



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

Standing Committee
on
Law Amendments

Chairperson
Mr. Jack Penner
Constituency of Emerson



Vol. XLIII No. 3 - 10 a.m., Monday, July 4, 1994

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHOMIAK, Dave	Kildonan	NDP
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DOER, Gary	Concordia	NDP
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FRIESEN, Jean	Wolseley	NDP
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HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
KOWALSKI, Gary	The Maples	Liberal
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MACKINTOSH, Gord	St. Johns	NDP
MALOWAY, Jim	Elmwood	NDP
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PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
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SANTOS, Conrad	Broadway	NDP
SCHELLENBERG, Harry	Rossmere	NDP
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STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
WOWCHUK, Rosann	Swan River	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Monday, July 4, 1994

TIME — 10 a.m.

LOCATION — Winnipeg, Manitoba

**CHAIRPERSON — Mr. Jack Penner
(Emerson)**

ATTENDANCE - 10 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Cummings, Praznik, Hon. Mrs.
Vodrey

Ms. Cerilli, Messrs. Helwer, Kowalski,
Penner, Reid, Reimer, Sveinson

APPEARING:

Gord Mackintosh, MLA for St. Johns

Jerry Storie, MLA for Flin Flon

MATTERS UNDER DISCUSSION:

Bill 22, The Statute Law Amendment Act,
1994

Bill 24, The Waste Reduction and Prevention
Amendment Act

Bill 27, The Highway Traffic Amendment
Act

Bill 31, The Manitoba Employee Ownership
Fund Corporation Amendment and Income
Tax Amendment Act

* * *

Mr. Chairperson: Will the committee please come to order. This morning the Standing Committee on Law Amendments will consider Bill 22, The Statute Law Amendment Act, 1994; Bill 24, The Waste Reduction and Prevention Amendment Act; Bill 27, The Highway Traffic Amendment Act; and Bill 31, The Manitoba Employee Ownership Fund Corporation Amendment and Income Tax Amendment Act.

To date we have not had any presenters registered. Are there any presenters in the audience

at this time? If not, we will now proceed with clause-by-clause consideration of the bills. Is there any particular order in which the committee would like to look at the bills?

An Honourable Member: As outlined.

**Bill 22—The Statute Law
Amendment Act, 1994**

Mr. Chairperson: We will start then with Bill 22. Does the Minister of Justice (Mrs. Vodrey) wish to present any opening statements?

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): Mr. Chair, as I indicated in my remarks at second reading of Bill 22, The Statute Law Amendment Act is designed primarily to correct cross-referencing, typographical and other editing errors in various acts, and many changes in this year's bill to correct errors that the Legislative Counsel identified in the publication process. As I mentioned in my second reading remarks, also there are a few substantive matters addressed in this bill relating to The Brandon Charter Act, The Civil Service Superannuation Act, The Corporations Act, The Credit Unions and Caisses Populaires Act and The Marriage Act.

But, Mr. Chair, I think it would be best to proceed clause by clause to review the bill at this time, and so if the members wish to have discussion with respect to any of these matters we could do it clause by clause.

Mr. Chairperson: Before we continue that, does the critic for the official opposition wish to make any remarks.

Mr. Gord Mackintosh (St. Johns): We have reviewed the clauses of the bill and have no concerns, so we are prepared to pass the bill as drafted.

Mr. Chairperson: Does the critic for the second opposition wish to make any opening statements?

Mr. Gary Kowalski (The Maples): Yes, we are also prepared to pass the bill as presented. We see nothing controversial or substantive in the bill.

Mr. Chairperson: Is there a will, then, to move through this rather quickly, or do we need to go clause by clause? Can we take blocks of clauses? [agreed]

We will, as normal, set aside the opening of the bill and we will proceed then to Clause 1. Clauses 1(1) and 1(2) on the first page—pass; Clause 1(3) to Clause 3(3) on page 2—pass; Clause 3(4) to Clause 3(9) on page 3—pass; Clause 3(10) to Clause 4(3) on page 4—pass; Clause 4(4) to Clause 6(3) on page 5—pass; on page 6, Clauses 7-10—pass; on page 7, Clauses 11-14(1)—pass; on page 8, Clauses 14(2)-16(3)—pass; on page 9, Clauses 17-20(3)—pass; on page 10, Clause 20(4)-20(7)—pass; Preamble—pass; Title—pass. Bill be reported.

Is it the will of the committee that I report the bill? [agreed]

Bill 24—The Waste Reduction and Prevention Amendment Act

Mr. Chairperson: Will the minister please come forward? Does the Minister of Environment have any opening statements?

Hon. Glen Cummings (Minister of Environment): Just a couple of comments, Mr. Chairperson. This tidies up some of what were seen to be shortcomings of the original Waste Reduction and Prevention Act. It is in the general principle, I think, I would like to say that while we always attempt to reduce the amount of regulatory work that is required on the part of businesses and entrepreneurs in general, there does need to be a level playing field so that those who willingly support recycling and the cost of recycling are not unnecessarily burdened from those products that do not support it. I expect that the administration of this bill will be quite readily complied with, but the industry has made a very significant case that they want a level playing field, and the various aspects of this bill will allow us to create one in the future.

* (1010)

Mr. Chairperson: Thank you very much. Does the official opposition critic have an opening statement?

Ms. Marianne Cerilli (Radisson): I think I have put a number of comments on the record with respect to The WRAP Act and waste reduction and recycling in the province. The bill itself, as the minister said, sets up the framework, and we very much support the principle and the concept that is behind the legislation of, as the minister said, trying to create a scheme so that those that are producing waste are bearing the cost and the responsibility of seeing that it is going to be not only recycled but reduced and properly disposed of.

I think that there are some language things with this bill that we could dispute. There are also some of the concepts in the Preamble or the first sections on sustainable development that we could dispute or discuss, but I think that what we want to do is not only see the bill come forward, but I have also made it clear that I would hope that we would have had some draft regulations. A lot of the detail and the power, if you will, for this act is going to be in the regulations, and until we see those I do not know if we are going to be able to have a real clear understanding of what the government's intentions are under this program.

I think, though, there is a lot of interest in the community with respect to this area, and I am hoping that we will have a few presentations. I am not sure if there are some people here who are going to make some presentations. I know that I have tried to consult with a number of different sectors in the community with respect to this area and there is a lot of interest and a lot of good suggestions, and there is wide support for this type of legislation, this program. So I will leave it at that and carry on.

Mr. Chairperson: Thank you very much. Would the critic for the second opposition have any opening statements?

Mr. Gary Kowalski (The Maples): Yes, I believe our lead critic, when she spoke on second reading, has put the views forward about this bill, and rather

than repeat them I will look forward to any discussion that occurs at the committee meeting today.

Mr. Chairperson: Thank you very much. The bill, if it is the will of the committee, we will proceed as we did with the previous bill in blocks of clauses. [agreed]

Clauses 1 to 2(2)—pass; on page 3, Clause 3—pass; on page 4, Clauses 4(1) and 4(2)—pass; on page 5, Clauses 5 to 8—pass; on page 7, Clauses 9 to 11(2)—pass; on page 12, Clauses 12 to 13—pass; Preamble—pass; Title—pass. Bill be reported.

Is is the will of the committee to report the bill? [agreed]

Bill 27—The Highway Traffic Amendment Act

Mr. Chairperson: Bill 27, The Highway Traffic Amendment Act. Does the minister have an opening statement?

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): Mr. Chair, the object of this bill is to expand the existing list of criminal offences under The Highway Traffic Act that cause an automatic license suspension to include those criminal offences that relate to auto theft or auto vandalism.

As I related in greater detail in my second reading speech, we have been witnessing in the past few years a tremendous rise in the number of auto thefts and acts of auto vandalism in Manitoba.

The province does not have the jurisdiction to amend the Criminal Code to increase the penalty for these offences. That jurisdiction belongs to Parliament. We do however have the constitutional authority to suspend drivers' licences under our Highway Traffic Act for those drivers who have demonstrated that they constitute a risk to our highway safety. Those who steal and vandalize motor vehicles pose such a risk, Mr. Chair, particularly because these acts are so often combined with what is called joy riding.

As I indicated in my second reading speech, this bill would not only expand the list of criminal offences in The Highway Traffic Act that would

give rise to automatic licence suspension, it would also double the automatic licence suspension period for all first-time offenders from six months to one year. The license suspension period would remain at five years for those committing a subsequent offence within a five-year period.

Mr. Chair, we know that a majority of those committing acts of auto theft and auto vandalism are young offenders. This bill would apply to drivers of all ages. However, it would ensure that where a young offender under 16 years of age is convicted on one of the relevant Criminal Code offences, the suspension would not take effect until that offender's 16th birthday, when he or she would otherwise become eligible to drive. The bill would continue to allow a person the right to appeal their suspension to the License Suspension Appeal Board, unless that person has committed three or more such offences within a five-year period.

With those remarks, Mr. Chair, I would suggest at this point that our best approach would be to review the specific provisions of the bill.

Mr. Chairperson: Thank you very much, Madam Minister. Would the critic for the official opposition have an opening statement?

Mr. Daryl Reid (Transcona): Mr. Chairperson, I am pleased to add a few more comments on this legislation. I had the opportunity to debate this bill in second reading. I am sure all members of the House would agree that this is an important piece of legislation, important in the sense of public safety. I am sure we will all agree that driving is also a privilege and not a right for those of us in this province who currently hold licences or those that would like to have a drivers' licence.

I am not sure that this piece of legislation will go the distance. The minister had intended to stop the rising number of vehicle thefts and vandalism taking place within the province.

The minister made reference to the number of young people who are stealing vehicles, and I believe that that was the intent of this legislation. I think that this legislation will only stop those who are committing the thefts or vandalism for those that have a conscience, and I am not sure that all

thieves in this province do have a conscience when they are stealing vehicles.

When the minister made reference to the fact that those who are under 16 years of age would have their licence privileges suspended once they attain the age of 16, I am not sure that the young people of this province who may be stealing the vehicles look that far ahead and look at the consequences that far down the road. They are only interested in what is immediately happening in their lives. So I am not sure that this piece of legislation will go the distance the minister thinks it will in addressing that problem.

The other question that we have is that if this was such an important issue in dealing with the problems, why are we delaying the implementation of this piece of legislation until January 1 of '95? That means we are going to have another, projected, 3,000 vehicles stolen in this province if we wait that period of time. Why are we delaying the implementation of this piece of legislation until January 1, '95? Since this epidemic started a year and a half ago, looking at the statistics, why have they taken a year and a half to move it to this point where we now have legislation? So that is another concern we have.

There are also other areas that I do not see addressed in this legislation dealing with restitution in full for those that may have stolen vehicles. Maybe the minister can address that here in the committee. Other options—one that was raised by members of the public, why have we not taken into account any personal circumstances for those who cannot afford to pay in some way restitution or any of the fines associated with it? Are there options for community service for young people that will allow them, or anyone stealing a vehicle for that matter, to make restitution for those who lost their vehicles or to MPIC which ultimately bears the cost of this?

Thank you.

Mr. Chairperson: Thank you very much. Would the critic for the second opposition want to make an opening statement?

* (1020)

Mr. Gary Kowalski (The Maples): When the idea of restricting people who are convicted of joy riding and vandalism of cars, to restrict their ability to get drivers' licences was first brought forward, I was a little bit cynical and skeptical about the idea, but when I met with a group of young people here in the Legislative Building, a number of them indicated it would have a positive effect for some. I do not know how many, if these are the ones that are stealing the majority of the cars in the province, but for a few. So, in some small way, I believe this bill is positive and that it will stop a few of the car thefts.

But one element I spoke to in debate on second reading was in deterrence. There also has to be a belief that if the consequences are severe, they are going to get caught. With dwindling police resources, I know right now today how many suspended drivers, adult suspended drivers, are on the road right now, and many of them drive daily, daily to work. They just flaunt the law because the chance of getting caught, as they do it once, twice, continually, detracts from the deterrent effect. So I believe, the same as when this government put an emphasis on impaired driving, not only did they look at the punishment but they put on roadside enforcement, other programs, so that people believed that not only was the punishment severe but the chance of getting caught was increased.

I remember 20 years ago when the Highways department used to put out a booklet of all the suspended drivers in Manitoba and every cruiser car used to carry it in their glove compartment, and it was amazing how many names were in there. We members of the police forces would go to the homes when we had time and watch these people get into the cars and drive to work on a daily basis, and even though they were repeatedly arrested, continued to do so.

So the deterrence is one part, but I think we have to evaluate. We could make many things illegal, but if there are not sufficient resources out there to enforce those laws, it is not going to have much of an impact, so, for young offenders who are interviewed and they say they have stolen anywhere from 30 to 60 cars and they have only been caught three times, or they have family

members who drive continually suspended, uncles and aunts and fathers and mothers who are suspended drivers, I do not know how much of an impact, of a deterrence it will have on those young offenders who are stealing cars.

The other element to this that was brought forward by the NDP critic here is the short-term thinking of many of the young offenders. We have talked about it before in the House that many of these young people between the ages of 12 and 16 are not thinking five years down the line, are not thinking five months or five weeks. We are lucky if they are thinking five days down the line or to the next weekend or to the next party, so the consequences, I think, the other element that we have to put in here is make sure that young people know the consequences, that the recent survey done by the Winnipeg Police Service where they went out and surveyed young people in high schools and found out how little they knew about the consequences of being arrested now shows that, along with this legislation, there has to be some type of advertisement or some publicity campaign to go out with it to make sure that the consequences are known by many young people.

The other aspect I am concerned about is parental notification. Of course parents are notified if their child is arrested for a criminal offence, but, unfortunately, many parents do not follow the matter through to court, and they may not even be aware that their child is a suspended driver. I am wondering if there should have been something in this legislation that made notification to the parents a part of this legislation. Right now, a young offender can get a speeding ticket, pay for it, and the parent never knows about it. I am wondering if there should have been something in this legislation that there would be mandatory notification to the parent or guardian of any person under the age of 18 who was suspended.

The other concern, we have heard often about due process in this session. I am concerned about the restriction of appeal for people who—I think it is in Section 279(1.1). In that section, I am concerned about restricting someone's right to appeal because, who knows, there might be that

one circumstance where there may be a legitimate concern for appeal and, by not allowing it, I am concerned about the restriction from due process of that.

With those comments I will let the committee go into debate.

Mrs. Vodrey: Mr. Chair, I just wanted to make a couple of remarks in response, because I want to make it clear to the committee and I want to make it clear to Manitobans the main purpose of this bill is public safety. The members have spoken about, perhaps, side effects of deterrence, but I would like to make it clear that the Criminal Code is what provides for punishment and is the set of codified laws which deals with punishment, and which deals with deterrence as its main focus.

This bill's main purpose is public safety, and I think it is very important to keep in mind the two streams. Within our ability as a province we do not have the ability to legislate punishment, but we do have the ability to legislate in the area of public safety. So I want to make it clear in everyone's mind what the main purpose of this bill is.

Mr. Kowalski: To separate deterrence from public safety, I think to restrict young people's opportunity from getting a driver's licence was the basis of this bill because not having a driver's licence did not stop them from stealing the car in the first instance. Not having a driver's licence did not help public safety. So, in many instances, they have stolen the car without a driver's licence, they have repeatedly stolen cars without a driver's licence, and suspending them does not prevent them from opening the door and starting the car.

I think you cannot separate deterrence out from the purpose of this legislation.

Mr. Chairperson: The bill will be considered as we did previously in blocks of clauses. We will continue then.

Clauses 1 to 2 on page 1—pass; on page 2, Clauses 3(1) to 5(2)—pass.

Mr. Reid: In my opening comments, I made reference to a couple of questions that are still on my mind, and the minister has not addressed them to this point. Since it has been a year and a half

since this epidemic of vehicle thefts and vandalism has started to grow in proportions, I just wonder why it has taken the government a year and a half to react to this situation.

If this piece of legislation is so important, why are we delaying till January 1, 1995, for the implementation when it is projected that there will be another 3,000 vehicle thefts take place in the province?

Mrs. Vodrey: Mr. Chair, this is a very important matter. This government has brought forward a number of initiatives to deal with a whole range of activities of concern to Manitobans. This is one in the area of public safety.

As the member well knows too, the House has to be in session in order to bring forward a piece of legislation. So we are doing it now. It is an important time to do it. Had the member been willing to pass it earlier, that would have been great.

Now, also, I just wanted to tell you I have received some information from the Department of Highways which said that they will be moving to have this operational as quickly as possible. The date listed was what they believed to be the time that they could put it forward. However, I have their assurance that they will be moving this forward as quickly as they can.

* (1030)

Mr. Reid: Mr. Chairperson, this piece of legislation could have been introduced. We sat into the summer last year, which was in the middle of the so-called epidemic of vehicle thefts and vandalism. This minister waited from April till June 22 of this year to introduce the piece of legislation. She could have introduced it right at the beginning. If it was such an important issue, I am sure we would have given it some due consideration to make sure it moved through the House.

So this piece of legislation has only been before us less than two weeks now. I take it then that it is not such an important issue for the minister and maybe in fact that the minister is only playing politics with this.

This is an issue that fell under The Highway Traffic Act. I am not sure why the Minister responsible for Highways and Transportation (Mr. Findlay) did not introduce it. Maybe the minister can address that issue as well.

Mrs. Vodrey: I am very pleased to have been able to co-operate with my colleague the Minister of Highways and Transportation in the introduction of this legislation. The people of Manitoba are asking that government departments work together, and I am very pleased that I have been able to work with my colleague on this with the support of the members of the government caucus. Perhaps the member could reflect on that as a good reason for ministers to look at sharing responsibility jointly and actually working together.

Let me make sure that on the record our concern for this issue is registered again and the fact that this legislation was brought forward at the earliest possible opportunity. We would like to make sure that the legislation is constitutionally sound, that the legislation does what it is intended to do. So the time was taken and the care was taken to craft the legislation in that way.

Mr. Chair, we look forward to the support of other members of this House, because we believe this is important, and we would like to think that they think it is important too.

Mr. Kowalski: Right now, if a person without a driver's licence drives a vehicle and commits a number of offences, are points assessed against their nonexistent driver's licence accumulating in the present situation without this legislation?

Mrs. Vodrey: Mr. Chair, I am informed the answer is no.

Mr. Chairperson: Thank you. May we proceed then? We will revert to page 2, Clauses 3(1) to 5(2)—pass.

Page 3.

Mr. Reid: I had raised the question in second reading debate, too, about where a person—on page 3 here in one of the clauses, 279(1.1), a person who is convicted of three or more offences. Why did the minister and her department choose

three offences under the Criminal Code before we would take these actions to suspend the licence for five years.

Mrs. Vodrey: That is the way the act presently reads, and that was put into place when the amendments were first made to deal with drinking and driving, and so we have just continued.

Mr. Chairperson: Clauses 5(3) to 8 on page 3—pass; Preamble—pass; Title—pass. Bill be reported.

Is it the will of the committee to report the bill?
[agreed]

**Bill 32—The Manitoba Employee Ownership
Fund Corporation Amendment and Income
Tax Amendment Act**

Hon. Glen Cummings (Minister of Environment): Mr. Chairperson, with the acceptance of the committee I will take this bill on behalf of the minister.

Mr. Chairperson: Is that agreed? [agreed] Would you come forward, please? Would the honourable minister have an opening statement?

Mr. Cummings: Not a statement from my perspective, except that it is my understanding that both opposition critics and parties had been consulted and had been given detailed understanding of what was involved here, and I believe there was a general acceptance that these

were appropriate amendments unless someone can tell me differently.

Mr. Jerry Storie (Flin Flon): As far as I know the Crocus Fund staff are in support of these and I gather that the board of directors had actually approached the government requesting some of the changes, so I am certainly prepared to assume that these are the amendments that the fund needs and requires at this time to continue to offer a good investment for Manitobans. That is all I have to say, Mr. Chairperson.

Mr. Cummings: Just to concur with the member's statement, it is my understanding that the directors brought forward these proposals.

Mr. Chairperson: Did the critic for the second opposition wish to make an opening statement? No?

Clause 1 and Clause 2(1) on page 1—pass; on page, 2 Clauses 2(2) to 2(4)—pass; on page 3, Clauses 3(1) to 6(1)—pass; on page 4, Clause 6(2) to Clause 7—pass; Preamble—pass; Title—pass. Bill be reported.

Is it the will of the committee that I report the bill? [agreed]

The time is now 23 minutes to 11. Committee rise.

COMMITTEE ROSE AT: 10:37 a.m.