provide you with more information.

Ms. Higgins: — Thank you.

The Chair: — Any further comments, questions? Okay, I appreciate that. I think certainly explanatory notes would answer a lot of questions and would save departmental officials time, plus the time lapse that we have gone through in the past between discussion on an issue, further meetings, and as a result, sometimes — Ms. Jones is right — it gets to be a period of months before a final decision is made. And I think, certainly I think that's worthwhile, Mr. Ring.

In regards to a next meeting date, we seek your guidance. My guess is that it would be totally reflective on the information that might be available and the number of issues to be discussed. I wouldn't specifically call a meeting if there's only one or two regulations, unless they're of significant importance and we feel they're significant questions, and we'd seek Mr. Ring's guidance in that matter.

My suggestion is that we ask Mr. Ring to give us an idea of what we might be facing in another meeting and whether we should have one earlier rather than later and whether we should, at the committee's wishes, have it at the call of the Chair.

Mr. Ring: — There are a number of outstanding regulations and bylaws that have been reviewed and haven't been brought forward to the committee as yet. And we are making progress now with respect to last year's regulations have all been before the committee and either follow-ups or action has been taken or there is review.

It might be a good idea to set a tentative time for a next meeting so that people are aware of that as there are more committees functioning within the Legislative Assembly. That way at least you have an idea . . . we at least block off some time for it. If we don't need it, then it frees up the schedule.

There's a certain amount of outstanding regulations and bylaws to go through and we could have follow-up or catch-up meetings to get us to deal with that backlog. But certainly whatever the committee wishes to do would be fine. We could adjourn to a day set by the Chair when there's sufficient material to bring forward.

Ms. Jones: — I'm comfortable either way, either looking at a calendar or at the call of the Chair. But I would like to express that Mr. Yates, Mr. Harper, and Ms. Jones are all on Legislative Instruments Committee currently — who knows what may change — and Wednesday is such a popular day. Everybody wants to meet on Wednesday because it's in the middle of the week. We meet every Wednesday, and there are also a number of other committees. So I would ask that if we can, please avoid Wednesday.

The Chair: — And that's certainly important to note, because as Chair I'm not always familiar with the types of meetings. And yet we try to . . . have in the past, try to schedule meetings around time periods that we felt significant numbers of members may be available, versus making a specific trip when I think we're probably finding our calendars getting filled up enough as it is. So that will be duly noted.

What I would ask of committee members is would it be feasible for us to look at a couple of dates. But would a Thursday or Friday work, first of all. Would a Thursday/Friday work? If you're here on Wednesday; sat maybe a Thursday/Friday. We may not even need Thursday/Friday. A Thursday following a Wednesday. Would that be appropriate?

Would it be possible to look at . . . I'm looking here, possibly March the . . . around the 15th? Legal counsel is suggesting to me that that may be just a little too early for counsel to really have the ability to have all the information ready in view of an upcoming session.

What about some time in April. And if we're already in session, then that's no big deal. We'll just schedule around. And that I guess will all depend as well on other committees. We'll have to be somewhat flexible.

Mr. Harper: — Why don't we leave that, the setting, in the hands of the Chair and the Vice-Chair and the legal people here, and find a time that is appropriate and leave it to the call of the Chair after consultation between committees.

The Chair: — Is that agreeable to committee members. It's agreed.

Well I would like to then thank committee members for their time, their diligence; certainly to counsel and our Clerk and everyone involved. *Hansard* staff, I want to thank you. And before adjourning, Mr. Harper.

Mr. Harper: — Yes, I just wanted to compliment you, Mr. Chairman, on your excellent job of chairing the committee here. And I think much of that has contributed to our speedy process here.

I also want to thank the opposition members for their fine level of co-operation. And I'm sure that we can expect from the

opposition members the same level of co-operation on all of our legislative duties this year; will cause us to get through our process this year quite quickly. Thank you very much, Mr. Chair.

The Chair: — Thank you, Mr. Harper. This committee meeting is adjourned to the call of the Chair.

The committee adjourned at 12 p.m.