

**Second Session – Forty-First Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
**on**  
**Justice**

*Chairperson*  
*Mr. Doyle Piwniuk*  
*Constituency of Arthur-Virden*

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Forty-First Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
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**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON JUSTICE**

**Wednesday, April 5, 2017**

**TIME – 6 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Doyle Piwniuk (Arthur-Virden)**

**VICE-CHAIRPERSON – Mr. Kelly Bindle (Thompson)**

**ATTENDANCE – 10 QUORUM – 6**

*Members of the Committee present:*

*Hon. Mrs. Stefanson*

*Messrs. Allum, Bindle, Curry, Ms. Lamoureux,  
Messrs. Marcelino, Piwniuk, Reyes, Swan,  
Wharton*

**MATTERS UNDER CONSIDERATION:**

*Bill 15–The Department of Justice Amendment Act*

*Bill 17–The Court Security Amendment Act*

\* \* \*

**Clerk Assistant (Mr. Andrea Signorelli):** Good evening. Will the Standing Committee on Justice please come to order.

Before the committee can proceed with the business before it, it must elect a new Chairperson.

Are there any nominations for this position?

**Mr. Nic Curry (Kildonan):** Yes, I nominate Mr. Piwniuk.

**Clerk Assistant:** Mr. Piwniuk has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Piwniuk, will you please take the Chair.

**Mr. Chairperson:** Our next item of business is to the election of a Vice-Chairperson. Are there any nominations?

**Mr. Curry:** Yes, I nominate Mr. Bindle.

**Mr. Chairperson:** Mr. Bindle has been nominated. Are there any other nominations?

Hearing no other nominations, Mr. Bindle is elected as Vice-Chairperson.

This meeting has been called to consider the following bills: Bill 15, The Department of Justice Amendment Act; and Bill 17, The Court Security Amendment Act.

How long does the committee wish to sit in–this evening? Mr. Swan–I was going to say Mr. Minto.

**Mr. Andrew Swan (Minto):** That's what they call me in–on Valour Road.

Until the work of the committee is completed, Mr. Chairperson.

**Mr. Chairperson:** Okay. Okay, so we'll go on 'til the committee's completed.

Currently there are no registered present–presenters for this evening–tonight's meeting. If there is any and one else in the audience who would like to make a presentation this evening, please come forward and state your name clearly for the record.

Seeing that–none? We will proceed immediately to the clause-by-clause consideration of these bills.

In order–what order does the committee wish to proceed?

**Mr. Swan:** I would suggest we proceed numerically.

**Mr. Chairperson:** Okay. Every–agreed, as to numerically? Everything–everybody has agreed to numerically? *[Agreed]*

Clause-by-clause consideration: During the consideration of the bill, a preamble, an enacting clause, and the title are postponed until all other clauses have been considered in their proper order. Also, if there is any agreement from the committee, the Chair will call clauses in blocks that will conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions, or amendments to purpose.

Is there–is that agreed? *[Agreed]*

**Bill 15—The Department of Justice  
Amendment Act**

**Mr. Chairperson:** We will now proceed to clause-by-clause consideration of the bill.

Does the minister responsible for Bill 15 have any opening statements?

**Hon. Heather Stefanson (Minister of Justice and Attorney General):** Mr. Chair, I just have some brief comments with respect to Bill 15.

I'm very pleased to present this bill at committee this evening. Bill 15 proposes important amendments to The Department of Justice Act which will remove the ability for an individual Crown attorney to be personally named in a civil lawsuit by a person who has been the subject of a prosecution.

The bill requires that the Attorney General is to be named as the defendant in civil lawsuits, rather than the individual prosecutor who has—who was assigned to the criminal case. Lawsuits filed against Crown attorneys can be vexatious, frivolous, and without merit. Although these lawsuits may ultimately be dismissed, it can take months for that to occur. In the meantime, the individually named Crown attorney can be impacted personally and professionally by their name being associated with the allegation, no matter how frivolous or without merit the claim may be.

Beyond the personal and emotional impact of being sued and having it remain over their head for many months, there can be a specific impact on individually named Crowns in such areas as credit reporting of lawsuits, which may be required by financial institutions when seeking credit cards or loans.

By removing the ability of the individual prosecutor to be named, Bill 15 addresses these concerns without affecting the ability of those who have been the subject of a prosecution to bring lawsuits for behaviour they believe that is inactionable.

I'm proud of these proposed amendments, which responsibly balance the protection of the names of the individual Crown attorneys from lawsuits arising from their difficult but required duties in the prosecution of criminal cases while preserving the rights of those individuals who bring an action they believe has merit.

I also just want to take this opportunity to thank all those Crown attorneys, all the incredible work

that they do. We know that their days are not easy. They're often long, and I just want to—on behalf of our government—thank them for the work that they do.

**Mr. Chairperson:** We want to thank the minister.

Does the critic for the opposition—official opposition have any opening statements?

**Mr. Andrew Swan (Minto):** Our NDP caucus does support this bill. We think it will provide some more protection for our Crown attorneys. I have spoken with a representative of the Manitoba Association of Crown Attorneys, who is supportive of this going forward, for obvious reasons.

We certainly respect the work of our Crown attorneys. I was proud as minister of Justice to be able to find funding to increase the number of Crown attorneys, to make sure that they continue to be an important part of our system, and I've always been very pleased and very proud of the work the Crown attorneys do; not just prosecuting individual cases, but also truly being part of trying to build a better justice system in the province of Manitoba.

I just want to make a couple of comments on the minister's approach. I do agree that the vast majority of lawsuits against Crown attorneys would be considered frivolous or vexatious or without merit. I don't want to minimize that there is always the risk in Manitoba of a prosecution going wrong. Unfortunately, we have had a number of wrongful conviction cases that have gone forward.

By passing this bill, we agree most cases against Crown attorneys do not have merit, but we want to make it very clear that any Manitoban who believes that they have been treated unfairly certainly has the right. It just means that the Crown attorney's name will not be attached to the lawsuit, and as the minister does correctly say, then their personal assets and personal credit will not be impacted.

I did ask the minister the question in the question-and-answer period and didn't fully—well, didn't get an answer as to the impact of not naming Crown attorneys. I am satisfied, though, from my own research, that this is not an issue. If someone does sue a Crown attorney—or, sues the Attorney General by reason of something a Crown attorney has done, we know that The Proceedings Against the Crown Act will protect that plaintiff, and they will still have the right to examine the particular Crown attorney for discovery and obtain discovery of documents, which seems reasonable.

So that was the one concern that I had raised when we were in the question-and-answer period and we're satisfied that that has been dealt with. So we are certainly prepared to move ahead with clause-by-clause consideration.

\* (18:10)

**Mr. Chairperson:** We want to thank the member.

Clauses 1 and 2—pass; clause 3—pass; enacting clause—pass; title—pass. Bill be reported.

#### **Bill 17—The Court Security Amendment Act**

**Mr. Chairperson:** Does the minister responsible for Bill 17 have the—an opening statement?

**Hon. Heather Stefanson (Minister of Justice and Attorney General):** Good evening, I'm pleased to present amendments to The Court Security Act, Bill 17, which will allow for a more effective response to potential security threats by giving security officers the authority to be proactive rather than reactive in dealing with security threats, reducing the likelihood of significant incidents.

Our courts are public buildings and we have a responsibility to ensure the safety of all users of our courts. This presents a cost-free way of providing improved services to Manitoba citizens who use our court system. The amendments in this bill would allow sheriff security personnel to evict people from the court if there are reasonable and probable grounds to believe they are a threat or would disrupt court operations. Further, in addition to screening for weapons, security officers will be granted the authority to screen for prohibited items and to refuse entry if a person refuses to be screened or is in possession of a prohibited item. Security officers will be granted the authority to seize and dispose of weapons or prohibited items.

I'm mindful of the importance of access to justice, and our security officers are trained in de-escalation and addressing disturbance without the need to remove people. However, in some situations this will be necessary to ensure the safety and security of all users of courts and to maintain public confidence in the justice system.

I'm proud of these amendments, which will contribute to the safety and security of the courthouse and people using those courthouses throughout the province.

I also want to take this opportunity to thank all the staff who have been involved with putting this

together and all of our sheriff officers and all of those who work within our court system as well for all of the—our clerks and so on—who the—for the tremendous work that they do, and, again, we want to ensure the safety and protection of those individuals who work within our courthouses, and, again, want to thank them for all that they do.

**Mr. Chairperson:** We thank the minister.

Does the critic for the official opposition have any opening statement?

**Mr. Andrew Swan (Minto):** Our NDP caucus does, in large measure, support the provisions in The Court Security Amendment Act. I'll speak generally and then just raise one or two of the concerns that we have.

We know that it is important that everyone involved in the justice system is safe when they attend a courthouse, from the lawyers, judges, staff and, of course, all of the parties, whether they're actual parties to litigation or witnesses, supporters, family members, concerned community members that come down to the courthouse, we certainly want to make sure that their safety is taken care of.

We do also, though, have a system where free and open access to courts is important. Any bill that is brought forward is always a matter of balancing those two important factors, so the idea of—by enhancing the definition of what a weapon is seems to be a reasonable thing to do, as do some of the other provisions.

I do want to put two concerns on the record: one is that there is more discretion now given to security officers to refuse entry to people or to evict people. Although I have confidence that those security officers will exercise their discretion in an appropriate way, I am white, I am male, I am trained as a lawyer and I'm familiar with the courthouses. Many people who attend at courthouses are not those things, are far less likely to advocate for themselves, and, in some cases, let me simply say, they're not always at their best. People who attend at court may be very nervous, they may be upset. Some of them may have mental health issues, and some may be, again, may not be at their best when they're in a place which is intimidating, dealing with subject matter which may be very difficult.

And, of course, if someone is creating a disturbance, if they are a threat to anybody in the courthouse, of course, we want to give the security officers the ability to remove that person. I just want

to put on the record, though, some concerns. I wouldn't want someone's bad day in court to wind up preventing them from having the usual broad access that Manitobans are entitled to.

So I'll tell you I did have some discussions of whether it would be appropriate to try and add in some additional procedures. The advice I received is that anyone who feels that they have not been treated fairly by a security officer has the right to apply to a judge at the Court of Queen's Bench for relief. That exists. There, I've put that on the record.

Frankly, I hope that won't be necessary, and if security officers do the excellent work that we know they do, it's highly unlikely. I just want to make it very clear though, that access to our court system is something that's very important to me. It's important to our caucus and it's important to Manitobans.

The other issue I want to raise is with respect to the definition of prohibited items. Rather than wait for us to go by clause by clause, Mr. Chair, with your indulgence I would like to discuss that right now.

The side-by-side I was given actually wasn't up to date. I don't think there was any malice on the part of the minister or her staff. I think they've simply been scrambling to try and deal with the question of cannabis. The side-by-side I have does not include cannabis as a prohibited item, but the bill which is before the House does.

Of course we agree that generally speaking, a prohibition on taking cannabis into a courthouse is a reasonable measure. At the same time, I have been made aware and have learned more about many Manitobans who have used, who do use, and I expect will use medical cannabis, and there is nothing in this bill which would allow that to happen and it could result in someone who may require medical cannabis to avoid seizures, to avoid anxiety, to deal with any one of a number of mental or physical health issues. It might actually be a barrier to them having access to court.

I was going to bring an amendment tonight, but I think I will be better served by bringing a report stage amendment. I understand that the deputy minister and perhaps other members even present tonight will be meeting with members of the medical

cannabis community and learning a bit more about that. I will be introducing a report stage amendment accepting medical cannabis which is prescribed or otherwise required or suggested by a medical professional. I'm hoping by the time that report stage amendment makes its way through there will have been a more healthy discussion with Manitobans who require medical cannabis.

And it's not always what we might think to be the stereotypical medical cannabis users. I'm aware that there are many veterans who actually have been prescribed medical cannabis to deal with issues of post traumatic stress disorder. Those could be Manitobans who are undergoing chemotherapy and require medical cannabis to deal with their nausea so they can eat, they're able to get around and do their—do things they need to do.

There's other Manitobans who use medical cannabis to ward off seizures, and I wouldn't want what is otherwise a reasonable prohibition to actually serve as a barrier to Manitobans.

So I just want to put this on the record rather than deal with it tonight. I wouldn't want this to be voted down by a majority without having had the chance for the minister and her staff to have the best possible advice. I know the minister did not consult with users of medical cannabis before the bill was introduced, but it is not too late to improve the bill and make it more fair.

So I will be introducing a report stage amendment on those grounds. We're otherwise quite prepared to pass this bill through committee.

**Mr. Chairperson:** We thank the member.

Clauses 1 and 2—pass; clauses 3 and 4—pass; clause 5—pass; clauses 6 and 7—pass; clauses 8 and 9—pass; enacting clause—pass; title—pass. Bill be reported.

The hour being 6:20, will the—is it the will of the committee to—

**An Honourable Member:** Rise.

**Mr. Chairperson:** —to rise? Okay, the committee rise.

**COMMITTEE ROSE AT:** 6:20 p.m.

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