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Bill No. 68 – *The Justices of the Peace Amendment Act, 2012*

Mr. Forbes: Thank you very much, Mr. Deputy Speaker. It's a pleasure to rise today to enter into the debate on Bill No. 68, An Act to amend The Justices of the Peace Act, 1988. And again, a relatively straightforward piece of legislation we think, but of course there could be unintended consequences. So as my Whip had said, we've got lots of homework to do to make sure that we understand these pieces of legislation as well as we can.

It was interesting because as I was going through this, I found out something I didn't know about justices of the peace. I always thought they could do marriages. Apparently they can't. That's the number one frequently asked question, can they do marriages? No, a marriage commissioner can, but not a Justice of the Peace. So there you go, something I learned today.

But there is more to it than that. And seriously, Mr. Speaker, I understand that there's about 160 justices of the peace in Saskatchewan. So this piece of legislation is a critical one for them because what I understand, it talks about determination of salary and benefits, and how do we arrive at that. As the minister had talked in his second reading speech, that it's done by regulation now, but they wanted to make it, bring in the current practices into a more formal arrangement into the legislation.

And so it'd be based on what the other judges are getting, and it would be a certain percentage of the annual salary of a judge of the Provincial Court of Saskatchewan. And that's prescribed in the regulations made by the commission. And that seems relatively straightforward, and we understand that they've met with the group who represents the justices of the peace.

But it is important that we take time to talk about this and people are aware and those people watching . . . or hopefully this will be brought up in the media and people have an opinion. It's an important principle that there be some arm's length between those people

setting the laws, that being us, and those people applying the laws and judging. And that's an appropriate thing that they're being arm's length.

But clearly there's always a debate in the public around those who are servants of the public, the public servants, what is a fair, what is a reasonable wage and how we do . . . Especially those who we want to ensure that we continue to trust with respect. And those are the judges, justices of the peace that we reflect on who are they and the work that they do, and that they are paid adequately so that the judgments they do and the work that they carry out is done with the credibility and integrity that of course we would expect that would be the case.

Clearly this is what this speaks to, and we'll have to know more about it. It would be interesting to know what are the cost implications of this. It would be interesting to know, when we think of justices of the peace, we don't think of full-time workers. A senior Justice of the Peace may be working more than those who are on a part-time basis. These 160 people are spread out throughout the province because they do an important role of being . . . so people can have access to justice in their own communities.

So it would be an interesting thing to know more about this. Where are the justices of the peace throughout the province? How many are full-time? How many . . . What is the cost implication of this? And you know, they do have a transition process for justices of the peace so that nothing is lost, that they don't actually end up being paid less than what they were being paid before. So that's an important criteria, but it is one that we will ask.

And we want to make sure that when we talk about the costs of the court system, that it's a reasonable one. Because on one hand we absolutely want to ensure that people have the confidence in the justice system and that it's doing the best work and as quickly and as effectively as it can, while ensuring everyone's rights that are involved, that they are making sure that the people's rights are being heard. But at the same time, what's a reasonable cost?

And this is one that I know governments have wrestled with for many, many years because clearly you want to make sure people are paid adequately, and it is fitting to their level of office, their stature in our society, that their pay is recompensed to that. But on the other hand, as we know, we are the keepers of the purse here, and people do not want us to be extravagant and get too far out ahead of this.

So, Mr. Deputy Speaker, as I said, you know, it's interesting to know a little bit more about who the justices of the peace are. And you know, it's quite a system actually. And I do appreciate the opportunity just to reflect on this a bit for those folks at home because they may be wondering who are these, who's the Justice of the Peace in their community and how do you get a hold of them and what do they usually do.

Well you know, what functions do justices of the peace perform? This is a handy-dandy document from the Provincial Court system. They administer oaths for criminal charges laid by the police or the public; confirm or cancel police-issued processes, and those might include promises to appear, appearance notice, or recognizance; reviewing and

signing court-issued processes, that would be summons or warrant for arrest, that type of thing. Again that speaks to the need of the court system to be nimble and be able to respond quickly. And I'd imagine without these 160 folks that it could grind things down pretty quickly.

Reviewing and issuing subpoenas compelling witnesses to attend court; administering oaths for affidavits, affirmations, declarations; considering applications for search warrants; releasing or remanding accused persons who've been arrested or are being held in custody. And they can also perform certain court functions in the absence of a provincial court. These include accepting guilty pleas from and sentencing accused persons charged with provincial regulatory offences and granting a judgment.

So you have two different levels. You have the Justice of the Peace, but then you have senior justices of the peace, and those would be the ones who would be doing more the higher level work.

Interestingly, in Regina and Saskatoon specifically designated and trained senior justices of the peace have authority to conduct trials under various provincial statutes including traffic, liquor, and wildlife offences. So that's interesting as well. And I'm not sure . . . It would be interesting because we've seen more work in terms of the labour area, and that's when we have to talk more about offences around occupational health and safety and that. They've not really referred to that here, but clearly liquor offences and wildlife offences. And those are important because we know that, and we've seen that over the past decade, the growth particularly in charges laid under the wildlife legislation.

But the one that really is, that does stand out the most for me is conduct trials for offences under various municipal bylaws, including noise and domestic animal violations. Now sometimes that seems like a minor thing but noise, I know, is a big, big deal. And we've seen . . . Actually I think the minister, one of the ministers has been talking to Alberta around noise from loud vehicles. And I think that's an important area, if you're living in an urban setting and . . . It could be anywhere really. If there's loud vehicles, we have to be able to do something about that. And so this is something a Justice of the Peace would be able to do.

Myself, I think we could do just general noise bylaws. And I'm anxiously waiting to see what happens in the city of Saskatoon around some of the bars and late-night establishments that are very, very loud. I think they're louder than some motorcycles. If you get the music going inside those bars, I don't think it would take an awful lot to stand across the way, across the street, and measure the noise. So I'm very interested in making sure these justices of the peace are there so we can have some of these bylaw violations and be taken to court.

Frankly, you know, Mr. Speaker, in my 10 or more years as an MLA, I see this as an issue on Idylwyld where there are bars that are so noisy, and we have not been able to take them to court. And I'm looking forward to seeing if we can do more about noise. And I think this is an important issue for our communities. And again if we can have the court system work effectively, and this means utilizing the justice of peace system in that

process, that would be very, very helpful.

And again domestic animal violations. Mr. Deputy Speaker, as you would know, a few years ago we had some service animals in here because of the issues around harassment of animals. Now interesting now, harassment of animals can be both a provincial issue and it can be a municipal issue. It would be interesting to know. And this may be something because we've just heard last week about the cats that were in the bag, in the knapsack that some poor guy drove over, and there were some issues on that, whether that's a municipal issue or a provincial issue. But again there were people who emailed me about that issue, very upset about that.

So, Mr. Deputy Speaker, these are real, real issues, and a Justice of the Peace can perform some real important duties in their communities. So it'd be interesting to know.

And as I get into this . . . And it's always interesting as you prepare for each bill that we have before us, which is at the provincial level, which is at the municipal level, and how do the justices of the peace work within those areas.

Interestingly it does talk about, as I said earlier, about performing marriages. Because maybe I'm not the only guy who made that mistake. Not that I'm looking for somebody, but I just found that interesting here that they can actually . . . that they actually can't perform marriages. So if anybody's worried about that, that's a marriage commissioner.

Now we go through what the other parts are, about hiring and how do the qualifications . . . and all of that kind of thing. So it's important. It's a very important job, and I would not have thought that there were 160 justices of the peace in Saskatchewan. But of course, as I said, not all of them would be full-time, but many of them would be. It would be interesting to know the impact of this legislation when you're talking about salary, whether this is, what kind of increase in the cost. What does this mean for the justices? Will they be seeing much of an increase? It sounds like a bit of a red circle program where if you're making below . . . If you're making more, you won't have your wages cut, which only makes sense. But at the same time I'd be curious to know how many people actually would see an increase in this as well and what kind of an impact that would have.

So I just want to review what the minister said because that's always very important, that whenever we take a look at second reading debates, what did he say? And that we make sure, that we really make sure we reflect on that because, as we know, that these speeches are carefully given, carefully worded because at some point they may end up coming back and being used potentially as part of a court case. Because this is the interpretation we have of the legislation because we know as legislation is certainly wordsmithed in such a way so it can withstand court challenges. But we need to know a bit more than that, and that's why we have ministers giving second readings. And so what he talks about, what he talks about is the guarantee of financial security. He goes on, he says, and I quote:

The process, Mr. Speaker, is now inadequate, given that courts have ruled the

principles of judicial independence applies not only to judges but also [to, and he calls them] JPs. One element of judicial independence is the guarantee of financial security to judicial officers such as JPs. Financial security embodies three requirements. Firstly, salaries could be maintained or changed only by recourse to an independent process. Secondly, no direct negotiations are permitted between judicial officers and the government. And finally, salaries may not fall below a certain minimum level.

And I think that, I think that's very clear and very critical because in that case you have . . . And you know, particularly when we talk about the wildlife fines, that type of thing, or liquor fines, we know that's, on one hand we may argue that it's not a big deal. But it really is. It truly is. And we think that it's important for the judicial system to have that independence. That makes our criminal system, our judicial system have the integrity it does. And if we interfere from the government perspective by overtly setting salaries at a high level for some, a low level for some, you know, maybe perhaps really cutting out some, cutting down salaries, this could be a big deal.

And in fact, Mr. Speaker, I heard this morning a group of Guatemalan women have actually come to Toronto to raise a case about a Canadian company because they had no faith in their own justice system or judicial system in Guatemala because it can be easily intimidated; it can be easily manipulated. And the easiest, the most direct way to intimidate or manipulate a judicial system is through their wages, is through their wages. And because we all have to make a living, we all have to have economic security. And I agree with this very much so, because in order to have integrity of the justice system, there has to be economic security and independence.

And so it's interesting to see that justices of the peace are now being considered part of that group. When we talk about judges, we're also referring to justices of the peace. And while we may often not have thought of that in the case, but clearly as we do more and more of this work that we're bringing them along because they're an integral part of the justice system. They make sure things flow quickly. They can do a lot of things that would bog down the court system if we had only judges doing all the kind of work that I described earlier. We would have a problem.

And so, Mr. Speaker, I just want to reflect too on what the minister talked about, "senior JPs are most responsible . . . have most of the responsibility." And they can "conduct trials for provincially regulated offences . . . [such] as bylaw and traffic safety matters." And he goes on to say, "In recent years, the work of these JPs has taken pressure off our Provincial Court and improved timely access to the criminal justice system."

And again a very, very critical part when we talk about timely access. That's one of the things we would hope that if you are going to court . . . Nobody wants to be part of the court system, either as a victim or someone who's charged. Clearly if you can handle your matters in ways otherwise, that's the thing you want to do. But sometimes we find ourselves in the court systems, and we hope that it can be done in a timely and effective manner, and making sure justice is carried out with all the due diligence to make sure that nobody's rights are being trampled on, but at the same time there's not an undue pressure

of living a crime or, you know, wondering about what's going to happen with this or that, that they can be done in relatively quick fashion.

He goes on to talk about, "The framework introduced through this bill achieves judicial independence," and then he talks about an independent commission that will be set up to "review and make recommendations regarding salaries and pension benefits for JPs." And then following the initial one, it will be established as a percentage of the salaries of the Saskatchewan Provincial Court. Now going forward they will be adjusted accordingly with any adjustments to the salaries of Provincial Court judges.

And he also talks about senior justices of the peace being brought into the public employees pension plan. And again maybe this is something that we need to think about. And it would be interesting when we have this discussion in committee. Who are these justices of the peace?

You know, we often have this mindset of older folks, you know, just doing a little bit of work. But it sounds like now it's getting to be more and more a bit of a career. And I'm not sure because I don't know any JPs myself, so I don't know what these folks, these 160 people, you know, what their demographic is. Are they older folks? Are they younger? Are they people who are looking at careers when they are in their 20s and 30s saying, I'm going to be a Justice of the Peace? I don't know. It'd be interesting to know the career ladder. Do many justices of the peace end up as judges? I don't know.

So it's going to be an interesting conversation when we get into the committee. I'm finding, Mr. Deputy Speaker, I want to be in many of these committees. I've just got a lot of questions. I'm kind of curious about who these folks are because there's 160 of them, and that's a fair number. And I don't know whether they're full-time, part-time, what they are. But they do an important job.

So, Mr. Deputy Speaker, as I said, this is relatively straightforward, it seems. But it's one of those things that's critical about the success of our court system, as I said, to make sure it's independent, it's fair, it has integrity, and people view it that way and the people who are in that system are valued and know that they have the respect of their communities.

And at the same time, as I said, it's up to us to make sure we do our due diligence, that we've checked this out a bit, find out more about it. But I know that many folks here will have many questions about this bill and other bills and so . . . But as I said, I always enjoy getting up and speaking as I learn a little bit more every day, even though it may not be the most valuable thing of the day, but I do think it's important to challenge some of the stereotypes we have. And I'm glad I learned a little bit about justices of the peace.

And with that, I would like to now adjourn Bill No. 68, move it to adjournment. Adjourn Bill No. 68, An Act to amend The Justices of the Peace Act, 1988. Thank you very much.

