

LEGISLATIVE ASSEMBLY OF ALBERTA

Thursday, October 26, 1972

[The House met at 2:30 pm.]

PRAYERS

[Mr. Speaker in the Chair.]

INTRODUCTION OF BILLS

Bill No. 112 The Department of Public Works Amendment Act, 1972

DR. BACKUS:

Mr. Speaker, I beg leave to introduce a bill being The Department of Public Works Amendment Act, 1972. This is a very minor amendment but of quite marked importance because it provides a route for the disposal of property that has been lost or unclaimed in public buildings. This is very necessary as there has been quite an accumulation of left property in such places as the Jubilee Auditorium, and we do require legislation to enable us to dispose of it.

[Leave being granted, Bill No. 112 was introduced and read a first time.]

Bill No. 77 The Legal Profession Amendment Act, 1972, No. 2

MR. LEITCH:

Mr. Speaker, I beg leave to introduce a bill being The Legal Profession Amendment Act, 1972, No. 2. This, Mr. Speaker, is an important piece of legislation. Its purpose is to establish the Alberta Law Foundation. Some of the objectives of the foundation will be to conduct research into, and recommend, reform of the law and administration of justice. Another objective of the foundation will be to establish, maintain, and operate law libraries. The foundation will also be obligated to contribute to the legal education and knowledge of the people of Alberta and to develop programs for that purpose, and to provide assistance to native peoples' legal programs, student legal aid programs, and other programs of a similar nature.

Mr. Speaker, the funds for this foundation will come from the interest on lawyers' trust monies which are now held in financial institutions, on which there is not now any interest earned or paid by those institutions. I want to emphasize, Mr. Speaker, that it is not the purpose of this bill, in any way whatsoever, to interfere with the existing arrangements between a lawyer and his client over the earning and accounting for interest on trust funds. This bill, Mr. Speaker, deals only with those funds which are now held by financial institutions and on which interest is not now paid to anyone.

[Leave being granted, Bill No. 77 was introduced and read a first time.]

Bill No. 109 The Land Titles Amendment Act, 1972

MR. LEITCH:

Mr. Speaker, I beg leave to introduce a bill, being The Land Titles Amendment Act, 1972. This bill has two purposes, Mr. Speaker. The prime one is to enable the land titles offices to institute a system of loose leaf filing titles. In addition, Mr. Speaker, the bill provides for the registering of documents dealing with land by companies without the necessity of the company first getting a certificate of good standing from the Companies Branch.

Bill No. 110 The Defamation Amendment Act, 1972

MR. LEITCH:

Mr. Speaker, I also beg leave to introduce a bill being The Defamation Amendment Act, 1972. This bill, Mr. Speaker, has as its purpose bringing into

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line with all other television stations the cable television stations, insofar as the law of defamation is concerned.

[Bills Nos. 109 and 110 were introduced and read for a first time.]

Bill No. 115: The Financial Administrative Amendment Act, 1972, (No. 2)

MR. MINIELY:

Mr. Speaker, I beg leave to introduce a bill being The Financial Administrative Amendment Act, 1972, (No. 2). Mr. Speaker, the purpose of this bill is to allow us to table the public accounts during the fall session. I would like to say that hon. members have made a point that the public accounts should be provided them at least 30 days in advance of having to examine same. We appreciate that point. However, the amendment would allow us to table same during the course of the fall session, and we would like the flexibility in order to do so. We appreciate the point that has been made and will try to abide by that, if they would consider this bill to provide us with the flexibility.

[Bill No. 115 was introduced and read for a first time.]

Bill No. 114 The Brand Amendment Act, 1972

MR. J. MILLER:

Mr. Speaker, I beg leave to introduce a bill, being The Brand Amendment Act, 1972. It provides for the reservation of the character known as the standing arrow brand to be placed in a vertical position beside the recorded brand of the purchaser of the cattle. The standing arrow brand is to be placed on those cattle purchased with government guaranteed money.

[Bill No. 114 was introduced and read for a first time.]

MR. HORNER:

Mr. Speaker, I move that the bill, The Brand Amendment Act 1972, be placed on the Order Paper under Government Orders.

The Highway Traffic Amendment Act, 1972 (No. 2)

MR. COPITHORNE:

Mr. Speaker, I beg leave to introduce a bill, being the Highway Traffic Amendment Act, 1972 (No. 2). This bill deals with the statutory suspension periods of Operators' Licences which will reduce the maximum discretionary suspension. This amendment will coincide with the amendments to the Criminal Code made in 1972, which allow partial prohibitions made only available to a first offender.

The second amendment will cure the cases where judges imposed a partial prohibition to a lesser period of time than a mandatory disqualification required by the Act. This will enable the spirit and intent of the federal amendment to be met.

MR. TAYLOR:

Mr. Speaker, may I ask the minister a question? Is the discretion that of the minister or of the court?

MR. COPITHORNE:

It is at the discretion of the court.

[Leave being granted, The Highway Traffic Amendment Act, 1972 (No. 2) was introduced and read a first time.]

INTRODUCTION OF VISITORS

MR. HYNDMAN:

Mr. Speaker, it is my pleasure today to introduce to you and to all members of the assembly some 29 alert and very enthusiastic young people from Parkview Elementary School in my riding, grades 5 and 6. They are accompanied by their

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teacher, Miss Boomer, and they are in the members' gallery to your left, Mr. Speaker. I ask that they now rise and be welcomed by the assembly today.

Tabling of Reports

MR. YURKO:

Mr. Speaker, I beg leave to table the report in regard to the reorganization of the Department of the Environment, to be effective December 1st.

ORAL QUESTION PERIOD

Irrigation Rehabilitation

MR. STROM:

Mr. Speaker, I would like to direct a question to the hon. Minister of the Environment. I wonder if he could tell us what the present status of the agreement with the federal government on irrigation rehabilitation is at this time?

MR. YURKO:

I believe, Mr. Speaker, that I might be allowed a few moments to trace the history of this particular program.

When this government took over last year, Mr. Speaker, there was before it a proposal by the federal government in regard to irrigation rehabilitation in southern Alberta. The proposal, very briefly, was that the federal government would contribute approximately 18 million dollars in regard to this program; 12 million dollars of which would be directed towards the rehabilitation of, and 6.2 million dollars would be directed towards maintaining the subsidies in the Bow River project. This is the basic aspect of the contract. This contract wasn't agreed to by the last government for several reasons, so this was before us when we took over.

One of our first actions as a government was to approve the construction of the Carseland Weir. Subsequently, after reviewing the program in some detail, we concluded that the proposal the federal government made to the province was deficient in three respects.

In the first place, the proposal was based on a lump sum of money instead of on-stream river projects, and inflation was so rapid that the monies allocated initially in regard to the four basic on-stream river projects is now totally insufficient. So there was no escalation inflationary clause in the initial contract, or in the initial proposed agreement.

The second area of deficiency was associated with the fact that there was an inequity in the proposed agreement which didn't consider the fact that in an equitable settlement with respect to the provincial government taking over the Bow River project and additional works beside this. There was no consideration being given to some equitable treatment of the smaller irrigation units. So we felt there was need for some additional money in regard to covering some of these other smaller units.

The third deficient area in regard to this proposed agreement was in regard to -- the third area slipped my mind -- I will think of it, Mr. Speaker.

Nevertheless, we felt that a new agreement had to be negotiated and we started, to work just as soon as we got all our pieces of information together. We corresponded at the earliest opportunity with the federal government, and in this regard some of the work was done with the Minister of Intergovernmental Affairs, myself, and the Minister of Agriculture. We approached, quite early last spring, the federal government in regard to revising this agreement and taking into consideration a revised form of agreement to account for these deficiencies.

Our first contact with the federal government was in early spring last year, approximately in early March, in regard to recognizing a need, an almost immediate need, with respect to the western irrigation district. This the federal government recognized and acknowledged that something had to be done at the earliest opportunity.

We subsequently approached the federal government in regard to a revised form of agreement to take into account some of the deficiencies and this was

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being considered by the federal government. In the meantime, we had our technical people sitting together with the technical people on a fairly frequent basis, discussing the form of a new agreement, and the type of new agreement to overcome some of the deficiencies that we had recognized in the agreement. The technical people had reached an equitable agreement in regard to this matter, and laid before the province of Alberta a letter from the federal technical representatives in regard to the form of the new agreement after we had initially made a proposal involving some considerable sums of money.

The federal negotiator indicated that he wanted to get some idea of whether or not the provincial government was in agreement with this proposal before he approached the political arm of the federal government. We subsequently, as a government, wired the federal government indicating that this proposal was acceptable. In the interval, the Minister of Agriculture of the federal government made a speech in Taber in April, indicating that the provincial government was dragging its feet in regard to the approval of an agreement, but this, in fact, was not the case. After we wired the federal government in regard to indicating our approval on the basis of the new agreement as placed before us by the federal technical representatives. I then made a speech in Lethbridge, during which time I indicated to the people in Southern Alberta the provincial government's stand. That was that the provincial government was not dragging its feet on this matter, that, in fact, the federal technical people had laid before us an acceptable agreement and the provincial government had found that this agreement was equitable and so wired the federal government.

Shortly after that, in regard to negotiations between the federal technical people and the provincial technical people, a draft agreement was drawn up incorporating all the agreed-upon details. This draft agreement was sent by the provincial government to the federal government with a letter indicating that the provincial government was prepared to sign this agreement. This took place in July. Subsequent to this the federal government did communicate with the provincial government indicating that this matter was being considered by the cabinet at the federal level. This was subsequently followed by another letter, after the election had been called by Mr. Marchand, indicating again that the matter was being actively considered at cabinet level.

Mr. Speaker, that is the last bit of correspondence we have from the federal government, that the matter is being considered actively at the cabinet level. The last correspondence we had was subsequent to the calling of the election, so that it is recognized that the people involved in this area have not had too much time to figure out whether or not the agreement is acceptable from the federal government standpoint. I

I want to reiterate, without doubt, that the provincial government has found acceptable the solution that was arrived at by the technical people and put before the province by their technical representatives. We have found this acceptable and we have said so. The basis of this agreement I released in the speech I gave in Lethbridge so that is public knowledge and available.

MR. STROM:

Mr. Speaker, a supplementary question, if I may. I appreciate the lengthy answer that the hon. minister has given us, I hadn't expected that he would have to take that much time. I hope that my next question will not provoke another speech. I am concerned, in clarification, that at the cabinet level there has been no agreement reached and there is no formal agreement between the federal government and the provincial government.

MR. YURKO:

Mr. Speaker, again I can only refer to the last bit of correspondence that I have with respect to the member of the federal government negotiating in this area, and that is to say the last bit of correspondence indicates that they are actively considering it at the cabinet level. I have no subsequent information as to whether there has been agreement or disagreement.

MR. STROM:

Mr. Speaker, I am sure the hon. minister is not suggesting that the agreement could be signed by the technical people, but that it must be between the representatives of cabinet, at the federal level, and the provincial level, and at the time of making the speech in Lethbridge there was no agreement of that nature arrived at and that the hon. minister was then working on an assumption.

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MR. YURKO:

Mr. Speaker, I have my Lethbridge speech in front of me and I can quote quite readily from it. I want to suggest that in no way did I intimate that the agreement had been reached. I indicated that, in fact, this matter was before the political arm of the government. I'm certainly prepared to read the speech. Mr. Speaker, as this is a delicate matter, I believe that I should be allowed to read my words from the speech that I read in Lethbridge. The Government of Canada offered assistance at that time including the following pertinent features. And this is the proposal they made to us.

The Government of Canada's offer of assistance at that time included the following pertinent features:

- 1) That Canada will undertake the rehabilitation of on stream irrigation headworks to the extent of 12 million dollars.
- 2) That Alberta assume full ownership and responsibility of the St. Mary-Waterton-Belly headworks including ridge reservoir.
- 3) That Alberta accept the transfer of Canada's responsibilities and obligations on the Bow River project.
- 4) That Canada will pay to Alberta the sum of 6.2 million dollars . . . 4.2 million of which was to defray deficits between revenues and expenditures on the Bow River project . . . and two million is to be for the completion of current rehabilitation on the Bow River project and the St. Mary's headworks.

The total proposed commitment by the Government of Canada was thus 18.2 million dollars.

The Government of Alberta found the federal offer unacceptable because it was not in accord with the apportioned benefits derived . . . and furthermore it failed to acknowledge financial assistance toward a program of rehabilitation of secondary irrigation works.

And so discussions continued.

After active negotiations between provincial and federal technical experts . . . the following proposal was recommended to both governments by the technical team of negotiators.

- 1) Canada will pay to Alberta 4.2 million dollars in consideration of the province accepting responsibility for the operation of the Bow River project . . . effective April 1, 1973.
- 2) Canada will transfer to Alberta the assets of the Bow River project valued at approximately two million dollars.
- 3) Canada will undertake the reconstruction of the following works . . . at an estimated cost of 16.5 million dollars.

MR. STROM:

Mr. Speaker, on a point of order I could help the hon. minister if he wants to know what section I am concerned about. It is on page 8 in one very short paragraph. It is my opinion that the terms of --

MR. YURKO:

I really don't need any help. I can read very well.

MR. STROM:

I am really interested in knowing on what basis he said that all that remains is the formalization of the agreement, because he has already said to me that he has not had this agreement finalized between him and the cabinet ministers. That is all I am concerned about, because he misled the people of southern Alberta in leading them to believe that there was an agreement.

MR. YURKO:

Mr. Speaker, as I indicated, this is obviously a delicate situation. It is, therefore, necessary for me to read the full context of this part of the

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speech, because the hon. member is taking exception to long words. And I think he should read all of that part of the speech, rather than just one sentence or one word.

MR. LUDWIG:

Point of order. The hon. minister is not allowed to read the whole speech; it's against the rules of the House.

[Interjections]

On a point of order, I say that the hon. member not only does not need to read the whole speech but he is out of order in reading it. He is not allowed to read a lengthy speech in the House in answer to a question. It is out of order. This is a question period.

MR. YURKO:

Mr. Speaker, on a point of order, I am not reading the whole speech, even though it is an important speech to all the members on the other side. It is quite a dramatic speech as a matter of fact. It covers many items. I just need --

MR. LUDWIG:

On a point of order, Mr. Speaker, he is not only reading the whole speech, but he is reading it badly.

MR. HYNDMAN:

That is simply because the question was badly posed.

MR. YURKO:

Mr. Speaker, I have to read this paragraph because herein lies the reason for the renegotiation -- the fact that the escalation for inflationary matters was not considered in the initial agreement. So in reading:

- 3) Canada will undertake the reconstruction of the following works . . . at an estimated cost of \$16.5 million.

- (i) Western Irrigation District Headworks
- (ii) Bassano Dam
- (iii) Brooks Aquaduct
- (iv) Carseland Weir (now under construction)

- 4) Canada will pay to Alberta \$5.5 million to help offset the cost to the province of a program of rehabilitation of secondary irrigation works.

Approximately \$2 million of this amount could be required to complete the rehabilitation of the Bow River Project and St. Mary Headworks.

Now, we are getting to the meat of the matter.

The estimated cost of the above proposal is \$28.2 million . . . of which \$9.7 million would be in the form of a cash payment to Alberta . . . \$2 million in the form of transferrable assets . . . and \$16.5 million in the form of capital works (estimated at this time).

The \$28.2 million is exclusive of the cost (to the federal government) to the Government of Canada related to PFRA undertaking reconstruction of certain secondary works during the past two years . . . as well as providing engineering services which are estimated to exceed \$2 million.

The total federal government contribution would be approximately \$30 million . . . and it therefore would have met its implied responsibility of contributing one third of the cost of the total rehabilitation program.

The Government of Alberta has found the above proposal acceptable and has so informed the Government of Canada.

It is my opinion that the terms of an acceptable agreement have been established and all that remains is formalization of that agreement.

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There is good reason to believe that the federal government will also find the above proposal acceptable and that implementation will be expedited over a period of approximately ten years.

Perhaps I should at this time also indicate the magnitude of the provincial government's contribution to irrigation rehabilitation in southern Alberta.

And that is an interesting story on its own.

MR. STROM:

Mr. Speaker, may I be permitted another question to the hon. minister? Is he now saying then that there has not been any formal acceptance by the federal government of the proposals that were made by the provincial government?

MR. YURKO:

Well, Mr. Speaker, I have already said it twice. According to the latest correspondence I have from the federal government is that the formalization of the actual agreement is before the federal cabinet, and this aspect has not been accomplished as yet, even though the provincial government has indicated that it is willing to sign at any time.

MR. STROM:

Mr. Speaker, I'd like to ask a question of the hon. the Premier. Has he had any correspondence at all with the federal government with regard to irrigation rehabilitation?

MR. LOUGHEED:

Mr. Speaker, the matter is very competently and capably in the hands of the Minister of the Environment.

MR. STROM:

Mr. Speaker, maybe I did not make myself clear, and I would like to restate the question. Has there been any direct correspondence between the Prime Minister and the Premier in regard to irrigation rehabilitation?

MR. LOUGHEED:

Mr. Speaker, if there is some, I'll have to check, and report back to the House.

MR. SPEAKER:

The hon. Member for Wetaskiwin-Leduc, followed by the hon. Member for Spirit River-Fairview.

Sulphur Extraction

MR. HENDERSON:

Mr. Speaker, I'd like to refer a question to the Minister of the Environment as well. He is a popular fellow today. I wonder if the hon. minister could confirm to the members of this House that he censored a report from the Alberta Research Council that was to be submitted to the Environment Conservation Authority and the hearings that it is holding, and has been holding, throughout the province, on the question of gas plant sulphur extraction?

MR. YURKO:

Again, Mr. Speaker, it seems like it is my day. It is not possible to answer that question without giving some bit of background.

MR. HENDERSON:

Mr. Speaker, I think the hon. minister could refer to the article. I want to be sure and find out whether the hon. minister was accurately reported -- just a simple yes or no question, not another 30 minute speech. I read all of the hon. minister's speeches. He sends them out in the mail.

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AN HON. MEMBER:

Order! Order!

MR. HENDERSON:

So, I don't need to hear another press release right here. In the Journal of October 23rd, the statement says, "Environment board resents restricted role." There is just one little line that says, "Mr. Yurko confirmed that he had censored the report."

AN HON. MEMBER:

Yes or no?

MR. HENDERSON:

Yes or no.

MR. YURKO:

Mr. Speaker, my issue is with the word 'censored'. This is why I feel it is vitally necessary to offer an explanation in this area and just what is going on, because the word 'censored' is not my word. The word 'censored' wasn't put to me when the question was, in fact, asked. This is why it is necessary for me to explain to the House the meaning of that particular paragraph.

Mr. Speaker, the authority was asked last fall, by myself on behalf of the government, to conduct public hearings in regard to gas plants. These were wide hearings so that we could bring into government the viewpoints of people who were affected by sulphur dioxide, people who became sick, and people whose cows had died. I'm using some of the expressions of the hon. Member for Drumheller. There has been a considerable amount of difficulty out there among some of the farmers and some of the people in this area. So, the government felt it was necessary to have wide public hearings to hear everybody's point of view, not necessarily in regard to revising the standards, be they ambient standards or, in fact, source standards. We wanted to hear what the people were saying about gas plants and how they were affected. So, we asked for these hearings.

In order to make hearings of this nature meaningful, we recognized that we were going to get input from structured groups which we call structured input. We also recognized that we wanted desperately, and we hoped we would get, unstructured input, the gut-feeling of people, people who came there and said, "I almost lost my life because that plume came over my place at a certain time of the night". This is what we wanted. We wanted both aspects of this.

We know there are structured groups, very intelligent groups that bring in a structured report to a hearing everytime. But, nevertheless, we felt that we had to give these structured groups and the people some background information so that they could comment and come in before the hearings in a meaningful way.

So, for the second time in the life of this government, the authority was permitted access across all the departments to gather together information and put out a position paper with respect to the situation, because it was allowed to do this in regard to the surface reclamation hearings also. This, again, was a first. For the second time, though on a much larger basis, the authority was allowed to pick a person out of the Research Council. . .

AN HON. MEMBER:

Was allowed?

MR. YURKO:

Well, he was given permission to budgetary requirements and so forth. This man was chosen and he was given carte blanche opening to all departments to get together information in this field and, in fact, this is what he did. He talked to people in the departments on certain levels, not always at the deputy ministers' levels, but at certain levels to obtain this information. He didn't only obtain information but he obtained viewpoints. He put together a report as a government person and this report was background information in this area which was to be released to the public.

There were a few requirements that this report had to meet because this was the internal workings of government in every aspect being exposed to the public. These matters that had to be met were, Mr. Speaker: first, that the report was

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accurate. The only way that the report could be reviewed for accuracy was to review it within the department in total, that is, from the deputy minister down, because most of the information was obtained from a lower level within the department and that fellow didn't necessarily have all the information. The second reason that this report had to be reviewed by the various departments concerned was with respect to inter-departmental memorandums, and the fact that names weren't released and the private context of inter-departmental memorandums was so given that the authors weren't released. I can remember the hon. Member for Drumheller making some pretty important speeches about the need to protect the information being transferred in inter-departmental memorandums, because if this isn't done, and only released by ministerial approval or cabinet approval, then the whole internal works of government can break down pretty rapidly. Communication stops if the civil servants recognize that whatever they put in memorandums is released without any difficulty and without ministerial approval. So it was necessary to examine this report in this regard.

MR. HENDERSON:

Mr. Speaker, I wonder if I could interrupt the speech that the minister is making to ask him one question. Maybe he could give me a yes or no answer to this. Apparently he doesn't know the meaning of yes or no, but I simply want to ask the minister if he is familiar with the act, section 7, subsection 1, clause d: "The authority may require any officers of employees or any employees of any department of the government or government agency to provide information that, in the opinion of the authority," not the minister, but, "in the opinion of the authority it is necessary for the purposes of enabling it to carry out its responsibilities." Is the minister aware, or is he not aware that that was the instruction this legislature gave to the government in its executive powers for the administration of this act? Yes or no, is he aware of it, or isn't he aware of it? That's all I'd like to know, Mr. Speaker.

MR. YURKO:

Mr. Speaker, that's the second question, and I'll answer that when I finish the first one.

MR. LUDWIG:

Mr. Speaker, on a point of order, I think that this mockery of the question period has gone far enough, and it is, with deference to the Chair, the Speaker's responsibility to see that there is not an abuse of the question period. Any member may interrupt and request that the rule of the House must be enforced, but it is primarily the Speaker's responsibility. I don't think the minister should be permitted to laugh at the procedure of this House and make a mockery out of the question period by making a long speech to weasel out of a situation he created. This has been raised before and he is out of order; everybody here knows he is out of order. Why can't anything be done about it?

MR. SPEAKER:

[Inaudible]. . . does not apply directly to oral question. It applies to questions which have been placed on the Order Paper, or asked in writing. But in Beauchesne in regard to both oral and written questions in citation 181 we find, "Questions must be answered briefly and distinctly and be limited to the necessary explanation, though a certain latitude is permitted to ministers of the Crown whenever they find it necessary to extend their remarks with the view of clearly explaining the matter in question." This is an area which involves discretion, and like all such areas, it must be subject to sensible and practical limits.

I would ask the hon. minister if he might abbreviate the remainder of his answer so that it may be strictly relevant to the question. I realize that he has a certain discretion, but as I say, as in the case of all matters of discretion this must be subject to certain practical limits, otherwise one question will exhaust the question period and the purpose for which the House has the rule with regard to question periods will be defeated.

MR. HENDERSON:

On the point of order, I would just like to simply restate the two questions that I want a yes or no answer to, since this thing has gone on so long. I asked the report to be clarified, Mr. Speaker. . .

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MR. HYNDMAN:

Mr. Speaker, it is not proper for a member to request the kind of answer to a question. He can certainly state the questions, but to ask for a yes or no answer is clearly out of order.

MR. HENDERSON:

Nonsense, Mr. Speaker.

MR. SPEAKER:

Unless the hon. minister has forgotten what the question is, there shouldn't be any need to restate it.

MR. HENDERSON:

Mr. Speaker, from the way the minister has gone on at length, I suspect he has forgotten the question. I asked him simply to confirm or deny the report, yes or no, and to confirm or deny his knowledge of the existence of a clause in the statutes. That's all I want - two yes or no's.

MR. YURKO:

Mr. Speaker, I certainly know what the questions were and I appreciate the very narrow latitudes that you have provided me in answering the questions.

The third reason, and I will make this very brief, is the fact that this was a government position paper that was being issued, and we had to be certain that there were no wild statements being made in regard to personal opinions with respect to private ownership and so forth.

[off record] saying that the report was being reviewed by all departments involved for these three basic reasons, and basically, the report went out in generally the manner in which it was initially written. For example, the report was way behind in the organization of the Department of the Environment and that whole section on the Department of the Environment and the organization had to be re-written because it was absolutely wrong, so this is why it was necessary to review it at the deputy level and down because much of the information was wrong.

Now, with respect to the hon. member's last question, I think he hasn't read the legislation very accurately. The legislation says that the authority has access to all information within government. This is certainly correct, but the legislation doesn't say that it can extract from government all information, be it confidential -- confidential interdepartmental memos and so forth -- and suddenly expect this from government and put it out there before the public view. This is why it is necessary to deal with the authority with respect to the fact that it is a government agency, and that's what it is.

MR. HENDERSON:

Supplementary, Mr. Speaker. I would just like the hon. minister to point out to me, since he has quoted the act where the word "confidential information" is referred to so far as accessibility on the part of the Conservation Board is concerned. I would like him to point it out to me and I'll check it myself. I'm not aware of it in the act, but maybe the minister is.

MR. YURKO:

Well, Mr. Speaker, I think it would be better if the hon. member and I debated the act outside this House.

MR. SPEAKER:

The hon. Member for Spirit River-Fairview, followed by the hon. Member for Calgary Millican.

Public Utilities Board

MR. NOTLEY:

Mr. Speaker, I would like to direct a question to the hon. Minister of Telephones and Utilities. In view of the concern expressed by a number of municipal officials about the very high cost of appearing before the Public Utilities Board and presenting cases opposing rate increases, has the government

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given any consideration to alleviating that problem, either in the form of an independent data collection agency attached to the Public Utilities Board, or alternatively some form of subsidy for towns and cities or rural electrification associations?

MR. WERRY:

Mr. Speaker, my understanding of those who intervene before the Public Utilities Board is that those costs incurred by the interveners that are reasonable are paid, firstly, by the company to the Public Utilities Board, and then the Public Utilities Board rebates those to the various companies, the municipalities and consumers etc., that have made appearances. So a measure of financial assistance is given to the interveners.

MR. NOTLEY:

A question, Mr. Speaker, on what basis is this determination made? Who is it in fact, who decides what is a reasonable cost, what is not a reasonable cost, and what groups would be eligible for some form of assistance?

MR. WERRY:

The Public Utilities Board is the authority for setting the reasonable costs and I am not quite certain who would qualify for this; I can take it under advisement and check it with the chairman of the Public Utilities Board and advise the House tomorrow.

MR. NOTLEY:

A supplementary question, Mr. Speaker. Is the minister aware that Calgary Power has deferred taxes of some \$34 million, and that since, under The Public Utilities Income Tax Transfer Act, 95 percent of this is rebated to the province which is in return rebated to the consumers, this, in fact, represents an interest-free loan at the expense of Alberta power consumers?

MR. WERRY:

We can enter into almost a debate here on that technicality, Mr. Speaker, and I'm not an authority as opposed to the members of the Public Utilities Board. The only exception might be the member for Calgary Mountain View, but the intervener certainly will question this \$34 or \$35 million that does appear on Calgary Power's balance sheet. The question that will be addressed to the Utility Board through the interveners will be the method of either flow through taxes or deferred taxes, and the board will have to rule on that. Until the board rules on that, certainly I don't think I would be one that would say which direction the board will rule on that.

MR. NOTLEY:

One final supplementary question, Mr. Speaker, if I might. Since deferred taxes are really a question of taxation rather than regulation as such, has the government considered making any representation to the federal government with respect to these deferred taxes rather than waiting for all this to be brought out by The Public Utilities Board?

Corporation Taxes

MR. WERRY:

Well, that is another question, Mr. Speaker. Under the provisions of the Federal Income Tax Act, the company is allowed to claim capital cost allowance. Now, the company, in setting up its rate structure or its accounting procedures, claims depreciation. Now on a supplementary information sheet to the T2 Corporation Income Tax Return, we will go through the procedure.

First of all, on the first line is "net income as per financial statements." Then we will find the figure, "add depreciation claim," then you get a net amount and it says, "less capital cost allowance" and then the final figure is "net", which is the net income tax for tax purposes. On that figure, Mr. Speaker, the corporation pays income tax, and this is where the deferred income taxes come about, and the federal government or the province has no right to say anything about that except that it is in the Federal Income Tax Act and the company is merely conforming to the federal income tax laws.

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Increase in Power Rates

MR. DIXON:

Mr. Speaker, regarding the increase in power rates, I see that the City of Edmonton is indicating that they are going to seek a power rate increase, and of course, under present legislation they do not have to appear before the Public Utilities Board. I was wondering if this government was giving consideration in order that we can have uniformity and protection for the public throughout Alberta if all companies generating power should come under the provisions of the Public Utilities Board?

MR. WERRY:

There are two answers to that question, Mr. Speaker. First of all, the government is not giving any consideration to bringing municipal authorities or municipal utilities under the provisions of The Public Utilities Act. The second part to that question really is that if a customer feels that he is being discriminated against in his rights, he can apply to the Public Utilities Board to have a hearing as to whether those rates are fair and equitable. So that if a resident of the city of Edmonton feels that his rates are too high, he can appeal to the Public Utilities Board and the Public Utilities Board is obliged to look into the matter.

DR. HOENER:

I might just add to the answer that the hon. Minister has given to the member for Spirit River-Fairview. In so far as the REA's are concerned, I have notified the president of the Union of REAs in Alberta, that the government, through the Department of Agriculture, would make available, funds that would allow them to have adequate personnel at the hearings to make sure that the position of the REAs is fully and forcefully supported and that at the hearings, both sides of the question are aired properly.

MR. NOTLEY:

I have a question, Mr. Speaker. I certainly applaud the announcement of the Deputy Premier with respect to the Rural Electrification Association, and now that we have got that point established, what is the government going to do about the towns, villages and the cities?

DR. HORNER:

As the Minister of Telephones and Utilities has already said, there is consideration in the way that the hearings are held now for them, but we are considering other ways in which we could make sure that the consumers generally in the province would be able to have a fair hearing and that all of the facts would come out before the Public Utilities Board.

MR. SPEAKER:

The hon. member for Olds-Didsbury followed by the hon. member for Calgary Mountain View.

Conflict of Interest Guidelines

MR. CLARK:

Mr. Speaker, I would like to direct my question to the Premier, and ask him if he has issued any guidelines with regard to conflict of interest for members of the cabinet.

MR. LOUGHEED:

Mr. Speaker, as far as the question of guidelines for cabinet ministers is concerned, in the very first cabinet meeting of our administration I asked all of the members of the Executive Council to provide me with a statement regarding their business and financial affairs. They have all done so and I am satisfied from a perusal of those statements that there are no problems by way of conflict. However, we are aware of the situation in other areas and have been looking at it and giving it consideration. It may be that we might take a different approach by way of a public statement, but I would think that would not be definitively placed before the public and the legislature until the spring session.

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MR. SPEAKER:

The hon. Member for Calgary Mountain View perhaps has had his question answered? The hon. Member for Calgary Bow, followed by the hon. Member for Clover Bar.

Sulfur Extraction (cont.)

MR. WILSON:

Mr. Speaker, I have a question for the hon. Minister of the Environment. Is it your intention to submit legislation affecting the operation of sulfur extraction gas plants at this session?

MR. YURKO:

Mr. Speaker, it is not my intention to bring forth any legislation in this regard at this time.

MR. WILSON:

A supplementary question, Mr. Speaker. Mr. Minister, could you advise when you expect to report of the results on the recent public hearings of the Environment Conservation Authority on environmental effects of the operation of sulfur extraction gas plants?

MR. YURKO:

Mr. Speaker, by legislation it is required that I table that report within 15 days after it is brought to my office by the authority, and table it if, in fact, the House is sitting. If the House is not sitting I believe I have to table it at the earliest opportunity in the subsequent session, or within 15 days after the beginning. This is within the act. We have also indicated that we issue a number of reports in regard to this matter. There is a compilation of all the hearings that are compiled in the report, and this is issued to every member. Subsequent to that I think there is this summary that is released, and after that the recommendations of the authority itself are made to government, and these recommendations must be released within this period according to the legislation. Nothing the authority does or recommends can be held in secrecy.

MR. SPEAKER:

We have time for a very brief question, and a very brief answer.

Cooking Lake

DR. BUCK:

Mr. Speaker, I have a question for the hon. Minister of the Environment. I would like to know when the government will be taking action on the Cooking Lake project, and I have one very short supplementary.

MR. YURKO:

Mr. Speaker, it is difficult to answer that question very quickly, and perhaps if the hon. member wishes to ask me the question on a subsequent day I will be able to give him an adequate answer.

DR. BUCK:

That is agreeable, Mr. Speaker.

ORDERS OF THE DAY

MINISTERIAL ANNOUNCEMENTS

MR. SCHMID:

Mr. Speaker, this year we are celebrating the 60th anniversary of the official opening of this building. On March 15, 1906, 25 M.L.A.s met to conduct the first session of the first Alberta Legislature. Construction had not even begun on the building in which we are meeting today; and since no other public building was large enough to accommodate the inauguration crowd, they assembled in the old Thistle Curling Rink. After that opening ceremony, they moved to the

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McKay Avenue School -- still standing, by the way -- where sessions were held for several years.

I think it was fortunate for us that a far-seeing photographer named Ernest Brown took photographs of that first Legislative sitting and, what will be of more immediate interest to all hon. members at this moment is that, if they will go up to the fifth floor of this building, they can see at least some of our early history come alive again -- in historic photos, in portraits, in drawings, maps and copies of treaties -- all encompassed in an eight-panel display featuring "The Development of Government in Alberta."

Our province is so young, Mr. Speaker, that it may well be said that we ourselves are making history. Yet behind us -- perhaps just beyond the memory of old-timers still living -- is a truly colourful and exciting past which our Provincial Museum and Archives, in creating this panorama of that past, makes real for us again.

Many born here have no concept, for instance, of the stark drama that marked that time of crisis in the 1860's and '70's when the fur markets were dwindling, the buffalo had disappeared, the traders were bringing their rot-gut whiskey among the Indians, the whole Northwest was rife with rebellion, and Rupert's Land (of which Alberta was, of course, a part) was in very real danger of being annexed by the United States.

This is just a fragment of the drama depicted in the display upstairs, where, through camera, paintbrush, and sketch books, part of our past lives for us again.

Because an artist, named Henri Julien, accompanied the first police force on the historic track of 1874, you can see an actual portrait of the first Commissioner, McLeod, details of the first North West Mounted Police outposts at Writing-On-Stone and Fort Calgary, also a portrait of the great Crowfoot Chief of the Blackfeet, and so forth. You can gaze again on the opening of the West, the waves of immigrants flooding to our land, your own fathers, perhaps, among them -- even a photograph of an actual immigrant's ticket, which was then called "Ticket to the Land of Opportunity".

Mr. Speaker, this is not just a nostalgic sales pitch for days gone by. It is a penetrating look in our past, with particular emphasis on the development of responsible government here, a government of which we are a continuing link today.

This is why I invite all members to visit the fifth floor and meditate for awhile. I think everyone of us will come away more appreciative of the dignity of our role in this House, proud of our connections with our rich and colourful past, and even more conscious of the hopes that our people still repose in each and every member sitting here.

MR. HYNDMAN:

Mr. Speaker, I would just briefly like to advise the House of the intended business schedule for this evening and tomorrow. This evening will begin at 8:00 p.m. with the government motions, the notices of which were given by me yesterday, one concerning the Friday hours, from 1:00 p.m. to 4:30 p.m., and the other replacing two members on the Standing Committee on Public Accounts. Following that, with leave, we proceed to the resolutions for the bills for the acts regarding Workmen's Compensation Amendment and the Alberta Income Tax Amendment, notice of which was given orally yesterday, and then first reading of those two bills. Following that, we will proceed to second reading of The Builders' Lien Act on the Order Paper No. 89, followed by second reading of The Wilderness Amendment Act, No. 93. Following that, to committee study of The Meat Inspection Act, No. 49, and then move again to Government Motion No. 1, in respect of which debate was adjourned by the hon. Leader of the Opposition yesterday.

Tomorrow afternoon, Mr. Speaker, the tentative business schedule, remembering we start at 1:00 p.m. tomorrow and close at 4:30 p.m., would begin with committee study of The Perpetuities Amendment Act No. 20, then committee study would begin on The Mental Health Act No. 83, followed, if there is time, by second reading of the bills which were introduced today.

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MOTIONS OTHER THAN GOVERNMENT MOTIONS

Municipal Ombudsmen

MR. LUDWIG:

Mr. Speaker, I beg leave to move, seconded by Dr. Bouvier, the following motion:

Be it resolved that the Government of Alberta gives favourable consideration to enacting legislation to provide for the appointment of a Municipal Ombudsman for the Province of Alberta, to investigate complaints by citizens against acts of municipal government and their agencies, and to define the Municipal Ombudsman's powers, duties, and functions.

I recall that some time in 1964 I first raised the issue of the Ombudsman for the Province of Alberta, and at that time very little was known, not only by the public generally, but by the legal profession and people involved in administrative law, about the issue of Ombudsman, but through periodicals and through lectures by the Danish Ombudsman and discussions in legal circles, the issue of Ombudsman, the idea infiltrated the United Kingdom and the western democracies. It was very hard in those days to sell the idea because no one knew anything about it. I had the benefit of having read a few good articles on it, and I introduced the issue in this House. But I believe that the idea of a Municipal Ombudsman will be much easier to sell to the legislature, because not only have we had the benefit of the very successful experience of the Ombudsman's operation in Alberta, but the idea has become known by the public, and the idea of Ombudsman has been accepted almost universally. In North America the number of ombudsmen, provincial ombudsmen, has now reached, I believe, probably five or six in office, but certainly three or four more provinces are now proposing ombudsmen for their provinces.

The idea of extending the Ombudsman to include jurisdiction over municipalities is not new in Canada. I believe that the Province of Nova Scotia has implemented legislation to that effect, but I could not say whether it has been a successful operation or not. The Government of Ireland has had a very successful experience with the implementation of setting up a type of office that deals with complaints against local authorities. I am not certain whether they set up a Board of Commissioners or one man, but the principle is the same, that the right to complain, the right to have grievances heard against those in office, is recognized in many respects, and in many areas, and in many countries. And for that reason, this idea ought to be fairly easy to sell to the hon. members here. I'm sure that those who may have questions -- I would be pleased to entertain them, and I would also welcome those who have anything to say to oppose it -- will state also their attitude or their case, because this is something that I believe ought to be discussed thoroughly and be well understood by everyone before we move ahead.

Because it is an issue of such widespread interest and, I would say, need, I have assembled a certain amount of information from people who have studied the issue, and perhaps have dedicated a number of years to promoting the cause of the person who is aggrieved against government action, regardless of what level, and who, perhaps, either cannot afford court action, or does not want to go to that extent. And for that reason, I am going to be reading into the record a considerable number of opinions by people whom I consider to be authorities on this issue for the hon. members' consideration, hoping that they will consider the proposal that I am making favourably, and with the sole view of perhaps expediting the day when we can have a bill introduced and passed in this House -- in this legislature -- which would set up jurisdiction for an Ombudsman to deal with complaints against municipalities and their government. And firstly, to emphasize the fact that the idea of the Ombudsman has permeated almost every walk of life, and every institution from the local authorities to the highest of governments, I would like to read a short article by Bernard Frank entitled "The Ombudsman and Human Rights".

The Geneva Conference on World Peace Through Law in 1967 recommended that World Peace Through Law Center 'disseminate widely information about the role which an ombudsman can perform in protecting citizens against violation of their rights by administrative authorities, and seek to assist financially or otherwise projects designed to encourage research on the establishment of Ombudsman'.

This is certainly a statement that I believe is accepted, and I subscribe to that view. The question often arises by people and those who should perhaps know by now: what is an Ombudsman? I like the following definition:

The 'Ombudsman' is an independent government official who receives complaints against government agencies and officials from aggrieved persons, who investigates, and who, if the complaints are justified, makes recommendations to remedy the complaints. To this definition must be added the basic concept that the Ombudsman system is one of the institutions essential to a society under the Rule of Law, a society in which fundamental rights and human dignities are respected.

I believe that, in dealing with this issue, it is proper to enunciate the principal elements of the ombudsman system as generally accepted by those governments, particularly in the western world, who have implemented the office.

1. The Ombudsman is an arm of the legislature in all the legislatures in the western world except Tanzania.

2. The office is generally independent, even of the legislature, although there may be controls over finances, staff, and examination by a legislative committee.

3. He is a figure of prestige and influence based upon his independence, objectivity, competence, and fairness.

4. He receives complaints of abuse by government departments or agencies from the public, or acts on his own initiative.

In Britain, I believe we all know, complaints to the ombudsman are channelled through the members of parliament.

5. The Ombudsman conducts an impartial investigation, calls upon all persons for information, requires the production of documents, and has access to governmental records subject, in some countries, to specific limitations.

6. He uses fast, inexpensive, and informal procedures.

7. He has no power to give orders or impose sanctions. The Ombudsman has no right to quash or reverse a decision or an order of any official and can only report, recommend, or suggest.

8. He issues annual, and in some countries more frequent, reports of the results of his investigations.

9. He gives reasons for dismissal of a complaint if a complaint is unfounded or beyond his jurisdiction.

10. He has the power to expect agencies, institutions, or departments, either as a general power or as a power in connection with investigation of a complaint.

11. The Ombudsman is easily accessible. The complaint procedures are without cost to the complainant, they do not require counsel, and once filed, the Ombudsman is the moving party.

12. Generally, the Ombudsman may suggest changes or improvements in administrative procedures or changes in legislation.

I'm citing these several factors, principles, or elements of the ombudsman system to indicate that there is good reason for the implementation of the office of ombudsman and that no one here would quarrel too much that the implementation of the office in Alberta has been highly successful and has been an example to numerous other governments in Canada, in the United States and elsewhere, and to many institutions. So, I'm hoping that we do not have to debate, later on, whether the idea is sound, because it has been accepted, it has been implemented, it has been tried and tested thoroughly and at great length and extent, and I, for one, think that the whole experience has been very successful but the people have benefited greatly from the institution in this province.

The roll call of abuses against government grows larger each day. Complaints arise out of acts, or the failure to act, of officials and range from simple clerical errors to oppression and include oversight, negligence, inadequate investigation, unfair policy, delay, partiality, failure to communicate, rudeness, maladministration, unfairness, unreasonableness, arbitrariness, arrogance, inefficiency, improper motivation, violation of laws or regulations, abuse of authority, discrimination, disability to act, errors, mistakes, carelessness, and all

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of the other acts of injustice that frequently are inflicted upon the governed by the governors, intentionally or unintentionally.

There are in Canada, now, several provinces with the institution of Ombudsman. As I stated, there should not be too much trouble by way of public acceptability of the idea. In discussing this issue with the public during the last year or so, and before that, I found that generally the principle is acceptable if the person understands what it is all about. There was only one complaint in the whole of the province since the motion was introduced, and that was from the Mayor of Calgary. I believe we should not treat one person's objection to the thing as representing any real opposition to the idea. The fact that many municipalities have expressed approval, and particularly the Mayor of Edmonton, is an indication that at least some municipal councils and some mayors have no hesitation in putting their hands on the table for inspection by the Ombudsman, should there be a complaint against them. I believe that the imposition of an Ombudsman by a government is not an admission of any weakness or maladministration, but that it stems from magnanimity. It stems from the concern about the individual who may have a grievance, and it further provides an additional channel of complaint. This is in the public interest.

As I stated before, the idea has grown rapidly in North America, and I believe Alberta should take some credit for having blazed a trail in North America on this most important issue.

The question arises, if it is such a good office, to whom is it of any benefit? Whom does it help? Big corporations and people of means can engage counsel, can fight battles in court, and can perhaps have their grievances settled that way if they wish to go that route. I'm concerned about the fact that it helps a great number of people who cannot afford this kind of action. Either they don't want to be involved in serious litigation, or they simply can't afford it. The question arises, should these people be without remedy? I'm quoting from an article by Mr. Frank, whom I quoted before, under the heading, "Can the Ombudsman System Help the Poor?" Here is what he says.

The problem of poverty has become one of the greatest problems of modern society, even in the affluent countries, and the greatest problem of poverty has been the inability of the law to earn the respect of the poor because, as has been stated by a United States federal judge, rather than helping the poor surmount their poverty, the law has too frequently served to perpetuate and even exacerbate their despair and helplessness. The National Commission on the Causes and Prevention of Violence, in dealing with this recommendation, is recommending an independent citizens' grievance agency. It said it supported this recommendation upon evidence that the poor experience special frustrations in their relationship with the government, and that these frustrations breed disrespect for the law.

That is a tremendous reason why we should look at this issue particularly carefully, to see if we can help out in this area where help is needed.

Mr. Speaker, to the extent that the use of other existing remedies to handle complaints of the aggrieved require financial resources and sophistication, the Ombudsman system, with its lack of cost and easy access, is a great help to these people. In dealing with the issue of Ombudsman, as it has been implemented for so many years in the Western World now, I have a brief evaluation here that I would like to read into the record.

Evaluation of the Ombudsman system based upon its operation in nine countries is certainly timely. Existing mechanisms; courts, legislatures, the executive administrative courts, administrative agencies, are not sufficient to cope with the grievances of the aggrieved and there is a need for a supplementary institution. The Ombudsman system provides an informal independent and impartial public official who, with relative speed and without cost to the complainant, investigates with access to governmental records and recommends relief when the complaint is justified. The system can be transplanted and since its form is not rigidly fixed, can be varied to suit the characteristics and needs of each country.

And I wish to add here that this system is adaptable and I am not going to recommend any particular form of institution to be implemented to provide for complaints against local authorities, because that would be creating obstacles in advance. But I am stating that the system is flexible, it can be adapted to almost any kind of an institution. It has been tried in universities, it has been tried in clubs, it has been tried voluntarily in dozens of cities, so it has merit, it has flexibility and it certainly shows a concern, a particular

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concern, for the individual who cannot afford to fight a cause to the highest court in the land.

The Ombudsman cannot accomplish all of the promises of some of his most enthusiastic proponents; he cannot accomplish everything that some people believe he can. He is not a super administrator and does not make policy. He cannot remake society or cure its problems. The Ombudsman generally can recommend only, and whether this is a virtue or defect cannot be conclusively determined at this early date in the life span of the system. But a tentative conclusion would lean towards the deficit side of the ledger. He can only supplement existing institutions which must be strengthened and made more responsive to the grievances of the citizens, but he does serve a steam valve function, permitting the release of frustration by the mere fact of complaint.

I would like to at this point state that I never did believe that the Ombudsman was a cure-all, but as a supplement, as a recognition of the right to complain if a grievance exists, or if a person believes a grievance exists, this is an additional remedy to the many that we have provided them under the democratic system through the centuries.

Officials also are the beneficiaries of the Ombudsman system. You often have civil servants resist the imposition of the office of Ombudsman in a province and I believe this is the case in Ottawa. They believe that this is someone who will look over their shoulders, but if they studied the issue real well they would know that in New Zealand before the implementation of the office of Ombudsman, that the civil service had a very bad reputation. It is easy to criticize the civil service if you're not happy with decisions or even with the government. But as time went by, many of the complaints against the civil service were vindicated, were explained away by the Ombudsman and today the civil service in New Zealand enjoys a very high reputation and a very great popularity with the people of the country.

The civil servants have also utilized the machinery for their own complaints. An interesting byproduct of this system; instead of it being where you can complain only against the administration, the civil servants have resorted to this remedy and apparently it has worked to their advantage.

In addition, Mr. Speaker, officials are oftentimes influenced by the mere fact of the existence of the Ombudsman and make an effort to anticipate him and make changes earlier than later. I believe that this is a very powerful factor in the administration of our affairs. A result which may weaken the effectiveness of officials is the willingness to agree with the Ombudsman on occasion, even though they believe him to be wrong, because they do not wish to tilt with the Ombudsman, because of his status and prestige. But I believe that with a competent civil servant that this kind of a situation ought not to arise.

The Ombudsmen does not appear to be flooded with complaints in any country which means not that grievances are non-existent, but that many aggrieved may not be aware of the Ombudsman and do not know how to invoke his aid or do not care to. But making it easier to complain is certainly a great benefit. It has been to the people, and the Ombudsman of Alberta, George McClellan, ought to be commended for having spent a lot of his time in publicizing his office.

I wish to state at this stage, Mr. Speaker, that an interesting development has taken place in one of the committee hearings throughout the provinces. Not only do governments recognize the right of the individual to complain, but also the professions have generally agreed in this province that it ought to be made easier for a person who has a complaint against a profession to lodge his complaint, that the complaint procedure ought to be simplified, it ought to be well known and perhaps, an additional channel of complaint available to an aggrieved person against a professional man other than to the professional body itself. This interesting development ought to be carefully considered. But I believe that the recommendation of the professions that complaints against them ought to be made an easier process has considerable merit.

In conclusion, on this article that I am referring to, Mr. Speaker, I wish to say that the Ombudsman with his limitations and weaknesses, is on the world agenda for serious consideration. The growing list of countries, provinces, states, and local governments adopting the system indicates its great appeal. We believe this to be because it has long been evident that human rights are not protected by constitutions or legislation or by guarantees, or speeches or self-glorifying bills of rights.

The Ombudsman system is one of remedies which seek to preserve the human rights. The office of Ombudsman in Alberta has perhaps serviced the people and

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solved more complaints and more problems, and dealt with more individuals since 1967 and had a greater impact on the individual's well-being, than all the bills of rights in Canada put together since 1959. This is something, Mr. Speaker, that we ought to look at carefully, because all the high sounding words, the Russian constitution, the American constitution, The Canadian Bill of Rights, and what have you, are quite meaningless if the little man cannot go and complain to someone of independence who can do something about it. I rate this of extremely great importance.

I wish further to state that the record, as assembled by people who work in this field, indicates that bills proposing Ombudsman legislation on the state level are growing rapidly. From a report that I have here which is more than a year old, "bills were proposed in 36 states in one or more of the sessions from the year 1967 to 1970." That is a lot of Ombudsman bills. "Bills are presently pending in 22 states." These are Ombudsman bills. So, it appears that every state in the United States is interesting in the issue at least. "In addition legislation has been proposed in several other areas and is pending in Guam and Puerto Rico." So when I say that this issue, this idea, has universal appeal, my statement is substantiated.

I also wish to point out that the complaint handling mechanisms exist now in a number of local government units. Not in the strict sense of the Ombudsman concept, but some form of complaint handling procedure has been implemented in dozens of cities and municipalities in the United States, which is a clear indication of the desire of the public to have such a procedure available. This is a factor that ought not to be treated lightly. We have politicians talking about this being a people's government, or people's road, or people's institutions, but we still have to look at people when it comes to the manner of dealing with complaints. The front row of the Conservative cabinet are more concerned about polishing their image than with people. Most of them are, perhaps, making press releases of their own to the people -- [interjections] You will have chance to oppose this so why don't you keep quiet? [Interjection] You know I'm not, Mr. Speaker, but when I look at some of the aspirants over there, Lord help this province if they ever become leaders!

[Interjection]

You ought to watch out! They might call a by-election in your constituency if you don't straighten Calgary's law faculty up, so you should be quiet. I understand that a lot of people are very unhappy with you, and I think it would be a blessing to the province if there was a by-election in your constituency.

Mr. Speaker, I am sure that you have the authority to stop this, and why you don't exercise it I don't know. Perhaps you don't know what to do, but I have the floor. Mr. Speaker, when we talk about leadership I would sure hate to see this province if Premier number two ever became the leader. It would be a disaster.

Mr. Speaker, I should think the Conservatives ought not to raise the issue of leadership here because they have been apologizing about their national leader ever since they got him, and they know it.

MR. FOSTER:

At least we have a national leader.

MR. LUDWIG:

You have one? At least one member of parliament wasn't sure. If you have one, why are you apologizing for him?

MR. FOSTER:

I'm not apologizing.

MR. LUDWIG:

You should be.

DR. BUCK:

Mr. Speaker, why don't these two lawyers go into the --

MR. FOSTER:

Another candidate!

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MR. LUDWIG:

Mr. Speaker, I hope that you will allow me extra time in case I need it because of this nonsense going on.

Mr. Speaker, even though I may not be impressing some of the hon. members opposite, at least no one is sleeping, which is more than they can say for what the hon. Premier did yesterday, because some of them did fall asleep. At least they are awake. I hope so.

Mr. Speaker, protecting the rights of the electors vis-a-vis the local government is now a timely and current issue. This is the time to consider it, and I really doubt very much whether any of the hon. members opposite would debate against it. If they did, I then doubt further if they would say anything against this issue in public. It's just the nature of the operation they have.

Local governments are not answerable to the legislature, but in Alberta they are created by the legislature. This is the body that creates all the municipal bodies, and I believe that, when a person aggrieved has a complaint against a municipality, it is the responsibility of this body here to provide the necessary mechanism through which a complaint may be lodged against a municipality.

Mr. Speaker, unless there is good cause shown, violent objection from anybody (other than mayors), I think we ought to give favourable consideration to the implementation of this idea. I hope that some of the hon. members opposite will not be partisan in their approach to this motion as they were when I proposed the bill on the expropriation of family homes. I hope they will consider the merits of the idea, rather than turn on sour because it didn't originate with them. Even though they have been in office for one year, they are hard pressed to show whether any good ideas really originated with them. If they have, they have not come forward with them yet. So Mr. Speaker, I hope they will be responsible and they will consider what I said and that they will study the issue and come here and make a responsible decision.

Now, one of the questions I have to meet quite often -- and it is not an easy question to answer unless you have delved into the material -- if an Ombudsman were appointed to deal with civic complaints, what would he complaint about? What is there to complaint about? Of course, I know with Calgary, our Mayor there, that in his opinion, there should never be any complaints, but I think he is probably the greatest reason, in my opinion why we ought to have an Ombudsman.

Dealing with the matter of complaints, the type of complaints that we may have sometimes, I would like to state, from an article, a report by "Justice" which is a council set up to study this issue. It consists of a lot prominent British authorities as to what they considered were some of the reasons why we need an Ombudsman for local authorities. They dealt with those that I have enumerated previously but they deal with delay; they deal with arrogance; they deal with lack of consideration to a request. They want to complain against maladministration by the authority, by the municipality, in that they have handled something improperly, that they have handled something dishonestly. These all can be enumerated in the same manner that I did as to the complaints which they may have against the senior governments.

I stated that the Irish Government -- the Government of Northern Ireland -- has had a Commissioner for Complaints dealing with local authorities and he has filed a report. The report indicates that there are a tremendous number of complaints against the operation of local authorities.

I believe that Ombudsman McClellan will tell you that he received many complaints made to him by citizens against the towns, municipalities and cities and he has to tell them that he cannot handle them. I believe that since there is evidence that there are complaints against cities and the administration and municipalities and their administrations, that the same reasons for requiring or providing a channel of complaints ought to be considered that were done when the provincial Ombudsman was set up.

I have a question here from a Conservative who also knew better than to send it to his own minister, because he would probably get a better answer from me and I will discuss this with you when I am through talking. O.K.?

I could appreciate when you have a question dealing with matters of health that you did not ask your own minister because I feel the same way as you do about it.

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Mr. Speaker, in conclusion, I urge the hon. members not to treat this issue as one that we should drop to the bottom of the Order Paper and forget about it because it is not my intention to forget about this issue. I would like to see very much a vote taken on this motion at the earliest possible date, but even if they do not it is my intention, unless the government moves, and I believe it should, unless it has good reason not to and they are not forthcoming, that I would be introducing a bill in the next session of the legislature on this very issue unless we have some indication that the government will do that.

Thank you, Mr. Speaker.

MR. BOUVIER:

Mr. Speaker, in rising to second the motion, I will speak very briefly. I do not wish to say that the hon. member who moved the motion has covered the subject completely. However, he has covered most of the points that I might have missed.

I only wish to say as one who has been involved in municipal government for some seven years, that I can agree in principle with the need of an Ombudsman at the municipal level. I don't feel that people who have grievances against government should be precluded from bringing them to the Ombudsman just because they have arisen at a different level of government.

MR. ZANDER:

Mr. Speaker, I wish to say that the resolution in itself, on the surface, seems to be very good. However, I think, as the mover of the resolution has indicated, that the local government is the creature of this legislature, and since this legislature is supreme, unless it contravenes The ENA Act, and, of course, The Municipal Government Act, as it is administered by, it takes into consideration all local governments, that we have in the Department of Municipal Affairs some ten municipal inspectors or maybe more who are continually investigating complaints by citizens against local government. So actually what we would be doing is duplicating the very thing that is being done now. The cost to the individual to complain to the minister, and of course in turn the minister then sends out one of his men from the Inspection Branch to investigate the complaint, and in most cases this comes up before the Executive Council, and it dealt with there. If there is a legitimate claim against the council whether it be urban or rural, it is dealt with and these councils who are found guilty are rapped for the transgression of the acts.

Now, I think where most municipal governments, and I include the rural and urban in this, get into problems with the act is because it is a permissive act and what is in that act they can do; and what is not in that act they may not do. And most of the councils, whether they are on city councils, county councils, municipal councils, or town councils, they do stretch their authority sometimes beyond the limits which they are allowed to do according to The Municipal Government Act. Now I have been on municipal council for 24 years, and many times I have found that a municipal councillor, where he gets into problems with the act, is that he goes and does things on his own which he has no right to do and fails to report them to the next sitting of council. A local councillor, whether he is a city alderman, I think this is done through the commissioners office, find themselves in difficulty when they, in the case of an emergency, spend public money and do other acts which are not permitted by the act, and subsequently do not report back to council and then, of course, the complaint comes in by our local citizen.

Now let me give you an example of what can happen to a local councillor, and I'm talking of a county councillor, and he has since deceased. The county councillor, on his own, went out -- which he has no authority to do; it was not an emergency, but he simply went out and diverted a water system, a water course, which he should not have done. He should first of all have reported to the council; secondly the council should have reported to the Resources Branch before any diversion occurs. But he did this. The complaint came in after his untimely death, and, of course, the council is stuck with the decision that this man has made. And this is why, in most cases, the local councillor gets into hot water and into trouble, he contravenes the act, there is a guideline there for him whereby within that area he can operate -- outside that area he is not to operate. And this is why, I think, that we have these problems.

If we're going to go to a municipal ombudsman I'm not saying that it's bad. However, I say this. I don't think that one local appointed ombudsman for municipal purposes would be sufficient, because the complaints are too numerous

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to be handled by one man. As we now have ten or more municipal inspectors, we would possibly have to have in the neighbourhood of about 20 --

MR. LUDWIG:

Point of order, Mr. Speaker. Just to clarify a misunderstanding by the hon. member from a remark I made, I stated that I was not recommending any particular type of institution, whether it's one Ombudsman, several men, a board, or a commission. I don't want the impression to be created that I'm sticking to the view that we must have one Ombudsman for everybody. It may require a staff, or whatever. I was merely enunciated a principle. I did not state that we would have one Ombudsman for the municipal complaints.

MR. ZANDER:

Mr. Speaker, looking at the resolution, I believe it states an Ombudsman. In this case it does not say *etc.* It uses the singular and not the plural.

MR. LUDWIG:

I clarified that.

MR. ZANDER:

So I have to take the resolution as it is. I know that the Department of Municipal Affairs, which governs the regulations of the act entirely, has a substantial number of inspectors who are continually in the field investigating these complaints by citizens in the governments where these complaints occurred.

If we would do away with the municipal inspection branch and appoint an ombudsman, I think we are going to have to find people in the same area with the same skills. We would have to rehire them and have one supreme ombudsman who is going to decide whether the inspector, who makes the inspections, is right or wrong in his submission to the minister.

I feel that there must be other means -- perhaps increase the inspection branch to such a degree that it will work more efficiently, or just a little faster than the complaints can be caught up with. I would suggest that, perhaps, as the hon. member has mentioned, he didn't say one ombudsman, he meant more. We may have others -- say 10 or 15 -- ombudsmen looking after municipal affairs and really, then, I think we would get away from the area of what the true interpretation of the act under The Municipal Government Act by the minister and by the cabinet would be. When the hon. Minister of Municipal Affairs gets these complaints, he does consult with the Attorney General's department on the legality of the claim or the complaint, and thereby makes his decision. I think we have to have a good look at this resolution. I'm not saying that it's all bad, but I do believe there is a certain duplication of additional costs that we would have to look at, and I don't really think that it would work any better than the system we have today. Thank you.

MR. TAYLOR:

Mr. Speaker, I want to say a word or two on the bill. One of the reasons appears from the hon. member who just spoke, that an ombudsman should not be considered because the municipalities are the offspring or the child of the provincial governments. When we look at the statistics and try to understand what is going to happen in the next very few years, most people have agreed that our urban areas throughout Canada will contain up to 80 per cent of the population. When you consider that the bulk of that 80 per cent will be in a few very large cities throughout Canada, probably one or two in each province, then I think we have to realize that we're living in a different age from that of 1867, when our constitution was written, and written well. I believe we have to view the municipalities now in an entirely different light. I believe we've reached the stage in the history of Canada where we need a third classification of government, where municipalities are no longer the child of the provincial governments; where municipalities are going to have rights inherent in them as municipalities, and not as having been given to them from the provincial governments.

We see all over Canada an urgent need for people who are well versed in municipal government, who do make constant appeals to the federal government of this country. We see it in transportation; we see it in municipal financing; we see it in almost every phase of important life. I would think that today we should be adopting a different policy entirely than that which we have followed throughout the history of Canada, namely that the municipalities are the child

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of the provincial governments, and therefore they should be dealt with through the provincial governments.

I believe we need to change our views and to raise our sights, and realize that municipalities now are very different from what they were in the first 100 years or so of this country, and that they are going to take on new responsibilities and they should be given a definite right in the constitution as municipalities, not as the children of provincial governments. If that is done, not only the urban municipalities where councils will be governing a very large number of people, such as the municipalities of Toronto and Montreal where there are more than 2 million people centred in one area. They are still considered the child of the provincial government, whereas in certain fields they have greater responsibilities than even the provincial government that created them. In many fields this is going to grow and they are going to have increased responsibilities. Consequently, they should be given increased authority and increased taxing rights and increased rights to run their own affairs as part and parcel of the three-structured government in Canada municipalities, provincial government, and the Canadian federal government. I think this is going to have to come, and I think the sooner we take a stand on it and realize that it's coming and fight this idea that we want the municipality to remain as the offspring or the child of provincial governments, then that much sooner are we going to make real progress in the three fields of government in Canada.

Having said that, I think the municipalities themselves are able to decide whether or not they want an Ombudsman, or the people through their elected representatives should decide whether they want an Ombudsman or whether they don't. When they are giving greater responsibilities of government, then they are able to assume greater responsibilities. Municipalities have reached a degree of maturity now that they didn't have 10, 20, 30, 40, and 50 years ago. We have to recognize that maturity and give them the increased responsibilities that go with maturity. When boys and girls are youngsters, they are treated as youngsters, but now when they get to be 18 or 19 or 21 - whatever the age of maturity is in the various states and provinces - they are treated as individuals. They are treated as mature people. They become men and women and they take on new responsibilities. They rise to it. I think we are going to have to do the same thing with our municipalities.

I would like to see a constitutional conference called in this country aimed at giving our municipalities proper status in a field of three governments in this country; municipal, provincial and federal. And I think the constitution could then be written with the respective duties and responsibilities and authorities etc. applicable to each one of those levels of government. Among those responsibilities could certainly be the right for the people of each municipality to decide whether they wanted an Ombudsman or whether they didn't. Some may and some may not, but I don't think we can lump them all into one basket as the mover of the motion intimated. That should be decided by the people of each municipality who will supply the money to pay for it, and whether they require the need of it, then of course they will be willing to pay. If they think it's a frill, then they will not have to proceed with it. It's going to be completely discretionary with them.

So it will be in many other things too. Today municipalities are hamstrung because of their attachment to the provincial governments right across Canada -- and I'm not referring only to Alberta -- right across Canada, the cord binding them and holding them onto the province is still there; they are still the child of the provincial governments. Its high time, in my view, that the cord was cut and they became a proper part of a three structured government in this country.

MRS. CHICHAK:

Mr. Speaker, I think that this resolution requires more comment in areas that haven't been touched. Inasmuch as I advocate very strongly the need for an Ombudsman, and we have found that reflected more and more on the hearings that we have had this summer, there are a number of comments I would wish to make. Since the time is now 4:30 and what I have to say would take approximately 15 minutes, I doubt that the house would allow me this time, I would like to adjourn debate on this resolution.

MR. SPEAKER:

Moved by the hon. member for Edmonton Norwood that this debate be adjourned.

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HON. MEMBERS:

Agreed.

PUBLIC BILLS AND ORDERS OTHER THAN GOVERNMENT ORDERS

Bill No. 207

MR. HO LEM:

Mr. Speaker, I move second reading of Bill No. 207 seconded by Mr. Ludwig, Calgary Mountain View.

The passage of Bill 207 would mean that no member of Council, alderman, mayor or any elected member of the municipal council is liable to any civil action or prosecution, arrest, imprisonment or damages by reason of any matter or thing brought by him before a properly constituted council meeting, either by petition, resolution, motion or otherwise, or anything said by him before the council meeting.

This bill, if passed, would give to the members of municipal council the same parliamentary immunity that we, as members of this legislature, enjoy.

Mr. Speaker, there are numerous examples of cases where members of a municipal council have been subjected to suits as a result of things said or brought by them before council. This bill becomes all the more timely inasmuch as there are presently a number of suits involving elected members of municipal council. For example, in the City of Calgary, the Mayor was involved in a \$50,000 libel suit and in that particular case he was accused of making defamatory statements. At the conclusion of a trial the mayor was found guilty and was assessed \$10,000. Still in the same city we find that the mayor is bringing legal action against an alderman, and I read recently in the paper, that he had mentioned another suit that is pending involving another municipal official to the tune of some \$750,000.

In yet another case, an alderman was threatened with action by a school trustee. We also read recently that an Edmonton alderman is facing a suit for alleged defamatory statements made by him in the course of his duties of an alderman.

All these, Mr. Speaker, point to the need for the enactment of legislation to provide members of municipal council protection against such legal action if the members of municipal councils are expected to perform to the fullest extent of their abilities. The amendment, if passed, would extend parliamentary immunity to elected members of a municipal council to cover anything brought or said by him before such council and would supercede the present common law concept of qualified privilege, which, to my way of thinking, is proving grossly unsatisfactory as applied to municipal governments. As I understand it, the protection is this: statements or acts made by a member of council in his public capacity at a council meeting or in any of its committees, constitute *prima facie* privilege. This privilege is qualified and not absolute. Parliamentary privilege or immunity on the other hand, is absolute. Nothing can abrogate it, whatever its implication.

Mr. Speaker, immunity to suits is not new to the law regarding the municipal corporations and its offices. Of particular application, for example, is section 265 of the English Public Health Act, of 1875, which provides that "a member or officer shall not be liable personally in any action in respect to something said or done, or a contract entered into bona fide for the purpose of executing that act". The above doctrine and concept, Mr. Speaker, has been extended to other legislation since that time. This quote is taken from "The Law of Tort in Local Law" by Cairns.

Mr. Speaker, additional reasons for importing parliamentary privilege to municipal council chambers are as follows. Firstly, the members of a municipal council are elected members. They are elected representatives of the citizens, and are elected in the same manner in which we, as members of this legislature are elected. They go through the same procedure as we do in seeking public office. The number of votes cast for municipal seats in some cases is equal, and sometimes even greater than the number of votes cast for provincial seats.

Secondly, the municipal council is a legislative body. The alderman and mayor are legislators in as true and as full a sense as we members of the legislature. Within their spheres of responsibility their conduct is of like equality and importance as that of their peers at the federal and provincial level. as we members of the legislature. Within their spheres of

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responsibility their conduct is of like equality and importance as their peers at the federal and provincial level.

Thirdly, it is the right and duty of aldermen as elected representatives to speak their minds without evasion. They should show no fear, favour, nor affection, and it is their duty to use all legitimate means at their disposal to prove their point on any given subject.

Mr. Speaker, the common law immunity to suit was designed to attract capable people to public office who would be able to make decisions and perform their duties without fear of retaliation. In view of the numerous actions before the courts, I submit that the purpose of this concept is now lost. It is true that civic politics is closer to the people than federal or provincial politics. This high degree of local exposure compels the adoption of absolute immunity. In the paramount interests of the people, and of the legislator's duty to the public, it becomes necessary to provide absolute privilege and immunity for the greatest effective discharge of public duty.

Fourthly, while I'm only a layman and not a lawyer, I appreciate the shortcomings inherent in the concept of qualified privilege. Should the qualified privilege in any given case be challenged in the courts, the courts will ultimately decide to what degree the privilege exists. The present system, therefore, invites expensive court action. Herein, Mr. Speaker, lies its fault and danger. By granting absolute immunity we would not only make the lawyer's task easier but, more importantly, would remove any hesitation in the minds of councilmen before entering upon any course of action in the performance of their duty.

MR. SPEAKER:

I believe the hon. Member for Calgary North Hill wishes to speak.

MR. LUDWIG:

But I am the seconder of this bill.

MR. SPEAKER:

I'm sorry.

MR. LUDWIG:

Mr. Speaker, in supporting the views expressed by my colleague on the bill, I commend him on the splendid job he has done on this issue. He certainly researched it well and he has put forth many good reasons why this bill ought to be supported.

I know it is easy for some people, who are very experienced and learned in the field of administration of municipal government, to get up and say when they were in municipal government, they managed without it. There is always the negative side to these things, and you can perhaps declare that disaster will befall everybody if we get this bill passed. I don't believe that that is really the case. The matter of privilege in this House, where there has been abuse by one member or another, to the extent that if he said it outside the House it would be actionable, it rarely arises. Nevertheless, if the immunity against law suits or statements made in the House was not available it would inhibit debate; it would inhibit statements being made. It would be against the public interest if we removed parliamentary privilege from the legislature. I know you can dig up a lot of arguments that legislators have a speaker, an opposition, a different system. It is designed to work only with a legislature, and maybe some weight can be given that. But it is not so inflexible an idea that you cannot implement it with regard to other elected public bodies who may wish to make statements in the council concerning matters affecting the public good. An elected official may wish to make allegations against an official for theft, bribery, or corruption. He may be certain that his remarks ought to be considered, but he will not make them because he can be sued. You might say that if he can't prove his remarks, he should not make them. But if that were the case with the Crown, then you would have quite a serious problem with regard to the administration of justice in this province.

Implementation of this bill would certainly contribute towards frank and open discussion at council meetings, and towards the raising of issues in the public interest which otherwise may not be raised.

I am aware that a recent decision in Britain has dealt the matter of qualified privilege of a council member. The judgement indicated a serious

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concern about aldermen or council members being sued for something they said believing it to be true, and in the public interest. I believe that that the judgement indicated a concern in this field and leaned over backwards to grant more privilege to the aldermen or council member in question than the law actually provided. These municipal governments are getting bigger; some of them are bigger than some provinces and some provincial governments; I believe that the same issues, the same responsibilities, the same duties exist for aldermen as for M.L.A.s. I believe it is a timely bill, and that apart from adjusting this idea to a council type of government, I believe it has merit, and I urge the hon. members to support it.

MR. FARRAN:

Mr. Speaker, I'd like to begin by congratulating the hon. Member for Calgary McCall on his eloquence. It reminded me that he was a very illustrious president of the Jaycees in Calgary, and also a former city alderman. He was once a member on the Calgary City Council, and at the same time, among the sparring partners, were the hon. Minister for Mines and Minerals, the hon. Minister of Municipal Affairs, and myself. The speeches that were made in those rambunctious days were not nearly as dignified as the two we have just heard. As I recall it, in those days we were each a one-man party, which amounted to about thirteen different viewpoints. I don't know what caused the aberration of the hon. Member for Calgary McCall to take a different political group from his three colleagues, but perhaps it was something that affected his balance back in the days of those heated debates in city council. Those debates were very hot and very strong you will recall. I must say that we were always very good friends outside the Council Chambers. Perhaps that is the main difference between the council of that day, and the council of today. The debate is equally hard-hitting now, I think, from what I read in the papers, but I think there is some residual bitterness. Calgary has ever been, to my memory, an exciting, a vibrant, a bubbling, controversial city, and it is not unusual that there should be three pending lawsuits between various aldermen at any given time. The heated debates are only a reflection, of course, of the vitality of the city as a whole.

In my days on council with the hon. member Mr. Dickie, and the hon. member, Mr. Ho Lem, they'll remember that I was once sued, only once, for words which were spoken in the council chamber. A certain developer discovered a way to build a three-storey apartment within a 26-foot height restriction. I said he was a hot-shot operator trying to make a quick buck by finding loopholes in the law! Well, he commenced an action for \$250,000 damages, but his case never came to trial because it was obvious to everyone, including him, that I had an absolute defence on the basis of qualified privilege. It was a fair comment and I wasn't activated by malice, and what is more, I told the truth. Incidentally, this gentleman was generous and forgiving and he helped me in my election campaign last year.

During those ten years when I was on city council, I never felt under any constraints. I think the record would show that no one else did either. There was no inhibition of debate, and no fear of actions in the courts that would make everyone button up his lip. You're all aware that the long record of legal precedence and jurisprudence showed that where a thin-skinned person had taken a councillor to court for saying something strong in the course of his duty, the law had always ruled on the side of free debate, on the side of the local government official, except for one instance in Medicine Hat, which I won't repeat. I didn't agree with the judicial decision in that case. It should have been appealed.

I must be frank, and I say that I feel far more constrained within these august marble halls than I ever did in city council. The procedures here are so measured, and are so decorous, that to speak too recklessly, as you mentioned -- is like swearing aloud in church. We have the august presence of the Speaker, a very fine gentleman whom everyone respects. There was no speaker on local council. The chairman was usually the mayor and, quite frankly, no wolf pack could ever be so cruel to his own kind as aldermen are to people of the same breed. Here, every move is steeped in tradition, every member respects the other from either side of the House (most of them do), and intemperate words are seldom spoken. If they are and they go beyond certain bounds of good taste, there is immediate censure by the Speaker's colleagues or from both sides of the House. This doesn't stop good humour and the occasional dig, but I think, if someone went too far, everybody in this legislature would ream them out.

There is tacit recognition that this is the highest court in the land; that it is, in effect, a point of the union of the Crown and the people. We have the Speech from the Throne. We go through that ceremony to remind us every time. But, in effect here, we speak for the Crown and we must never forget it. His

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Excellency, the Governor General, comes in occasionally to tip his hat, and goes out again, but it reminds us all that we are in a very special position. I suppose that is why the House of Commons and the legislatures are been granted absolute privilege. They are the lawmakers who advise the Crown, but they are conscious of their grave responsibility.

Not so long ago in Britain there was a cabinet minister called Jackie Profumo who was drummed out of office because he lied to his colleagues - not because he shared his mistress with the Russian military attache, but simply because he lied. That's how strong the code of conduct is, but I couldn't imagine such a thing on the city council. I believe here one's colleagues can also demand proof to support serious allegations. This can't be demanded on a local level. No such constraints are in order.

This absolute privilege is confined to the parliaments and the courts, the law-makers and the advisors to the Queen. City councils, I contend, need no such protection. In fact, if all the local councils and all the school boards in Alberta - and there are more than 700 of them - were accorded absolute privilege, I would fear for the result, when the only proviso right now is that they must not be activated by malice. They are protected so long as they are not malicious. That's the only qualification on their privilege. Here, presumably, we can be malicious, but it's assumed that we're all such gentlemen, like the hon. Member for Calgary Mountain View, that we will never be so - never be malicious. Actually, local councils or any local tribunal have absolute privilege in the rare cases where they behave as a quasi-judicial body, as a tribunal, actually following the trial procedures of the courts - hearing evidence under oath, and all this sort of thing. But, this privilege doesn't extend into mere inquiries into whether a guy should have a taxi license, or a particular zoning, or the hours of opening of dance halls or anything like that. The rest of the time they operate under this qualified privilege. They must be acting bona fide, and the protection depends entirely upon the honesty of the people with which the statement is made. There must be no malice.

The courts, in most parts of the world where our system of justice prevails, have given immense latitude to councils under the heading of qualified privilege. Many cases are cited as precedents that emphasize that in our democratic system there must be no legal impediment for free debate. Only the other day the hon. Member for Calgary Mountain View mentioned the case of Lord Denning, a famous master of the Rolls in Britain, who ruled in favour of an alderman who had falsely accused another one of being a crook, but he said the accuser had been sincere in his belief and had become understandably worked up in the heated debate and shouldn't be punished, though he perhaps had spoken thoughtlessly and untruthfully. That is only emphasizing many, many older cases on much the same sort of line.

This is what qualified privilege says in Gatley's "Law of Libel and Slander." Unfortunately our library here only has a 1926 edition, but it still has to do.

There are certain occasions on which a man is entitled to state what he believes to be the truth about another, and in which public policy requires that he should be protected in so doing, provided that he makes the statement honestly and not for any indirect or wrong motive. Such occasions are called occasions of qualified privilege, for the protection which the law affords is not an absolute protection, but depends entirely on the honesty of purpose with which the statement is made.

This covers many boards and commissions and tribunals, as well as city councils and county councils and so on.

It cites one precedent here. These are definitely included within the heading of qualified privilege.

A statement made by a member of any public body at a meeting of the body material and pertinent to a matter legitimately under discussion before it. If, in the conduct of public business, any member of a public body which is considering and deliberating for the public benefit thinks right in the public interest to make use of expressions which are pertinent to the matter in hand, though they may bear hardly on individuals, that occasion is nevertheless privileged unless malice is proved.

A town council is a typical instance of a public body, the members of which enjoy a privilege in the language they use in dealing with the public affairs of the borough. The language they use in the City of Calgary is a little tougher than the language they use in Edmonton, and this is taken into consideration by the court.

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Now, this privilege does not exist for aldermen, qualified or not, anymore than the absolute privilege exists for M.L.A.s outside the House or outside the council chambers when they are not performing their duties to the public, so an alderman's qualified privilege becomes much less of a defence; he may claim a little bit of it, but it's much less of a defence if he utters the slander outside the city hall or outside the boardroom. And this was the basis of all the cases mentioned by the hon. member for Calgary McCall. The well known case of His Worship Mayor Sykes of Calgary and the lawyer representing a developer concerns something that happened outside the council chambers. And in the case of, I think it was Alderman Musgrave and the mayor happened outside the council chambers. The \$750,000 suit that you mentioned the other day, I believe, was because of something said by a Chief of Police and the action is against the City of Calgary, and not against him personally.

Now I respect the motives of the hon. member for Calgary McCall because I know what he's driving at and we've all thought of this sort of thing before, but he was a good, uninhibited alderman in the old days, without the protection of absolute privilege. I don't think he would have been any better if he had had this absolute protection.

AN HON. MEMBER:

You'll never know.

MR. FARRAN:

Well, we'll never know, but I haven't noticed that city council is any tamer in debate today because of threat of court action. In fact, I have a suspicion that some of them are occasionally malicious anyway, regardless of the law. This privilege is unnecessary for local councils who are adequately protected if they are not malicious.

Finally, I am not at all sure that this privilege is ours to give. The laws of libel and slander are pretty well uniform through the British Commonwealth and the part of the world that uses the British system. I can't see Alberta embarking on a new code of its own without consultation, and, of course, you did mention such things as arrest and so on. Well that comes under the Criminal Code; you're talking now of criminal libel and slander, and that is a matter for the federal government.

MR. KING:

Mr. Speaker, I would like to make a few brief remarks. I would like to begin by saying that I find the position of the hon. member for Calgary Mountain View this afternoon somewhat incongruous. He has spoken to us twice; on the first occasion he has said that an ombudsman is required for municipal administrations in order to protect citizens from what is said and done by municipal administrations and presumably by politicians; and he has then later in the same afternoon come back and said that municipal politicians must be given greater freedom from constraints against what they might want to say or do ... the citizens of the municipality.

MR. LUDWIG:

Point of order, Mr. Speaker, the hon. member is misquoting me as to the remarks he made with regard to the debate on the Ombudsman motion; I don't think he's doing it deliberately, but he either was out of the House or may have fallen asleep, and I don't know which one it was.

MR. KING:

Well, I can only say that I must presumably been cut of the House, although I don't remember that, because one thing I do remember very clearly is having been told by the hon. member earlier this afternoon that when he speaks no one falls asleep.

Mr. Speaker, quite aside from the incongruity of the hon. member's position, it is something with which we have dealt in the past and will presumably have to deal with many times in the future --

MR. LUDWIG:

Mr. Speaker, on a point of order, I believe that I corrected the hon. member. If he insists that I made that remark when I spoke on the previous motion, he should quote it from Hansard, if he can get it, and prove it, because

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I say that he is not telling the truth, that he is merely an allegation that isn't true -- like any other Conservative.

MR. HYNDMAN:

Mr. Speaker, I believe that we should expunge those remarks from the record. He knows very well that he can't make remarks of that kind about what a member has said. He may well say that the member has made a mistake in interpretation, but to make that allegation is wholly and clearly improper and against the rules.

MR. LUDWIG:

It is still in this room, no matter how I put it, Mr. Speaker.

MR. HYNDMAN:

Mr. Speaker, I would ask for your ruling in this matter.

MR. SPEAKER:

Perhaps the hon. member for Edmonton Highlands might take the invitation of the hon. member for Calgary Mountain View under consideration.

MR. KING:

Mr. Speaker, perhaps I don't have the same happy facility as the hon. member for Calgary Mountain View. Perhaps he had fallen asleep and was not listening to me carefully. I don't believe that I was directly quoting him. I was trying to interpret the gist of his remarks which I think were that an ombudsman was required as recourse from the citizens of municipalities against the actions of the administration or the policy of municipalities. I am glad that if we can repeat our position two or three or a number of additional times, it will eventually get through.

To return more directly to the bill under discussion, I would like to say that I have considered it briefly, and particularly, I have considered the history of the privilege of freedom of speech which pertains to elected representatives in the British parliamentary tradition. One thing that came very strongly to my mind was that the concept of freedom of speech involved the freedom of elected representatives to speak to or about the Crown. We are talking in its historical origins about the declarations of parliament to the Crown on or around 1621. Their concern, when they were in the British House of Commons, was not with what they might say about their peers, but what they might say about the Crown, or the agents of the Crown in the House of Commons, because you will remember at that time, there was not a party system, that the House of Commons was ruled and administered by factions who were either the supporters or the opponents of the policy of the Crown, which at that time was much more actively involved in the day to day administration of the country. The position then was that the members of the House of Commons felt that they had to be free to speak openly and honestly to the Crown and about the policies of the Crown, and indirectly, they had to be able to speak openly and honestly about the position of the supporters of the Crown in the House of Commons, for indeed they were afraid that even if they didn't speak directly to or about the Crown, that by speaking to or about the supporters of the Crown, they would bring down the wrath of the Crown. The concern was never with what might be said to or about the peers, that is equals in the House of Commons or in the community as a whole.

Now the development of the concept of defamation, libel, or slander never seem to create a problem in the parliamentary tradition because, as this concept was developing in law, there developed -- or perhaps it was anticipated by the development in the House of Commons -- the very strong rules and traditions that have already been alluded here this afternoon, which constrained the hon. members from talking in any way that they wanted about any other members of the House of Commons or, indeed, about any of the activities of any citizens of the country.

My concern is that the constraints that developed in the House of Commons in order that people might have freedom to speak to or about the Crown, but not the same freedom to say anything they wanted, whenever they wanted about the citizenry as a whole, these constraints have never developed at the municipal level of government. That point has been made earlier this afternoon, and the only thing I can do is reiterate it and agree with it. I don't think they have had an opportunity to develop and I am doubtful, at this point, that they ever would. The position then is, the qualified privilege exists at the municipal

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level of government, it has already been discussed insofar as the municipal level of government is not required to speak to the Crown, to the state, or to advise the Crown or the state. I am of the opinion that the qualified privilege that exists is sufficient for politicians at the municipal level.

I would like to conclude by saying that while I am a great believer in the autonomy of local government, I have some real fear of the consequences of giving unqualified privilege to a large number of people administering large and small municipalities throughout the province, when in some cases there must inevitably be a conflict in the personality or the philosophy or the business enterprise of some of those municipal administrators vis-a-vis citizens who are operating daily in a very close relationship with them in the municipality. For these brief reasons I would be opposed to the bill.

MR. BENOIT:

I only wish to make one or two statements. If I had another wish it would be that I had the ability of some of the hon. members to express myself. I almost envy the hon. Member for Edmonton Highlands his sharpness of mind and his ability to express himself. But I do want to compliment the hon. Member for Calgary McCall who put forth this bill and for the thought that is contained in it.

I would like to express myself in regard to what the hon. Member for Calgary North Hill said regarding the restraining atmosphere of this House. I know how he feels and it is wonderful to have that restraint. It helps; you don't have to have quite as much self-discipline under certain circumstances. I only think that because that restraint is not felt in municipal councils that probably they need a little more privilege because they are liable to use a little more privilege. I think qualified privilege is well and good, but there is always the possibility of excess. I think the business of defaming characters is not what we ought to be indulging in at any time -- anybody, at any level of government. It is a violation of human rights at all times, nevertheless being human beings we have a tendency to go over the boundaries of the privileges that we should indulge in and as a result we get into problems.

At this point, the one thing that I particularly want to say, Mr. Speaker, is that I do not feel that any members elected to the legislature or the House of Commons are of any better quality or character than those who are elected at the local levels to municipal government. Now I appreciate the fact that some, feeling themselves pretty good, may want to take issue with that statement, but I believe that we have the same quality of people who may be elected at local levels of government and if they have the strength of character and quality of life to be capable of governing at the provincial or federal level they should also be considered to have the same capabilities at the municipal level. For that reason I believe that the same privileges should be accorded them, because they have the same problems, and in some instances, as we have already cited, probably more problems to deal with in regard to privileges. And so that, Mr. Speaker, is my contribution. I believe that we ought to consider them equally capable and equally needful of this kind of privilege as we are in this House here today.

MR. SPEAKER:

I believe the hon. Member for Drayton Valley was on his feet first.

MR. ZANDER:

Mr. Speaker, I just wanted to make a few comments. In all the years in municipal government, I don't think that ever a request has come to the government to ask for this kind of legislation -- not to my knowledge. And certainly, before we embark on Bill No. 207, I think we should have, at least, the input or the feelings of local government. Do they want this type of Ombudsman, or protection? Mind you --

AN HON. MEMBER:

You're wrong.

MR. ZANDER:

Mind you, I never saw it fit that we should have this in local government. Now maybe they do not want it. If they don't want it, why should we force it on them without consulting them? And I think this is the first road that we must look at. If they request it, I think it should come before the legislature, and if we feel they should have it, then this is fine. But, to my knowledge it has

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never been requested by resolution from their annual conventions. So I would say we should leave sleeping dogs lie unless they request that we go ahead.

MR. NOTLEY:

Mr. Speaker, I want first of all to congratulate the hon. Member for Calgary McCall for his very excellent address in introducing this bill; and also the hon. Member for Calgary Mountain View for his extremely temperate remarks in seconding the bill. I think this shows real concern for non-partisanship which should be appreciated by all the hon. members.

The points that have been raised today, I think, have interested me in a number of different respects. First of all, the point raised by the hon. Member for Edmonton Highlands outlining the development historically of the concept of privilege, and I found this quite interesting. Of course, I don't think that I would quarrel with that analysis of the development, but we have to relate the historical development of our parliamentary traditions to their relevance today. And I would think most of us, Mr. Speaker, would not suggest that we continue with any of the traditions simply because they have developed over the years. We always have to adapt to what is needed today, for it is necessary to make our Legislative Assembly work well.

So it would seem to me that those of us who are members of the legislature here, and elsewhere in Canada, recognize the value of privilege, not only from its historical development and perspective, but we recognize it as a valuable right in our present system. I, therefore, cannot quite follow the argument that it is not as necessary for local officials to have privilege -- unqualified privilege. We all recognize, as the hon. Member for Calgary North Hill pointed out, that members do have qualified privilege. But also, as Mr. Ho Lem, the hon. Member for Calgary McCall said in his speech, the fact remains that most local members of councils or what have you (mayors and members of councils) are in more frequent touch with the public than we are, and they're in the kind of work that, very often, brings them into rather controversial positions which may, very often, lead to suits. I don't think they're going to find anybody laying a suit when you discuss the overall economic policies for the Province of Alberta. You can quarrel quite strongly over what our course should be. But, the likelihood of anybody being upset about it to the point where they're going to bring a suit against one of the hon. members is, to put it mildly, highly remote. But, on the other hand, when you're dealing with zoning regulations, or when you're dealing with deciding upon building permits and this kind of thing, it seems to me that you're venturing on ground which is much, much more dangerous in terms of having suits raised by people who quarrel with the issues that the individual council member has brought up in council, or whatever body he represents.

I wasn't able to follow either, the argument that it would somehow be dangerous if members of municipal councils, improvement district advisory boards, city councils, and county councils across the province had unqualified privilege. Admittedly, we recognize that there are a very large number of people involved, but I can't quite see how this would, in any way, shape, or form, reduce the effectiveness of local government, or what problems it would create. Two of the hon. members opposite raised the fear that it might create some problems, but I'm sorry to say that I wasn't able to follow their arguments as to just what these problems are and in what respect this bill would create difficulties at the municipal level.

There is another point that I believe to be quite vital, Mr. Speaker, and that is something that the hon. Member for Drumheller raised in the last debate. He was talking about the need to look at municipalities in a somewhat different light than we have today. Under The British North America Act, the municipalities in this country are creatures of the province. They are not clearly spelled out with clearly defined powers enacted in our constitution. So, very often, we have tended to look upon the municipal government, regardless of what party is in office, wherever in Canada. We have tended to look upon municipal levels of government as being very genial partners in the process of government. That is completely wrong. It is completely wrong, because when you examine the function of government today, the practical function of government -- and I'm not talking about the division of powers that you see in The British North America Act, but I'm talking about the practical function of powers in our society. It has to be recognized that the local level of government has growing power and that it has some very important functions to play, and that the people who serve on local county councils or municipal councils or city councils, are doing work which is, in many ways, as important as the work that we fulfill in this Legislative Assembly.

So, we have to get out of this idea of looking at municipal levels of government as junior partners. I can appreciate why the constitution was drafted the way it was 100 years ago, because at that time the municipal level of government was a far different state of affairs. But we have now developed to the point in our society where the municipalities must have the proper jurisdictional power to fulfill their functions adequately.

So, what I like about the proposal that the hon. Member for Calgary McCall has raised is its symbolic importance. It says that because the concept of privilege is good for the parliament of Canada, because it's good for this Legislative Assembly, it is a right which should be extended to this important level of government. It says that we are looking upon municipalities in this province not as junior partners, but as equal partners in the function of government. To me, that is a very important step to make, and one which recognizes the growing importance of the municipal level of government.

One other point, too, that should be stressed. The local levels of government, because they deal with problems that affect Mrs. Smith and Mr. Jones, and so on, are much closer to their elected representatives normally than you would find with most provincial and federal politicians. It may not necessarily be a fair statement of those of us who represent rural constituencies where you have improvement districts. I think perhaps that's a fair comment, because I find, as a member with three or four improvement districts in my constituency, that whenever anybody has a problem with a road, he never goes to see the local improvement advisory board member. He invariably phones the member of the legislature. Whatever the case may be, he contacts the member of the legislature. But in most cases where you have existing municipalities and countries, the practical problems that people face are the problems that the individual council member has to attend to. We have to recognize that these are very contentious problems at times, because they relate directly to the individual. When you discuss a matter of that nature at a council meeting, I could readily see where you could get yourself into court battles very quickly. We all recognize that the qualified privilege protects most members of local councils, most of the time, but what is important in this bill is that we are trying to guarantee to our local members that they can speak out without fear of legal entanglements. We are going to say to them that they will be treated in precisely the same manner as members of the legislature and members of the House of Commons.

Some people say, can't this be abused? Of course it can be abused, but surely some of the constraints on this system are constraints which affect us as members of the Alberta legislature. For example, the electorate is a judge. The electorate can very easily and very capably discipline those who have abused their privilege. I think if you look at another constraint - the press, which has a very practical and frequently a somewhat cynical approach to politics. That's important because I think it deflates those of us who are politicians. We are put in the position of facing criticism from the press. This is one of the things which tend to make sure that the immunity and the privileges which we have are not, in fact, abused.

So, as I look over the various points that have been raised to date in the discussion, I find that I must support the bill, as proposed by the hon. Member for Calgary McCall. There was, however, one valid point raised by the hon. Member for Drayton Valley. There doesn't appear to be any formal representation, as yet, from either the Urban Municipalities Association or the Rural Municipalities Association asking for the present legislation. But that doesn't mean that we should reject the principle. We've passed second readings of other bills, Mr. Speaker - we've passed Bill 1 and Bill 2 - and we had the summer to give people an opportunity to make representation to the Executive Council. There is no real reason why we can't accept the principle of the bill, and then permit whatever time is necessary to lapse while the various local levels of government make representation. I suspect that the major reason that we have not had any formal representation from either the urban or rural municipalities associations is that nobody at the executive level of either organization for one moment ever conceived that we would be prepared to do this thing, because for so long I think they have recognized that we have continually taken a big brother attitude. I'm not just saying this is in Alberta; I think it's fair to say that this criticism can be levied against all governments across the country. Because Mr. Ho Lem's bill is an honest effort to say to the people of Alberta, "we want to develop a new partnership, an equal partnership, with the local level of government in this province." It merits the support in principle. We can discuss the details, we can defer the final reading, but it is a good principle which should be supported by all the hon. members of this legislature.

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The hon. Member for Edmonton Strathcona.

MR. KOZIAK:

I won't take but the two minutes left to me. The question was put by the last speaker as to what objections were raised by the house in connection with the passage of Bill 207. We seem to be looking at this thing in one direction only, and that is the direction of the municipal council. I think we must look at it from the direction of Mr. Jones and Mr. Smith, because the rights under Bill 207 that we give to the local councilor, are the very rights that we are taking away from Mr. Jones and Mr. Smith to receive redress from the courts when they have been defamed by a local councilor, a member of municipal government. We must consider here that the member of that local council now has a certain amount of immunity. What we want to do is to extend to that local councilor the power to speak of Mr. Jones or Mr. Smith some untruth with malice, with bad faith, not with good faith but with bad faith. We are not adding to the rights of the Councilor, we are taking away the rights of Mr. Jones and Mr. Smith and that is a very important principle before this particular legislature. I am not even sure that the right of a legislator or a parliamentarian to speak the untruth with malice is a good feature. That we should extend that to another level of government is, in my opinion, completely wrong.

MR. HENDERSON:

Mr. Speaker, what I want to say I can say in the one minute that I think is available. I look at the particular bill with somewhat mixed feelings, not for any of the reasons that have been stated thus far by those who question the bill, but I cannot but wonder to what extent the question of privilege can be separated from the procedures that are followed in this legislature, the manner in which we deal with privilege internally amongst ourselves in this legislature, and the very role and function of the Speaker in this legislature. And in closing the debate I hope that the mover of the bill would possibly take into account in summing up his final remarks as to what extent this matter has been examined by himself in proposing the bill.

I can see difficulties, for example, in trying to suggest that parliamentary procedure such as we use, including the question of privilege - and the two are inseparable - would apply in a village council with four people. I just can't see how one can deal with the question of internal discipline relating to matters of privilege such as this house functions, and even though we are divided on some matters on the basis of partisan politics, I think there is a rather fundamental respect for the institutions of this House. We twist them and bend them periodically to our own end, nonetheless we all respect them. Not that they wouldn't be respected in a small municipal body, but I really question the extent to which the privilege could be extended to a small municipal council. I still see the matter of a privilege dealt with internally and in a disciplinary fashion within that body where some point of discipline internally is desired.

MR. PURDY:

Mr. Speaker, I beg leave to adjourn the debate.

MR. SPEAKER:

Does the hon. member have leave to adjourn the debate?

HON. MEMBERS:

Agreed.

MR. HYNDMAN:

Mr. Speaker, before we call it 5:30 I would ask leave of the House to revert for a few moments to Orders of the Day, insofar as the hon. Opposition House Leader wishes to comment on the matter raised in the question period on Wednesday.

MR. TAYLOR:

I would like to thank the hon. Government Leader for this courtesy. Yesterday, it was intimated that the government would supply copies of the correspondence respecting Bills 1 and 2 to every member on this side of the House. We feel that this is a needless expense and we would be very happy if we could secure three copies for the Clerk's office, one for the office of the NDP, and the Independent, and six copies for the office of our leader. We say six

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copies, in view of the lateness of the time, as we feel it will require that many copies for all of our members to review it thoroughly. We would be happy if we could change that to the ten copies rather than the 26 copies as far as this side of the House is concerned.

MR. HYNDMAN:

That is agreeable to the government, Mr. Speaker.

[The House rose at 5:31 p.m.]