



# Legislative Assembly of Manitoba

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HEARINGS OF THE STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman  
Mr. William Jenkins, M.L.A.  
Constituency of Logan



8:00 p.m., Wednesday, June 9, 1976.

THE LEGISLATIVE ASSEMBLY OF MANITOBA  
 STANDING COMMITTEE ON LAW AMENDMENTS  
 8:00 p.m., Wednesday, June 9, 1976

Chairman: Mr. William Jenkins

MR. CHAIRMAN: We have a quorum? The Bills before the Committee this evening, I'll give you the numbers and the names.

Bill 59, The Co-operatives Act; Bill 81, The Milk Control Act; Bill 82, an Act to amend the Highway Traffic Act (2). Bill 86, an Act to amend the Marriage Act; Bill 89, The Statute Law Amendments Act 1976; and Bill 93, an Act to amend the Prescription Drugs Cost Assistance Act.

Mr. Jorgenson.

MR. JORGENSON: Mr. Chairman, 59 and 82 are the only two bills that in my opinion are legitimately before the committee, the others passed late this afternoon. I would suggest that Bill 81 be held over because I know that there are some people that are interested in making representations but just could not make it in the time span that was allotted. And that's probably true of Bill 89. We would not object to proceeding with 86 and 93 because I doubt very much if there will be any representations on those bills in any case. So if we could leave off 89 for another occasion it will give some people an opportunity to be here.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Mr. Chairman, I would suggest, however, that if there are people who wish to make presentations on those two that we accept those and then we can deal with the clause by clause tomorrow on those bills. And further representations of course.

MR. CHAIRMAN: Before we proceed is there any one here from the public who wish to make representation on 59, 81 or 82 or 86 or 89 or 93?

MR. WALTER KUCHARCZYK: Mr. Chairman, my name is Walter Kucharczyk, I'd like to address you gentlemen on Bill 89 . . .

MR. CHAIRMAN: Bill 89. Proceed.

MR. KUCHARCZYK: . . . pertaining to the Mental Health Research Foundation, the amendment. I would like to begin by thanking the present Honourable Mr. Ian Turnbull who at the time was a private member who had the foresight to sponsor this bill. Now since the matter is non-political I must say we have quite a difficulty, the amendments will prove to you why if you read them carefully, the difficulties to the extent of raising necessary money since the major part of the work is being done free of charge by very outstanding people in this specialized field of mental health. We have psychiatrists of the calibre say, for instance, Dr. John Clayton is well known across the continent, who was kind enough with his colleagues to take time outside of his regular work to do the research and all actually we are able to support those people with is the cost of technicians and some limited equipment.

Now I must say up to now the Crown has been very co-operative indeed, I can't recall one case when it was submitted to the Department of Health that we were turned down. But what I am here just about to appeal to you all, gentlemen, is this, that in your constituencies perhaps you help us to let the people know that such organization exists. Any donations are tax deductible to start with, because I guess . . . the dollar speaks first. Secondly, this day there are more and more problems when it comes to the mental health. Now, as you are well aware, in order to solve them it takes deep time and dedicated people to do the work, to do the research. You might compare, for instance, with developing vaccine in many instances, just as important.

I like to mention to you for instance that through the work of the experts in . . .

MR. CHAIRMAN: Order please. The Chair is at a bit of difficulty. I don't really know what section of Bill 89 you're referring to.

MR. KUCHARCZYK: I'm referring here further to the enlarging - I'm sorry - 51.

MR. CHAIRMAN: Section 51 of Bill 89?

MR. KUCHARCZYK: Yes, but that will be Page 19 and one sentence I believe or so on Page 20.

MR. CHAIRMAN: Fine, I see where you are . . .

MR. KUCHARCZYK: It's very hard to explain why there is request for more members in few words than we have had before. You see, when the people are not being paid, that is to say the members of the Board and the researchers, you have to have sort of an incentive. Now the incentive here is a dedication and dedication comes from understanding the problem. Now the problem is national. It might sound say, and of course legally it's only a Manitoba issue, however, any achievement or success in this field, under this Foundation, it will effect and help not only Manitobans but it will help the people right across Canada. As a matter of fact there is an agreement with the U.S.A. where there's also exchange of the achievements in research fields. For that reason I once more will, and I hope some of you are listening, gentlemen, for that reason once more I will appeal to you that please take a few minutes time some day when you are at various functions in your constituencies and discharge your duty, because it isn't only a favour you will be doing to those that don't come to you in the form of lobby because people with mental problems they are not able to organize themselves to come straight forward and seek even help. Sometimes it's difficult indeed to get those people to an appropriate doctor and some doctors have a difficulty for instance to apply proper drugs. One kind of drug will affect one person one way and the same kind of drug will apply, just for an example, will affect another person entirely different. So that's why the research is necessary. Therefore I say one more, for the third time I believe, that please be good enough to let people know that such Foundation exists, for the purpose of course of the financial help to start with and secondly, if any organizations have any problem, the Foundation will be very pleased to look into those problems and if we don't have an investigator available, we will get one to solve the problem.

By the way, I meant, but I didn't take notes, I meant to thank the Legislative Counsel, Mr. Tallin, to thank on behalf of the Board and myself for the help that we got from him, whenever we have a problem he doesn't mind to waste his time to give us an answer. We can't afford to hire a solicitor. I thank you gentlemen for your attention and I hope that there will be some results. If any questions, I'd be pleased to answer.

MR. CHAIRMAN: Thank you. Are there any questions? Hearing none, thank you very much.

MR. KUCHARCZYK: Thank you, Mr. Chairman.

MR. CHAIRMAN: Now the will of the committee, we'll start with Bill 59; do you want to deal with these page by page? There is an amendment on Page 2. Page 1--pass. Page 2. Mr. Walding.

MR. WALDING: Mr. Chairman, I move that clause 118 of Bill 59 be amended by striking out the word "corporation" and substituting therefor the words "body corporate".

MR. CHAIRMAN: Page 2 as amended--pass; Page 3. Mr. Walding.

MR. WALDING: Mr. Chairman, I move that clause 12(d) of Bill 59 be amended by striking out the word "propogation" in the seventh line thereof and substituting the word "propagation".

MR. CHAIRMAN: Page 3 as amended--pass.

MR. WALDING: Mr. Chairman, I move that subsection 2(l) of Bill 59 be amended by striking out the word "cooperative" in the first line thereof and substituting the words "body corporate".

MR. CHAIRMAN: Page 3 as amended--pass; (Pages 4 to 27 were read and passed). Page 28.

MR. WALDING: Mr. Chairman, I move that subsection 54(l) of Bill 59 be amended by striking out the word "of" where it first appears in the second line thereof and substituting the word "to".

MR. CHAIRMAN: 54(l) as amended--pass; Page 28 as amended--pass; (Pages 29 to 39 were read and passed). Mr. Pawley.

MR. PAWLEY: I would just like to ask a question if I could of the Legislative Counsel. Under section 80 subsection (2), the cooperative has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part. I'm questioning whether or not the suit and execution has to be completed within the six months or are we just looking at the suit having been commenced within six months, the execution following thereafter?

MR. SILVER: I would say, just the commencement of the action.

MR. PAWLEY: I'm just a little worried about the wording, whether there's only confusion in my mind as to whether that's quite clear.

MR. SILVER: Well the period of six months is adjacent to the words "has been sued for the debt", so it seems to me that that says that the action for the debt has to be commenced within six months after that becomes due.

MR. PAWLEY: And under 80, subsection 3, I suppose this would be Mr. Scarth. I'm just wondering why a past director, one who is no longer fulfilling that role could in fact be held responsible under 80 subsection (1) and how two years was arrived at.

MR. SCARTH: Mr. Chairman, this is a portion of The Co-operatives Act which follows The Canada Business Corporations Act and also follows The Corporations Act of Manitoba which was Bill 37. In the Co-operatives Act, wherever possible in areas of common interest we've kept the provisions the same. We recognize the provisions are new in the Canada Business Corporations Act, new in the Corporations Act and the thought was that we would keep our provisions in this bill consistent. So this is a consistent provision and follows subsection 114(3) of the Corporations Act. The concept as I understand it is that a director may be liable, he cannot avoid the liability simply by resigning when the problem arises within the organization but a two year period is considered sufficient, so that if you're out of the organization for two years you could look back and say, of that I'm clean.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: I ask the Attorney-General if this is not consistent with some of the changes we have made in the Statute of Limitations in the province here.

MR. PAWLEY: I think everything has to be judged pretty well on its own, I'd look upon this as . . . well it's very very difficult to . . . I think one would have to deal with each individual circumstance as to whether or not it's even just to hold a director who has already been out of the co-op a year and a half accountable for some action unless he contributed to that action. I don't want to prolong this discussion on this point, Mr. Chairman.

MR. CHAIRMAN: Any further discussion on Page 39? Pass. (Pages 40 to 92 were read and passed.) Page 93 - Mr. Walding.

MR. WALDING: I move that clause 174(2)(b) of Bill 59 be amended by adding thereto, immediately before the word "securities" in the first line thereof the words "members or".

MR. CHAIRMAN: The motion as moved. Any discussion? Pass.

Page 93 as amended--pass;(Pages 94 and 95 read and passed.) Page 96 - Mr. Walding.

MR. WALDING: Mr. Chairman, I move that section 181 of Bill 59 be amended by adding after the word "person" at the end thereof, the words "who sent the notice or document to him".

MR. CHAIRMAN: The motion as moved--pass.

Page 96 as amended--pass; Page 97--pass; Page 98 - I understand that this amendment is not to be moved, is that correct? (Pages 98 to 101 were read and passed.) Preamble--pass; Title--pass. Bill be reported . . .

MR. GRAHAM: Mr. Chairman.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Before the bill is reported I would just like to say a few words. I think it's far too often that we fail to pay attention to some of the things that go on around here and we have just had a bill of 101 pages which has been brought before this committee for amendment and I think it's only fair to point out that as far as I am able to ascertain or as far as any amendments that have been brought to us, there has only been one spelling error in some 101 pages, so I think we should maybe pay a little compliment to our Queen's Printer and those that proof-read and all those that are responsible for this. I think it is only fair this should be done at this time.

MR. CHAIRMAN: Bill be reported. Bill No. 81 we are going to hold. Bill No. 82, An Act to amend The Highway Traffic Act(2). The committee wish to deal with this page by page? Page 1--pass? We have some amendments. Bill No. 82. Amendment is on Page 4. (Pages 1 to 3 were read and passed.) Page 4 - Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I move that the proposed clause 11(1)(b)(c) . . . oh, 1.6(c) of The Highway Traffic Act as set out in section 18 of Bill 82, be amended by striking out the words "motor vehicle" in the fifth line thereof and substituting therefor the words "slide-in camper".

MR. CHAIRMAN: Clause 18, subsection 11(1.6)(c) as amended--pass.

Page 4 as amended--pass; (Pages 5 to 11 were read and passed.) Page 12.

MR. PAWLEY: We have an amendment on that.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: That subsection 242.1(2) of The Highway Traffic Act as set out in section 51 be amended by striking out the word "traffic" in the fifth last line, and substituting therefor the word "transport".

MR. CHAIRMAN: Clause 51, 242.1(2)(c) in the fifth last line thereof as amended--pass; Page 12 as amended--pass; (Pages 13 to 15 were read and passed.) Preamble--pass; Title--pass. Bill be reported.

BILL 86 - AN ACT TO AMEND THE MARRIAGE ACT

MR. CHAIRMAN: Bill No. 86, An Act to amend The Marriage Act. Mr. Wilson.

MR. WILSON: In section 3 you're striking out the words "five dollars". Is there any set amount? Is there any guideline? Could somebody explain what they mean by regulation?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: I can explain . . . the effect of this amendment will be that the fee payable to marriage commissioners will be a fee fixed by regulations and they will now be entitled to expenses as well, again fixed by regulation.

MR. WILSON: What would be an example of that, could you give me one?

MR. TALLIN: I'm afraid I don't know. That's a matter of policy. The regulations will be prescribed by the Lieutenant-Governor-in-Council.

MR. WILSON: I see.

MR. CHAIRMAN: Order please. Mr. Toupin.

MR. TOUPIN: Mr. Chairman, the intent given to me at least as the Acting Minister was that when the clergyman or a marriage councillor was sought and had expenses beyond what was now provided, that this could be set by regulation without say, having the scale within the Act itself.

MR. WILSON: Okay.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Perhaps I might add one more word of explanation. The fee originated because it was the fee that the County Court Judge was entitled to and it was just moved over and made applicable to the marriage commissioners when the County Court Judges were no longer able to charge fees, but it's the same fee County Court Judges charged years ago of \$5.00 and they're just getting rid of it.

MR. WILSON: Would this mean a protection for those that would travel 50 miles to marry a couple and then find that the couple is not quite as generous and only give them \$5.00, so you're going to try to spell it out?

MR. TALLIN: Yes.

MR. WILSON: Okay.

MR. CHAIRMAN: (Pages 1 to 4 were read and passed.) Preamble--pass; Title--pass? Mr. Wilson.

MR. WILSON: I wanted to just correct the First Minister who introduced the bill. The banns is b-a-n-n-s. However, I wonder by eliminating the 15 days if a lot of people might not go into the sort of La Vegas style business because people from other provinces and that could sort of drift into Winnipeg on a weekend and get married if you remove all the residency situation. Is that possible under these amendments?

MR. TALLIN: I'm afraid I am not that familiar with all of The Marriage Act but the restriction on residence apply to the issue of licences and the reading of the banns, and I'm not sure whether or not there has to be a period of time after the licence, between the issuing of the licence and the marriage ceremony itself. I would have to look that up and see.

MR. WILSON: Well I just wanted to express that concern. The other one is under Schedule B.26. I wondered when we were going to get into the modern age. I can't see why . . . it says a man may not marry his nephew's wife and a woman may not marry her niece's husband. These aren't blood relatives. I wonder why this is still in this Marriage Act.

MR. TALLIN: I might explain that by saying that is not part of the jurisdiction of Manitoba. The schedule is put in for information. It comes from an Act that was enacted in the time of Henry VIII, 1536. It likely had some political overtones at the time. If that is to be changed, it must be changed by the Federal Government which has the jurisdiction to effect the capacity to marriage. We have no jurisdiction in the province to legislate with respect to the capacity to marry.

MR. WILSON: Well this is where, again as I say I don't want to prolong it but I'm confused from the point of view of the Federal Government determines who you can marry, the Provincial Government determines whether you can get married without any residency, can set the fee for the marriage and can set the regulations for the clergyman, whether he's a mail order clergyman, whether he's from a regular ordained church. That's the kind of thing that the province can do.

MR. TALLIN: That's right. It's the thing that confuses constitutional lawyers too.

MR. WILSON: So in other words I better talk to a lawyer before I start asking questions. Okay.

MR. CHAIRMAN: Title--pass. Bill be reported. Mr. Graham.

MR. GRAHAM: Before this is reported, and I may be out of order but we're talking about The Marriage Act now and I know there's another amendment to The Marriage Act which deals with a credible person as a witness in a marriage. Is there any definition to what is a credible person?

MR. TALLIN: No, I think the amendment that you're referring to is an amendment to The Vital Statistics Act to make it consistent with The Marriage Act and The Marriage Act has for years had the word "credible" as an adjective for the word witness in it. Credible is just a matter of opinion of the person performing the marriage at the time, does he think the witnesses there are credible people that will be believed later on.

MR. GRAHAM: Maybe I had better wait till we get to the proper statute then.

MR. TALLIN: Actually it's bringing that statute in line with this because people can be credible when they are under 18, but they can't be adult when they're under 18.

MR. CHAIRMAN: Mr. Wilson.

MR. WILSON: Might I suggest since we have these amendments to Bill 86, that those two obvious archaic situations are there that may have to be amended by the Federal Government, could your government be the catalyst to review No. 17 on Page 26, section 26, Schedule B and try to get the area where a man may not marry his nephew's wife and a woman may not marry her niece's husband, and get those eliminated if they're so wrong because I think we shouldn't be passing something if we think it's wrong.

MR. CHAIRMAN: Order please. Any further discussion before we report this bill? Bill be reported.

#### BILL 93 - AN ACT TO AMEND THE PRESCRIPTION DRUGS COST ASSISTANCE ACT

MR. CHAIRMAN: Bill No. 93, An Act to amend the Prescription Drugs Cost Assistance Act. Page 1--pass; Page 2. Mr. Blake.

MR. BLAKE: I'm sorry, it was Page 1, section 2.1, Payments on behalf of eligible persons. It's on the first page, section 2.1. I just wanted to get clarification, probably from legal counsel, that if I understand the clause correctly that "If authorized under the regulations but subject to the regulations, benefits may be paid under this Act to a person, including an insurer of an eligible person, who has incurred the cost for specified drugs purchased by the eligible person." This would apply to a medical plan whereby the person was prescribed drugs and received drugs but did not pay for them. This will enable the person that paid for those drugs which would include the insurer to be reimbursed for the portion. Am I reading this section correctly?

MR. TALLIN: It will enable the Lieutenant-Governor-in-Council to make regulations authorizing such a payment. It won't by itself . . .

MR. BLAKE: Yes, right. But as long as I have that understanding, I just want to have that clarified.

MR. CHAIRMAN: Page 2--pass; Preamble--pass. Title--pass; Bill be reported.

Committee rise and report.