LEGISLATIVE ASSEMBLY OF ALBERTA

Thursday Evening, November 2, 1972

[Mr. Speaker resumed the Chair at 8:00 p.m.]

GOVERNMENT BILLS AND ORDERS
(Committee of the Whole)

MR. HYNDMAN:

Mr. Speaker, I move that you do now leave the Chair and the House go into Committee of the Whole to study bills on the Order Paper.

MR. SPEAKER:

Having heard the motion by the hon. House Leader, do you all agree?

HON. MEMBERS:

Agreed.

[Mr. Speaker left the Chair at 8:02 p.m.]

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COMMITTEE OF THE WHOLE

[Mr. Diachuk in the Chair]

Bill No. 83 The Mental Health Act, 1972

MR. CHAIRMAN:

I wonder if we can revert to Section 1, the definitions, and see if we can try to get this section completed before we turn to where we finished off yesterday.

MR. CRAWFORD:

Mr. Chairman, I do think it is appropriate to begin this evening by trying to clarify the matter that concerned a number of hon. members on the last occasion we were in committee on this bill.

You are quite right in saying that it relates to Section 1 in that I believe Clause (s) was held, being the definition of therapist; then another portion of Section 1 was called into question, due to some matters that were raised in the first instance by the hon. Member for Edmonton Highlands; and that related to Subsection (1), defining a patient, and that was tied closely to the references in Section 21; and 21 in all of its three subsections where certain references were made to formal patients, and the question arose as to whether or not there was some limitation as a result of this wording, and as a result of the definition of patient, that would result in there being some disability to deal with informal patients because it seems to deal with only formal patients.

At the time I expressed what I believed to be the accurate explanation of it, and it turns out that it is substantially or indeed perhaps totally accurate, and that was that the reference to informal patient which was in Bill No. 83 and was not brought forward in the amendments, was removed on the account that it was unnecessary and in accord with the general hospital practices.

The explanation that hon. members will be seeking will appear later in the amendments where there are consequential amendments proposed to The Alberta Hospitals Act. In that, it defines 'patients' in the way that The Hospitals Act has always defined it, and changes that, so that a mentally disordered person is added. By doing so, it means that the informal patient is, in fact, a patient after all, because he would then be so defined by The Hospitals Act and therefore he would be the voluntary patient or the informal patient as the

terminology defined in the spring when Bill No. 83 was introduced. There is no limitation on the ability of any facility to treat a patient whether he be a patient under The Hospitals Act or a patient under The Mental Health Act. I don't know if that explanation suffices, Mr. Chairman; I hope it does. The assurance that I have now twice received is that, on the interpretation of the amendments as drafted by the Legislative Counsel's office, the disability that appeared as if it might be there in the drafting does not, in fact, exist and there is no inability in any facilities to treat any patients.

DR. PAPROSKI:

Mr. Chairman, there is one question on that. You were saying an informal patient is one who conveys himself to the facility. At what juncture does he become a formal patient? He requires, I presume, the examination in the usual fashion.

MR. CRAWFORD:

Maybe, Mr. Chairman, I could add one further thing, an observation that perhaps I should have made in respect to Section 21 the other day when we were looking at this. I will just reiterate that the concern arose because the section referred only to formal patients. We found out that this didn't seem to involve what had been described in Bill 83 this spring as an informal patient. That whole section of the Act deals only with the granting of certificates of incapacity and does not relate to the treatment procedures that take place in any facility, whether it be a facility where a patient would normally be put in as a formal patient, or whether it be another facility where he would be a patient under the act regulating such other facility, such as the Hospitals Act. The answer to the hon. member's question, as to when a person becomes a formal patient, is, of course, after the committal is made by the procedures that provide for making a person a formal patient.

DR. PAPROSKI:

There is only one more clarification on that one point, Mr. Minister. Is there a limitation of time? Does this examination occur within 24 hours? In other words, you are conveyed and examined in 24 hours. If a person voluntarily brings himself to a facility, need he be examined within 24 hours, or can he wait longer?

MR. CRAWFORD:

If he voluntarily brings himself to the facility he is just admitted in the same way as a patient would be if he had no mental health problem at the time of admission and a course of treatment would begin. He would be the same as if he had admitted himself to the hospital with his doctor's advice for any other ailment. The assurance of twenty-four hours is that persons who go there involuntarily have that assurance.

[Section 1(s) was agreed to.] [Sections 21 and 28 were agreed to.]

MR. WERRY:

Mr. Chairman, before you move on, I think I would like to make some reference to the J Section of the amendment where Sections 33, 34, and 35 were struck out, and go back to the Mental Health Act, 1972 and make some observations on this new form of act that is being read tonight. Part 4 is a very significant part of the act, and is similar to a recommendation of The Blair Report, as it is commonly known. To the best of my knowledge, for the last 10 to 12 years there has been presentations made to the government, from time to time, to read, what is called, forensic services. Under this section, Mr. Chairman, the case where a judge has reason to believe that a person who appeared before him, charged or convicted of an offence suffers from immense mental disorder, the judge may have this person referred to a mental facility. Now, before this provision was in the act, judges may have been concerned about a person that appeared before them who was charged with an offence; he had no recourse except to sentence that person without having the benefit of an examination. That could be in the pre-sentencing or after the person has been convicted; before sentencing, there is no provision where he could have him detained or attend a facility for examination to establish that there may be a form of mental disorder. When the hon. Member for Drumheller was speaking yesterday of a real example of what can happen when a person has extreme mental disorder. He made reference to The Henderson Case in Saskatchewan were a person -- I am not quite sure -- there was a massacre there. Under this provision, Mr. Chairman, the judge can have a person remanded to a facility, and have the

benefit of this kind of an examination, which may determine that a person who has exhibited tendencies that may be a deterrent to that person remaining in society; and under The Criminal Code there is a section (I believe it is Section 551) where a person is sentenced to be detained for an indeterminant period as a habitual criminal, and also Section 551 deals with a dangerous offender. Under both those sections a person may be detained for any length of time until the court believes that that person can be released into society.

This initial step will hopefully have the benefit of being able to pick-off, you might say, those persons that may become a very dangerous offender in society and it allows the community to have the knowledge that there adequate safeguards for people who may have abnormal behavior and may become a menace to society in that when the first instance of such an abnormal behavior appears, a judge may have the benefit of an examination before having that person appear before him or before presentencing him. I think, Mr. Chairman, that with those few words I would like to indicate that I certainly am very pleased to see the provisions for the start of what can be, hopefully, full forensic clinics within this province.

MR. CRAWFORD:

Mr. Chairman, may I just say that just before the hon. Minister of Telephones and Utilities began to speak, I think you were calling Section 37 without having called Section 32 from Bill No. 83.

MR. CHAIRMAN:

Yes, I realize, Mr. Crawford, we will have to go back to Section 32 in the printed act.

Section 32

MR. LEE:

I wish to make a couple of comments about this whole section 32 and to propose an amendment which I distributed to you. The original Blair Report, and various professionals in the field of mental health, have recommended there be a more extensive utilization of out-patient services in both the assessment and the treatment of mental ailments. What they are suggesting in many cases is that both treatment and assessment can occur outside of what has traditionally been known as "facility".

Now the act as presented to us is an excellent act in doing this. It provides flexibility in choice for an informal patient, and flexibility in the use of facilities. Section 32, I think, is meant as a response to this kind of a rationale in the more extensive use of out-patient services. But I feel that it is still too restrictive in that the individual, in order to be assessed or treated on the order of a judge, must still go to a facility in the traditional sense. So I would propose an amendment, as I have distributed to you, to read as follows. This would be an amendment to section 32(1), and an amendment to section 32(3) to read after "facility" adding "or service". Therefore it would read:

> Where a judge has reason to believe that a person who appears before him charged with or convicted of an offense suffers from a mental disorder the judge may order the person to attend a facility or service as an out-patient for examination.

Now this amendment would allow more flexibility for the courts in orders for assessment and treatment in section 32(3) and it would allow a more extensive out-patient kind of service. In certain cases, such as juvenile situations and perhaps drug and alcohol related areas, the judge may not want to refer the person directly to, say, Ponoka or Oliver, but may want an out-patient service right off the bat. So I would propose these amendments.

MR. CHAIRMAN:

Has everyone got the amendment that Mr. Lee has proposed? In Section 32 you add the word "service" after "attend a facility". The same with Subsection (3); where it says "order a person to attend a facility," add the words "or service".

MR. HARLE:

Mr. Chairman, I am wondering whether this particular section covers the situation that developed in Calgary recently. I know it's not the practice of

the legislature to discuss a case that might be appealed and I am not too sure whether the appeal has not expired in this particular situation. But in Calgary, as I understand it, and I only have the news reports of it, a lawyer wished to have his client who was in custody examined. If it is an out-patient facility or service, does this mean that this man has to be retained in custody and taken by his custodians out to this out-patient service? This particular lawyer had a difficult time getting his client examined. It seems to me that there are situations where the person to be examined is in fact in custody.

MR. CRAWFORD:

Mr. Chairman, I think I know the case through the press that the hon. member is referring to. It seems to me that section 32, it has already been remarked, is useful in that, even if the person has already been convicted of an offense, the judge may refer him for examination and, under Subsection 3, may refer him for treatment even though no sentence has yet been given. That is the way I read that because it says in 32, "charged with or convicted of an offense".

Now Section 33, which it is proposed will be struck out, relates to people who are in custody. That would relate to cases after the sentence had been given in my interpretation. The only reason for withdrawing that, it seemed a good enough provision at the time, was that it simply duplicates provisions, which exist by way of recent amendment to the Criminal Code. So the broad spread under either the Criminal Code or this legislation that would appear to be available for a person in custody whether he is prior to conviction, after conviction, or after sentence, is still there.

MR. TAYLOR:

Mr. Chairman, I wonder if the hon. minister would comment on 32 (1), (2), and (3). I notice that the judge may order the patient to attend a "facility" and if the amendment carries "or service" as an out-patient. I don't see anything in regard to the time limit. Is it intended that that would be in the court order? I don't see anything that indicates what would happen if the patient doesn't obey that particular order. It appears that he needs treatment when this order is made and yet it's made very voluntary. I am wondering if that's a safe precaution in the light of what the hon. Minister of Telephones and Utilities just said.

MR. CRAWFORD:

Mr. Chairman, my only reaction to that is that the judge has the authority under Subsection 3 to order a person to attend at a facility or service, the amendment to that is accepted, for treatment as an out-patient. I take that only to add to an authority that the judge would have. The person could by various procedures, either through the Criminal Code or through this act, by having him committed as a formal patient, be required to attend any facility for treatment. This makes it a little bit more flexible again by adding the provision to out patient. I think if we bear in mind to it that the key to it is out-patient, it's meant only to make it more flexible and that the section would achieve that.

MR. CHAIRMAN:

Any further discussion of Section 32?

DR. PAPROSKI:

One point for clarification, Mr. Chairman. In Section 32(1), for consistency I wonder if the minister would clarify why it does not say "suffers from a mental disorder and is dangerous to himself or others" as in the other sections.

MR. CRAWFORD:

I think, Mr. Chairman, that the sort of good sense involved in a section like that relates to the fact that the person, whether or not for purposes of the act you are going to say he is danger to himself or others, which, of course, would mean that he could be committed as a formal patient, is in trouble with the law at this point. He's done something and he is before a judge and the judge, to the best of his ability with all of his experience, is saying there may be something the matter here. At that point, although he is not yet formally committed to go to a facility against his will, this gives the judge

the authority to at least take what might be called an intermediate step. I think there's a lot of good sense in allowing that, bearing in mind that the person wouldn't be there if he hadn't been in trouble with the law.

MR. TAYLOR:

Would a patient be sent to a facility if he had a mental disorder and was a danger to himself and others?

MR. CRAWFORD:

Yes, that would be the extra thing that would be required to have him committed if he were a danger to himself and others.

[Section 32 was agreed to.]

MR. DIXON:

Mr. Chairman, I would agree with this amendment and I support it whole heartedly. But I wonder if we shouldn't make it a little clearer; "a facility or service". What kind of a service? It could really mean any kind of a service. How do we get around that?

MR. LEE:

When we speak of services, we are speaking of those treatment assessment services that are available in the community. This would involve such services as guidance clinics, counselling services, and therapists that are perhaps present in other centres. For instance, the University of Calgary may have, in its counselling department, a person who is certified and qualified as a therapist. That person could both assess and treat an individual as an out-patient. So that's how I visualize service.

[Deletion of Sections 33, 34, and 35 was agreed to]

[Section 36 was agreed to.]

MR. HARLE:

Mr. Chairman, I wonder if I might have the indulgence of this Committee to go back to Section 32 for a moment. Where we have added this word "service", I notice that service is not defined in the definition section of the act. I wonder if this might cause some difficulty.

MR. CRAWFORD:

I take that to be the point that was raised by the hon. Member for Calgary Millican and responded to by Mr. Lee. I do think that we can have regard to the ability of the judge to make that decision at the time. The way these things happen in court, of course, is that some time will probably have been spent working up recommendations as to what to do with the person who is in custody and examinations of available facilities and services will have been made in the event that a proposal under that section is going to be made, either by defence counsel or by the prosecutor. The way that the judge would have it, in actually dealing with it, as I am sure the hon. Member for Stettler would know, having handled court cases, is that a specific proposal would be made to the judge at that time. He would question it and then would make an order and satisfy himself that it was in the best interests of the prisoner.

MR. TAYLOR:

There would not be any danger of the judge sending him to the army service, and making him a soldier, sailor or an airman?

DR. HOHOL:

I would just like to make this comment because I think the use of the term "service" is important. I support the amendment in its entirety and I think it is consistent with the currency and the excellence of the total bill. As I listened to the hon.Member for Calgary McKnight, I understood him to suggest the use of "and" as a co-ordinate conjunction. So the definition of "services", to me, would flow from the word "institutions", so that these services would be the kinds of services that you would have in the institution if you were in it. In this case the judge would have the option of assigning a person for this kind of service outside the institution, and I think that when we talk about definitions the definition should flow in that way, I suggest to my colleague.

[Sections 37 to 49(1) were agreed to, as amended where indicated in the amendment sheets.]

Section 49(2)

MR. CHAIRMAN:

Clauses (c), (d), (e), (f), (g), and (h) are struck out. Mr. Minister, I am going to ask for your assistance here, because I am at a loss on Page 39 at the bottom.

MR. CRAWFORD:

Mr. Chairman, in the portion that is '(b) as to subsection (2),' we have just dealt with item (i), which was that the items you just mentioned be struck out.

The next one, '(ii), by striking out clause (q),' which is in the Act on page 18 replaces it with the other clause (q).

[The balance of Section 49, and Section 50 were agreed to.]

MR. DIXON:

I just asked for clarification. I haven't really gone into this particular section. It was one on Section 46.1.

MR. CRAWFORD:

Yes, Mr. Chairman. Our consultation here has brought me to the conclusion that on page 17, Subsection 2 (a), (b), and then the small numbers (i) to (v) should be called, and Item (i) also on that page in the act.

MR. CHAIRMAN:

Okay. Thank you. So we will revert back to the top of page 17 in the Act, Subsection 2.

HON. MEMBERS:

Agreed.

Section 46

MR. DIXON:

Mr. Chairman, I wonder if the House would let me revert back to Section 46 just to clarify a point. Is this a change in 46.1 on page 16? Is that a new section? The point I want to make is: does this say, then, that a person picked up and conveyed to Oliver, Ponoka, or some other institution, can be charged with the expense of taking him there, unless he was taken there under a section of the Criminal Code?

MR. CRAWFORD:

The fact is that a person of sufficient means who is transported is liable to pay, and the person who doesn't have sufficient means isn't; and the reference to Section 40 of The Hospitals Act carried forward a principle which is expressed there in regard to hospital patients. So patients under this Act are in the same position as patients under The Hospitals Act.

MR. DIXON:

The reason I asked that question, Mr. Chairman, to the hon. minister, is that we changed that a number of years ago because we ran into difficulty with people who objected when they were picked up against their will, taken to Ponoka and then charged with the escort and the expenses thereto. We took it out of the Act because of all the complaints. I was just wondering -- you are bringing it back in again.

MR. CRAWFORD:

The part that is brought in is only the existing Section 40 of The Alberta Hospitals Act.

MR. DIXON:

I think we are talking about two different things, though, because ordinarily under The Hospitals Act a patient has usually volunteered to go into the hospital. What I am concerned about is the trouble we had, I think it was ten or 15 years ago. In the old Act years ago a person picked up, say, on 8th Avenue in Calgary and transported the next day to Ponoka, could be charged with the expense of the escort to Ponoka. And these people objected very strenuously to that, because they said, "We didn't want to go to Ponoka. We were taken there against out will, and you are charging us for hauling us to Ponoka." It is a little different thing, I think, to a patient. Sure, if you have to call an ambulance for any friend or wife or relative going to the hospital, that is a different thing. But here is a man who is picked up and he doesn't want to go there. He is hauled there against his will, and then we turn around and bill him. But if the same man threw a brick through a window, and was charged with destroying property, they could haul him to Ponoka and he wouldn't be charged with the expense of taking him there. I think that when we force somebody, against his will, to be taken to a mental hospital, he shouldn't be charged for that expense.

DR. BACKUS:

I think this indicates the whole purpose and object of this act in that he doesn't get conveyed to Ponoka; he gets conveyed to the local facility which is just around the corner, and is no different than the patient who gets knocked down and knocked unconscious and is picked up and taken to the hospital by the ambulance. He may turn around after he recovers and say, "But I didn't want to have an ambulance take me up there; you can't charge me for it." Now it's the same thing there; we're taking him to a local facility. The whole idea is that we don't take these patients, under their conveyance and examination certificate, to Ponoka or Oliver; we take them to the local hospital, the local facility. They become responsible. Or you might taken them just around the corner to a local facility not necessarily part of the local hospital.

MR. DIXON:

Mr. Chairman, I agree with the hon. member, Dr. Backus. It it's a case of the man on the street in Edmonton and they take him for example, to the Royal Alex, I don't think he can object to that. But the people who were objecting were the people taken from Calgary to Ponoka, which is not a local hospital, and they were being charged with the expense incurred in taking them there. And they say, "They're taking me up there against my will."

DR. BACKUS:

But surely, Mr. Chairman, under this act the whole thing we are talking about is the local facility. It states earlier on, that a conveyance and examination certificate says that a person shall be taken to the local facility and not to Oliver or Ponoka from Calgary. We hope there'll be a local facility relatively close, as close as the nearest general hospital.

MR. NOTLEY:

Mr. Chairman, with great respect to the hon. Minister of Public Works, the inference is certainly in the act that there is going to be more local facilities, but what happens in a situation where there isn't a local facility, and a trip of 50, 75, 100, or 300 miles is required? It seems to me that the point the hon. Member for Calgary Millican raises is a very proper one, and there's certainly a difference between voluntary admission to a hospital, where I think it's proper that the patient should pay the way, on one hand, and on the other hand, a situation where we, for the good of the public, decide that a person should be dtained for a particular period of time, or for a certain purpose. It seems to me, that being the case, the point that the hon. member, Mr. Dixon, raised is valid, and the state should assume that cost.

MR. HENDERSON:

Mr. Chairman, I think if one reads the section of the act that is in the discussion, the argument is really irrelevant or close to it, because if you read the section of The Hospital Act, all it says is that a person using hospital services is expected to pay for the proper charges. The only charge that I know connected with an ordinary hospital these days is five dollars to get in the door, and so we don't want to jump to the conclusion that, under this section 46(1), the person, regardless of whether he is admitted formally or informally and detained willingly or unwillingly, is going to be charged for the cost of treatment.

The ambulance ordinarily isn't provided by a hospital. It's usually my experience under private enterprise, and all we're talking about is hospital service. So the argument about ambulance services just isn't applicable, because there aren't that many hospitals providing ambulance services in general. I think there are a few in the rural areas. But it isn't to be taken that the charges are all to be levied -- the cost of admission treatment and so forth against the patient -- it's just those that are considered proper. The only one I'm aware of from a hospital these days is the admission charge, and that's a local option as to whether they want to collect it or not -- unless the good minister has changed it. I think it's much ado about nothing, Mr. Chairman.

MR. BENOIT:

The next section says, if the same thing happens to you and you've been taken in because of a criminal offence, you'll be taken in free, but if you're not a criminal, you'll be charged for the same conveyance. So it seems to be a bit inconsistent to me.

MR. CRAWFORD:

I was just going to say I think the hon. member could succeed in identifying the difference in status between a prisoner and a person who is not a prisoner without difficulty. I do say that the section of the Hospitals Act which is referred to is fair and reasonable in regard to patients in hospitals. And all that is done here, is that it is brought forward into this act so that the same principles will apply in respect to facilities. I do think hon. members are conjuring up some difficulties that don't exist.

MR. DIXON:

Mr. Chairman, I still think that if you read this act it says "examination, admission and detention." We don't charge a fellow who breaks a window because we hold him in there against his will, but because somebody has had a mental illness, we are willing to charge him. This is the way I read it. I don't see why you would have the word "detention." I think, as the hon. Member from Spirit River has pointed out, that it is fine for us here to say, well, it doesn't mean anything, and it is a minor thing, but if any of us had a choice here tonight whether we wanted to be arrested for being drunk on the street, or whether we wanted to be picked up for being mentally incompetent to handle ourselves, I think we would prefer the first one. I think that we are trying to make a mental health act that gets away from the jail atmosphere, and we are not getting from it with this Section 46(1), in my opinion.

[Section 46 was agreed to.]

Section 51

MR. HARLE:

In view of the fact that sub-clause (a) has got an "informal patient" in there, is it causing of any concern in the drafting of the act?

MR. CRAWFORD:

It is true it appears in the bill, but not in the amendment. The words "as an informal patient" are struck out and substituted by the words "on his own accord and is not subject to admission certificates or renewal certificates."

[Section 51(1)(a) as amended, (b) to (d), and (e) as amended, and 51(2) were agreed to.]

MR. CRAWFORD:

I think you should call (b) on page 40 of the amendments, which is what we are just achieving in the renumbering.

MR. CHAIRMAN:

I guess that we will have to renumber all of them now. Very well, as page 40, clause (b), in the amendment. As per the act, 4, 5, 6 --

MR. CRAWFORD:

I am sorry to be troublesome, but (c) on page 40, is also necessary to be called, I suggest, because it makes an amendment in what has just been

renumbered and then everything else goes on to the end of that section without any further change except the numbering. There is no reference in the amendment to the changing in the numbering but my understanding of that is that in the casting of the actual legislation that the Legislative Counsel is entitled to make the numbers in order.

MR. CHAIRMAN:

That is, amendment (c) on page 40. Page 41, U., the following sections are added --

MR. CRAWFORD:

Did we call (4) to (6)?

MR. CHAIRMAN:

Yes.

[Sections 51 to 54 as amended were agreed to.]

Section 55(a)

MR. BENOIT:

I would like the hon. minister's explanation of what this actually does. Does it mean that a mentally incompetent person is now permitted to vote?

MR. CRAWFORD:

Mr. Chairman, I have been waiting to be asked that question. The hon. member doesn't know how much I have looked forward to it.

Seriously, Mr. Chairman, what is proposed here with regard to the Election Act, as it will also be with regard to The Marriage Act a little bit further on, is just the recognition of a fairly basic principle; over the years, because of legislation such as the section of The Election Act which is reproduced on page 48 as it now stands, people who were mentally disordered had certain of their rights deliberately taken away from them. Now no one would quarrel with the need, as still exists under the new act, to impose certain things, even if it means taking away certain rights, where a person is a danger and where by his apprehension the safety of the public or the safety of the individual patient is thereby more assured. However when you look at it basically, each right that is taken away, such as the one I have just described, has to be very carefully considered, and under The Election Act as it existed up until this year, a further right is taken away, and we must ask ourselves why. We must ask ourselves if there is some misfortune likely to befall the patient if that right is not taken away, and the answer is no. Or if there is some misfortune likely to befall the public interest if that right to vote is not taken away, and the answer is no.

So I am suggesting that there are many, many people who, over the years, have had their privilege, and indeed, their right of casting a vote taken away by this legislation as it reflects in Section 16 of The Election Act which is now in force, and that the contemporary view of that issue is that it serves no important purpose to remove that right from the person. So we are suggesting that however much it is used in extreme cases I think all hon. members would know that the right would probably not be exercised by the person. I suppose there might be ever relatively few cases where the person who is in a formal institution would exercise his right to vote. But the need for taking it away doesn't exist and it's for that reason that we propose now to make this change.

MR. BENOIT:

Just one other observation: in the previous act, subsection (2) said that subsection 1(d) (which said that a person who is a patient in a mental hospital or school does not have the right to vote or is disqualified) does not apply to a person who is not mentally incompetent and who is in a hospital as a voluntary patient under the section. So actually under the previous act anyone who was able to vote was still permitted to vote.

MR. CRAWFORD:

I agree with the hon. member that if I was saying that the legislation in Section 16 is harsh, that it was softened by subsection (2) and at the same time, looking carefully at the words "who is not a mental incompetent", those words refer strictly to people who have been dealt with under The Mentally Incapacitated Persons Act, and do not relate to the new definition of formal patients. So it was felt necessary to remove part (d) and when that was done then subsection (2) was no longer required.

MR. BENOIT:

I am not quarelling the point. I just wanted to make sure I had it clear.

MR. DIXON:

Mr. Chairman, I am basically up on my feet to congratulate the hon. minister for his efforts to put this in because it did bother me some that they didn't have the vote. Tonight in Oliver there are 265 patients who could be released if we could find foster homes for them, and those are the kind of people who should be entitled to the vote. If they had got out at the time of the enumeration they would have all been able to vote. I think this is a step in the right direction. It is the type of thing we need to give these people some encouragement that they are part of society. I congratulate the hon. minister.

[Sections 55 to 58 were agreed to.]

Section 59

MR. TAYLOR:

I would like to ask you a question in connection with this marrying by people who are mentally defective. I have seen cases, well, I don't have to say where, where mentally defectives have married, and I have no objection to that; but in describing the votes, you mentioned that the mentally incompetent person voting hurts nobody. Certainly it hurts no one physically. It might help somebody or hinder somebody else from getting into office, but there's no real hurt. But in the marrying of mentally defectives, I think its a little bit different, because in the three families that I know, the people who really suffered were the children who were born even more mentally defective, if that were possible, then the parents, and they became objects of pity to be cared for by somebody else.

I am wondering if that type of thing should be encouraged.

MR. CRAWFORD:

Yes, Mr. Chairman, I know the hon. member is giving voice to a concern that no doubt many people would express if they were here. At the same time, there is no assurance in the twentieth century that marriage assures children or the absence of marriage assures the absence of children.

[Laughter]

MR. CHAIRMAN:

Mr. Minister, you got a chuckle out of Miss Hunley there.

MR. CRAWFORD:

I didn't mean to embarrass any hon. member with that remark, Mr. Chairman.

I think whether the mentally defective is in the community or in an institution, unfortunately the possibility of conception still exists. There are people who are mentally defective who are in the community in large numbers and who have the opportunity available to them. The findings at the present time -- which I say surprised me in a way when I examined them -- are that the union of a mental defective with another can produce a normal child and that, obviously, as all of us would know I'm sure, the union of two normal people could produce a defective child, and this often happens.

I do invite hon. members to look upon this as substantially, although not on all fours the same, substantially the same principle involved as the one we discussed in respect to The Election Act. Really, all you are doing is you're

allowing these people -- and it will be in the vast majority of cases no worse than it was going to be in regard to the possibility of the conception of children who are defective as a result of it -- but giving the many of them who can benefit from the very acceptance and feeling of saneness that the hon. Member for Calgary Millican referred to a little while ago in regard to elections -- giving the majority of the people in this classification just that extra advantage that they wouldn't have otherwise, and just removing one more barrier to the normal, happy lives -- as happy as they can be -- and on this basis I would again, as with the other act, recommend it to hon. members and feel that, on the balance of possible evils on either side, this is the better way.

MR. TAYLOR:

There is just one other point that bothers me in connection with the striking out of 59. It states that it is an offence for any person to issue a licence or solemnize a marriage if the person is under the influence of intoxicating liquor or narcotic drugs. Now surely a minister would not be committing an offence if he refused to marry two inebriated persons. That is an offence under this act. He should at least let them sober up in case they have changed their minds.

MR. HENDERSON:

Mr. Chairman, I would just like to question the minister on this particular section of the act, because I don't necessarily think that the question of offspring is the key issue. It is a question of whether the individuals involved are responsible. Now by the same logic that the minister exercises, as far as it is argued from the standpoint of the individual being responsible and also from the standpoint of protecting or not protecting the individual's rights so far as somebody taking advantage of someone taking drugs or suffering from alcoholism or being mentally defective, then I would think that the words 'under intoxicating liquor or narcotics' should be taken out.

I rather wonder whether the question of genetics is really not the basic reason for this being in here. It is relative to protecting the interests of the individual himself, or herself, who really can be considered as not responsible for their actions. They are still quite harmless and running around the community, not doing anybody any harm. But somebody comes along and for reasons known only to himself ends up in a situation of matrimony with the party. I would like to ask the minister if one takes this, now this is in the act, not just as a question of offspring, but really protecting the rights and interests of some of these people. If this comes out of this act what other provisions are there to protect some of these mental defectives from the abuses, some of which are very serious,hat other elements in society inflict upon them?

MR. CRAWFORD:

Mr. Chairman, when I responded to the question from the hon. Member for Drumheller, it seemed to be basically in regard to offspring and that is why I answered it dealing with that subject. The hon. Member for Wetaskiwin-Leduc has raised, I feel, the question of the capacity, perhaps, of one of the contracting parties to marriage to consent to it -- to really know the nature of contract he is making at that time. I would have to admit that there could be some difficulties over that. But this is not an act that will cause every person who is, say, a mental defective, to go out and get married. What it means is that in those situations, and they do occur, where there is a degree of retardation mental handicap and where the person has the opportunity to move toward a little bit of normalcy in life, we try to find in rehabilitation (if rehabilitation can be used with respect to some of these patients), in treatment, and in care -- we try in so many ways to draw them a little closer to the normal human experience.

We try to find so many ways to draw them a little closer to normalcy and a little closer to a normal human experience. In a situation where two such people were acquainted and were seeing each other and marriage looked like it was in the offing and could look like other things being equal it would be in the offing, then there is a barrier here which they can't surmount because it would be against the law for anybody to join them together. Once again I'm just suggesting -- not alleging -- that all difficulties that are foreseen here will not occur. Some of them may indeed occur. But still the safer course is to remove this particular restriction rather than to maintain it, and I believe in that. Not long ago at one of the mental hospitals I had pointed out to me a couple who were married. They had been patients together, now their certificates of incapacity had obviously been discharged or under this legislation they couldn't have been married. But, in all frankness, they appeared to me still to be a very -- I won't use the word "marginal," but you know you could see by seeing that they were not entirely normal. They had reached that stage of normalcy where they could be formally discharged, and I think they were in the out-patient and follow-up program there. But they have gone ahead and got married, and the marriage was considered by the people at the institution to be a success and sort of a landmark. They could see more of that, and I think there is every justification for that happening.

MR. HENDERSON:

Mr. Chairman, if I pursue the logic of the hon. minister to its ultimate end I also conclude we should repeal The Age of Majority Act, because that's one of the reasons we have that statute is to protect people who are immature and are not prepared to accept the responsibilities of adult life. All the hon. minister's really saying is that because they are mentally defective they should be allowed to accept adult responsibility. Now, I say very seriously if the minister's logic is valid, then there is no real reason socially for The Age of Majority Act, because the reason this is in the act is that some of these people -- notwithstanding their years as physical years -- the number of years, calendar years, they've been in existence on this globe -- the question basically is one of their mental years. I suggest that they are not capable of accepting the responsibility of married life. So I suggest to the minister if his logic is really as valid as he seems to think it is in this case, why we pursue it to its end and we repeal The Age of Majority Act I would be very surprised if many people here would agree to that. But, if that is the case, or if you don't agree with repealing it and we maintain it, how then does one justify this particular amendment in the interest of protecting the patient, in the interest of protecting the individual? That is what The Age of Majority Act does; that is what this particular amendment does as well. I sympathize and realize there is a question of fine degree. This is probably the way around it because there is machinery whereby one could remove the certificate, I suppose, and the infected person legally classified as an ordinary citizen in those cases where it is considered that there is reasonable grounds for allowing the matter to proceed. But I'm still concerned about the fact that one is really--when he takes it out of the Act you're taking out something that was in here for the protection of the individual from the abuses of certain elements in society. I would like to suggest that maybe the hon. minister take a look a the certificate procedure that he talks about and try to get around the problem that he is aiming at with this by removing the section by some other means. I am sympathetic to his objective but I seriously question the means. I don't think the logic in it is valid in the final analysis.

MR. KING:

This provides me with an opportunity to use some of the material I didn't have a chance to use in the spring when I was speaking to another bill. I don't

know if I would have any influence on the hon. member opposite, but I would like to say that I agree with what the minister is attempting to achieve in this particular situation. The Act as it presently reads presumes to offer some protection to the mentally defective or mentally ill by way of imposing a negative barrier not on them but on someone else, that is the persons who might marry them. I think there are real dangers here; you threaten a person with a fine and/or imprisonment if he commits the kind of offence about which they have very little knowledge. They must decide for themselves upon the appearance of the couple before them whether or not one or both members of that couple are mentally defective or mentally ill. This is an extremely difficult thing to ask of a minister or a justice of the peace, because, as I mentioned in the spring, it is difficult for people who are trained in dealing with the mentally defective or mentally ill to decide in many cases whether or not a person can be defined as defective or ill.

There is the question of the range or the degree to which a person might be defective or ill. One of the illustrations that I used in the spring, and would remind the members of this evening, is that of a woman who was sterilized in this province because she was judged, not by a lay person, but by a professional person with experience, to be mentally defective. The person subsequently moved to British Columbia where she received more extensive treatment from a doctor, an operation was performed, which corrected somewhat the cause of her difficulty, improved her ability to live and to relate to the society around her and improved it to the point where she was able to marry. Now, the development of this illustration was that while she married she did not have children. This decision was one which was the obvious result of the operation that was performed in Alberta, but it was one with which she could live more easily because of the counselling and the advice that she received from a physician in British Columbia.

The things that concern me here are, first of all, that we pretend to protect the mentally defective or ill by imposing the threat of a punishment on someone else. The second thing is that it is impossible to know what degree of defectiveness or illness is sufficient to impose this barrier. The third is that, as has been mentioned earlier, the marriage of even two defective people does not necessarily mean that the children will be defective themselves. In fact, that occurs in a small minority of cases. The fourth is that, even presuming a marriage, positive kinds of counselling and assistance are available to allow that married couple to live fairly normally in the society of which they are a part, and also to encourage them not to have children if this is beyond their capacity. And, for all of these reasons I think that the decision of the minister and the amendment to the act is a wise one.

MR. HENDERSON:

I don't follow the argument that marital counselling of an individual with an eight year old mentality would lead to happy marriage. It sounds like a soap opera to me. In fact, it doesn't happen that way. One only has to go down to the extreme and look in our own institutions and see some bodies that are eighty years old with three year old brains in them. These could be forty years old with an eight year old brain, and physically look like they're quite capable of accepting responsibility when mentally they're not. And no amount of genetic counselling and so on is relevant to that particular case.

Now there is an argument of degree. I suggest that this can probably be dealt with in some other manner. The argument so far as prosecuting the person who issues the licence, and he can't really tell if the party if mentally defective or not, is irrelevant, because this section says in the act that the person who issues a licence or solemnizes a marriage "knowing or having reason to believe". The argument that the member uses really isn't relevant. I don't dispute the question of the other matter he brought up regarding The Sterilization Act, which is a matter of past history and itself is not relevant to this particular issue.

I still come back to the basic point, this is in this act, to protect those people who are not capable of assuming adult responsibilities. I agree that there is a matter of judgment involved. I would suspect that for anybody who is borderline and who walked in to get a marriage licence no questions would be asked. The individual issuing the licence would have no reason to suspect. But when an individual comes in who obviously does not display the signs of having somewhere near a normal mentality, and a licence is issued knowingly under the circumstances without any further investigation, I suggest that there is an element of social irresponsibility involved. The question of degree I can accept, but I would like to suggest once again that I think this can be dealt with through other means, because a person is not really legally a mental

defective until declared so. So the question of the borderline cases can be circumvented from that basis. Then we don't have the same problem, Mr. Chairman, that the section should not be removed from the act without a closer consideration of what we are doing. Because I say to the minister again, if the logic in the arguments that have been presented are as sound as we would like to be led to believe, we had also better repeal the age of majority, because we need not be worried about whether an individual is capable of assuming adult responsibility at the age 18, 12, or 10. Let them. I suggest to you that the adult responsibility of the greatest magnitude that most people do assume is that of marriage. I don't think the subject should be dismissed lightly, even under the guise of something that is done under the issue of human rights; because, as I say, it could be an offence against human rights to just take this out without a little more thought and study.

MR. KING:

The one difference between the mentally defective, as I understand it, and 16 and 17 year olds is that the mentally defective are much more willing to take the advice of people that they have come to know and trust. Maybe some of the physicians in the House would care to speak to this, but I think it is a fact. It appeared to be the case from the reading I did this spring: that the mentally defectives are people who are very amenable to the suggestions of parents, doctors, and physicians. And what we are talking about here is simply an opening of the act somewhat, to provide the opportunity for marriage where it might be thought to be helpful to the situation. But that it would exist in a situation in which a positive kind of advice or counselling would probably deter these people from marrying if it was thought by counsellors to be unhealthy. Maybe some of the doctors could speak to that.

MR. HENDERSON:

Mr. Chairman, I would just like to say that it is because they are so receptive to suggestion that this section is in the act. It is too late after the marriage takes place. This is what it is in the act for, because they are susceptible to suggestions from other parties. Once again, I cannot find any logic in the argument that has been presented in that regard. It is because they are receptive to suggestions from other people, and this happens to relate to the question of susceptibility to suggestions regarding marriage. Once again, I say that I think the matter can be dealt with by other means without removing this particular clause from the act.

DR. McCRIMMON:

Mr. Chairman, I believe that there is one very important that has not been brought out here. I believe that this may, in certain cases, bring a certain amount of happiness to the people involved, but I think we are forgetting one thing. What about the offspring? If the parents are not capable of raising the offspring, you automatically have that offspring, even though your have a normal child from parents who are not quite normal. That child is automatically a ward of the province from the time of birth until maturity. And this is a point that I believe should be considered when this is brought out, because you automatically have enough of this category of people as it is, I do believe, without perhaps asking for more.

MR. TAYLOR:

Mr. Chairman, I hesitate to get into this argument again, but there are two or three things that have to be said. In the first place, everybody appears to be suggesting that if we let them get married we are giving them happiness. I know of quite a few marriages where the reverse is very true and so maybe you should keep them single if you want to keep them happy.

The other point is in connection with the children. While it is true that mental defectives may give birth to a brilliant child, I think from any statistics or arguments that I have heard, that the chances of children being mentally defective when there are two mentally defective people is pretty well nine to one. I know also that it is possible for a defective child to be born from brilliant parents, but again that is the exception and not the rule. I understand it is about one birth in every thousand where that happens. Maybe it is higher than that. So I really think that we have to be very responsible in connection with this matter. I frankly can't conceive of a 25 year old man with an eight year old brain being permitted to marry an 18 year old girl with a seven year old brain. I think we are not being kind to them, and we are not being kind to their possible offsprings. I am doubtful if we are bringing any happiness to them. I think that in our efforts to want to be kind to the mentally defective we have to be very careful in regard to this particular item.

Voting is one thing, but marrying is another, and I don't think we can put them both in the same vote. Even for a 30 year old man with a five year old brain voting is serious enough, because he certainly can't grasp the issues and decide who he is going to vote for properly, anymore than a five year old child could do it, because that is the capacity of his brain. And when it comes to marrying then, of course, it is even more serious. So I think in our efforts to want to be kind, and to bring a degree of happiness to people in this category, that we better not go too far because maybe our kindness is going to be cruelty.

DR. HOHOL:

Mr. Chairman, by and large I sense a common concern and feeling of responsibility on a very important issue on both sides of the House. I think there is some feeling of difference on how to deal with it. I want to point out that the likelihood of 18 or 19 year old people, with the mental capacity of some eight year olds, getting married is likely remote, because it involves a more mature kind of happening within one's attitude and circumstances. So I think there are enough constraints within the act and within society for that not to happen. At the risk of over-simplifying, I think it boils down to this: we bend over backwards to protect people against themselves, and in doing so exclude a normal marriage for a lot of people. Or we can go the way the hon. minister is recommending -- and I support him in passing this legislation. Because very often "the proof of the pudding is in the eating"; and as someone said, "marriage doesn't bring happiness to everyone", and we don't presume to be missionaries to draft legislation to make people happy by getting married. As I pointed out, there are many perfectly intelligent and mentally competent people who are unhappily married. I want to make a point of the theory of relativity when talking about mental competence. How far do you go in doing what things and in what frequency, before you are incompetent? When we talked about mental health and mental incapacity how far to the right or to the left of some presumed norm, usually set by a therapist -- which took a proper discussion here in the House, a very proper one -- do you go to left or right to deem someone mentally ill? And for what length of time? When a person makes a decision, for what period of time is he incompetent to make that decision because he is under drugs or because he is mentally incompetent?

Also, Mr. Chairman, I want to suggest to this Assembly something that everyone knows. There are new fields just being broken in in the area of mental competence, and the term that we use is more a legal term, a textbook label for psychologists to use in their own discussions, their own diagnosis, and their own work. When we use it here the language becomes strange, because it doesn't serve the purpose and the function of legislation. If we have to use these terms sometime, Mr. Chairman, they get in the way. When the hon. Member for Wetaskiwin-Leduc talked of the borderline case he made this point very well. Now, the borderline case, you see, becomes a question of agreement or at least one which is open to discussion. Borderline to what? On whose judgment -- legal, medical, psychological, social work in the context of a family? These become pretty complex issues. And I suggest that when sitting down, as I have had to in my work in prior years, with people that we tonight call "mental defectives" (and I suggest that this is a very, very bad term because it means different things to different people). you forget they are so called "mental defectives." Because they have, unless they are so mentally defective that they are unaware of the world about them, their needs, their capacities, and their aspirations. In terms of their competence, these things are as real as ours, and that's the way I find them. So very often their relationship is at that level, in marriage or outside of marriage. And in what things are they competent or incompetent? This becomes a very important question to me and to this House. So that on these propositions I would err if this is the choice, and I don't think it is, to permit the free capacity of people to be together or to be apart. When judgments have to be made the onus on the person making them is a very severe one. One of the most responsible judgments that one would have to make would be to say that this person, where there is a doubt that he is or is not competent, can do these things or those other things, including marriage.

I am suggesting, Mr. Chairman, that when they are so non-competent that they are unaware of certain things that we are discussing tonight, including marriage, this would in most cases not be an issue. And with this I would like to suggest that we move, but in no way presume to close debate either. I think these other propositions need to be verbalized with the Assembly.

MR. HENDERSON:

I have to say again, I think the motion --

MR. CHAIRMAN:

Mr. Minister.

MR. CRAWFORD:

I thought I had risen first, if that is relevant.

MR. CHAIRMAN:

I just thought, Mr. Henderson, you could finish off on this. Go ahead.

MR. CRAWFORD:

I was going to suggest, Mr. Chairman, that if the hon. member could give me his indulgence, rather than finishing by getting up I would make another proposal to the House. It's for that reason I thought I might save time by asking to be recognized.

In a word, the part of this that concerned me was that what we were proposing to do was create this penalty based on the person's status. This is the same argument again as the election one -- the removal of a right without a compelling public interest in doing so. However, the hon. member has raised the question of capacity, a capacity to contract, one might say, a capacity to understand the nature of the Act sufficiently to know what he is entering into.

It is not critical in any sense to the Mental Health Act to have this pass at once and The Mental Health Act, in fact, we have dealt with and this is now on to The Marriage Act.

In view of that, I wanted to say that I would like to consider the argument made and consult further with some of my colleagues on it and would ask that this one stand until we return to the Act later, Mr. Chairman.

MR. HENDERSON:

Mr. Chairman, in considering, I just want to make one other comment on the subject that you might take into account as far as what you are going to do with this section of The Marriage Act is concerned. The way I also interpret the amendment if it applies, it's an offence to issue a marriage licence to someone who is temporarily mentally incompetent by virtue of being drunk or on drugs, but it isn't an offence to issue a marriage licence to someone who is permanently mentally incapacitated. There is just no logic in it. I might see some the other way around but I really find it difficult to find any logic in the arguments in total so far as approaching the problem from the standpoint of removing this from The Marriage Act is concerned.

MR. CHAIRMAN:

Very well. We will hold Section 59, Page 51.

MR. CRAWFORD:

There was circulated a couple of days ago a small sheet and the effect of that is -- I guess it says it right on the top -- that if pages 51 to 53 are ignored, that would also include Page 54 which is only a recital of existing law by way of copying the existing text -- then the one small sheet would serve for all of those four pages.

MR. CHAIRMAN:

This Page 55 will serve. I'm sorry, Mr. Minister, I missed the last comment you made there.

MR. CRAWFORD:

Mr. Chairman, I think if we go to the small sheet dated the 30th of October, what we will find is that Item (a) there is the same as Item (a) on 51. Item (b) there is the same as Item (b) on 51 and Item (c) is the same as Item (h) on the top of Page 53. Everything else comes out, so I suggest, if I might,

Mr.Chairman, that the committee agree to the deletion of Pages 51 to 53 and then proceed with the (a), (b), (c) from the small sheet.

[Section 60 and Section 61 were agreed to.]

MR. CRAWFORD:

Mr. Chairman, I suggest that when we are again in committee, I will at that time either move that the bill be reported as amended or bring in a proposal in regard to the one section that hasn't been dealt with.

Bill No. 117 Municipal Government Amendment Act, 1972

[Section 1 was agreed to.]

Section 2, Amending Section 226 of the Act

[Section 226(1) to (3) were agreed to.]

Section 226(4)

MR. DRAIN:

As a matter of information, I would like to ask the mover of the bill, Mr. Purdy, to advise the effect this will have on construction crews who are constantly moving from different areas in the province. I am thinking now, say, of a doodle-bug crew that is hot-trotting and is moving into 50 local jurisdictions in one year. If they were compelled to buy a licence in every particular area that they stopped in and then apply for a rebate it would involve a rather complicated setup. When the bill was moved the hon. member referred to mobile homes specifically and I was wondering if the intent of the bill was to deal just with those particular things.

MR. PURDY:

Discussing construction housing units, I don't think they come under the scope of this for say, the Department of Highways or something like that.

MR. DRAIN:

To get this clear, you are saying that this does not apply to construction camps that are moving?

MR. PURDY:

No.

Section 226 (4) (b)

MRS. CHICHAK:

Just to revert to subsection (4)(b) and have a little bit of clarification where it reads here, "The owner of a mobile unit is nct required to have a licence in respect of" and (b) says " a mobile unit used as a farm building or residence in connection with the raising or production of crops, livestock or poultry or in connection with fur production or bee-keepling and situated on farm land outside a city, town, new town, village, or summer village." As we know with the expanding boundaries of the cities, there is agricultural land within the boundaries. How does this affect then, the requirement of the licence if that agricultural land remains agricultural land but is taxed by the city?

MR. PURDY:

Municipal and other government acts were changed that would include people in conventional homes and so on the same as this. What is happening is that the exemption is being taken away where there is any farm that is incorporated inside a corporated limit. Say you are living on an acreage of 20 acres or more: you have to have your main livelihood from that farm. If raising over $1200 you come into this tax exemption, or if you are under 20 acres you have to raise your principal income from this farm. So this is the reason other acts were changed a couple of years ago that would take this exemption away. This is what this act is doing.

MR. DIXON:

The hon. member has answered the question I was going to ask him. In other words, if you just had a hive of bees, is that all you would need to get out of the licence? But you say it is the very opposite.

[The remaining sections, the title and preamble were agreed to.]

MR. HENDERSON:

Before we report on the bill, I was wondering if the hon. member could tell me whether a copy of this bill, which has come into the House just a day or two ago and now is proceeding rapidly through committee, has been sent out to all the municipalities in the province? I find that in the legislature we often think we have the answers and then there is something missing. Trailer licensing has been of a lot of concern to the municipalities for some time. Have they had a chance to have a look at this?

MR. PURDY:

As I said in the House yesterday, this bill was changed back in 1971 and then in 1972 it came into legislation that all mobile homes in the province would be assessed or evaluated under a special licence fee. We had representation made to us from mobile home owners associations and people living in mobile homes in the province to bring in legislation to give them an appeal right on the assessment of their mobile homes. This is the main reason for this. I don't know if the other municipalities have had representation to us. Maybe the hon. minister could answer that.

MR. HENDERSON:

All I was asking is: have copies of the bill been mailed out by the hon. minister or hon. member to the municipal council?

MR. RUSSELL:

No, they haven't. I think they should have been presented to the Legislature first. But I can say this, Mr. Chairman, that the requirements with respect to registering a mobile home and the licensing procedure are in direct response to current resolutions passed by the Alberta Urban Municipalities Association this year and last year. The second part of each of these companion bills deals with the complaints received from the mobile home owners. So, I am fairly confident that we are dealing with the complaints and requests of both the municipalities and the owners.

MR. PURDY:

Mr. Chairman, I move that the Bill be reported.

MR. CHAIRMAN:

It has been moved by the hon. member that the Bill be reported. Is it agreed?

HON. MEMBERS:

Agreed.

Bill No. 118, The Legislative Assembly Amendment Act 1972 (No. 2)

[Sections 1 to 7 were agreed to.]

MR. WILSON:

Perhaps the sponsor of this Bill would give us a little insight into the government's attitude and approach towards the philosophy of an M.L.A. under the current administration. Do you envision changing responsibilities and functions of an M.L.A. from what has been traditional in the past? Here, I am thinking in terms of full-time representation. Also, I would appreciate your comments on consideration of a system to establish predetermined allowances and salaries so that the electorate would know from one election to the next what their representatives would be receiving.

DR. HORNER:

Mr. Chairman, as I said on second reading, we have been wrestling with the problem of developing a formula which one could use and which would have a predetermination as to the levels in effect from time to time. That becomes difficult for a number of reasons. One of them being that we are also under another hat - the management team, if you like - in relation to dealing with our employees. If you tie it to that area it becomes rather difficult. But I think this is an area in which we should strive to work out some sort of formula, which can be used in the future, and which would be well known, and so that people would know exactly what would happen. As I have said, we haven't been able to do that as yet. We would appreciate any advice that hon. member might have in regard to how such a scheme might be effected. In general, increases have been made on a four-year basis in the past, after each parliament was elected, if you like. We would consider that the present increases are the only ones that will be made in relation to the 17th Legislature. That gives us some time to develop some ideas as we go along as to a better way to handle this particular problem.

In relation to the expanding role of the M.L.A., it is not my view, nor that of the government, that an M.L.A. is a completely full-time job. But there have been significant extensions in the amount of time and effort required by an M.L.A. The very nature of the expansion and growth of Alberta has expanded those duties. The nature of modern government has expanded those duties. The modern communications age has expanded those duties. I think that has been a very useful expansion, and I think a very good thing for democracy that we in fact do have a much closer contact with our constituents because of modern communications. Therefore, it means (I don't like the phrase participatory democracy, but I think it in fact is there) that as people become more knowledgeable about the government, and we hope they will continue to increase their knowledge about the government and how it is done and the whole science of government and we hope they will we will have better government. But it also means an expansion of the work of an M.L.A. I think that the complexities of modern society have increased the role and the duties of an M.L.A. I think that all of these things together with a very modern society, an expanding economy, and a very large monetary responsibility in the sense of a budget of well over a billion dollars all illustrate that the role of the M.L.A. has expanded significantly. I am sure that Mr. Justice O'Byrne and his committee took that into consideration in making their recommendation.

I can't add to what I've said at second reading in that regard. But I think they did a good job in regard to reason and moderation in relation to the recommendations they've made.

MR. TAYLOR:

I guess there's no use floggging a dead horse, but we did ask during the second reading for the government to consider bringing in some amendments reducing the amounts recommended by the O'Byrne Report. This hasn't been done, and consequently, representing the people of Drumheller, I have to oppose the bill. I think the present bill is being extravagant with the people's money and consequently I cannot support the bill.

[The title and preamble were agreed to.]

DR. HORNER:

Mr. Minister, I move that the bill be reported.

[The motion was passed without debate or dissent.]

MR. HYNDMAN:

Mr. Chairman, I move that the Committee rise and report progress and beg leave to sit again.

[The motion was carried without debate.]

* *

[Mr. Speaker in the Chair,]

MR. DIACHUK:

Mr. Speaker, the Committee of the Whole Assembly has had under consideration the following bills:

Bill No. 117, The Municipal Government Amendment Act, 1972
Bill No. 118, The Legislative Assembly Amendment Act, 1972, (No. 2)

and reports the same. It has also had under consideration Bill No. 83, reports progress, and begs leave to sit again.

MR. SPEAKER:

Having heard the report and the request for leave, do you all agree?

HON. MEMBERS:

Agreed.

GOVERNMENT BILLS AND ORDERS
(Second Reading)

Bill No. 120 The AGT - Edmonton Telephones Act

MR. WERRY:

I would like to make a few remarks. I think I gave an adequate explanation to the House yesterday with respect to this bill on first reading, and I would just like to indicate a few remarks before opening up and will answer any questions and debate the issue when closing the debate on second reading.

The basic proposal here is that the bill authorizes the acquisition of certain assets of AGT, which are to be sold to the City of Edmonton, Edmonton Telephone System. The City of Edmonton has indicated that it is prepared to enter into an agreement with Alberta Government Telephones to acquire these assets, and I would like to clear up one point that may or may not be misconstrued. There is a difference in price kicking around. In the initial announcement last July the figure 13.5 million was mentioned, and as the members will note in the bill here, the figure of 10 million dollars is mentioned. The difference is made up basically of in excess of 3 million dollars of long distance exchange equipment that had been purchased by Alberta Government Telephones for the Jasper Place exchange. Subsequently, the city has taken over the contract, and they will be acquiring those assets on their own. So that contract is with Edmonton Telephones and is no longer with Alberta Government Telephones.

I have a letter from the mayor of the City of Edmonton, outlining certain concerns that he has with respect to this bill. I have indicated to him that, in speaking to the bill, I would clarify the questions he has posed.

The first question that he raises is that the city insists on a clause to give the city telephone rights within the city's boundaries as they exist from time to time. This bill states that Edmonton Telephones is authorized to acquire the assets within the corporate boundaries as at December 31, 1972. Now the reason the date is mentioned is to set the date on which the assets are to be acquired, and the method of evaluation. This precedent, when it is set, will be used to evaluate equipment as the city system or the city boundaries expand and is part of the agreement that we reached with the city last July that they will be able to acquire those areas as the boundaries expand.

The second point, in section 2, is that the sum of $10 million is to be paid on or before December 28, 1972. The letter indicates that the date should be January 1, 1973. On that specific point, Mr. Speaker, I am not really aware of the technicality or the legality of the dates, and if January 1, 1973 is a legal day to transact business, then certainly I would agree that the $10 million be paid on January 1, 1973 or following that, January 2, 1973.

The third point is that, with respect to section 2(1)(a) --

MR. LUDWIG:

Mr. Speaker, point of order, I was under the impression that a ruling had been made that we discuss the general principle of the bill and not sections. There are two or three other opportunities to discuss in sections. I think that it is not only contrary to the rules of the House, but it is a waste of time to be dealing with sections now and to be dealing with them again in committee. Are we discussing the principle of the bill or are we debating specific sections? I think that it is certainly bad practice to go through section by section on second reading of the bill which has a specific purpose, and then go through it again, and again and again. I would appreciate a ruling from the Speaker on this.

MR. WERRY:

Mr. Speaker, before you rule on that, I had hoped that I would be able to indicate to the House, some of the points that the City of Edmonton has with respect to this bill. I acknowledge, Mr. Speaker, that I should stick strictly to the principle but I want to provide the members with as much information as possible in order to debate the whole bill. If the hon. members on the other side want me to stick to the principle I will adhere to your ruling.

MR. SPEAKER:

It appears to me that the bill clearly is about the agreement between the City of Edmonton and AGT. How else can we debate the principle of this bill without going into some detail about what that agreement is? Certainly it seems to me that the minister is making every effort to give the House as much information as possible so that they can assess this bill. It seems silly for a member to object to the giving of information to the House.

MR. LUDWIG:

I have heard some pretty weak arguments and this has to be about the weakest one I have heard. He talks about an agreement. If there is an agreement and it is binding and complete, what are we wasting time on this thing for? There is no agreement. The minister comes here -- yes I would think that either the Premier or the minister or anyone can give away the assets of a crown corporation -- we haven't got an agreement yet and we are going to be dealing with all sorts of things --

MR. WERRY:

Mr. Speaker, I would like to straighten out the hon. member. We are not giving away the assets.

MR. LUDWIG:

I have the floor now, Mr. Speaker, and I would like to complete this point of order. The ruling should be: do we discuss sections now or do we discuss the general principle and the purpose of the bill? I we are discussing sections, then from now on we would have to be bound by precedent that on second reading of the bill we can deal in sections. I allege, I believe it has certainly been proven by experience, that dealing with sections during the second reading of the bill is a waste of time.

MR. SPEAKER:

It is very difficult to draw a clear-cut line between discussion in principle and discussion section by section. The hon. minister, as I understand it, is dealing with the substance of the bill. While he may have lapsed into referring to certain sections of the bill, my understanding of what the hon. minister is saying is that it does not amount to a section by section discussion of the bill as is done in committee. However, the hon. minister has expressed his willingness to deal with the principle of the bill and I would suggest that we continue.

MR. LUDWIG:

A point of clarification. To understand the ruling, if he does deal with sections then we can debate those sections in the manner that he deals with them. Is that correct? -- under second reading?

MR. SPEAKER:

If the eventuality which the hon. member refers to occurs then we will deal with it when it arises.

MR. WERRY:

Mr. Speaker, I would like to move, seconded by the hon. Minister of Industry and Commerce, second reading of Bill No. 20, The AGT - Edmonton Telephones Act.

MR. HO LEM:

Mr. Speaker, with regards to the second reading of Bill No. 120, I think it is fair to presume that the City of Edmonton desire to purchase the telephone

service in the described area, which will extend the Edmonton telephone services to the corporate boundaries of the city is based on two main points.

Firstly, to consolidate the block of telephone subscribers under one municipal jurisdiction and, secondly, to purchase and have under its control an operation which has proven presently to be a good profitable business proposition and one having good profit potential for the future.

If this were not so, the City of Edmonton would not show such interest and eagerness in entering into an agreement for the said purchase as described in Bill No. 120, however reasonable or low or attractive the purchase price might be. Let us then, for a moment, consider the implications of point one, the consolidation of Edmonton subscribers under one jurisdiction, namely, under the Edmonton Telephones system. This would involve the acquisition of that area up to the corporate boundaries of the city of Edmonton. The question which I have is: what would happen notwithstanding the explanation given by the hon. Minister as a result of the concerned express by the mayor of the city, if and when the corporate boundaries are expanded beyond the present boundaries? Are we then back to square one? Are we to enter into another round of negotiations wherein political pressure and influence are often time the determining factor rather than a decision made on good sound business practice. This, then is a most undesirable piece of legislation if this is going to happen. And we should have no part of it.

And still another point, how do we justify our position to other municipalities that also have large blocks of subscribers? For instance will Calgary, Medicine Hat, Lethbridge and areas such as that be given the same opportunity to buy from AGT the telephone business within their corporate boundaries. This bill, if passed, opens the door to such requests. In fact it definitely sets up principals which could in the end come back to haunt us unless we are prepared now to lay all our cards on the table and say to them that the same option would be extended to them on their request and on the same basis.

I can also see another area of concern. By smaller municipalities who are not in the same position as are the larger ones. The present rates are determined by a provincial rate. If the larger centers are permitted to go on their own and withdraw from the system then the rule rates would surely go up. Will the government then be prepared to subsidize these increases in rates to the affected areas? This is an important point which should be considered seriously now at this time because the rural areas are the ones least able to afford an increase in telephone rates or any other rates.

Mr. Speaker, another point which I wish to bring up is that I feel we should view the question of a telephone system within our province from an overall provincial viewpoint rather than on a local basis. This is regarded as a provincial public utility, one that belongs to the people of this province, and one that should not be disposed of lightly and without due and serious consideration. In fact, rather than selling I am of the philosophy that we should reverse the position. We should be negotiating with the city of Edmonton to buy the Edmonton Telephone System. This negotiation, of course, should be done on a fair and equitable basis tc ensure that the interests of the citizens of Edmonton is well protected in every respect. If however the government is doubtful at the present time as to his financial capabilities to purchase the telephone system of this city, consideration should be given to the proposition of offering the sale of shares in the AGT to be sold firstly to Alberta citizens and then, if necessary, to Canadians and others. We have always been talking about encouraging Albertans to invest in Alberta and I see here this is a splendid opportunity if we had the nerve to say this is what we want to do. And I don't think, hon. members, that this is such a bad idea even though it did come from this side of the House.

Mr. Speaker, before we can come to any reasonable decision on Bill No. 120 I would rather have from the hon. minister more important information on this proposal -- information, for instance, in the area of profits.

How much profit is now being generated from this particular area of operation and what are its future potentials in earnings?

I would also like to know how much was spent on the development of the system before it became a paying proposition.

Have these factors been taken into account when arriving at the end figure in the selling price? I think that we should know because without this type of information, the people of Edmonton and other citizens throughout the province will never really know what is at stake. Will the city of Edmonton being buying

a pig in a poke or will the government be giving away a valuable piece of revenue producing operation?

These questions should be answered. They are being asked now and they should be answered.

Now, Mr. Speaker, speaking as an M.L.A. representing the city of Calgary and citizens throughout Alberta, I wish to point out at this time that in Calgary and district we have the largest single block of AGT subscribers. I would suggest to the hon. minister that, in view of the implications of Bill No. 120 and in view of your recent announcement regarding acquisition of the Greyhound property in Calgary for the expansion purposes of AGT, it is timely to give consideration to the establishment of the head offices of the AGT at Calgary.

In conclusion, Mr. Speaker, because of the aforesaid concerns as well as the fact that there has been insufficient information and explanation on this bill, as well as the concern expressed by the Mayor of this city regarding the possible rates going up for Edmonton subscribers, I think that we should hold this in abeyance until these answers are provided.

MR. SPEAKER:

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

MR. DIXON:

We have a very serious bill to consider tonight, one of the most important that's going to come before this House in this fall session because it affects every person outside of the corporate boundaries of the City of Edmonton. As the former speaker, the hon. Member for Calgary McCall, has pointed out, if this bill would settle the issue, then I think this legislature might be in a position of being able to settle the issue but press reports and phone calls have indicated that the City of Edmonton is not going to be satisfied with the settlement that the minister is trying to make at the present time, a settlement that I wholeheartedly disagree with.

We have been as a province in a very poor bargaining position on this whole issue It all started prior to the last election, and I am sorry that the hon. Premier has left his seat; I am going to say that I have all the respect for the premier, a great respect for him. He's a great Albertan. But I think he made a political blunder. I think he made that blunder with the idea that he wouldn't be the premier of the province in the coming election. He thought he might the premier in the following election and the telephone issue would be settled. But the political blunder that the premier made was in telling Edmonton, "If you put us in office, you can have all the things that you want as far as the boundaries are concerned." So it did put the present government in a very, very poor bargaining position. In other words, they had thrown the race card away because the minute that the government across was elected the first thing the Mayor of Edmonton came out with was, "Well, this is fine. You can forget about the committee and everything else. A Conservative government is in now and they are going to give in to our wishes". So it has been nothing but a sham in the last six months of settlement.

I believe that it is a very bad situation. I feel sorry for the minister, too, that has to carry out this kind of a proposition, and in particular when you think of him as a member from the City of Calgary. Even the Calgary Herald, which supported the government so whole-heartedly in the provincial election, claims that the AGT sale has dumped a money loser on Edmonton. Yet I can not understand why Edmonton would fight so hard for a system that is losing money. And now we have the Mayor of Edmonton saying, "The rates are going to have to go up unless we share in the long distance toll revenue." I am sure the minister is going to get up on his feet and say, "This is why we are putting in a bill that they won't share in it".

But I think we should do Edmonton a favour if they are going to have to increase the rates and can not operate a system without increasing their rates because they have no long distance tolls. Then I think serious consideration should be given to postponing this bill and trying to renegotiate with Edmonton to buy out the assets of Edmonton Telephones, to make it a complete system throughout the province. I think we should also keep in mind too, that Alberta Government Telephones is a separate legal entity. It is a Crown corporation. It is a utility owned by the people of Alberta and empowered to serve anywhere in the province If we go back to the 1963 agreement, I do not think there is anyone in Edmonton that can deny the fact that that agreement was a good agreement. The Mayor had signed it, the Commissioners had signed it and just because they had failed to ask the City Council to ratify that agreement, we are in this situation today. But that agreement was a good agreement according to everybody, and it would have been held to those borders, and then I think it would have been easier for the province to negotiate a settlement with Edmonton because Edmonton Telephones is a municipally owned utility. It is not a separate corporate identity. It is a department of a municipality only, the City of Edmonton, which is a lot different to a Crown corporation which represents all the province. Both systems, therefore, too, are publically owned utility services, one a Crown corporation and the other an extension of municipal government.

What are the future objectives of the legislature or government? Is a provincial Crown corporation representing all the province to be subordinate to a local municipal service? Which has priority? AGT is limited by its external boundaries which are fixed. That is something we should keep in mind. AGT can not extend its boundaries beyond the corporate limits of our province. So we are locked in, just the same as Edmonton if that is their argument. So I think that serious consideration has to be given to this thing, not just piecemeal legislation every time the government, AGT, and Edmonton get together, because we are not going to settle this issue. You can see that now, and this bill is not going to settle it. It is going to be a political wrangle all the way down the line. This is bad for the morale of both systems, and in particular the staff. I am sure the people opposite have had representation from employees of AGT asking, "Where do we fit into this?" and I am sure Edmonton Telephone employees have been saying the same thing to their elected representative, but

in particular they are saying that after the last election they did not feel so bad; they felt quite secure. But the AGT employeees don't feel quite so secure, and I think this is a consideration we should attend to. I believe that if we are going to be giving away customers and concentrated growth - the hon. minister was quoted in Calgary as saying, "Well, you can give these customers away and we will not lose any money, because 65 per cent of our revenue comes from long distance tolls." Well, Edmonton, when they were arguing with us a year or so ago, to get into the type of agreement they are into tonight, they were claiming that they were making five million dollars a year without long distance tolls. Now, all of a sudden, they cannot operate their system unless they get their long distance tolls; and if we are going to start giving long distance tolls away the load is going to have to be carried by all those people outside the city of Edmonton, who are the AGT subscribers.

I think that in fairness to all concerned, we should take a realistic look at this whole situation. It is not an argument here between private enterprise operating at a profit and a public utility wanting to take it over. It is the very opposite. In areas outside of our province of Alberta the Municipal systems that I have visited, for example, have disappeared in favour of a provincial grid. I believe that if we are really going to service the people of Alberta and if we are going to continue to have a healthy AGT or a telephone system throughout this province we have to settle these issues. It is no use bringing in piecemeal legislation as has been brought in tonight, because we'll be back at it again in the next year or two regardless of what we do. I think that for the sake of all Albertans, and in the interest of getting a telephone system throughout the province (which we have today but which, in my opinion, is being interfered with as many of its assets, particularly in concentrated growth areas are being bargaained away), we've got to enter agreement to purchase Edmonton Telephones and have a province wide system. The alternative is that we give to every municipality in Alberta, and in particular, the City of Calgary, where the greatest concentration of AGT installations are, the same opportunity in Edmonton to buy the system out if they prefer to buy it out at the depreciated value that we're selling it to Edmonton. I noticed, and I also mentioned it in the question period today, Mr. Speaker, that I'm sure we're going to hear constantly from the City of Edmonton requesting further concessions particularly in the area of long distance tolls. If you remember, Edmonton ratified this agreement back in July, two of the aldermen voted against the agreement saying they were going to carry on the fight for part of the revenue from long distance tolls. And so, there are so many other things that enter into this agreement. It's not only just a telephone service but a communication service, cable TV, all of which are interrelated in this question. I feel that as a Legislature we should uphold our crown corporation, which, as I pointed out earlier, has been in power to serve everyone in Alberta. I don't think this legislature should be in a position to give away or sell at bargain prices any of its assets. Thank you, Mr. Speaker.

MR. NOTLEY:

Mr. Speaker, before I proceed may I ask the Government House Leader what time he anticipates adjournment tonight, 11:00 o'clock or 10:30? When do we get finished?

MR. HYNDMAN:

Mr. Speaker, when we get finished.

MR. NOTLEY:

Mr. Speaker, may I first of all say that I was very interested in the remarks of the hon. Member for Calgary McCall. I agreed with most of the things he said except for his original suggestion about selling a portion of AGT to the City or to the citizens of Alberta. May I suggest that his suggestion is just as unwise as was the same original suggestion made approximately 15 months ago. But, I find myself today caught between two conflicting principles. In the first place, it seems to me, Mr. Speaker, that we have to look at the prudence of an overall provincially owned system. Quite obviously there are many advantages, especially to the rural areas of the province because the money is not made in the smaller communities in Alberta. The load is going to have to be carried in large measure by the areas of concentrated population. This just happens to be a cruel question of economics. So, when we look at the total good of the Province, it is quite clear to me that one provincially owned system serving the entire province is a goal which we should set and which we should try to achieve. Where I quarrel with the two previous speakers is perhaps in just how soon and how quickly we can reach this goal. Because the other principle that seems to me to be important is the question of the rights of municipalities. Mr. Speaker, the hon. Member for Calgary McCall suggested that

were we to authorize this agreement in Bill 120, we would open the door to the same sort of thing in Calgary, and Lethbridge, and Medicine Hat, and elsewhere in the province. With greatest respect I don't accept that argument. I think there is a difference between those parts of the province that are already served by AGT on one hand, and that part of the province which is serviced by a municipally owned utility. I think it's important that we recognize the prudence of the city fathers in Edmonton, who, many years ago, took over the telephone system and developed it as a public utility along with other public utilities. We all know (it just happens to be a fact, and the hon. members from Edmonton can readily testify to this fact) that a very important part of the revenue of the City of Edmonton happens to come from the profits made by the city-owned utilities. It would be a highly unpopular thing to do in Edmonton to sell those utilities, because they contribute in a very real way to the finances of the city.

As we consider the need for an overall provincial system, it's very important that we recognize that the prudence of those early city fathers that had the common sense to undertake public ownership of the utilities. I suggest then that we're not really going to get very far with Edmonton until the City is in the position to look at other forms of revenue. I submit that there's no real chance of developing an overall provincial telephone system until we have a complete overhaul of municipal finances so that the municipalities are not forced, as the City of Edmonton is today, to rely for a very significant portion of their budget, on utility profits. That is one of the reasons why I feel that the Farran Task Force proposal is inadequate. It's one of the reasons that I feel, however, that the need to appoint some form of joint provincial municipal commission to examine the total question of municipal finances in this province is absolutely necessary. I suggest to you that the practical question that we face today is that we are not likely to achieve any kind of agreement with Edmonton until the city knows that it has adequate revenues on a just basis. I submit that there's no real chance of developing an overall provincial telephones system until we have a complete overhaul of municipal finances so that the municipalities are not forced, as the City of Edmonton is today, to rely for a very significant portion of their budget on utility profits.

Now, of course, we have the legislative power to impose almost any kind of agreement we want. But where we could do that, we would be in flagrant violation of what seems to me the very important principle of municipal rights. I close by stating again and underlining the important point that there is clearly a difference between those communities that are already serviced by a provincially owned utility and a community such as Edmonton, which has had the prudence to develop their own municipally owned utility. Now admittedly, we're talking about the areas of the city that have been serviced by AGT and we look back on the agreement of 1963 and the controversy that has surrounded this issue in the subsequent nine years. But the fact of the matter still remains, here is a city that has a municipally owned utility. To make that utility viable, it must expand as the city expands. Otherwise, by a process of atrition, we will be forcing Edmonton to sell at a bargain basement price to AGT.

Mr. Speaker, with greatest respect, I don't believe that would be treating the City of Edmonton in a very fair manner. But in the long run, it's quite clear that the best interests of all the people in this province would be serviced by a provincially owned system that could provide telephone rates throughout the province on a reasonable basis; where the larger centres, because of their concentration of population, would subsidize the less populated areas of the province. But until we can agree on this between the City of Edmonton and the Province, I suspect that as I said before, we're not going to get that type of agreement until the City can look at a just division of the revenues needed to run a large municipality. Until that stage comes, I suspect we are then forced to look at the other option. While I have many reservations about it, the agreement as proposed by the government is one which I feel obligated to support.

MR. KOZIAK:

Mr. Speaker, I've come to the conclusion, rightly or wrongly, that the City of Edmonton Telephone System is a more valuable unit as a whole where it serves the entire city of Edmonton, the entire lands and people within the boundaries of the city of Edmonton, than if that system were sub-divided into two or more areas, and some of the people were served by one system and other areas of the city by one or more other systems.

Having come to this conclusion, I feel that to take the position of now suggesting that the Alberta Government Telephones should not proceed with that agreement but should attempt to purchase outright Edmonton Telephones would bring the parties to a proposed agreement to the bargaining table on equal

terms. I feel that Alberta Government Telephones would then hold the upper hand and that the City of Edmonton would come to that bargaining table on its hands and knees. It is only when the City of Edmonton has the whole unit, that it can effectively bargain, should it wish to sell. If the occasion should arise, where the sale of Edmonton Telephones to Alberta Government Telephones would take place both parties could meet at the bargaining table on equal terms and an agreement can be worked out, which would be fair, not only to the citizens of the province of Alberta, but also to the citizens of the city of Edmonton. Until such time as that can be worked out, if it is the desire of the people involved, I have come to the conclusion that it is in the best interests of all the citizens of the province that this agreement be entered into and that the City of Edmonton be invited to purchase the property of Alberta Government Telephones within the boundaries of the city of Edmonton. I have some concern that perhaps, and I recall the comments of the hon. member opposite pertaining to the bargain basement prices at which the City of Edmonton would be purchasing Alberta Government Telephones equipment. That I don't feel is the case because pursuant to the provisions of the act, this will be set by an agreed upon manner. However, I have some concern that perhaps the City of Edmonton may not have the input into the determination of that price, if the provisions of the present act where passed in the form that they now appear. I would hope that the minister might take into consideration changing some of the provisions to permit the City of Edmonton to appoint an individual on the team that would determine the price at which the assets should be sold.

There is another aspect to the agreement which I feel should be brought to the attention of the members. We are all familiar with the annexation orders granted by the local authorities boards and the provisions for the take-over by the City of Edmonton wherever there is an annexation of lands from municipalities outside of the city of Edmonton into the city Edmonton for the takeover by the City of Edmonton of the distribution of power and what have you. Nobody seems too concerned about those provisions. They seem to happen as a matter of course. Lands that were formerly serviced by Calgary Power become serviced by Edmonton Power. There is provision for that in Section 273(4) of The Municipal Government Act. But what is even more compelling, Mr. Speaker, is a provision in The Municipal Government Act, and in order to appreciate the true effect of that provision, I must bring to the attention of the House, Section 2(23) of The Municipal Government Act which defines public utility. Public utility is defined as being "any municipal revenue earning work or utility," includes "the municipal telephone system". It goes on to list another eight. So that a municipal telephone system is included as a public utility. Now keeping that in mind, when one refers to Section 295 of the same act, one finds a provision where the municipality has constructed any public utility, and where there is a sufficient supply thereof the municipality shall supply, upon such terms as the council considers advisable, any building within the municipality and situated upon land lying along the line of the public utility upon the supply being requested by the owner or occupant or other person in charge of the buildings. So there is a provision in The Municipal Government Act that if a citizen of the City of Edmonton, living within the area now served by AGT, desires telephone service by the City of Edmonton, the City of Edmonton has a duty to supply that service. And it is only with the passage of this act that the City of Edmonton will be properly, and with the least extra expense, be able to service the people within the boundaries of the municipality with that public utility, which is a telephone service. And that, to my mind, Mr. Speaker, effectively deals with the act.

MISS HUNLEY:

Mr. Speaker, I must take exception to the comments made by the hon. Member from Calgary Millican, when he refers to the negotiations as a sham. I say to you sir, that is balderdash and nonsense and he should know better. I was on that negotiating team and it was not sham. We spent many hours of long, hard negotiation; neither was this a short-term thing that flared up before the last election. This issue has been before us since before I was born, and, though I hate to admit it, that was a long time ago. You know that. You know very well that in 36 years you couldn't solve the problem. It reached a white heap, and it was a complete impasse; we sat down with Edmonton, we negotiated with Edmonton, and it was a difficult negotiation. You say to us, "Buy out Edmonton Telephones." Edmonton Telephones is not for sale. We have been told that by the negotiating team. How can you buy something that isn't for sale? You can expropriate. We know we have the legislative power to do that. I find that thought repugnant, and I am sure you do too, sir. I just resent the implication that we didn't try, and that it is a bargain basement price. This was a difficult negotiation. There was give and take. I think we have settled the matter for the time being. I don't doubt that it may arise again. It wasn't solved in the last 50 years. This is not perhaps the best solution, but it is a solution that we arrived at and by bargaining with the City of Edmonton in good

faith and I support the hon. minister. As I say, I was part of the negotiating team and we negotiated in good faith. We came up with the proposition that we found was acceptable to the people of Alberta and the City of Edmonton.

MR. GHITTER:

Mr. Speaker, I feel constrained to briefly enter into this debate because we have heard from two Calgary M.L.A.'s who have strongly suggested a lack of support from the point of view of this particular bill that is before the assembly this evening. And I must say that I am somewhat embarrassed by what I regard to be their very narrow approach to what is a very difficult problem. In fact, I might even go so far as to suggest that their approach is so utterly regional in its concept from the point of view of an inherent distrust or consideration that the rates in Calgary are going to sky-rocket out of sight because of the fact that the government has been placed in a position whereby historically a situation has arisen in this province that we have had to deal with. And the fact that the Edmonton Telephone system is owned by Edmonton is something which, I think, was said by the hon. Member for Spirit River-Fairview is an example of the good insight and the judgment of the forefathers of the City of Edmonton when this occurred. The fact remains that to have two telephone systems operating in this particular area -- and I am sure of this from the examination that I have looked into is inequitable, inefficient, costly, and just doesn't make sense. So certainly the provincial government is not a fishmonger going to the market to debate and to harrangue the city of Edmonton in a negotiating situation which does not consider the best interests of not only Edmonton citizens but the citizens of the Province of Alberta. I am confident from the discussions that I have had from those who have negotiated the situation that this has been done in good conscience, fairness and reasonableness. But for us to suggest as Calgarians, in a somewhat narrow approach to a problem of this nature, that our only concern is that there be no nagging worry, that the rates are going to increase in Calgary, and let's forget about the problems of the City of Edmonton. I think that is narrow, that it is not in the best interests of the Province of Alberta, and I, as one Calgarian, am happy to support this bill. I can hopefully recognize the problem that has occurred and, hopefully, although it is not perfect, -- I have found that nothing really is in this business, -- I think we should live with it and be happy that the negotiating team did such an excellent job.

MR. HENDERSON:

Mr. Speaker, as I listen to the debate I am reminded about the story of the farmer who had a neighbour come in one day and want to borrow his axe -- I think some of you may have heard the story -- and the owner of the axe, when the chap came in, said "sorry, I can't lend it to you. I've got to go to town today and I have to shave." The chap left without the axe. Whereupon the farmer's wife lit into him and gave him a scolding for saying such a stupid thing to his neighbour and when the neighbour would know full well that it was really that he didn't want to lend him the axe because he didn't shave with it. The farmer said "You are absolutely right. When you don't want to do something it doesn't make much difference what excuse you make." And I think that's about the crux of the debate here.

The gentleman on the opposite side of the House, and I'm not critical of him -- it's part of the game -- made a political commitment to the City of Edmonton to sell the portion of AGT inside the city limits, and they are honouring that commitment. I would like to suggest on the point of the price that any suspicions or doubts that anybody might have on this particular matter could be alleviated if the government would simply table the economic study and exchange the summary that they used in arriving at the cost.

So, Mr. Speaker, I put a question on the order paper just to clarify the matter, asking for a year by year statement as to the capital costs and capital investments of AGT within the area in question.

So that question can really be resolved without any difficulty. And I don't really think it is the crux of the argument. I listened to the propositions suggesting that it would be a lot cheaper if the city was running the whole system, and one could arrive at the conclusion that one could sell AGT's portion inside the city limits to the City. I would point out, by the same logic, that a province-wide system could be run cheaper by integrating it all into one system. So the argument is valid either way. In fact, I think with the greater sum it makes more sense on the argument of integrating the whole thing into one system.

I, as a member with a constituency which adjoins the city of Edmonton as a rural riding, have always been frustrated under the previous administration, and

continue to be under this one, in that the people in the peripheral areas of Edmonton do not enjoy the direct dialing privileges that they could really have technically and ecnonmically simply by virtue of the toll exchange problems relative to long distance dialing that come out when the system is owned by two different groups of people. I guess really, what the whole argument boils down to is money. And I think that so long as we approach it from the standpoint of two corporations, we are arguing over who is going to get the biggest slice of the cake; we are going to continue to have the same arguments.

And I would like to suggest, Mr. Speaker, that it is really about time that we make the question of money secondary when looking at this particular problem. In the first instance, the argument that because the city runs the power system and they run their water system, for example let's use the power system -- that the telephone system should be considered a public utility and treated in the same vein -- simply is not valid in a technological sense. The gas system isn't in the business of picking up gas in and out of the city of Edmonton and piping it all through the utility system and distributing it all through the rest of the province. There is a substantial difference between the question of power insofar as integration of it and the service that is provided and the question of telephones. There isn't a connecting link that is of any consequence for example between Edmonton City Power and Medicine Hat. It's not relevant but there is insofar as people are concerned between Edmonton and Medicine Hat. They are continually communicating with one another and so the argument of public utilities isn't relevant. There is no doubt that the government is going to proceed with the bill. But it really doesn't come to grips with the long term issue that's going to come back to bite this government. If it stays in office long enough, and I think if it takes the view of short term political expediency, it may not have to worry about the problem in the near future, but its going to come up. I gather from listening to remarks of the Minister of Telephones, that he said that, while it isn't in the bill, this agreement doesn't preclude the city coming back in two years after they have absorbed Strathcona and Sherwood Park and Devon, where I live, and ask for an extension of the boundaries. And I think to make it clear, if that is the policy that this bill enunciates, it should be clearly stated in the act. I don't agree with the policy because I think it simply doesn't come to grips with the realities of the problem which have to be faced in the long run.

As long as the system is divided, it's an expense to the city of Edmonton, it's an expense to all the other consumers of this service throughout the province of Alberta and I for one, Mr. Speaker, would favour a suggestion that one of my colleagues has made and I think others have made, which takes into account the proposition of the City of Edmonton, that they want to share the long distance toll revenues.

Why can't the committee that currently is negotiating this matter take a look at the issue of putting a present worth value on the city's share of long term toll revenues?

I suggest, Mr. Speaker, that if this could be done, it would be worth $20 million to the people of the province,or maybe $30 million in the long run, to get the issue settled and I suggest that everybody is taking quite a parochial view of the deal. I can't imagine a member from the city of Edmonton getting up and opposing the agreement and I am not surprised that members from the city of Calgary do get up and oppose it.

I really wonder, Mr. Speaker, in closing the debate, if the minister could outline to the House what consideration he has given to a policy of putting a present worth value on the Edmonton city share of long distance toll revenues in the interest of getting some common sense into this particular problem. I think its in the public interest to do it and it would be worth a little bit more of the taxpayer's money at this point in time to settle the matter once and for all on a long term basis. I can certainly see that the City has some arguments in its favour and I can see that the AGT have arguments in their favour.

I suggest, Members of this House, that maybe we should set aside the basic question of parochial politics and the short term question of dollars and cents and look at the issue in a long term manner. I think that this is what my colleague at the end of the front row is arguing. I would also appreciate it, Mr. Speaker, if the minister would clarify in his closing remarks exactly what the government's policy is, also on the long term picture of dealing with the province. If the City is going to have the right to expand its system as the city grows -- if that's what the policy is going to be, and if we can't take the broader perspective and find a few more dollars to settle the thing once and for all, then for goodness sakes, rather than see us or other succeeding members of this legislature go through this argument,lets put it in the act, so we don't have a hassle about it every time the city expands it boundaries. Thank you.

MR. FARRAN:

I beg leave to adjourn the debate.

MR. SPEAKER:

Has the hon. member leave to adjourn the debate?

HON. MEMBERS:

Agreed.

MR. HYNDMAN:

Just before moving adjournment, I would like to outline to the House business for tomorrow, remembering that we start at 1:00 tomorrow afternoon.

We will continue with second reading of the Bill No. 120 now under consideration, and second reading of Bill No. 121, Improvement Districts; Bill No. 123, Alberta Lord's Day Amendment Act; and move to Committee of the Whole Assembly for Bill 77, the Legal Profession Amendment Act, Bill 108, The Workman's Compensation Amendment Act; and continuing with 109, 110, 111, 112 114 down to 115, the other two there having been done. Then if time allows, we will proceed with Government Motion No. 3, the motion for receipt of a report of commission on educational planning, moved by Mr. Foster, seconded by Mr. King.

Also, members should note that tomorrow Privileges and Elections start at 8:30 in these chambers. I would also like to give oral notice, Mr. Speaker, that tomorrow the hon. Minister of Municipal Affairs will beg leave to introduce a bill being the Communal Property Repeal Act, 1972.

Accordingly, Mr. Speaker, I move that the House do now adjourn until tomorrow afternoon at 1:00.

MR. SPEAKER:

Having heard the motion by the hon. Government House Leader, do you all agree?

HON. MEMBERS:

Agreed.

MR. SPEAKER:

The House stands adjourned until tomorrow afternoon at 1:00.

[The House rose at 10:50 p.m.]