



**First Session — Thirty-Fourth Legislature**  
of the  
**Legislative Assembly of Manitoba**

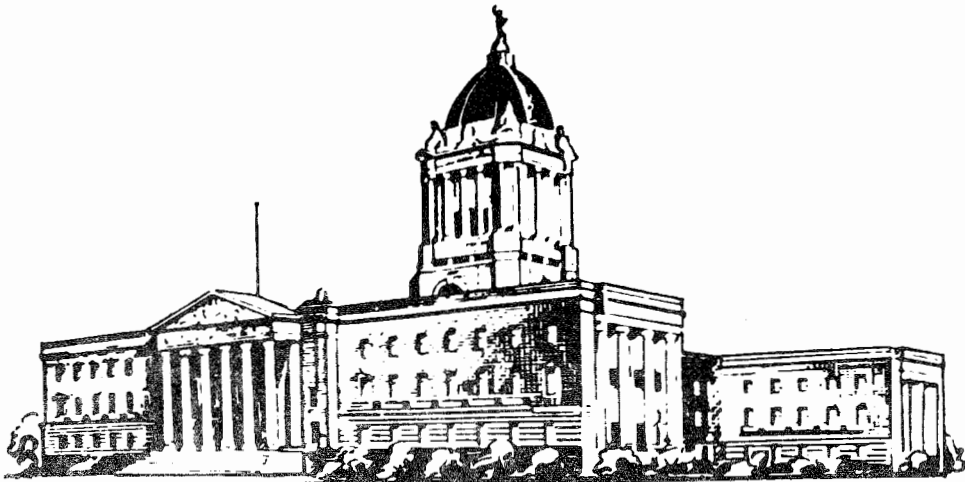
**STANDING COMMITTEE**

on

**LAW AMENDMENTS**

37 Elizabeth II

*Chairperson*  
*Mr. John Angus*  
*Constituency of St. Norbert*



**VOL. XXXVII No. 4 - 11 a.m., TUESDAY, DECEMBER 20, 1988.**

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Fourth Legislature**

**Members, Constituencies and Political Affiliation**

NAME	CONSTITUENCY	PARTY
<b>ALCOCK, Reg</b>	Osborne	LIBERAL
<b>ANGUS, John</b>	St. Norbert	LIBERAL
<b>ASHTON, Steve</b>	Thompson	NDP
<b>BURRELL, Parker</b>	Swan River	PC
<b>CARR, James</b>	Fort Rouge	LIBERAL
<b>CARSTAIRS, Sharon</b>	River Heights	LIBERAL
<b>CHARLES, Gwen</b>	Selkirk	LIBERAL
<b>CHEEMA, Gulzar</b>	Kildonan	LIBERAL
<b>CHORNOPYSKI, William</b>	Burrows	LIBERAL
<b>CONNERY, Edward Hon.</b>	Portage la Prairie	PC
<b>COWAN, Jay</b>	Churchill	NDP
<b>CUMMINGS, Glen, Hon.</b>	Ste. Rose du Lac	PC
<b>DERKACH, Leonard, Hon.</b>	Roblin-Russell	PC
<b>DOER, Gary</b>	Concordia	NDP
<b>DOWNEY, James Hon.</b>	Arthur	PC
<b>DRIEDGER, Albert, Hon.</b>	Emerson	PC
<b>DRIEDGER, Herold, L.</b>	Niakwa	LIBERAL
<b>DUCHARME, Gerald, Hon.</b>	Riel	PC
<b>EDWARDS, Paul</b>	St. James	LIBERAL
<b>ENNS, Harry</b>	Lakeside	PC
<b>ERNST, Jim, Hon.</b>	Charleswood	PC
<b>EVANS, Laurie</b>	Fort Garry	LIBERAL
<b>EVANS, Leonard</b>	Brandon East	NDP
<b>FILMON, Gary, Hon.</b>	Tuxedo	PC
<b>FINDLAY, Glen Hon.</b>	Virden	PC
<b>GAUDRY, Neil</b>	St. Boniface	LIBERAL
<b>GILLESHAMMER, Harold</b>	Minnedosa	PC
<b>GRAY, Avis</b>	Ellice	LIBERAL
<b>HAMMOND, Gerrie</b>	Kirkfield Park	PC
<b>HARAPIAK, Harry</b>	The Pas	NDP
<b>HARPER, Elijah</b>	Rupertsland	NDP
<b>HELWER, Edward R.</b>	Gimli	PC
<b>HEMPHILL, Maureen</b>	Logan	NDP
<b>KOZAK, Richard, J.</b>	Transcona	LIBERAL
<b>LAMOUREUX, Kevin, M.</b>	Inkster	LIBERAL
<b>MALOWAY, Jim</b>	Elmwood	NDP
<b>MANDRAKE, Ed</b>	Assiniboia	LIBERAL
<b>MANNES, Clayton, Hon.</b>	Morris	PC
<b>McCRAE, James Hon.</b>	Brandon West	PC
<b>MINENKO, Mark</b>	Seven Oaks	LIBERAL
<b>MITCHELSON, Bonnie, Hon.</b>	River East	PC
<b>NEUFELD, Harold, Hon.</b>	Rossmere	PC
<b>OLESON, Charlotte Hon.</b>	Gladstone	PC
<b>ORCHARD, Donald Hon.</b>	Pembina	PC
<b>PANKRATZ, Helmut</b>	La Verendrye	PC
<b>PATTERSON, Allan</b>	Radisson	LIBERAL
<b>PENNER, Jack, Hon.</b>	Rhineland	PC
<b>PLOHMAN, John</b>	Dauphin	NDP
<b>PRAZNIK, Darren</b>	Lac du Bonnet	PC
<b>ROCAN, Denis, Hon.</b>	Turtle Mountain	PC
<b>ROCH, Gilles</b>	Springfield	LIBERAL
<b>ROSE, Bob</b>	St. Vital	LIBERAL
<b>STORIE, Jerry</b>	Flin Flon	NDP
<b>TAYLOR, Harold</b>	Wolseley	LIBERAL
<b>URUSKI, Bill</b>	Interlake	NDP
<b>WASYLYCIA-LEIS, Judy</b>	St. Johns	NDP
<b>YEO, Iva</b>	Sturgeon Creek	LIBERAL

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Tuesday, December 20, 1988**

**TIME — 11 a.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Mr. John Angus (St. Norbert)**

**ATTENDANCE — QUORUM - 6**

*Members of the Committee present:*

Hon. Mr. McCrae; Hon. Mrs. Mitchelson  
Messrs. Angus, Burrell; Mrs. Charles; Messrs.  
Doer, Edwards, Gilleshammer, Helwer; Ms.  
Hemphill; Mr. Taylor.

**MATTERS UNDER DISCUSSION:**

Bill No. 38—The Mental Health Amendment  
Act

\* \* \* \*

**Clerk of Committees, Mrs. Janet Summers:** Mr. Enns has resigned off the committee, so we must elect a Chairman. Are there any nominations?

**Mr. Paul Edwards (St. James):** I nominate Mr. Burrell.

**Madam Clerk:** Are there any further nominations?

**Mr. Jay Cowan (Churchill):** John Angus.

**Madam Clerk:** All those in favour of Mr. Burrell, please signify by raising their hands.

**An Honourable Member:** He has withdrawn his name.

**Madam Clerk:** Mr. Angus, will you please take the Chair?

**Mr. Chairman, John Angus:** The committee will come to order. There was an informal suggestion by the Government House Leader (Mr. McCrae) and by the critics of both Parties that this particular Bill and its amendments be put over by agreement until future Bills on final offer selection were introduced by the Government. Now I put that on the table for discussion. What is the will and pleasure of the committee?

\* (1105)

**Hon. James McCrae (Attorney-General):** Before we proceed, I would like to announce that Mr. Gilleshammer is here replacing Mr. Enns today, and Mr. Helwer is here replacing Mr. Ducharme.

**Mr. Chairman:** Agreed. The Chair recognizes Mr. Taylor.

**Mr. Harold Taylor (Wolseley):** Last night, there was much discussion about the need to tighten up the

definitions and role of the Public Trustee as it relates to mental health activities, and also to ensure that some of the procedural aspects of the proposed amendments to Bill 38 be tightened up in a way that ensured that action would be taken in a timely fashion and definition of those actions would be clarified.

The Liberals are not moving the amendments at this moment and are prepared in committee stage to deal with the Act, amended, as proposed by the Government side. We, however, could very well deal with these amendments at the report stage as one possibility, for example, this afternoon in the House. The other option would be to proceed with this Bill through both committee stage and House stage through third reading as is, aside from any other amendments, and then deal with the amendments as a new amended Act following Bill No. 38 as now proposed, and deal with it in the springtime when we are dealing with two other pieces of legislation. I think maybe that latter one may be more appropriate. I would like to hear a comment back from spokespeople from each of the other two Parties.

\* (1110)

**Mr. McCrae:** Mr. Chairman, the suggestion made by the Honourable Member, I think, makes better sense than attempting to go with these amendments at this time without having a proper period of time allowed for what might be meaningful negotiations between not only the Parties, but included in those discussions could be officials of the Public Trustee's Office as well as the Department of Health and indeed the Minister of Health (Mr. Orchard) and myself.

I have said to the Honourable Member for Wolseley (Mr. Taylor) that I would be prepared to look at the amendments that he is suggesting, which could form part of a Mental Health Amendment Act (2) later on in this Session and be dealt with, hopefully, in a consensual way with all the Parties in the House. But at this late stage, I am put in a position which is not entirely desirable in the sense that I became aware of the amendments only last evening. I would prefer to have a little more time to reflect and to have the help of those in the two departments I mentioned in coming to proper decisions.

So I appreciate the Honourable Member's suggestion. I think it makes good sense. I will offer my cooperation in terms of negotiating the amendments the Honourable Member refers to.

**Mr. Chairman:** The Attorney-General, Mr. Taylor, made two suggestions. One was to do it at the committee stage this afternoon and the other was to do the amendments later on. Which one are you—

**Mr. McCrae:** I was speaking in favour of the latter suggestion.

**Mr. Chairman:** The Chair recognizes Mr. Cowan, even though he is not a member of this committee.

**Mr. Cowan:** I want to commend the Chair on the way in which he is handling his new responsibilities. It is on short notice that he has to pick up the mantle, but so far he is not disappointing those who nominated him who really should not have nominated him in the first place.

With that the case, I just wanted to make certain that I am clear as to what is actually being agreed to here because there are several different suggestions, as you noted in the most intuitive and exemplary fashion, that are before us now. We are going to agree to pass the amendments as they stand in Bill 38, as it stands for this Session, because there is a requirement to put into effect immediately some legislative changes to meet some special circumstances. In the interim, we will be dealing with the amendments that are proposed here but not restricted to the amendments that are proposed here because there a large number of other areas of The Mental Health Act that could be considered as we open it up once again.

I would like the record to be clear that if we are going to be opening up in that fashion, we want to look at all the different aspects that had been brought forward by Members of the Government when they were in Opposition and outside parties as well. So we are not restricting ourselves to the consideration of these specific amendments but these will be part of the package. That would come forward in the normal fashion either in the short Session, if it is by consensus, that may be held between now and the beginning of the next Session, or in the next Session, if that is thought to be the more appropriate way to go.

**Mr. McCrae:** I think the Honourable Member for Churchill (Mr. Cowan) has it pretty close. I think we were hoping for later in this Session to come forward with a consensual Bill, perhaps similar to the way we have agreed to handle the child protection Bill.

I see mental health matters as being matters of great importance but also matters that should be of, as much as possible, a non-partisan nature. I am saying that to the extent that it is possible to have good faith, meaningful discussions about the amendments before us and other suggestions that may come forward—I do not know if we can do a total revamp of The Mental Health Act and I would not commit ourselves to that—but I would say that certainly within the context of the amendments the Honourable Member is talking about and perhaps other amendments, that we could, as three Parties working together in the Legislature, agree on, we might be able to come forward with something later on in this Session or in the next Session.

I think the Honourable Member for Wolseley (Mr. Taylor) was referring to this particular Session. If it is possible and if it can be worked out, then we would do that, but obviously we are not binding ourselves to accepting holus-bolus without the benefit of negotiations and discussions amongst the Parties. We are not doing that, but we are saying we will make a good attempt at working together to come up with something we can all live with.

**Mr. Chairman:** The Attorney-General will of course answer Mr. Cowan's unasked question about the urgency of doing it now as opposed to three months from now.

**Mr. McCrae:** I am advised by the Public Trustee that those amendments that are so-called urgently required are those amendments contained in the Bill as we have it before us. Those are the ones the Public Trustee would like to have in order to be able to do his work. So those are the ones that we are proposing in the Bill. The other amendments, I am advised by officials, could wait for further discussion and consultation.

\* (1115)

**Mr. Cowan:** The point I want to make, and I do not want to belabour the issue, is that one should try to avoid, as much as possible, making ad hoc isolated changes to legislation when it is understood that there is a complete review and revamping of the legislation required, and it is something that Mr. McCrae's Party a year ago, in June of 1987, suggested was needed and it is something that we agreed at that time should be worked upon, and I understand that the Government is presently undertaking a consultative process to try to bring forward that review and the legislation that would flow from it.

I would suggest that if we are going to pass these today, because they are required in order to deal with an immediate situation, we not preempt our ability later on by agreeing to bring forward just the amendments as proposed by Mr. Taylor to undertake the full review. I would suggest that if we can get a commitment from the Government, not today but in the near future, to have that entire rewriting of the Act ready for the next Session, we may want to hold these amendments off until we can put them into the entire package, which is a better way to develop legislation in my opinion.

So I just want our position to be clear that if that rewriting is going to be coming forward, and we think it should be, and it is progressing at a reasonable pace, then we may want to suggest that these amendments be held off and put into the entire package in not the short Session, the continuation of this Session, but the next more comprehensive Session that the Government calls.

**Mr. McCrae:** I think the Honourable Member for Churchill's words will bear out why my previous words were carefully chosen in that I am not making any iron-clad guarantees but I am making the suggestion that we can, in all likelihood, work together on this. I do not want to bind my colleague to a course of action. I do not want to bind those involved in the review process to a course of action.

I just want to say to the Honourable Member for Wolseley (Mr. Taylor) that I think this Government has been working as much as possible in a consultative way and would continue to do that in regard to mental health amendments. It may be that the Honourable Member for Churchill (Mr. Cowan) is absolutely right that we are looking at a larger revamping here and

that the Honourable Member's amendments may or may not be an important part of that. So all I can really commit ourselves to is to working as constructively as we can with Honourable Members on this.

**Mr. Taylor:** I just would like to respond to the discourse that has gone on here. The bigger issue of the complete review of The Mental Health Act with all interested parties is not going to be a small task and I do not think the answers from that review are going to be ready this spring. In fact, my understanding is that as of yesterday that review process is actually to start in March. If that is the case and we end up having a mini-Session, if you will, really the tail end of this Session sometime in March or April, then hardly can we expect to have the results of that review done so that you can therefore translate that into draft and then final draft legislation.

I guess the issue would be is that not wanting to be cavalier in the putting forward of legislation as is, and we think there are some ways to improve Bill 38 as it now stands. I guess the question is going to be is how important is it for amendments of this nature, such as I have proposed, to be dealt with in the spring, or some others like that? I would not agree that if we are talking the small spring Session, the wrap-up Session, that we should be talking about a complete overhaul for The Mental Health Act. It is just totally inappropriate.

If there is not sufficient danger and negative implications from not making these changes then, yes, maybe they could wait to a later Session. That might not be, of course, until the fall when we would be dealing with legislation potentially. I think that is really what we, as three Parties, have to assess is what are the negative implications of not tightening up aspects of Bill 38, taking the thrust that is there but making it a little better?

If the implications are not too great and we do not put a set of regulations in place immediately to follow through on this and then have to change them three months later, which can be very confusing to all those that participate, then I can say, yes, these amendments as proposed can wait. But I would leave it open that we will have time to study in the next couple of months in maybe a little more detail and we might want to bring in a small Bill only in the spring Session and deal with that, but not the major review.

\* (1120)

**Mr. Chairman:** Is it the will of the committee to pass these amendments without further delay?

**Mr. McCrae:** One more quick one. I think both Honourable Members are being entirely reasonable here and I am trying to be that way also.

I think what we have to do is we will ask the Public Trustee to look at the Honourable Member's amendments in relation to the Bill and to advise us and that can form part of our discussions. I agree that we cannot probably do the overhaul of the Act in March or April and that we may be looking at small amendments or if they are not necessary, no amendments, but that will be left for further discussions and I appreciate the cooperation being shown here today.

**Mr. Chairman:** The Attorney-General then can communicate back to the Honourable Members of the committee the results of the Trustee's opinions of the amendments.

Clauses 1 to 9, inclusive—pass.

**Mr. Gary Doer (Leader of the Second Opposition):** Mr. Chairman, did we move the amendment that Mr. Orchard brought forward at the last meeting, or Mr. McCrae? -(Interjection)- There was an amendment, was there not, proposed under Section 5(l), or is that withdrawn?

**Mr. McCrae:** There were no amendments from the Government side.

**Mr. Chairman:** No, there are no amendments.

Clauses 10 to 18, inclusive—pass; Preamble—pass; Title—pass.

Bill be reported, French and English.

The committee will rise.

**COMMITTEE ROSE AT:** 11:24 p.m.