

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON**  
**PUBLIC UTILITIES AND NATURAL RESOURCES**

**Tuesday, February 20, 1990**

**TIME — 10 a.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Mr. Edward Helwer (Gimli)**

**ATTENDANCE - 9 — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Cummings, Findlay  
Mrs. Charles, Messrs. Driedger (Niakwa),  
Gilleshammer, Harapiak, Helwer, Taylor,  
Uruski

**APPEARING:**

Mr. Norm Larsen (Legislative Counsel)

**MATTERS UNDER DISCUSSION:**

Bill No. 81—The Environment Amendment Act

Bill No. 82—The Dangerous Goods Handling and Transportation Amendment Act

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**Clerk of Committees (Ms. Bonnie Greschuk):** Will the committee please come to order? We must proceed to elect a Chairperson for Standing Committee on Public Utilities and Natural Resources. Are there any nominations? Mr. Gilleshammer.

\* (1005)

**Mr. Harold Gilleshammer (Minnedosa):** I would nominate the Honourable Member for Gimli.

**Madam Clerk:** He has nominated Mr. Helwer. Are there any other nominations? Since there are no other nominations, will Mr. Helwer please take the Chair?

**Mr. Chairman:** The committee on Public Utilities and Natural Resources will come to order. Committee, come to order. We will be considering Bill No. 81, The Environment Amendment Act, and Bill No. 82, The Dangerous Goods Handling and Transportation Amendment Act.

I understand there are no public presentations for either of these Bills, so we can proceed with clause-by-clause consideration of the Bills.

Is it the will of the committee to proceed with Bill No. 81 first and then Bill No. 82? Agreed? If that is the will of the committee, we shall proceed with Bill No. 81. The Bill will be considered clause by clause.

During the consideration of a Bill, the Title and Preamble are postponed until all other clauses have

been considered in their proper order by the committee. So we will start with Clause 1. Mr. Harapiak.

**Mr. Harry Harapiak (The Pas):** I have a few amendments that I am just getting some copies made, so I am wondering if we could possibly move with Bill 82 first, and then the copies should be made by that time. Would that be -(interjection)- for 81, yes.

**Mr. Chairman:** What is the will of the committee? Mr. Minister?

**Hon. Glen Cummings (Minister of Environment):** Before we follow that route, I have a question for the Member for The Pas. If he is talking about amendments to Bill 81, is he also talking about parallel changes in 82? The dollar figures are similar. I am trying to find out what the essence of his amendment might be. If the two are not related, then we can go to 82. I do not care.

**Mr. Harapiak:** They are pertaining to Bill 81, so I think that is where the amendments would be made.

**Mr. Chairman:** Is it the will committee we would proceed to Bill 82 first? Okay.

Bill No. 82, The Dangerous Goods Handling and Transportation Amendment Act. Clause 1, The Dangerous Goods Handling and Transportation Act is amended by this Act—(pass); Clause 2, Section 1 amended—pass; Clause 3, Section 31 repealed and substituted—pass; 31, Penalties—pass; Clause 4, Section 32 amended—pass; Clause 5, Section 32.1 to 32.3 added—pass; 32.1(1) Penalties on individuals—pass; 32.1(2) Penalties on corporations—pass; Clause 32.2, Judge may restore licence—pass; Clause 32.3, Other Penalties—pass; Clause 6, Coming into force—pass.

Preamble—Mr. Uruski.

**Mr. Bill Uruski (Interlake):** Could I ask the Minister, dealing with the Coming into force as to what the thinking on the timing of proclamation of this Bill is, what work has to be done as a consequence to the legislation?

**Mr. Cummings:** I would think it will be proclaimed quite shortly. There is not anything other than some administrative things that need to be done in order to make it effective.

\* (1010)

**Mr. Chairman:** Preamble—pass; Title—pass. Shall the Bill be reported? Is it the will of the committee that I report the Bill? Agreed.

We will go on to Bill No. 81. Have you your amendments yet, Mr. Harapiak?

**Mr. Harapiak:** There is one copy of them here. There are more copies being made, but they are not here at this time. I just wanted to express some concerns on Bill No. 81, on the way this Act was brought in. There really was not much in the way of regulations. It was brought in as a public relations effort because of the fact that the Premier was going to the First Ministers' Conference and there seemed to be some urgency to get it in at that time. I think it was more of a public relations effort than anything else.

**Mr. Cummings:** Are you saying you do not want to pass it?

**Mr. Harapiak:** It is an Act that was overdue, but there was a long—I guess it is something we were pushing for quite some time. The way it was brought in there should have been a little more meat to the Act rather than just leaving it to the regulations. All of the appropriate parts will be brought in at a later time. I think there was more of a public relations effort than anything else.

I have some amendments which will be moving when the appropriate time comes. The copies are still coming.

We have copies of the amendments, but we have not the French copies at this time. Once the French copies come, then we can discuss them in the meantime, and if they are approved, then we can—

**An Honourable Member:** We will have to discuss the new amendments now and then not move them until—

**Mr. Chairman:** Is it the will of the committee that we discuss these amendments while we are awaiting the French version to come? We can only discuss it in principle; we cannot pass it as such.

**An Honourable Member:** Right. They are drafted; they are just not translated.

**Mr. Chairman:** Is it the will of the committee that we deal with these? (Agreed)

We will start with Bill No. 81, Clause 1, The Environment Act is amended by this Act—Mr. Harapiak.

**Mr. Harapiak:** After Section 1, I want to move an amendment, Section 7.1. It is Definition of "hearing"—

**Mr. Chairman:** Just a minute, Mr. Harapiak. We cannot move them at this time until we have the—in both languages. We can discuss these if you would like now and wait until both languages get here.

**Mr. Harapiak:** Mr. Chairman, what I was moving here is the principle of intervenor funding. There have been many examples of where intervenor funding has helped the public process to a great degree. I know that in one instance, when Quebec Hydro was holding hearings because of intervenor funding being available, Quebec Hydro moved their hydro line in a different location

because of the fact that it was going to have some detrimental effect to the community. Hydro was not aware of that until it was raised.

In another instance, in Ontario, the same thing; there was a hydro line being proposed. Once the environmental groups came forward, they were able to bring forward good recommendations because of the fact there was intervenor funding available in the Province of Ontario. Therefore it saved the public a lot of grief by moving in that direction.

I think in this instance the intervenor funding would not be coming from the public purse. It would be coming from the fines that are being paid by the corporations that have contravened this Act. What we are proposing is that 10 percent of that fine would go to an intervenor fund. The commission would be making the decision of who would qualify for intervening funding and what amount. I think that it is a principle that has been accepted in the Province of Ontario. It has been proved very positive in that area when it comes to environmental hearings.

\* (1015)

I think that is a principle that we want to bring forward in the Province of Manitoba. I know that there have been some organizations that have been doing some very positive work for the environment in the Province of Manitoba. I refer now to the Manitoba ECO Network System, which is presently having to close its doors because of the fact that there is no funding. The Minister of Environment (Mr. Cummings) has chosen in his wisdom not to support this organization. I think it is one of the leaders in the whole environmental network in the Province of Manitoba. They are doing some excellent work not only when it comes for intervention but for educating the public, educating the children of this province.

I think it is time we followed the example of Ontario and provided intervenient funding for these organizations. This is the process that we can use to get that funding to them.

I would urge the committee members to support these amendments so we can get on with providing some funding for these organizations who are serving a very useful purpose for protecting the environment and educating the public of the importance of not only water but forest, and whatever chemicals are being dumped in our systems. I think there are many instances where the public needs to be educated, and I think this is a process that can be used to provide some funding for these intervenor groups.

**Mr. Cummings:** Well, I am sorry that the Member has put this forward in the manner that he has. First of all, I would suggest that these amendments in total amount to an expenditure of funds, which I would expect makes this an improper amendment requiring the expenditure of public funds. Second, I have some reluctance to get into this discussion, but considering the fact that we brought forward these amendments in order to increase fines to offenders under The Environment Act, and then to be accused of doing it because Manitoba is seen

to be wanting to move forward and doing it for no other reason than for political interests, I take those comments with some umbrage.

You specifically refer to the Manitoba ECO Network. The Member might be interested to know that they have put an answering machine on their phone system that says, if you have environmental inquiries, call the Minister at this number. We have been answering their phone for the last month, and the calls, frankly, have not been very high. So instead of putting increased pressure on me, they are in fact proving that they may not have a viable reason to expect funding.

We have a proposal in front of us which is not related to this Bill. They are asking for core funding. If the Member thinks that environmental assessment intervenor funding amounts to core funding, then the people of Manitoba are being very poorly served by the type of environmental legislation he envisages. Certainly that is not what these amendments would provide for. If that is what he intended them to provide for, then I suggest that he should reconsider the amendments, but I would ask that he reconsider the amendments first of all in light of the fact that they are requiring the expenditure of funds.

**Mr. Harapiak:** Mr. Chairman, I used the Manitoba ECO Network as an organization that was providing good services, and it was not meant to be providing core funding. I was just using the Manitoba ECO Network as an example of where the Minister has not responded to the needs that are out there. I would suggest that if there is a phone that is not presently being answered by an answering service, it is because of the fact that they had one staff person and that staff person is out there now trying to raise funds.

There are many people who will not make that second phone call to the Minister's office because they have made one call to the ECO Network and they say to call the Minister's office. There are many people who will not make that second phone call, so I do not think that is any indication of the number of calls that the Manitoba ECO Network would be getting.

\* (1020)

But what I was referring to here on the intervenor funding is when there is a public hearing dealing with Repap, for instance, where there are many organizations that will be making presentations, and many organizations that have legitimate concern over what impact it will have. That does not mean they are opposed to Repap. I have spoken to many organizations that are supportive of Repap's efforts to come into Manitoba and turn that corporation around. They had some concerns of what is going to be happening in the water quality and the air quality. They want to make presentations, but they do not have the funding to bring the required expertise in.

Many of the people that are making funding now do it on a voluntary basis, but I think when you are dealing with a big proposal of that sort, it takes more than that. For a project of that sort I think the Minister could establish the principle that there would be intervening

funding available. The decision of who gets it and who does not get it could be made by the commissioners who are at arm's length away from the Minister's office. I think it would be made on a non-political basis at that time. I think that would be a fair way of handling it.

**Mr. Cummings:** Well, I am going to bite my tongue and not go into this debate any further. I have stated my case regarding the Bill inasmuch as I believe it is a money Bill. I would ask for a ruling as to whether or not these amendments are in order.

**Mr. Chairman:** On the proposed amendments of Mr. Harapiak's Bill No. 82, I would have to rule your amendments under Section 1, including Section 33, 7.1(1) to 7.1(8) out of order, as it contravenes our own Rule 53.(1), which states:

"Any vote, resolution, address or Bill introduced in the House for the appropriation of any part of the public revenue, or of any tax or impost to any purpose whatsoever, or to impose any new or additional charge upon the public revenue or upon the people, or to release or compound any sum of money due to the Crown, or to grant any property of the Crown, or to authorize any loan or any charge upon the credit of Her Majesty in right of the Province, shall be recommended to the House by a message from the Lieutenant-Governor before it is considered by the House."

The Beauséne quotation Citation 698.(7) states:

"An amendment is out of order if it imposes a charge upon the Public Treasury, if it extends the objects and purposes, or relaxes the conditions and qualifications as expressed in the Royal Recommendation."

**Mr. Harapiak:** Mr. Chairman, if they changed the wording to—on 7.1(6), "the commission shall" is the wording presently. If that was worded to read "may", would that change the ruling?

**Mr. Chairman:** 7.?

**Mr. Harapiak:** 7.1(6): The commission shall, before it holds a hearing, determine eligibility for intervenor funding and the amount of any funding and shall do so in accordance—if we change the "shall" to "may," would that change the ruling?

**Mr. Chairman:** I would ask our Legislative Counsel, Norm Larsen, to respond to that, please.

\* (1025)

**Mr. Norm Larsen (Legislative Counsel):** Mr. Chairman, I do not think that would improve the situation. There are two problems here as I see it under Rule 53. One is the fact that it sets a charge, or as the words of the Rule are, "imposes any new or additional charge". It does that under on the third page of your proposed amendments. The setting of the surcharge in my view is a new or additional charge upon the people. The other problem is in the wording of Rule 53., "for the

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appropriation of any part of the public revenue." Having raised the revenue with the surcharge, the proposal is to use it in a particular way. In my view that seems to go contrary to Rule 53. in that it does appropriate a part of the public revenue for a particular purpose.

**Mr. Chairman:** Okay, so we will continue with Bill No. 81. Clause 1, The Environment Act is amended by this Act—pass; Clause 2, Section 31 amended—pass; Clause 3, Section 32 amended—pass; Clause 4, Section 33 amended, (a) and (b)—pass.

Clause 5, Coming into Force—Mr. Driedger, on a point of order.

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**Mr. Herold Driedger (Niakwa):** You just asked us to—in order to pass Clause 4 (a) and (b), if you turn your page and decided to go to Clause 5, I think that you should refer to Clauses (c) and (d) as well, as they apply to Clause 4.

**Mr. Chairman:** Thank you. That is not a point of order. I will just include Clause (c) and (d) in with (a) and (b) on Section 4—pass.

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Clause 5, Coming into Force—pass; Preamble—pass; Title—pass; Bill be reported—pass.

Committee rise.

**COMMITTEE ROSE AT:** 10:29 p.m.