



Second Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

40 Elizabeth II

Chairman
Mr. Jack Reimer
Constituency of Niakwa



VOL. XL No. 2 - 8 p.m., WEDNESDAY, JULY 10, 1991



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

LIB - Liberal; ND - New Democrat; PC - Progressive Conservative

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	LIB
ASHTON, Steve	Thompson	ND
BARRETT, Becky	Wellington	ND
CARR, James	Crescentwood	LIB
CARSTAIRS, Sharon	River Heights	LIB
CERILLI, Marianne	Radisson	ND
CHEEMA, Gulzar	The Maples	LIB
CHOMIAK, Dave	Kildonan	ND
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	ND
DOER, Gary	Concordia	ND
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	LIB
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Cliff	Interlake	ND
EVANS, Leonard S.	Brandon East	ND
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	ND
GAUDRY, Neil	St. Boniface	LIB
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertsland	ND
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	ND
LAMOUREUX, Kevin	Inkster	LIB
LATHLIN, Oscar	The Pas	ND
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	ND
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	ND
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold, Hon.	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	ND
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	ND
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	ND
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	ND
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	ND
WOWCHUK, Rosann	Swan River	ND

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Wednesday, July 10, 1991

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Jack Reimer (Niakwa)

ATTENDANCE - 10 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Downey, McCrae, Hon. Mrs. Mitchelson, Hon. Mr. Orchard

Messrs. Carr, Evans (Brandon East), Gaudry, Helwer, Penner, Reimer

MATTERS UNDER DISCUSSION:

Bill 8—The Vital Statistics Amendment Act

Bill 12—The Court of Queen's Bench Small Claims Practices Amendment Act

Bill 36—The Legal Aid Services of Manitoba Amendment Act

Bill 52—The Family Maintenance Amendment Act

Bill 60—The Law Society Amendment Act

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Mr. Chairman: Will the Standing Committee on Law Amendments please come to order. Bill 8, The Vital Statistics Amendment Act; Bill 12, The Court of Queen's Bench Small Claims Practices Amendment Act; Bill 36, The Legal Aid Services Society of Manitoba Amendment Act; Bill 52, The Family Maintenance Amendment Act; Bill 60, The Law Society Amendment Act will be considered tonight.

Since there are no presentations to the above bills, the committee will proceed with clause-by-clause consideration of this bill.

Hon. Donald Orchard (Acting Minister of Family Services): With the agreement of my honourable friends, why do we not just do bill by bill?

Mr. Leonard Evans (Brandon East): With the page on Bill 8, having made a 40-minute speech on this particular one, I know what it is about. It is about amending the death certificates under The Vital Statistics Act. While one could probably make a few points about it, it is mainly a technical bill and I do

not see a big problem with it. So we could pass it page by page.

Mr. Chairman: Is there a willingness of this committee that we proceed with the bills as I have called them? Agreed.

We will proceed then with Bill 8.

**Bill 8—The Vital Statistics
Amendment Act**

Mr. Chairman: (The Vital Statistics Amendment Act; Loi modifiant la Loi sur les statistiques de l'état civil). Does the minister responsible for Health (Mr. Orchard) who is representing the Minister of Family Services (Mr. Gilleshammer) have an opening statement?

Hon. Donald Orchard (Acting Minister of Family Services): Mr. Chairman, this act received all of the due diligence and considered debate of honourable members in the opposition. I believe we could pass it.

Mr. Chairman: Does the critic for the opposition have an opening statement?

Mr. Leonard Evans (Brandon East): No.

Mr. Chairman: Does the critic for the second opposition have any opening statements?

An Honourable Member: No.

* (2005)

Mr. Chairman: The bill will be considered clause by clause. During the consideration of the bill, the Title and the Preamble are postponed until all of the clauses have been considered in their proper order by the committee.

Let us start with clauses on Bill 8. Clauses 1 through Clause 9—pass; Preamble—(pass); Title—(pass). Shall the bill be passed as reported? (Agreed). Is it the will of the committee that I report the bill as amended? Agreed.

Bill 12—The Court of Queen's Bench Small Claims Practices Amendment Act

Mr. Chairman: Bill 12, The Court of Queen's Bench Small Claims Practices Amendment Act; (Loi modifiant la Loi sur le recouvrement des petites créances à la Cour du Banc de la Reine). Shall Clauses 1 through 11 be passed—(pass).

Hon. James McCrae (Minister of Justice and Attorney General): I have an amendment for Clause 12, Mr. Chairman. I move

THAT the proposed subsection 12(3) be amended by striking out the words after "unless" and substituting "leave to appeal is first obtained from a judge".

(French version)

Il est proposé que le paragraphe 12(3) soit amendé par substitution, au passage qui suit "cette décision", de "que si l'autorisation d'appel lui a été accordée par un juge".

I move that motion in both the French and English languages.

It is a technical amendment to allow the leave time limit to be set by way of the Queen's Bench rules; the time for the leave to be heard will be set by way of the Queen's Bench rules.

If you read the whole bill, Mr. Chairman, you will see that the idea behind the bill is to make this act more efficient.

You will recall that in the first session of the last Legislature, we moved amendments to the Queen's Bench Small Claims Practices Amendment Act to allow this court to be more user-friendly, if you like.

We increased the jurisdiction of that court, built in some administrative efficiencies and after a couple years of the operation of this court in its amended fashion, the amendments that you see before you including the committee amendment before us, are all intended to help make the operation of that court more efficient and to enable it to be more convenient for members of the public to use this court.

The last time we worked on this legislation, it was to increase the jurisdiction from \$3000 to \$5000. I know the honourable member for St. James (Mr. Edwards) has made certain references to other forms of dispute resolution, but I think I caught a hint from him that he thinks that maybe the \$5000 limit ought to be reviewed.

I think that is something that the committee that reviews this court will continue to monitor and make recommendations as they deem fit.

Mr. Chairman: The proposed amendment in both English and French:

THAT the proposed subsection 12(3) be amended by striking out the words after "unless" and substituting "leave to appeal is first obtained from a judge".

(French version)

Il est proposé que le paragraphe 12(3) soit amendé par substitution, au passage qui suit "cette décision", de "que si l'autorisation d'appel lui a été accordée par un juge".

Shall the amendment be passed—(pass); Section 12 as amended—(pass); Sections 13 through 17—(pass); Clause 18—(pass); Preamble—(pass); Title—(pass). Shall the bill as amended be reported? (Agreed) Is it the will of the committee that I report the bill as amended? (Agreed).

* (2010)

Bill 36—The Legal Aid Services Society of Manitoba Amendment Act

Mr. Chairman: Bill 36, The Legal Aid Services Society of Manitoba Amendment Act; (Loi modifiant la Loi sur la Société d'aide juridique du Manitoba). Shall Clauses 1 through 14 be passed?

Mr. Leonard Evans (Brandon East): I recall when we were discussing this in second reading my impression was this, and if I am wrong, maybe the minister can correct me, but a great deal of the motivation of this bill was to somehow or other cope with tighter than usual budgets; in other words, problems with financial constraints and that that is reflected in the spirit of the amendment. I would like to ask the minister, is that correct?

Hon. James McCrae (Minister of Justice and Attorney General): I hope when the honourable member refers to—in his comments, I hope he is not referring to any reduction of service to the public. There is a tightening up of administrative procedures which makes the operation of the plan a good plan, the best one in the country. It makes it more efficient, so that if we run things efficiently, we provide better service and perhaps making resources available so we can provide more service.

Mr. Leonard Evans: Mr. Chairman, I am not against providing more efficient services and being cost effective and so on, but my impression was that it might be more difficult for some members of the public to get Legal Aid.

Mr. McCrae: Absolutely not, Mr. Chairman.

Mr. Chairman: Clauses 1 through 14—(pass); Preamble—(pass); Title—(pass); Shall the bill be reported? (Agreed) Is it the will of the committee that I report the bill? (Agreed).

Bill 52—The Family Maintenance Amendment Act

Mr. Chairman: Bill 52, The Family Maintenance Amendment Act; (Loi modifiant la Loi sur l'obligation alimentaire). Shall Clauses 1 through 57.2(2)—pass.

Mr. Leonard Evans (Brandon East): Mr. Chairman, I wonder if the minister would not mind just refreshing our memories. What is he trying to achieve? I know we are not in second reading; nevertheless, I think it is useful for the minister to tell the committee what he is trying to achieve.

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Chairperson, under our jurisprudence, people are entitled not to be deprived of liberty except by virtue of judicial process. This bill allows a person who is alleged to have breached or been overdue in making maintenance payments—have I got that right so far—who fail to appear in court, they are apprehended and held.

This bill provides the right of that person as is the case under the Criminal Code or any other statutes that provide for incarceration. It provides an opportunity for a person held under a warrant to appear before justice and apply for interim release. That is what this bill does.

Mr. Chairman: Just for a matter of clarification, Clauses 1 through 4 have been passed.

* (2015)

Mr. McCrae: Agreed.

Mr. Chairman, I move

THAT the French version of the proposed subsection 57.2(3), as set out in section 5 of the Bill, be amended by adding "au" after "visée".

(French version)

Il est proposé que le paragraphe 57.2(3) énoncé à l'article 5 du projet de loi soit amendé par adjonction, après "visée", de "au".

I move this motion in both the English and French languages. The motion is moved to correct an error in the French version of the bill.

Mr. Chairman: Shall the amendment pass, which is

THAT the French version of the proposed subsection 57.2(3), as set out in section 5 of the Bill, be amended by adding "au" after "visée".

(French version)

Il est proposé que le paragraphe 57.2(3) énoncé à l'article 5 du projet de loi soit amendé par adjonction, après "visée", de "au".

in English and in French—agreed.

Section 57.2(3), as amended—(pass); Clauses 57.2(4) to Clause 6—(pass); Preamble—(pass); Title—(pass). Shall the bill as amended be reported? (Agreed) Is it the will of the committee that I report the bill as amended? Agreed.

Bill 60—The Law Society Amendment Act

Mr. Chairman: Bill 60, The Law Society Amendment Act; (Loi modifiant la Loi sur la Société du Barreau).

Mr. Leonard Evans (Brandon East): I wonder if the minister would be kind enough to take a minute just to tell us briefly what he is attempting to achieve with this bill, just to refresh our memories.

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Chairman, this bill is probably better known for what it does not contain than what it does contain. The issue with respect to what it does not contain has been raised in the House on a couple of occasions and has been the subject of some very, very interesting and very, very fruitful discussions between the government, the Law Foundation of Manitoba, The Law School and The Law Society of Manitoba with respect to the arrangements, financial and otherwise, for the operation of legal libraries which are operated by the government of Manitoba.

So far, I mean, we are still talking about what is not in the bill, and there is a real concern about the costs of running our legal libraries. That includes the Great Library in the courthouse and other libraries located in the Brandon Courthouse,

Dauphin Courthouse, Minnedosa, and Flin Flon. Perhaps I have missed one, but in any event, the cost is escalating and for those reasons there is a concern on the part of the government that the government was, we felt, probably paying more than we should be for the operation of these libraries.

* (2020)

We let this be known to the Law Society and the Law Foundation and there were in a draft or in a proposed bill some recommendations for change in the formula by which these libraries are funded, such that the Law Society and The Law Foundation would be required to make some further contribution than they presently are. Well, we had some very good discussions and people like Dean Roland Penner of the Law School was involved and he helped bring these things to a conclusion as did Colin MacArthur of the Law Society and John Burgess of the Law Foundation. I should also express gratitude to Tom Hague and Marvin Bruce and others involved in the government side of it for the success of these discussions along with all of the others.

Anyway, to make a long story short, we now have an agreement whereby the Law Foundation is making a contribution without the necessity of legislation. We think that meets a couple of objectives, one being to protect those community agencies funded by the Law Foundation to the extent that they will not be impacted to anywhere the extent that they might have been had we had to move ahead with legislation.

The Law Society is playing an expanded role in regard to the financing of these facilities and services but also, all of the people involved are going to be working very closely with the

government over the next year to ensure that these libraries operate well and effectively and efficiently in the future. So what is in the bill amount to recommendations, requests if you like, from the Law Society of Manitoba for changes in their operating procedures as you see them laid out in the bill.

Mr. Leonard Evans: I just have one question and, again, I do not want to belabour this. As I understand it, and again I stand to be corrected if I am wrong, but this in effect, directs the Law Society of Manitoba to utilize funds through the foundation towards libraries. As such, was there not some concern that the foundation was not able to provide monies to other charitable organizations—

An Honourable Member: You can not.

Mr. Leonard Evans: Or is it profit organizations in the province?

Mr. McCrae: Mr. Chairman, that was the concern. There is nothing in this bill requiring the Law Foundation to do anything. What they are doing has been achieved through negotiation and there is nothing requiring them. So what we have remaining in the bill is housekeeping. The Law Society is a self-governing operation which governs the operations of our legal practitioners in this province. What you see before you amounts to some housekeeping amendments that they have requested.

Mr. Chairman: Clauses 1 to 15—(pass); Preamble—(pass); Title—(pass). Shall the bill be reported? (Agreed) Is it the will of the committee that I report the bill? (Agreed)

Committee rise.

COMMITTEE ROSE AT: 20:22 p.m.