

Title: Tuesday, April 26, 2005 Private Bills Committee

Date: 05/04/26

Time: 8:04 a.m.

[Dr. Brown in the chair]

The Chair: Good morning, everyone. We'll call the meeting to order.

The first order of business is the approval of the agenda as circulated. Could I have a motion? I think Len was first; he beat you, Alana. All in favour? Any opposed? That's carried.

The next item of business is the approval of the committee minutes from our last meeting of April 19, 2005. They were circulated with the package. Any comments? Could I have a motion to approve the minutes as circulated?

Ms DeLong. All in favour? Any opposed? Carried.

That brings us to our deliberations and decisions on the private bills. The first, Bill Pr. 1, Bow Valley Community Foundation Act. Could we have a motion with respect to that one?

Ms DeLong: I'd move that the Standing Committee on Private Bills recommend to the Legislative Assembly that Private Bill Pr. 1, Bow Valley Community Foundation Act, proceed.

The Chair: Any discussion on the motion? Everyone agreed?

Hon. Members: Agreed.

The Chair: All in favour? The motion is carried.

Bill Pr. 2, Camrose Lutheran College Corporation Act. That's Mr. Johnson's motion. Would you like to make a motion with respect to that one, Mr. Johnson?

Mr. Johnson: Yes, I have a motion here. I'd move that the Standing Committee on Private Bills recommend to the Legislative Assembly that Private Bill Pr. 2, Camrose Lutheran College Corporation Act, proceed with the following amendment: section 6 be amended

- (a) in subsection (2) by adding "from among the candidates identified by the search committee" after "Church";
- (b) in subsection (4) by striking out "nominating" and substituting "search";
- (c) in subsection (5)
 - (i) by striking out "nominating" and substituting "search";
 - (ii) in clause (d) by striking out "City of Camrose" and substituting "Faculty."

The Chair: Parliamentary Counsel I believe has some comments to make on the amendment.

Ms Dean: The background on this amendment, as committee members will recall, stems from the hearing on Pr. 2. There was a possible inconsistency in connection with section 6 because there was a reference to the bishop being charged with authorization to appoint the board members, and then there was also reference to a nominating committee. So this amendment makes it clear that the bishop is to pick candidates from the list provided by the nominating committee, and the petitioner wanted the committee's name changed to a search committee.

Finally, the last aspect to the amendment arises from one of the committee member's points with respect to the reference to the MLA representing the city of Camrose and possible changes in the constituency boundaries. So the amendment makes it very clear that it's the constituency where the actual faculty is located rather than the city of Camrose.

Those are my comments, Mr. Chair.

The Chair: Any further comments? Discussion?

Then I'll call the question. All in favour of the motion as proposed by Mr. Johnson? Any opposed? The motion is carried.

The next item is Bill Pr. 3, the Medicine Hat Community Foundation Amendment Act, 2005. Mr. Mitzel, would you care to make a motion with respect to that?

8:10

Mr. Mitzel: Thank you, Mr. Chairman. I'd move that the Standing Committee on Private Bills recommend to the Legislative Assembly that Private Bill Pr. 3, the Medicine Hat Community Foundation Amendment Act, 2005, proceed.

The Chair: Discussion or comments on Bill Pr. 3?

Then I'll call the question. All in favour of the motion to advance Bill Pr. 3 as drafted, please signify by raising your hand. Any opposed? That motion is carried.

Now Bill Pr. 4. With respect to the Brooklynn Hannah George Rewega Right of Civil Action Act I understand that before we begin deliberations, the sponsor of the bill, Mr. Oberle, has a preliminary motion that he wishes to make.

Mr. Oberle: Thank you, Mr. Chair. If I might just make a brief statement. First of all, on behalf of the Rewega family and myself I want to thank everybody for their time and, I'm sure, careful deliberation. Obviously, while most of us, I believe, have some sympathy for the Rewega family – and it's certainly a very serious situation they find themselves in – nonetheless, it's apparent that the bill raises some significant public policy issues, not that that's a deterrent to our forwarding the bill but certainly a consideration, and some of those were raised by the respondents here and by the Justice department.

In discussions with the Justice department and with Minister Stevens, the government would like to consider the possibility of public legislation in this regard. Certainly, they would like to consider the government's position. It's possible that the government would consider a retroactive bill, in which case this bill is not necessary, and it's possible that the government could consider a nonretroactive bill, in which case this bill would have to be passed in concert with it in order for us to address the Rewega situation, should we decide to do so. The government is currently reviewing the situation and is not ready at this time to proceed.

In light of that and in light of the uncertainty surrounding this, I would like to move a motion. I'd move that

the Standing Committee on Private Bills defer consideration of Private Bill Pr. 4, the Brooklynn Hannah George Rewega Right of Civil Action Act, to the fall 2005 sitting of the Legislature.

The Chair: Discussion?

Mr. Tougas: Yes. Mr. Chairman, I'm in agreement with this overall. I think this is a good idea because this is a very complex matter. I'm just a little concerned about the possibilities. We're only talking about that they might look at it, that they might do this. Do we have something a little more substantial here that we can assure the families that this will be addressed and not just sort of passed off?

Mr. Oberle: Because the government is considering it, the Justice minister certainly couldn't share with me what the government's eventual position would be. I would like to point out, however, that you heard the Rewega lawyer say in the hearing and the family communicated to me that they're in agreement with deferring the decision at this point.

Dr. Morton: That was my question. The family is comfortable with that decision?

Mr. Oberle: Yes. Absolutely.

Dr. Morton: Has this not already been deferred once as well?

Mr. Oberle: Yeah, it was. This same bill was brought before the Legislature last session and was deferred to the fall. But as it turned out, there was no fall sitting, and there was an election, which is why it was brought forward again. We're kind of hopeful that there won't be an election this fall.

Mr. Pham: In responding to Ted's question, I was on the committee last year when this bill was brought forward. At that time there was a lot of debate. The feeling of the committee members at that time – they were very close to passing this bill. But, again, the Minister of Justice at that time was looking at the bill and was looking at a way of bringing in government policy – the bill wouldn't matter – rather than allowing a private bill to go forward and do that. Because of the election, you know, the bill died on the Order Paper. But this bill has some very interesting ideas that could impact the government policy.

At that time we were hoping that between the insurance company and the family, they could reach an agreement. That way the bill doesn't have to move forward. I think that as a committee we should try to help to facilitate that to a certain degree because I feel very strongly about the Rewega family and about the little child. They need help, and the longer we wait, the more difficult it will be for them. When we bring in government policy, I don't even know if we can make it retroactive.

So, Mr. Chairman, if you can do some manoeuvring behind the scenes without having this girl coming back to us in the fall, that would be even better.

The Chair: Dr. Morton, any further comment?

Dr. Morton: Well, I agree with Hung that in the process we keep deferring any sort of relief to the people that need it. As the chair has stated, we could have general legislation without dealing with this specific case or we could deal with this specific case through the private member's bill and not have general legislation. I think that in terms of public policy and controversy a general bill will attract more attention and more controversy than a private bill. So I'm not particularly persuaded of the wisdom of this, but if the rest of the committee is, I'll go along.

The Chair: Further comments or discussion?

Mr. Eggen: I would just be curious as a point of clarification: if we are endorsing this motion to defer the case to the fall, is this body then suggesting that we should take it to the Legislature to do it, or are we just simply deferring it?

Mr. Oberle: No. We're deferring that decision to the fall, and the committee may decide not to proceed in the fall.

Mr. Eggen: Okay. So we're not, as such, endorsing that it should be taken up as a . . .

Mr. Oberle: No.

Mr. Eggen: Okay.

Mr. Oberle: I would just like to add that the Rewega family clearly expressed to me that while this has been dragging on for some time, as the child is now 4 years old, they're interested in, I guess, success by whatever means here. They're not interested in expediency. While I recognize Dr. Morton's concerns, this bill doesn't provide a resolution to their situation. It provides them access to the courts, and they face years of litigation yet in front of them. So a few months here doesn't harm their cause at all. They're more interested in success. They certainly communicated to me that they'd be in support of this motion.

The Chair: Mr. Rodney.

Mr. Rodney: Thank you, Mr. Chair. A question of clarification, I suppose. Obviously, a very sensitive topic that's been investigated deeply by Mr. Oberle and previous committees, so I respect that. I see some wisdom in deferring this, for sure. I'm just wondering if we can be apprised of the worst-case scenario. Other than the passage of what seems like a number of months, what, if any, are the other harms that can be done by deferring this a few months?

Mr. Oberle: Harm to the family, you mean?

Mr. Rodney: Or to anyone involved. I see much of the pro side. I'm just wondering if I'm missing a lot on the con side besides the passage of a few months.

Mr. Oberle: Well, certainly their lawyer and the family themselves indicated that they'd be in support of this motion, and no harm would be done to them by deferring it for a few months, in their own words. Their lawyer floated the concept in her presentation, and the lawyer for the respondents didn't indicate any objection to that nor did the Justice department, so I would have to assume that there are no serious implications for a delay here.

Mr. Rodney: Very good. That's my only question. Thank you.

The Chair: Dr. Morton, did you have another comment?

Dr. Morton: No.

8:20

Mr. Pham: Mr. Oberle, you summarized it very well, because this bill doesn't resolve the matter. It only gives the family access to the court, and it is like the hammer that the lawyer and the family would like to get so that they can speed up the negotiations between themselves and the insurance company. Even if the bill is passed today, there is no settlement. It will probably take years through all the litigation before they see compensation, so delaying it for a few months will not hurt anybody. I still am of the opinion, and many of the members on the last committee were of the opinion, that somehow if this thing could be resolved by a settlement, then there is no need for all this legislation. We're still hoping for that, but I don't know how close both parties are.

The Chair: Any further comments or discussion? Motion?
Mr. Oberle, any comments you wish to make?

Mr. Oberle: No, thank you.

The Chair: Then I'll call the question. All in favour of Mr. Oberle's motion to defer this matter to the fall sitting? Any opposed? That motion is carried.

Mr. Oberle: Thank you.

The Chair: That brings us to the next item of business, item 5, the fees and charges under Standing Order 87. You'll recall that Parliamentary Counsel gave us some advice last time on some comparable fees in other jurisdictions and some advice as to how long the present fees had been in place: for many, many years. So there was a feeling that this is something that the committee might like to make a recommendation on.

I understand that Mr. Liepert wishes to make a motion with respect to that matter.

Mr. Liepert: I would move that

- (a) the Standing Committee on Private Bills recommend to the Legislative Assembly that Standing Order 87(1) of the *Standing Orders of the Legislative Assembly of Alberta* be amended to increase the fee for petitioning for a Private Bill to \$500.00; and
- (b) a letter be sent from the Chair of the Standing Committee on Private Bills to the Government House Leader requesting that consideration be given to this change at the same time as any other proposed changes to the Standing Orders are being contemplated.

I would like to speak to the motion, please. It's my understanding that the fees have remained unchanged since 1914. That's a long time. It's also my feeling that if we are going to make a move, we should move to a more realistic cost of entertaining a private bill. That includes such things as printing costs, advertising, and all of those sorts of things, and unlike Canada Post I'm not in favour of increasing the fee every year. So I think a fee of \$500 is fair. It probably doesn't even come close to covering all of the costs, but at least it's significant enough that it covers most, as I say, of the printing and advertising costs.

So with that, I would move.

Ms DeLong: I've just got a question. What is the budget for this committee, the approximate budget for this committee?

The Chair: For the whole committee?

Ms DeLong: Yes.

The Chair: For 2004-2005 the estimate is \$12,000.

Ms DeLong: Perhaps we're a little bit low in terms of the fee. Like, fees are supposed to cover what the costs are. If we assume that we have on average, say, four bills, then it should be more around \$3,000, I would think. You know, that's maybe just one consideration we should have.

The Chair: Mr. Lukaszuk.

Mr. Lukaszuk: Thank you. Well, I don't remember 1916. It's rather blurry in my memory, but from what I recall, \$200 in 1916 was actually a substantial amount of money. I imagine that in 1916 \$200 probably did cover the actual cost of processing, advertising, or any administrative tasks relevant to the bill. If we were to use the guideline of covering the cost of the bill and if we were to add the inflation factor to 200 1916 dollars, we would probably end up increasing the cost of filing the bill to several thousand dollars, if not tens of thousands of dollars because that's probably the equivalent value. I'm not sure if the argument of cost is of any relevance here. If \$200 doesn't cover it, \$500 won't make any difference to begin with.

If the filing cost increase is to deter the filing of frivolous, of vexatious bills, then I would support that. My question would be to the chair or to the mover of the motion: do we find ourselves having many frivolous or vexatious bills being filed before this committee?

The Chair: Well, maybe I'd ask for comments from Parliamentary Counsel on it. You've been around longer than most of us on this.

Ms Dean: In the last five to 10 years there haven't been more than five to seven bills brought forward to the committee in a session. In the '90s there were probably more like 10 to 15 bills brought forward in a particular session because at that time there were adult adoption private bills that were considered by the committee, but legislation was passed, so another process was put in place so that those were no longer heard.

In terms of frivolous and vexatious bills, I'm not going to really comment on that per se, but I can advise the committee that there are only four to six bills on average being brought forward in a particular session.

Mr. Lukaszuk: Thank you.

Mr. Liepert: Just a couple of comments if I could. I don't think that anyone expected that we would increase the fees that would thereby make up the budget of this committee. That isn't the intention of the fees. It would be to some degree to deter frivolous bills, but as Parliamentary Counsel has pointed out, that hasn't exactly been a huge issue.

I don't think that we're talking about a situation here where we're necessarily trying to accomplish any one particular objective. It's simply a matter of moving the fee to a more realistic level to cover such things as printing and advertising costs in the year 2005 and for a few years ahead. Whether the budget is \$12,000 or \$26,000, the budget for this committee is set as part of Legislative Assembly work. We aren't here to set fees to cover our budget, but we are here to set a fee that is realistic in the year 2005.

Those would be my comments.

Dr. Morton: My question is to counsel. Since the adult adoption actions were discontinued, what percentage of the four to five bills a year have been accepted by this committee? If it's close to 100 per cent, then that would seem to suggest that there are not too many vexatious or frivolous bills.

Ms Dean: Close to 100 per cent in the last five to seven years, since I've been counsel with the committee.

Mr. Oberle: I guess that I'd respectfully suggest that this committee is the public's access to our Legislature, and while we don't want to have a structure open to the point where we're inviting frivolous bills, we certainly don't want to have a structure that deters that access and people's right to use our Legislature. So I think the updated fee is reasonable, and I think we should certainly consider it.

The Chair: Mr. Mitzel, followed by Mr. Eggen and Ms DeLong.

Mr. Mitzel: Thank you. My thoughts on this are that this committee here is probably the only avenue for a lot of these people to be able to access change to their committees, to their structure, and certainly for the one that we talked about, Pr. 4, to get some type of permission to be able to go further with their cases. As was mentioned by counsel, there aren't a whole lot. Given that this is perhaps their

only access and the amount is very, very minimal, I wonder why we should have to consider increasing the fee. I'm comfortable with leaving it where it is.

The Chair: Mr. Eggen.

8:30

Mr. Eggen: Yeah. I would like to concur with those last comments. Considering that we're not in fact trying to cover the costs of this committee and given the fact that this is a public forum for a lot of nonprofit organizations, say, changing their names or, you know, with this last case, is it necessary to change the fees at all? I kind of doubt that.

Ms DeLong: Another question. I know that we recently revised our court fees. Do you or does anyone know what the fees are if you want to go through a regular provincial court?

The Chair: You're asking for the provincial court, you mean?

Ms DeLong: Yeah.

The Chair: Well, I think the thing that would be the most comparable would be the registration for changing names or whatever under corporate registry, and I think that's in the order of \$200, to make an amendment to your articles of incorporation, you know, if you incorporate it under the Societies Act or Business Corporations Act.
Mr. Johnson.

Mr. Johnson: Yes. I appreciate the information in the memorandum from Ms Dean giving reference to what is charged in other jurisdictions in Canada, and as I look at that, the \$500 that's being proposed is certainly in line – it's at the top with British Columbia and the House of Commons, I notice – so I would support that.

The Chair: Mr. Pham.

Mr. Pham: Thank you. I think that the fee that we charge only reflects a very small portion of the real cost of bringing forward a private bill. In all the years that I have served on this committee, I have never seen a frivolous bill per se.

I do believe that the Private Bills Committee does a very important job. It is the avenue for private citizens to bring forward legislation that affects them directly and doesn't have an impact on the general population. The decision to bring the bill forward and the costs associated with it today, to me, is already relatively high when you take lawyer costs and advertisement costs into account.

One of the concerns that many people have is the cost of our legal system altogether becoming almost unaffordable to many average Albertans out there. When the costs are so high, you in fact force many people from being able to access our legal system. That's why I think that, you know, if we have to increase the fee, \$500 would probably be the maximum that we should increase it to.

One of the other things as committee members that we always do is that we look at the numbers of legislation that are brought forward to the committee and see if there is a common theme to those bills or of that legislation and find a way to streamline it. For example, in the 1990s there were a lot of adoption private bills coming forward, and then we did recommend a process so that people could do it without coming to us.

A lot of the bills that come back to us in terms of changing names are because they were created by a private bill in the past, and therefore they have to come back to us in order to get their name

changed and so forth. I imagine that in the past, many, many years ago, some of the business registration practices were not as easily done as they are today, and because of that, many people had to use the other avenue to get their body incorporated, under the Private Bills Committee. Maybe what we should do as a committee is to look at these bodies which have been registered or which have been created by private bill legislation and come up with a way that they could function, they could act, and they could change their name like any other organization out there. I think that will cut down on the number of bills that are coming forward to us, thus saving us the money.

The Chair: Mr. Groeneveld.

Mr. Groeneveld: Thank you, Mr. Chairman. I kind of agree with where Hung is at on this. Although we have not had any vexatious bills coming, nor do we want any, I think this is a rather elaborate process to use to change your name. I don't think that we want to encourage people necessarily to come this route for something as frivolous as that. I would certainly think the \$500 would be in line to maybe hold that at bay a little bit, so I would support the \$500.

The Chair: Mr. Elsalhy.

Mr. Elsalhy: Thank you, Mr. Chairman. I just wanted to say that I agree with the proposal that came from Ms Dean. Three hundred dollars is certainly appropriate. Two hundred dollars is more of a symbolic fee to show the person who's sponsoring the bill that there is a committee – you know, 16 or 20 people are meeting to deliberate and discuss what you're proposing – and then \$100 to cover the fees for printing and the miscellaneous items.

Having said that, we could also possibly discuss or entertain the idea that a person can apply for a waiver of the fee. You know, foundations or community colleges can certainly afford \$300 or even \$500, but let's say it's a person, a citizen, or a private member who cannot afford it. Maybe they can apply for a fee waiver. So possibly, yes, we're setting a higher schedule of fees, but then allowing somebody who can't afford it to still bring it forward. That's just an idea.

The Chair: Anyone else wish to enter into the discussion before I call on Mr. Liepert?

Mr. Rodney: Just a quick comment to lend a little support to some of the comments earlier. No, I don't think we're going to recover costs because, of course, those are going to change every year. I'd like to see it come close to covering costs. I'm not opposed to making it 2,500 bucks or more. As hon. Lukaszuk mentioned earlier, you know, could we even find what it would be worth, the equivalent of the dollar back in the day, and what it would be today if you just took inflation?

I think it's symbolic if we move it to \$500. Personally, I would be very much in favour of making it an even \$1,000. I know, though, that it would be twice the price of what it is with the House of Commons and B.C., so maybe it's a little bit too much at this point, possibly to have headlines that read, you know, that it's been a multiple of five that we've increased it by.

I guess what I'm saying is that I'm very much in favour of quite a hefty increase, but at least the \$500 is very easily accepted by yours truly. I hope that we can move this forward because I do think it accomplishes the task of covering a few more costs and at the same time does a little bit more to sway those who might have frivolous cases to reconsider.

Thanks.

Mr. Lukaszuk: Mr. Chairman, just for the record. Let the record show that I was not suggesting that the fees be increased. I was merely pointing out the false logic in arguing that the fees were at such a rate in 1916; hence, we should increase them. That logic will lead us indeed to a massive increase, and I'm not necessarily supportive of that.

Mr. Agnihotri: I think the majority of us agree that \$500 is very reasonable, matching with British Columbia and the House of Commons. It's very reasonable, so we should go for that.

The Chair: Anyone else? Then, I guess, if there are no other motions, I'll call on Mr. Liepert to conclude.

Mr. Liepert: Well, I just thought I'd like to make a couple of closing comments. First of all, I don't think we should be referencing what it cost in 1914 relative to today's terms because I think the 1914 comment was simply to say that we haven't had an increase in fees for – I don't know. Do the math.

8:40

An Hon. Member: Ninety-one.

Mr. Liepert: Ninety-one years.

I believe we should also set aside the budget for this committee.

I don't think that should play into this as well because whether we had any bills or not, that budget is set for this committee to operate. Comments have been made on the increase in fees assisting in deferring frivolous actions, and I think that's valid. But in reality what we are doing here, in my view, is saying: what are our real costs of a bill that comes forward today for such things as printing, advertising, et cetera?

It is consistent with other jurisdictions, and I don't believe that the taxpayer should be subsidizing bills that are coming forward to the extent of the costs that that particular bill incurs. The taxpayer should be picking up the costs of this committee's existence, but the fee should cover the actual costs of a bill that is presented. I think \$500 is fair today and will be fair for a number of years, and we won't have to be going back to change the Standing Orders in the near future. So I would suggest that we support the \$500 motion.

The Chair: All in favour of the motion put by Mr. Liepert, please raise their hands. All opposed? That motion is carried.

Any other business to come before the committee this morning?

Then I'll accept a motion to adjourn. Mr. Oberle. All in favour? Any opposed? Carried.

Thank you very much.

[The committee adjourned at 8:42 a.m.]

