

THIRD SESSION - TWENTY-SEVENTH LEGISLATURE

of the

## Legislative Assembly of Saskatchewan

# DEBATES and PROCEEDINGS

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

N.S. VOL. 56 NO. 18B MONDAY, NOVEMBER 25, 2013, 19:00

### **Bill No. 106 – *The Legal Profession Amendment Act, 2013***

**Mr. Forbes:** Thank you very much, Mr. Speaker. It's a pleasure to enter into the debate on Bill No. 106, *An Act to Amend the Legal Profession Act, 1990*. And it sounds like there's some common sense points in this. Again, the question is around the consultation. We'll have to get on . . . talk to some of the folks about, does this meet the needs of the public?

And the reason I ask that, the reason I ask that — Mr. Speaker, there is a reason — is because the new section 3.2. Section 3.2 is very important — the protection of the public. So it's ironic that they didn't do any public consultations when they're protecting the public.

And in fact, it says:

3.2 In any exercise of the society's powers or discharge of its responsibilities or in any proceeding pursuant to this Act, the protection of the public and ethical and competent practice take priority over the interests of the member.

And the member, of course, I assume is the lawyer. So I'm wondering what public consultations they've done about this because if the public take priority, then were they consulted on this? It would only make logical sense that they do that but I don't know.

Now I'm hearing I should read the Act. I should read the Act. It's very encouraging. We should read the Act. I wonder if that's what the minister says to anybody in the public when they come in. When they walk in the door: have you read the Act? Have you read the Act? You know, I've got to tell you, we've got to be more friendly to the public here, Mr. Speaker, more friendly to the public. No setting up those barriers like, have you done your homework? Have you done your homework?

Mr. Speaker, I have done my homework and I have seen this and I do have questions . . . [inaudible interjection] . . . But now the Minister of Education, I do have something to

say to the Minister of Education about this. I do have something to say. I have something to say here, Mr. Speaker, and what I want to say is I find it somewhat ironic that they are doing an amendment to the Law Society or *The Legal Profession Act*. Now have they consulted with, say, the dentists or the teachers or the social workers? Any professional organization?

Because that's what they're doing to the teachers, Mr. Speaker, when they talk about the STF [Saskatchewan Teachers' Federation] Act and the disciplinary Act. They've gone out and they've got a medical doctor to review the teachers' Act. And so, Mr. Speaker, I find it ironic and I think it is interesting that the member who is the Minister of Education is a lawyer by trade and understands probably much better *The Legal Profession Act* than I do. But I find that in this day and age . . . And we've seen it in *The StarPhoenix* and the *Leader-Post* in June about the need to keep the teachers' Act current and how are their disciplinary procedures the best that they can be and how they went out of the usual process of doing this in terms of consultation with the teachers and government and the public about how we can improve that or is it working or is it not working.

But in this case we're just going to the Law Society for their recommendations. So I'm thinking, this is a very good example of how we should cast the net further and seek opinions about how is this working when lawyers aren't up to snuff. And so how are we going to do that and does this meet the standard? Now maybe the Law Society's already done that. I don't know if they did that. And maybe they've passed the test that the minister has set out and say, this is the bar. This is what we want you to demonstrate. This is how we will have confidence in the lawyers that work in the province and that they are up, that they will live up to section 3.2, and that “. . . the protection of the public and the ethical and competent practice takes priorities over the interests of the member.” So we'll have lots of questions about, what does that mean in reality? I mean have they . . . How do they actually carry that out in their day-to-day business?

Now there are, and I would just take a minute to review this, five, I think there's five points the minister has set out that there's first, the reasons for this Act and he talks about the course, request of the Law Society providing “. . . provision clarifying that in regulating the profession, the public interest is paramount over the interests of the members being disciplined.”

Second, the society will be given more control over the number of elected members to accommodate demographic changes and improve governance. Now what I understand, Mr. Speaker, is that there was set out apparently in legislation percentage that are from Saskatoon and so many from Regina, and they're going to allow that to be more flexible. And that sounds reasonable. It would be interesting to see how that plays out over the course of the years. And will we be back changing that? And I think that will be interesting.

As well, “. . . the ability to recruit persons who are not members of council or lawyers to assist with investigations and hearings.” And that will be interesting to see who those folks are and how they carry out these investigations and hearings and what the process is and, of course, I do want to . . . Because we've talked and I've raised the issue of other

professions and how they carry out their disciplinary processes, and we do hear in the press about lawyers who've gone astray and how some of the consequences are. I don't know if that's a consistent practice or is that only in high-profile cases. So this will be interesting for us to ask in committee. Is this a typical process or is this just a, you know, the exception? Is it the exception? I don't know.

So will they do something to increase the public profile of these proceedings? Because that's what they're asking in other professions, that they become much more public, and it seems that's what this government is intent on doing for some professions. And so is this what's going to happen right across the board? And if not, why not? And if so, how's it going to work?

It talks about time limits being removed, so more flexibility. And hopefully that's fair enough. I'm not sure if that's a good thing or what, but we'll see. And it talked about the Law Foundation and the increase in the statutory exemption from liability for good faith decisions being extended so that so they can help encourage volunteers to undertake this worthwhile activity.

So there's lots here. There's lots here, Mr. Speaker, and we'll have a lot more to talk about. I know that my colleagues will want to talk about this.

But as I said that it is interesting, this new section 3.2 and what that means and what that will mean in reality. I mean it's one thing to say it but it's another thing to do it, and another thing to see that the public actually feels that that's the case when there are disciplinary hearings and proceedings within a profession, that the public interest takes priority over those interests of the member. What does that really mean? And so we'll be looking forward to have that conversation in committee.

And again, you know, as I conclude my remarks, it's always a question about consultations. You know, who have they consulted with and what were the comments made? Was there anything left on the table? Who else would have an opinion about this kind of thing?

And you know, I did talk about how were the public . . . why that comment was made about public interest versus the member's interest. Have there been examples of where the member's interests have taken priority over the public interest, and what was the outcome of that? Or is this just something that seems to be missing in the Act and is a good idea?

So with that, Mr. Speaker, I know many of my colleagues will have comments to make in the second round, second debates, and then questions to follow. But at this point, I'd like to move adjournment of Bill No. 106, *An Act to amend The Legal Profession Act, 1990*. Thank you very much.

