

1984 BILL 95

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 95

CHARTER OMNIBUS ACT

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 95

BILL 95

1984

CHARTER OMNIBUS ACT

(Assented to _____ *, 1984)*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 The Alberta Evidence Act is amended by repealing section 6(2) and substituting the following:

(2) A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings.

2 The Alberta Income Tax Act is amended in section 18(1)(d) by striking out "widow" and substituting "surviving spouse".

3 The Architects Act is amended in section 44(2) by striking out "proceeding under any" and substituting "other proceedings under this or any".

Explanatory Notes

1 Section 6 presently reads:

6(1) A witness shall not be excused from answering any question on the ground that the answer may tend to incriminate him or may tend to establish his liability to prosecution under an Act of the Legislature.

(2) If a witness objects to answer a question on any of the grounds referred to in subsection (1), and but for this section or any Act of the Parliament of Canada he would have been excused from answering the question, then, although the witness is by reason of this section or by an Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or received in evidence against him in a prosecution under an Act of the Legislature.

2 Section 18(1)(d) presently reads:

18(1) Every person paying at any time in a taxation year

(d) an amount on or after the death of an officer or employee, in recognition of his service, to his legal representative or widow or to any other person whatsoever,

3 Section 44(2) presently reads in part:

(2) A witness may be examined on oath on all matters relevant to the investigation and shall not be excused from answering any question on the ground that the answer might

(a) tend to incriminate him,

(b) subject him to punishment under this Part, or

(c) tend to establish his liability

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any Act or regulations under any Act,

but if the answer so given tends to incriminate him, subjects him to punishment or tends to establish his liability, it shall not be used or received against him in any civil proceeding or in any proceeding under any other Act.

4 *The Certified General Accountants Act is amended in section 43(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.*

5 *The Chartered Accountants Act is amended*

(a) by repealing section 13(c);

(b) in section 33(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

6 *The Chiropractic Profession Act is amended in section 52(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.*

4 Section 43(2) presently reads:

(2) A witness may be examined under oath on all matters relevant to the investigation and shall not be excused from answering any question on the ground that the answer might

- (a) tend to incriminate him,*
- (b) subject him to punishment under this Part, or*
- (c) tend to establish his liability*
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) to prosecution under any Act or regulations under any Act,*

but if the answer so given tends to incriminate him, subjects him to punishment or tends to establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

5 Sections 13(c) and 33(2) presently read:

13 A person shall be admitted as a member of the Institute who

- (c) is a Canadian citizen,*

33(2) A witness may be examined on oath on all matters relevant to the investigation and shall not be excused from answering any question on the ground that the answer

- (a) might tend to incriminate him,*
- (b) might subject him to punishment under this Act, or*
- (c) might tend to establish his liability*
 - (i) to a civil proceeding at the instance of the Crown, or of any person, or*
 - (ii) to prosecution under any statute,*

but the answer so given, if it is such as tends to incriminate him, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of the Legislature.

6 Section 52(2) presently reads:

52(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might tend to

- (a) incriminate him,*
- (b) subject him to punishment under this Act, or*
- (c) establish his liability*
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) to prosecution under any Act,*

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

7 The Corrections Act is amended in section 32(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

8 The Drainage Districts Act is amended by repealing section 13(3)(c) and substituting the following:

(c) a Canadian citizen.

9 The Energy Resources Conservation Act is amended by repealing section 40(2) and substituting the following:

(2) A witness who testifies in an investigation under subsection (1) has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings.

10 The Engineering, Geological and Geophysical Professions Act is amended in section 56(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

11 The Forest and Prairie Protection Act is amended by repealing section 32.

7 Section 32(2) presently reads:

(2) A witness may be examined on oath on all matters relevant to the inquiry and shall not be excused from answering any question on the grounds that the answer

(a) might tend to incriminate him,

(b) might subject him to punishment under this Act, or

(c) might tend to establish his liability

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any statute,

but the answer so given, if it is such as tends to incriminate him or to establish his liability to a civil proceeding, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of Alberta.

8 Section 13(3)(c) presently reads:

(3) The board of each district shall consist of 3 trustees who must each be

(c) a British subject.

9 Section 40 presently reads:

40(1) No person shall be excused from testifying or from producing any book, document or paper in an investigation or inquiry by or on a hearing before the Board, when ordered to do so by the Board, on the ground that the testimony, book, document or paper might tend to incriminate him or subject him to penalty or forfeiture.

(2) When a person objects to answering a question or producing any documentary evidence on the ground that it might tend to incriminate him or subject him to penalty or forfeiture, the Board shall give him the protection afforded by section 5 of the Canada Evidence Act (Canada) and by section 6 of the Alberta Evidence Act.

10 Section 56(2) presently reads:

(2) A witness may be examined on oath on all matters relevant to the investigation or hearing and shall not be excused from answering any question on the ground that the answer might

(a) tend to incriminate him,

(b) subject him to punishment under this Part, or

(c) tend to establish his liability

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any Act or regulations under any Act,

but if the answer so given tends to incriminate him, subjects him to punishment or tends to establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

11 Section 32 presently reads:

32 When a fire originates in an area in which any person or someone on his behalf, at the time the fire originates,

12 The Insurance Act is amended in section 138(3) by striking out “or British subjects”.

13 The Irrigation Act is amended by repealing section 29(1)(b).

14 The Land Surveyors Act is amended in section 47(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

15 The Land Titles Act is amended by repealing section 191.

16(1) The Legal Profession Act is amended

(a) by striking out “or a British subject” in the following provisions:

section 39(2)(a);

section 40(a);

section 41(2)(a);

section 42(3)(a);

section 45(1)(a);

section 46(1)(a);

(a) *is conducting any activity that may cause a fire, or*
(b) *has recently conducted any activity that may have caused a fire,*
the fire shall be deemed to have been caused by that person unless he produces reasonable evidence that the fire originated from a cause not connected with his activity.

12 Section 138(3) presently reads:

(3) The majority of the directors of a company so elected shall at all times be persons resident in Alberta who are Canadian citizens or British subjects.

13 Section 29(1)(b) presently reads:

29(1) A person is not qualified to be elected as or remain as an elected member of the board of a district unless he is

(b) able to read and write in the English language,

14 Section 47(2) presently reads:

(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might tend to

(a) incriminate him,

(b) subject him to punishment under this Part, or

(c) establish his liability

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any Act,

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

15 Section 191 presently reads:

191 Whenever the court or a judge sees fit it or he may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change her next friend.

16 Sections 39(2)(a), 40(a), 41(2)(a), 42(3)(a), 45(1)(a), 46(1)(a) and 62(2) presently read:

39(2) The Secretary shall approve the enrolment of a person admitted as a student-at-law under subsection (1) if he proves to the Secretary's satisfaction and in accordance with the rules that he

(a) is a Canadian citizen or a British subject,

40 The Secretary shall approve the enrolment of a person as a member of the Society if he proves to the Secretary's satisfaction and in accordance with the rules that he

(a) is a Canadian citizen or a British subject,

(b) in section 62(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

(2) Where, immediately before the coming into force of this section, a British subject has been admitted as a student-at-law, he may be enrolled as a member of The Law Society of Alberta, notwithstanding that he is not a Canadian citizen.

17 The Legal Profession Amendment Act, 1981 is amended by repealing section 14(3).

18 The Liquor Control Act is amended

(a) by repealing section 123(2);

(b) by repealing section 124;

(c) by repealing section 125;

(d) by repealing section 126;

(e) in section 128 by striking out “proof” and substituting “evidence”.

41(2) *The Secretary shall approve the enrolment of a person admitted as a student-at-law under subsection (1) if he proves to the Secretary's satisfaction and in accordance with the rules that he*

(a) is a Canadian citizen or a British subject,

42(3) *The Secretary shall approve the enrolment of a person admitted as a student-at-law under subsection (1) if he proves to the Secretary's satisfaction and in accordance with the rules that he*

(a) is a Canadian citizen or a British subject,

45(1) *Subject to the rules, the Benchers may by resolution approve the enrolment of a person who proves to their satisfaction that he*

(a) is a Canadian citizen or a British subject,

46(1) *Subject to the rules, the Benchers may by resolution approve the enrolment of a person who proves to their satisfaction that he*

(a) is a Canadian citizen or a British subject,

62(2) *A witness may be examined on oath on all matters relevant to the investigation and shall not be excused from answering any question on the ground that the answer*

(a) might tend to incriminate him,

(b) might subject him to punishment under this Part, or

(c) might tend to establish his liability

(i) to a civil proceeding at the instance of the Crown or of any person, or

(ii) to prosecution under any statute,

but the answer so given, if it is such as tends to incriminate him, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of the Legislature.

17 Section 14(3) presently reads:

(3) In the following provisions "or a British subject" is struck out:

section 39(2)(a);

section 40(a);

section 41(2)(a);

section 42(3)(a);

section 45(1)(a);

section 46(1)(a);

18 Sections 123(2), 124, 125, 126 and 128 presently read:

123(2) The burden of proving the right to make, manufacture, import, sell, purchase, provide, give, receive, convey, keep or consume liquor is on the person accused of improperly or unlawfully making, manufacturing, selling, importing, purchasing, providing, giving, receiving, conveying, keeping or consuming the liquor.

124 As soon as it appears to the justice trying a case on the prosecution of a person charged with committing an offence under this Act that evidence presented in the case has sufficiently established that the person had in his possession, charge or control any liquor in respect of or concerning which he is being prosecuted, the person charged with the offence shall, in default of his rebuttal of that evidence to the satisfaction of the justice, be convicted of the offence.

19 The Lloydminster Hospital Act is amended in section 35(4)

(a) in clause (a) by striking out “British subjects” and substituting “Canadian citizens”;

(b) by repealing clause (b).

20 The Medical Profession Act is amended in section 49(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

21 The Notaries Public Act is amended in section 1(2) by striking out “a British subject or”.

125 *As soon as it appears to the justice trying a case on a prosecution of a licensee for an offence under section 84 or 85 that evidence presented in the case has sufficiently established that the licensee knew or ought to have known that a person was a minor, the licensee shall, in default of his rebuttal of that evidence to the satisfaction of the justice, be convicted of the offence.*

126(1) *In proving the unlawful sale, purchase, importation, provision, gift or receipt, gratuitous or otherwise, or consumption of liquor, it is not necessary in a prosecution to show that*

- (a) any money actually passed, or*
- (b) any liquor was actually consumed,*

if the justice hearing the case is satisfied that a transaction in the nature of an unlawful sale, purchase, importation, provision, gift or receipt actually took place or that any unlawful consumption of liquor was about to take place.

(2) Proof of consumption or intended consumption of liquor on premises on which the consumption is prohibited is evidence as against the occupant of the premises or other person that the liquor was sold, provided or given to or purchased or received by the person consuming or being about to consume or to convey it away.

128 *In a prosecution under this Act the justice trying the case may, in the absence of proof to the contrary, infer that a liquid, preparation or mixture is intoxicating from the fact that a witness describes it as being intoxicating or describes it by a name which is commonly applied to an intoxicating liquor.*

19 Section 35(4)(a) and (b) presently read:

(4) The persons eligible for election as members of the Hospital Board are persons

- (a) who are of the full age of 18 years and British subjects;*
- (b) who are able to read and write the English language;*

20 Section 49(2) presently reads:

(2) A witness may be examined on oath on all matters relevant to the proceeding and shall not be excused from answering any question on the ground that the answer

- (a) might tend to incriminate him,*
- (b) might subject him to punishment under this Act, or*
- (c) might tend to establish his liability*
 - (i) to a civil proceeding at the instance of the Crown or of any person, or*
 - (ii) to prosecution under any statute,*

but the answer so given, if it is such as tends to incriminate him or to establish his liability to a civil proceeding, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of Alberta.

21 Section 1(2) presently reads:

(2) The Attorney General shall not appoint as notary public a person who is not a British subject or a Canadian citizen actually residing within Alberta.

22 The Nursing Homes Act is amended

(a) by repealing section 9(3) and (4);

(b) by repealing section 12(4)(d) and (e).

23 The Nursing Profession Act is amended in section 70(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

24 The Optometry Act is amended in section 26(7) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

22 Sections 9(3) and (4) and 12(4)(d) and (e) presently read:

9(3) The Minister shall not enter into a nursing home contract unless the other party to the contract is

- (a) a district board,*
- (b) an individual who is a resident of Alberta,*
- (c) a partnership consisting solely of residents of Alberta,*
- (d) an Alberta corporation,*
- (e) a non-profit religious corporation, or*
- (f) the Government of Canada, a Minister of the Crown in right of Canada or an agent of the Government of Canada.*

(4) Subsection (3) does not apply when the Minister enters into a nursing home contract for the purpose of replacing a nursing home contract entered into before June 6, 1974 with the same operator.

12(4) After a hearing under this section, the Minister may make an order cancelling the nursing home contract of the operator concerned, suspending the contract of that operator or prohibiting or restricting the admission of patients to that operator's contract nursing home after the effective date of the order, if the Minister is satisfied on the basis of the report made to him under subsection (3), that

- (d) the operator was a resident of Alberta at the time his contract was entered into but has ceased to be a resident of Alberta,*
- (e) the operator was a partnership consisting of residents of Alberta at the time its contract was entered into but one or more of the partners have ceased to be residents of Alberta,*

23 Section 70(2) presently reads:

(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Professional Conduct Committee and shall not be excused from answering any question on the ground that the answer might tend to

- (a) incriminate her,*
- (b) subject her to punishment under this Act, or*
- (c) establish her liability*
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) to prosecution under any Act,*

but if the answer so given tends to incriminate her, subject her to punishment or establish her liability, it shall not be used or received against her in any civil proceedings or in any proceedings under any other Act.

24 Section 26(7) presently reads:

(7) A witness in any proceedings before the discipline committee may be examined on oath on all matters relevant to the investigation and shall not be excused from answering any question on the ground that the answer

- (a) might tend to incriminate him,*
- (b) might subject him to punishment under the disciplinary provisions of this Act, or*

25 The Optometry Profession Act is amended in section 41(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

26 The Pharmaceutical Association Act is amended in section 5(8) by striking out “a Canadian citizen and”.

27 The Physical Therapy Profession Act is amended in section 49(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

28 The Police Act is amended
(a) in section 14(5) by striking out “proceedings under any” and substituting “other proceedings under this or any”;

(c) *might tend to establish his liability*

(i) *to a civil proceeding at the instance of the Crown or of any other person, or*

(ii) *to prosecution under any statute,*

but the answer so given, if it is such as tends to incriminate him, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of the Legislature.

25 Section 41(2) presently reads:

41(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might

(a) *tend to incriminate him,*

(b) *subject him to punishment under this Part, or*

(c) *tend to establish his liability*

(i) *to a civil proceeding at the instance of the Crown or of any other person, or*

(ii) *to prosecution under any Act or regulations under any Act*

but if the answer so given tends to incriminate him, subjects him to punishment or tends to establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

26 Section 5(8) presently reads:

(8) No person is eligible to be elected a councillor unless he is a Canadian citizen and a pharmaceutical chemist actively engaged in practice as a pharmaceutical chemist in the district of Alberta in which he seeks election.

27 Section 49(2) presently reads:

(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might tend to

(a) *incriminate him,*

(b) *subject him to punishment under this Act, or*

(c) *establish his liability*

(i) *to a civil proceeding at the instance of the Crown or of any other person, or*

(ii) *to prosecution under any Act,*

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

28 Sections 14(5) and 32(3) presently read:

(5) A witness may be examined on oath on all matters relevant to the proceeding and shall not be excused from answering any question on the ground that the answer

(b) in section 32(3) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

29 The Private Investigators and Security Guards Act is amended by repealing section 7(2).

30 The Reciprocal Enforcement of Judgments Act is amended in section 1(1)(b) by striking out “wife or former wife” and substituting “spouse or former spouse”.

31 The Registered Dietitians Act is amended in section 34(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

- (a) *might tend to incriminate him,*
- (b) *might subject him to punishment under this Act, or*
- (c) *might tend to establish his liability*
 - (i) *to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) *to prosecution under any statute,*

but the answer so given, if it is such as tends to incriminate him or to establish his liability to a civil proceeding, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of the Legislature.

32(3) *A witness may be examined on oath on all matters relevant to the hearing and shall not be excused from answering any question on the ground that the answer*

- (a) *might tend to incriminate him,*
- (b) *might subject him to punishment under this Act, or*
- (c) *might tend to establish his liability*
 - (i) *to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) *to prosecution under any statute,*

but the answer so given, if it is such as tends to incriminate him or to establish his liability to a civil proceeding, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of the Legislature.

29 Section 7(2) presently reads:

(2) A private investigation agency licence or security guard agency licence shall not be issued to a person who has not been residing in or carrying on business in Alberta for 6 months immediately preceding the date of application for a licence unless the applicant

- (a) *is a resident of Alberta at the date of application, and*
- (b) *is the holder of a subsisting licence in another province of a type similar to the one applied for.*

30 Section 1(1)(b) presently reads:

1(1) In this Act,

(b) "judgment" means a judgment or order of a court in a civil proceeding whereby a sum of money is made payable, and includes an award in an arbitration proceeding if the award, under the law in force in the jurisdiction where it was made, has become enforceable in the same manner as a judgment given by a court in that jurisdiction, but does not include an order for the payment of money as alimony or as maintenance for a wife or former wife or a child, or an order made against a putative father of an unborn child for the maintenance or support of the mother thereof;

31 Section 34(2) presently reads:

(2) A witness may be examined on oath on all matters relevant to the investigation or hearing and shall not be excused from answering any question on the ground that the answer might

32 The Seduction Act is repealed.

33 The Trust Companies Act is amended in section 29(3)(a) by striking out “or 75 years of age or over”.

34 The Veterinary Profession Act is amended in section 41(2) by striking out “proceedings under any” and substituting “other proceedings under this or any”.

In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.

- (a) *tend to incriminate him,*
- (b) *subject him to punishment under this Part, or*
- (c) *tend to establish his liability*
 - (i) *to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) *to prosecution under any Act or regulations under any Act,*

but if the answer so given tends to incriminate him, subjects him to punishment or tends to establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

32 This section repeals chapter S-7 of the Revised Statutes of Alberta 1980.

33 Section 29(3)(a) presently reads:

- (3) *A person is not eligible to be elected or appointed a director if*
 - (a) *he is under 18 years of age or 75 years of age or over, or*

34 Section 41(2) presently reads:

(2) *A witness may be examined on oath on all matters relevant to the investigation or hearing and shall not be excused from answering any question on the ground that the answer might*

- (a) *tend to incriminate him,*
- (b) *subject him to punishment under this Part, or*
- (c) *tend to establish his liability*
 - (i) *to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) *to prosecution under any Act or regulations under any Act,*

but if the answer so given tends to incriminate him, subjects him to punishment or tends to establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.