



STANDING COMMITTEE ON HUMAN SERVICES

Hansard Verbatim Report

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**STANDING COMMITTEE ON HUMAN SERVICES
2004**

Ms. Judy Junor, Chair
Saskatoon Eastview

Mr. Ken Cheveldayoff, Deputy Chair
Saskatoon Silver Springs

Ms. Brenda Bakken
Weyburn-Big Muddy

Mr. Lon Borgerson
Saskatchewan Rivers

Hon. Joanne Crofford
Regina Rosemont

Mr. Glenn Hagel
Moose Jaw North

Mr. Don Morgan
Saskatoon Southeast

The committee met at 11:22.

The Chair: — The first item of business for the committee is an agenda change. I propose that the committee deal with Bills 24, 30, 32, and 39 and that consideration of Bill 10 be postponed. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Agreed. All right, then the first Bill is Bill No. . . .

Hon. Mr. Quennell: — Madam Chair, I'd like to ask you to drop the first Bill, The Provincial Court Amendment Act down to the bottom. The only official that's not here that might be of some assistance is Brian Smith from the Public Employees Benefits Agency. He's in the other committee. So if we could deal with the other three first and that last.

The Chair: — Okay, so we'll start with 30?

Hon. Mr. Quennell: — Yes, The Queen's Bench Amendment Act.

**Bill No. 30 — The Queen's Bench Amendment Act,
2004/Loi de 2004 modifiant la Loi de 1998 sur la Cour du
Banc de la Reine**

The Chair: — The Queen's Bench Amendment Act. All right. Okay. If the minister could introduce . . . I recognize the minister and if you have officials that you'd like to introduce.

Hon. Mr. Quennell: — I have with me on this particular Act, Madam Chair, Madeleine Robertson who's Crown counsel, legislative services, and Ken Acton who's the director of dispute resolution office.

The Chair: — Okay. And if the officials . . . I'd ask the officials, if you do speak will you identify yourself for *Hansard* before you do talk. Okay, we're Bill No. 30, An Act to amend the Queen's Bench Act. Questions?

Mr. Morgan: — Madam Chair, we have no questions at this time. This Bill can go forward.

The Chair: — Thank you, Mr. Morgan. Okay, then clause 1, short title. Agreed?

Some Hon. Members: — Agreed.

Clauses 1 to 3 inclusive agreed to.

The Chair: — We're doing it in French and English; that's why we're doing two here. Okay then.

That Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: The Queen's Bench Amendment Act, 2004.

Do we have a motion to have the Bill reported without amendment? Mr. Hagel?

Mr. Hagel: — I so move.

The Chair: — Thank you very much. Agreed?

Some Hon. Members: — Agreed.

The committee agreed to report the Bill.

**Bill No. 32 — The Powers of Attorney Amendment Act,
2004/Loi de 2004 modifiant la Loi de 2002 sur les
procurations**

Clause 1

The Chair: — Okay. Bill 32. Bill 32 is An Act to amend The Powers of Attorney Act, 2002. If the minister has new officials, would you introduce them?

Hon. Mr. Quennell: — Yes, to my right is Ron Kruzeniski, the Public Guardian and Trustee, and to my left Andrea Seale, Crown counsel, legislative services.

The Chair: — Thank you. Any questions of the minister and his officials? Mr. Morgan?

Mr. Morgan: — Yes, Madam Chair. We have some concerns that have been raised regarding the differences between personal attorney and property attorney as defined in this legislation. The concern that's been raised is the reference in section 2.1 that indicates that this legislation will not apply to health care decisions given that those are now governed by The Health Care Directives and Substitute Health Care Decision Makers Act.

The concern that's been raised is confusion regarding health decisions and the compliance or conflicts between the two pieces of legislation. I'm wondering if the minister or the officials could comment on that and give us some clarification as to how those two Bills work in tandem to ensure that people's needs are protected.

Ms. Seale: — My name is Andrea Seale and I'm counsel at legislative services at the Department of Justice. We made a conscious decision to have health care decisions continue to be dealt with under The Health Care Directives and Substitute Health Care Decision Makers Act because a number of different policy decisions are made in that Act that are not the same as the ones in The Powers of Attorney Act. For example, the age of making the health care directive is different than the age of making a power of attorney. The capacity test is different. Different rules about revocation and, you know, I could go on. There's a few different ones.

I think the question might be about when does a decision stop being a health care decision and start to be a personal decision. Health care decisions are defined in the health care directives Act and it's quite limited to. well, health care treatment type decisions.

Once a decision is not a health care decision, for example of housing, where somebody would live or that sort of thing, then it would be dealt with by the personal attorney.

Mr. Morgan: — That was my concern, and the concern that was raised was whether the definitions included in the legislation are clear enough. We raise that just so that the department is aware that members of the private bar have come forward with that concern. So we'll be watching as the legislation is applied and would invite the department to watch this as well to see whether some . . . (inaudible) . . . would require some amendment or clarification at some point in the future.

Madam Chair, the next issue that I wanted to raise was there was correspondence received and distributed to all members in the House earlier this week from the Canadian Bankers Association that had concerns arising out of the ability of a person that had a power of attorney to use the power of attorney to transfer a deal with goods in favour of themselves — in particular, transfers to a spouse. And we were wondering what the department plans to do, and I understand from my discussions with the minister that it was their intention to deal with this by way of regulation.

Hon. Mr. Quennell: — I think that's the case. There's been correspondence between my office and . . . between my department and the Canadian Bankers Association advising that their concern about the definition of designate could be and would be dealt with in the regulations and further, that the regulations would be proceeded with concurrently with the legislation, with the Act.

Mr. Morgan: — Madam Chair, I'm wondering if the minister could just advise what his intention would be with regard to . . . what would be contained in those regulations?

Ms. Seale: — My name is Andrea Seale, Crown counsel, legislative services. We want to consult with the Canadian Bankers Association and other consultees. This section, section 16 of the Act, has been the subject of a lot of consultation, so there are other groups that are interested as well. So once we do that consultation, we will come up with the exact wording. But the gist of it would be that designate does not preclude continuing a designation already made, previously made, by the grantor. Or doing a re-designation of a beneficiary previously designated by the grantor.

Mr. Morgan: — That addresses the concern that's raised, Madam Chair.

The Chair: — Seeing no further questions then, The Powers of Attorney Act, 2002 short title, agreed?

Some Hon. Members: — Agreed.

The Chair: — Section 2, agreed?

Some Hon. Members: — Agreed.

The Chair: — New section 2.1, agreed?

A Member: — What clause are you . . .

The Chair: — I did section 2, the whole thing — unless you want me to go clause by clause . . . (inaudible interjection) . . . Okay. Section 2, clause 3, agreed?

Some Hon. Members: — Agreed.

The Chair: — Clause 4?

Some Hon. Members: — Agreed.

The Chair: — New section 4.1, clause 5?

Some Hon. Members: — Agreed.

The Chair: — Section 6, 6 agreed?

Some Hon. Members: — Agreed.

Clauses 7 to 9 inclusive agreed to.

The Chair: — Nine two, agreed?

Some Hon. Members: — Agreed.

The Chair: — Nine three . . . (inaudible interjection) . . . All of 9. Okay. Agreed?

Some Hon. Members: — Agreed.

Clauses 10 to 22 inclusive agreed to.

The Chair: — That Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: The Powers of Attorney Act, 2002.

Could I have a motion to report the Bill without amendment.

Mr. Hagel: — Moved.

The Chair: — Mr. Hagel. Agreed? Thank you.

The committee agreed to report the Bill.

**Bill No. 39 — The Enforcement of Maintenance Orders
Amendment Act, 2004/Loi de 2004 modifiant la Loi de 1997
sur l'exécution des ordonnances alimentaires**

Clause 1

The Chair: — Item . . . is Bill 39. The minister has new officials. If you could introduce them.

Hon. Mr. Quennell: — Yes. Madam Chair, to my left is Lionel McNabb, who is director of maintenance enforcement office. To my right is Tim Epp, counsel for legislative services. And behind Mr. Epp is Charita Ohashi, who is counsel for civil law division.

The Chair: — Thank you. Any questions of the Bill? Mr. Morgan?

Mr. Morgan: — Yes, Madam Chair. The Bill provides some significant coherence in clarification with respect to enforcement of maintenance orders. And we've generally received very favourable feedback from the public from the work that was done by the maintenance enforcement office and look to try and give them every appropriate tool so that they can

do their job effectively.

The concern that's been raised, Madam Chair, is with the changes to section 63.1 which reverses the common law provisions or the evidence Act provisions, allowing hearsay evidence. And the words that are there, the hearsay evidence is admissible if it's deemed by the court to be "... credible, trustworthy and relevant to the proceedings."

I'm just wondering what would have prompted this amendment and what type of processes might be in place to prevent abuse. As a general rule, practitioners are loath to see any relaxing of the hearsay rule, a rule against hearsay, and sort of would like to hear the department's or the minister's comments in that regard.

Hon. Mr. Quennell: — The wording is not unique. It is similar to wording in The Child and Family Services Act. And the allowance of hearsay evidence in this particular case is not to establish a debt or to establish proof of a cause of action, but to enforce a debt. So the circumstances here are not the circumstances in usual civil cases. These have to enforce debts of money already owed.

And ultimately it is in the court's discretion, under the proposed provisions, to admit the hearsay evidence. And the court would have to find in every case that it's admitted that it's credible, trustworthy evidence, and that it's only to be used in particular circumstances having to do with the location of financial assets or the income of the debtor under maintenance enforcement.

Mr. Morgan: — Madam Chair, it's our intention to allow this Bill to go forward. We raise this concern for the benefit of the department. And we've invited members of the private bar to comment or come back if it would appear that the usage of hearsay evidence prejudices people or poses problems that are unfair.

We appreciate if it's where there ... for uses the minister indicates for locating an asset or that type ... (inaudible) ... but there may be other issues such as whether a debt has or has not been paid, and there may be better evidence that's available. So we're — for the time being — we're prepared to leave it at the courts to give it a relatively restrictive interpretation, and see what happens with it.

I have nothing further that I wish to comment on with regard to this at this time.

The Chair: — Thank you, Mr. Morgan. Then Bill 39, An Act to amend the Enforcement of Maintenance Orders Act, 1997, clause 1 agreed?

Some Hon. Members: — Agreed.

Clause 1 agreed to.

Clauses 2 to 15 inclusive agreed to.

The Chair: — That Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: The Enforcement of Maintenance Orders Amendment Act, 2004.

Could I have a motion to report the Bill without amendment. Ms. Crofford. Thank you. Agreed?

Some Hon. Members: — Agreed.

The committee agreed to report the Bill.

Bill No. 24 — The Provincial Court Amendment Act, 2004

The Chair: — The last Bill for consideration today is Bill 24, The Provincial Court Amendment Act, 2004. The minister has another official?

Hon. Mr. Quennell: — Well if I could re-introduce Andrea Seale, Crown counsel, legislative services.

The Chair: — Thank you. Questions of this Bill?

Mr. Morgan: — None, Madam Chair.

The Chair: — Thank you, Mr. Morgan.

Clauses 1 to 6 inclusive agreed to.

The Chair: — That Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: The Provincial Court Amendment Act, 2004.

Could I have a motion to report without amendment? Mr. Morgan. Agreed?

Some Hon. Members: — Agreed.

The committee agreed to report the Bill.

The Chair: — That concludes the work of the committee. Thank you very much to the minister and his officials. And could I have a motion to adjourn? Mr. Hagel. Thank you.

The committee adjourned at 11:41.

