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ALBERTA HANSARD

November 8th 1972

LEGISLATIVE ASSEMBLY OF ALBERTA

Wednesday, November 8, 1972

[The House met at 2:30 pm.]

PRAYERS

[Mr. Speaker in the Chair.]

INTRODUCTION OF BILLS

Bill No. 127 The Credit and Loan Agreements Amendment Act, 1972 (No. 2)

MR. KOZIAK:

Mr. Speaker, I beg leave to introduce a bill being The Credit and Loan Agreements Amendment Act, 1972 (No. 2). Mr. Speaker, the bill provides protection to consumers in the area of time/sales agreements and loan agreements. It will prevent unilateral and, without notice, changes in interest rates and repayment terms of time/sale agreements and loan agreements where the debtor, through certain circumstances beyond his control, may not or may default in the provisions of the agreement. Mr. Speaker, it will also prevent unilateral changes in an agreement without the signature of the debtor.

But the most exciting provisions of this bill, Mr. Speaker, are those that deal with credit card and credit card losses. We are aware of the charges, Mr. Speaker, that losses through frauds in the area of credit cards now exceed \$3 million a year and exceed the losses through bank robberies. There are now approximately 100,000 credit cards lost every year and of these, approximately 9,000 fall into the hands of thieves or people who are not scrupulous.

Mr. Speaker, the bill will provide protection to the person who loses such a credit card and will limit the loss that the owner of such a credit card may suffer to an amount which would not exceed \$50, in the event that the owner of that credit card notified the issuer within a reasonable time of its loss. Mr. Speaker, this is a great step forward in consumer protection in this province.

[Leave being granted, Bill No. 127 was introduced and read a first time.]

Bill No. 213 An Act to Amend the Pharmaceutical Association Act

MR. TAYLOR:

Mr. Speaker, I beg leave to introduce a bill, An Act to Amend the Pharmaceutical Association Act. This act, if passed, will require druggists to dispense the drug prescribed that is lower in cost than the one prescribed, unless the doctor directs that a certain name brand be dispensed, or unless the purchaser requests the name brand. The act defines an interchangeable pharmaceutical product but contains a drug or drugs in the same amount and in the same active ingredients in the same dosage. It would be an offence, under the act, for a druggist to dispense a product at a price in excess of the cost of the lowest priced interchangeable product, plus the dispensing fee.

The act deals with the records that must be kept by the dispenser and these must be made available to the Minister of Health and Social Development upon request.

Two examples of what the bill will do, in connection with hydrochlorothiazide, which is used when there is an excess amount of fluid in the body and a person has high blood pressure, and it expels the urine, or assists in that regard. The brand name runs at \$3.95 for 100, whereas there are other products on the market with the same dosage of 80 cents per 100.

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One other example -- tolbutamide, for mild diabetics where more than diet is required. The brand name runs from \$4.80 for 100 to \$1.00 for 100.

This bill, if passed, will save Albertans, especially our senior citizens, thousands of dollars every year.

[Leave being granted, Bill No. 213 was introduced and read a first time]

DR. HOHOL:

Mr. Speaker, I move, seconded by the hon. Minister of Municipal Affairs, that Bill No. 127 be placed on the Order Paper under Government Bills and Orders.

[The motion was carried without debate]

MR. BUCKWELL:

I might ask a question. In Votes and Proceedings, this bill is called Bill No. 126.

MR. SPEAKER:

The number on the document is 127, but we'll check it.

INTRODUCTION OF VISITORS

MR. LOUGHEED:

Mr. Speaker, I would like to introduce to you and through you to the members of the House a distinguished visitor in your gallery, sir, who is assuming important responsibilities. The visitor with us today is the Canadian Ambassador Designate to Japan, Mr. Ross Campbell.

MR. DIACHUK:

Mr. Speaker, I wish to introduce to you and to the assembly a group of 16 artists sitting in your gallery who are performing tonight at a concert in the Jubilee Auditorium. These people are descendants of the Ukrainian immigrants to Australia, and some 10 years ago at the Olympic Games in Australia was the founding and the beginning of their group. They have performed on some five continents in 18 countries, and three years ago they were here at Klondike Days in Edmonton. They will be departing within about five minutes, and I hope the assembly will not consider that they did not wish to stay longer; they have to go into rehearsal. I would like Mr. Wasyk Kowalenko and his troupe of Kuban Cossacks to please stand and be recognized.

MR. SORENSON:

Mr. Speaker, I wish to introduce to you and to the members of this assembly 86 Grade V and VI students from Patricia Heights School. They are accompanied by their teachers, Mr. MacKenzie, Mrs. Taylor, Mrs. Goodman, Mrs. Lawrence and Mr. Douglass.

The students will be paying very apt attention today to our democratic process, and especially to every action of the Speaker. Patricia Heights School is in our Speaker's constituency of Edmonton Meadowlark. It's a real pleasure to introduce the group. They are seated in both the members' and public galleries, and I would ask that they stand at this time and be recognized.

MR. STROM:

Mr. Speaker, it is my pleasure to introduce to you, and through you, to the members of the legislature, four people sitting in the public gallery. They are Mr. and Mrs. Frank Romeikie from the County of Forty Mile. Mr. Frank Romeikie is the Vice-Chairman of the Educational Committee and Deputy Reeve of the county. Accompanying them are Mrs. McCord and Mr. Robinson from the County of Vulcan. I would ask them to stand and be recognized.

MR. GRUENWALD:

I would like to introduce to you and to the members of this assembly a friend of mine in the Speaker's gallery. She's a journalist, an interviewer, a co-host on an openline radio program in Lethbridge, a very important and very influential person in Lethbridge, Mrs. Merle Anderson.

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MR. SORENSON:

Mr. Speaker, I wish to introduce to you and to this assembly a very distinguished young lady from my constituency. Mrs. Chevrax is author of the book "The Ten Dollar Bets." A complimentary copy of this was presented to the Premier and to the Leader of the Opposition when they visited Killam during the 1971 election campaign. Mrs. Chevrax is also author of the "Legend of the Manitou Stone" and this appeared in one of our national farm papers. It was Mrs. Chevrax who lit the fuse that exploded in this assembly, shaking loose an historical Alberta meteorite that rests in Ontario, far from home, and hopefully it is sailing at this time back to Alberta. Mrs. Chevrax is lecturing this evening at the Museum on this very subject. Mr. and Mrs. Chevrax are in the Speaker's gallery and I would request that they stand and be recognized at this time.

FILING RETURNS AND TABLING REPORTS

DR. HOHOL:

Mr. Speaker, as required by statute I wish to table the 54th Annual Report of the Workmen's Compensation Board for the year ending 1971.

MR. CRAWFORD:

Mr. Speaker, I would like to table copies of answer to Question 224 placed by the hon. Member for Wetaskiwin-Leduc yesterday in regard to patient loads at the Alberta Hospital.

DR. BACKUS:

Mr. Speaker, I would like to table the answer to Question 216 by Mr. Dixon regarding the providing of accommodation for the Department of Health and Social Development.

While I am standing, I would also like to table the Return on Sessional Paper 220 regarding the extensions to senior citizens' homes.

ORAL QUESTION PERIOD

MR. SPEAKER:

The hon. Member for Pincher Creek-Crowsnest followed by the hon. Member for Calgary Millican.

#3 Highway Relocation

MR. DRAIN:

Mr. Speaker, my question is to the hon. Minister of Highways. How far has the Highways Department's progress been in the planning and relocation of #3 highway through the Crowsnest Pass?

MR. COPITHORNE:

Mr. Speaker, at this time we are working on the details. The hon. Member for Pincher Creek knows I was down in the area with some of my staff last fall during September. We viewed the areas where the road is going and they are now looking at the technical problems that are involved in the reshaping of the road in that area. It will be some time this winter when we will be able to have a definite decision.

MR. DRAIN:

Mr. Speaker, can the hon. minister give me assurance that the people problems that will arise in the relocation will be carefully considered?

MR. COPITHORNE:

Mr. Speaker, the people problems are always carefully considered when we design and develop a highway in any area in the Province of Alberta.

MR. SPEAKER:

The hon. Member for Calgary Millican followed by the hon. Member for Sedgewick-Coronation.

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Rundle Lodge, Calgary

MR. DIXON:

Mr. Speaker, I would like to direct my question today to the hon. Minister of Culture, Youth and Recreation. I wondered if he had received a report yet on the future of Rundle Lodge in Calgary? A number of my constituents are quite concerned and they wondered if the report was in.

MR. SCHMID:

Mr. Speaker, I have had indication from Mr. Edwards who is the chairman of the Independent Committee reported on Rundle Lodge that he should have his report shortly, in fact, he said by the end of next week at the latest.

Trapping Regulations

MR. SORENSON:

Mr. Speaker, my question is directed to the Minister of Lands and Forests. Is the government going to bring forth legislation at this session or at the spring session, to ban the use of the leg hole trap, the steel jaw trap?

DR. WARRACK:

Mr. Speaker, I would confine my answer to the remaining days of this particular session of 1972, and the answer is no.

MR. SORENSON:

Supplementary, would the minister assure the House that he will undertake to study this barbaric and cruel method of trapping and report back to the House?

DR. WARRACK:

Well, I see the hon. member reads the paper. I have been studying this since very early, I think since the second day of my being in the position of responsibility that I now have. As a matter of fact, I have met people that represent, on a thorough delegation basis -- utilizing the good offices of the southern Alberta office of the Premier -- to meet with the people from the City of Calgary who have organized themselves into an organization who feel strongly about this point, and we have had thorough discussion of the matter.

MR. SORENSON:

Has the government given any consideration to prohibit the sale of furs taken by means of the leg hole trap?

MR. SPEAKER:

The hon. Member for Calgary Bow followed by the hon. Member for Drayton Valley.

Queen's Printer Services

MR. WILSON:

Mr. Speaker, I would like to direct a question to the hon. Provincial Treasurer. Are you aware that Calgarians and southern Albertans suffer a handicap from the present operations of the Queen's Printer facilities?

MR. MINIELY:

Well, I wonder if the hon. member would care to elaborate, Mr. Speaker. I'm not sure what he is speaking about.

MR. WILSON:

Mr. Speaker, if I may. The Calgarians and southern Albertans desiring copies of provincial acts are required to send the money in advance before they get the act back to Calgary, and in some cases, where there is some urgency, they cannot acquire them in the time and speed that they need. I know that the acts are available in solicitors' offices and various other places, but it is not always handy or adequate for the needs of some citizens. And if I may throw

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in a supplementary, Mr. Speaker, have you considered opening a Queen's Printer service counter in Calgary for the purpose of selling the various government publications to the general public?

MR. MINIELLY:

Well, certainly, Mr. Speaker, I think all hon. members are aware of the attempts of this government to improve government communications in Calgary, particularly through the Premier's office. I would say that this is a matter which we certainly will look into and see whether we can overcome the problem that you are talking about; I think we all agree that we certainly want to ensure that these are provided with as much convenience as possible, taking into consideration the administrative problems.

MR. MOORE:

Supplementary, Mr. Speaker, on that same subject, to the hon. Provincial Treasurer. Is there anything which prohibits a member of the legislature from supplying his constituents with copies of these acts?

MR. MINIELLY:

Well, certainly not, Mr. Speaker. All hon. members are aware that they can obtain these and send them out. If constituents get in touch with M.L.A.s, certainly the M.L.A. can make the arrangements for them. But I do think in reply to the hon. member's question that you are well aware that it is the policy of this government to ensure better communications generally throughout the province on government policy and in government bills and actions. To that extent we will certainly consider what we can do. There may be a problem, of which I am unaware and of which the hon. member is unaware at the present time. I will be happy to consider it and see what we can do.

MR. SPEAKER:

The hon. Member for Drayton Valley followed by the hon. Member for Calgary McCall.

Members Offices

MR. ZANDER:

Mr. Speaker, I have a question for the hon. Minister of Public Works. In view of the many questions asked by the hon. Member for Calgary Mountain View in the past days concerning the condition of the court house in Calgary, maybe there should be some concern expressed about the roof leaking in my ---

MR. SPEAKER:

Order please. Would the hon. member please come directly to the question.

MR. ZANDER:

Could the hon. minister give me any assurance as to when the swimming pool conditions will be remedied and the polythene removed and the ceiling tiles replaced in the office?

DR. BACKUS:

Mr. Speaker, not only do we provide offices, but also running water. But I certainly take it seriously and will have the matter looked into as this is the first time this has been brought to my attention.

MR. SPEAKER:

The hon. Member for Calgary McCall, followed by the hon. Member for Camrose.

Agri-Mart Site

MR. HO LEM:

Mr. Speaker, I would like to direct this question to the hon. the Premier. Is the government now prepared to take over full responsibility of relocating the proposed Agri-Mart development in northeast Calgary in view of the council's motion on Monday wherein council thanked the provincial government for its positive and generous offer to relocate Agri-Mart outside Calgary, and also in

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view of the mayor's statement that the City Council has now graciously backed out of this issue in favour of the provincial government?

MR. LOUGHEED:

Mr. Speaker, I will refer the question to the hon. Minister of Municipal Affairs.

MR. RUSSELL:

Mr. Speaker, it is true that the province has offered to try and find an alternate site for the very contentious Agri-Mart proposal because it is a good industry to keep in Alberta. Indications are that there are many communities that would like to have it. Agri-Mart, of course, still has its site in Calgary, is still proceeding legally, so I don't think the city can just wash its hands of the situation quite that easily as was reported in this morning's paper.

MR. HO LEM:

A supplementary question, Mr. Speaker. In order to clarify the province's position to the Mayor, and also to the people of Calgary, will the government advise the Mayor that he is again mistaken in his assumption?

MR. DIXON:

Another supplementary question, Mr. Speaker. Has the town of Airdrie requested that this be established in their community?

MR. RUSSELL:

Mr. Speaker, I think it would be premature and very speculative to name any specific community at this time.

MR. TAYLOR:

A supplementary question, Mr. Speaker. Is the hon. minister aware that there is a letter on the way offering the Strathmore area as a suitable site?

MR. RUSSELL:

I have difficulty, Mr. Speaker, anticipating what is coming in the mail. We have had a letter from one other southern Alberta community and I'm pleased to see the positive response we are getting.

MR. SPEAKER:

The hon. Member for Camrose, followed by the hon. Member for Pincher Creek-Crowsnest.

Therapist Shortage

MR. STROMBERG:

Mr. Speaker, a question to the hon. Minister of Health and Social Development. Is your department taking any steps this year to rectify the serious problem of not enough therapists and the need for more therapy at the Rose Haven Hospital in Camrose, as pointed out in the annual report of the Board of Visitors?

MR. CRAWFORD:

Mr. Speaker, I think my answer to the hon. member today would be to acknowledge his well known enthusiasm on behalf of his constituents of Camrose and admit to him that though he gave me notice of his intention to ask the question yesterday I don't have a full report for him. The report of the Visitors Committee, of course, has been reviewed since it was received, but as to the detail of that particular program at Camrose I would have to agree to provide him with that information in a day or so.

MR. SPEAKER:

The hon. Member for Pincher Creek-Crowsnest, followed by the hon. Member for Spirit River-Fairview.

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Coal Gas Report

MR. DRAIN:

Mr. Speaker, my question is to the hon. Minister of Mines and Minerals. My question is: are you aware of coal gasification possibilities for coal in the Crowsnest Pass, and if so, can you advise the legislature?

MR. DICKIE:

Mr. Speaker, at the Coal Association meeting in Edmonton in September, there was a great deal of discussion of coal gasification. I don't recall at that time, and it certainly hasn't been brought to my attention, about a specific project in the Crowsnest area.

MR. DRAIN:

A supplementary, Mr. Speaker. There has been a feasibility study done, which will require a minimum of 10 million tons of coal per year, and the lead time on production would be probably --

MR. SPEAKER:

The hon. Member is giving a supplementary answer.

MR. DRAIN:

Mr. Speaker, I am getting fired up. [Laughter] Mr. Speaker, with your indulgence, I'm getting fired up because I'm talking about coal. The lead time in production is about six years, and therefore it would behoove the government to take some steps towards furthering and accelerating coal production. Now I'm wondering if you were thinking in these terms.

MR. DICKIE:

Well Mr. Speaker, I'd like to assure the hon. member that we're certainly interested in that problem and I'd welcome the opportunity to discuss the study with him, and if he can obtain a copy of it, we'd be glad to review it with him.

MR. PEACOCK:

Mr. Speaker, may I just add something to my colleague's comments in regard to coal gasification, because the Research Council for the Province of Alberta has done some evaluation and some research and monitoring on what is taking place in the world in coal gasification. That evaluation is being accumulated now.

MR. SPEAKER:

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

Dr. J.D. Craig

MR. NOTLEY:

Mr. Speaker, I would like to direct this question to the hon. Attorney General. Does the government propose to appoint an independent public inquiry into the case of Dr. John David Craig?

MR. LEITCH:

Mr. Speaker, the answer to that is, not at the moment. There could conceivably be circumstances developed in the future which we again will want to take a further look at, but at the moment the answer is no.

MR. NOTLEY:

A supplementary question to the Attorney General, Mr. Speaker. Has the Attorney General issued any guidelines or directives, or does he propose to issue any guidelines or directives to police departments in the province, regarding the necessity of respecting the confidentiality of doctors' files?

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MR. LEITCH:

Mr. Speaker, the hon. member's question dealing with confidentiality, really deals with confidentiality in three areas; the first would be whether such files were available to the judiciary at all, and that would be one question. And the answer to that at the moment is that they are, under the law as it is in Canada today.

The second would deal with confidentiality while the documents were in the possession of law enforcement officers who were in the course of executing a search warrant.

The third area in which the confidentiality arises, if the seizure happens to be too large or improper -- and in that sense I am referring to a seizure where the search warrant is issued, the people executing the search warrant go into an office or place of business, and then have to collect up and look at documents and there make a decision as to whether they are within the terms of the search warrant. Now, the practice that had been followed in the past was simply this -- if the policeman in the course of executing the search warrant gathered up documents that he wasn't authorized to gather under the search warrant, or if there was some question about the validity of the search warrant, by the time the person whose documents they were was able to object, it was after the fact. It was too late, because by that time the policeman had, of course, seen the documents. In an effort to cure that problem, I issued a directive to the Crown prosecutors whereby, if in the execution of any search warrant, any issue arises as to the validity of the search warrant, or documents had been taken which don't fall within the terms of the search warrant, the documents are to be immediately sealed, placed with the Clerk of the Court until the court can decide that issue.

So the short answer to the hon. member's question, which is in a very troublesome and difficult area, is that that directive has been issued, and will deal with the situation where the person feels that there may be some question about the validity of a search warrant, or too many documents have been taken. They won't be looked at until after the court has been able to rule on those questions.

Matthews Report

MR. NOTLEY:

One final supplementary question, Mr. Speaker. Can the hon. minister advise the House whether or not he intends to make a statement during this fall session on the Matthews Report into the administration of justice in the province? You will recall last spring, Mr. Speaker, you said you would take the matter under advisement; you had to look it over. I am wondering if you are in a position to make a statement this fall.

MR. LEITCH:

Mr. Speaker, the answer to that is, yes, and if the hon. member is asking me to make a statement at the moment, I'm prepared to do so, although I may say it will take a few minutes.

MR. SPEAKER:

Perhaps the hon. minister might wish to make a statement following the question period when we come to the usual time.

INTRODUCTION OF VISITORS

MR. HENDERSON:

Mr. Speaker, I wonder if I could beg the indulgence of the House for one minute to revert back to Introduction of Visitors. I was late getting into my chair and I have a school class in the gallery, who I think may have to leave before the period is over.

HON. MEMBERS:

Agreed.

MR. HENDERSON:

With my thanks, Mr. Speaker, and through you to the members, it gives me a great deal of pleasure to introduce to the members today a group of Grade VI

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students from the Devon Elementary School, some 40 students accompanied by a number of adults, Miss Bholanath, Mrs. Collins, Mrs. Wilson, Mrs. Hunt, and Mr. Freeman. I wonder if they would please rise and be recognized.

Dr. J. D. Craig (Cont.)

MR. CLARK:

Supplementary question, Mr. Speaker, to the hon. Attorney General, dealing with the question asked by the hon. Member for Spirit River-Fairview. Who caused the charge of fraud to be laid against Dr. Craig?

MR. LEITCH:

I'm not sure, Mr. Speaker, what the hon. member means by 'who caused'. There is, of course, an information sworn out, and it was sworn out as a result of information that came to the police during the course of an investigation.

MR. CLARK:

Mr. Speaker, a supplementary question. Did the request come from the Alberta Health Care Commission?

MR. LEITCH:

No, Mr. Speaker.

MR. CLARK:

One last supplementary question, Mr. Speaker. What was the final outcome of the charge of fraud?

MR. LEITCH:

The final outcome, Mr. Speaker, was that the matter was adjourned for too long a period of time. Under the Criminal Code, without the consent of an accused, a charge cannot be adjourned for more than eight days, and inadvertently it was adjourned for more than eight days. The charge has been left there; it's finished with, because of that. Now, it's true that in areas such as this, a new charge might be laid or there are other procedures that could be followed to bring it back to the courts. In that particular case we followed much the same practice that has been followed by agents of the Attorney General for years in this province and in other provinces, where, if there has been a mistake of some kind during the proceedings, it is often just dropped there and they don't start all over again. I appreciate the fact that there are cases where they do, and cases where they don't.

The dividing line is a little difficult to define. If I may go to a typical example, say, in motor vehicle cases which are ones we are more likely to have some personal knowledge of. It's not uncommon, for example, to charge someone as being the driver of a motor vehicle and having committed an offence. And then it turns out that you are unable to prove that the accused person was, in fact, behind the wheel. And so they charge them falsely. Now under The Vehicles and Highway Traffic Act, there is a provision whereby in no circumstances could you bring a charge against the owner, and you could prove no more than ownership which you can do by a certificate issued under The Vehicles and Highway Traffic Act.

It has been the practice, and I think it is a proper one, for Crown prosecutors in that kind of case, having made the one effort and having been wrong, they do not, again, try to find some other route to bring the charge before the court. In those cases, there is a general feeling, I think, that you're then embarking on a persecution as opposed to prosecution. The kind of case that I have just spoken of and the fraud charge we have just referred to, in my view, fall in that category. Once you've made one attempt, and it has been dealt with by the court -- even though it may be on a technical basis -- it is only in the rarest of cases that you should, in fairness to the accused, make the second attempt.

MR. CLARK:

Mr. Speaker, a supplementary question to the hon. Attorney General. How many cases would not be followed through in court in the course of a year because of this lapse of time? I'm told by a member of your profession that this would be less than a dozen in the course of a year.

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MR. LEITCH:

Well, that is probably so. I would hope that kind of error wouldn't occur very often, that is the adjournment can be from anything less than eight days without the consent of the accused, or it can be more than eight days with the accused's consent. I would hope that it is rare that there is a procedural mistake made when they adjourn for more than eight days without the consent of the accused. But the fact is that I can't comment on what numbers may be found in that category over a year without checking them, I wouldn't expect them to be very many. So we wouldn't expect that kind of error to occur very often.

MR. SPEAKER:

The hon. Member for Highwood followed by the hon. Member for Medicine Hat-Redcliff.

1973 Licence Plates

MR. BENOIT:

I have a question, Mr. Speaker, for the hon. Minister of Highways. Is the newspaper report substantially correct that states that the 1973 licence plates will carry the motto "Wild Rose Country"?

MR. SPEAKER:

The hon. minister isn't required to comment on a newspaper report and if hon. members wish to base questions on them the rule is that they must take responsibility for the veracity of the report.

AN HON. MEMBER:

How about that!

MR. COPITHORNE:

Mr. Speaker, the 1973 licence plates will carry the motto "Wild Rose Country."

MR. BENOIT:

A supplementary, Mr. Speaker. Will the hon. minister give consideration to a suggestion made by the Travel and Convention Association of Southern Alberta which they think would be an improvement for 1974 of changing the phrase "Wild Rose Country" for "Flower Power"?

MR. SPEAKER:

The hon. Member for Medicine Hat-Redcliff followed by the hon. Member for Little Bow?

Snowmobile Legislation

MR. WYSE:

Mr. Speaker, I would like to direct a question to the hon. Minister of Lands and Forests. Is the provincial government giving serious consideration to changing regulations allowing snowmobiles in provincial parks and restricted or designated areas?

DR. WARRACK:

Mr. Speaker, there is a resolution on the Order Paper at this time sponsored by the hon. member that makes this suggestion. I listened intently to the discussion of that resolution during the spring session of 1972, and it is doubtful that it will rise in time, it appears to me, to be discussed even further. As a matter of fact, I adjourned the debate and was discussing the ecological damage problems that studies have shown snowmobiles to cause, at the time the debate was adjourned with, as I recall, some heat -- and I think the hon. Member for Wetaskiwin-Leduc will recall that. The arguments put forth and the consensus as reflected in the discussion on the resolution thus far, Mr. Speaker, would seem to suggest that the majority would not be in favour of allowing snowmobiles into provincial parks.

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MR. WYSE:

A supplementary question then, Mr. Speaker. Has the hon. minister received numerous briefs from various organizations throughout Alberta asking for this in the last few months?

DR. WARRACK:

No, Mr. Speaker, unless the hon. member has again been hiding the petition in his back pocket like last time. As a matter of fact, I've had by far more communication favouring the prohibition of snowmobiles in provincial parks, I might add, Mr. Speaker, than requests in favour of it.

MR. WYSE:

Supplementary question, Mr. Speaker: did you receive any briefs?

DR. WARRACK:

Yes, I did. There were relatively few and the one with the most names attached was, in fact, the one that came from the back pocket of the hon. member.

MR. SPEAKER:

The hon. Member for Little Bow, followed by the hon. Member for Lethbridge West.

Little Bow Provincial Park

MR. R. SPEAKER:

Mr. Speaker, my question is to the Minister of Lands and Forests also. Are you planning to close Little Bow Provincial Park in the summer of 1973 to make necessary changes to meet tourist needs?

DR. WARRACK:

Mr. Speaker, I'm really afraid that question is a little bit in advance of its time inasmuch as it depends on budget parameters whether we can do a major job of upgrading the Little Bow Provincial Park or not. If budget parameters do permit this, then this would depend on whether it would be a major or minor degree of upgrading in 1973. If it were major, my understanding of the Little Bow Provincial Park situation is that it would require some degree of closure in part, if a major upgrading was to occur. I guess that's a bit hypothetical at this time, but in any case I would assure that in any such instance as might occur, we would take some considerable pains to try not to conflict with the particularly heavily used long summer weekends.

MR. R. SPEAKER:

Mr. Speaker, supplementary: would the hon. minister mention what major changes he has in mind?

DR. WARRACK:

I'm afraid I don't know that kind of detail about all of the 51 provincial parks.

MR. SPEAKER:

The hon. Member for Lethbridge West, followed by the hon. Member for Edmonton Kingsway.

Dr. J. D. Craig (Cont)

MR. GRUENWALD:

Mr. Speaker, my question has been partly answered by the question that was put by the Member for Spirit River-Fairview, regarding the Craig case, but I'd like to just add one further question if I may. It's to the Attorney General, Mr. Speaker, regarding the confiscation of the 1500 records that were taken at the time of the charge in the Dr. Craig case. Because of that, has the Attorney General's Department considered introducing legislation that would impose penalties for the confiscation of records that don't come within the terms of a search warrant?

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MR. LEITCH:

Mr. Speaker, I wouldn't have used the term 'confiscation' when the law enforcement personnel are acting under a search warrant. While I haven't directed my mind to the introduction of penalties, as the hon. member has suggested, I wouldn't think that would be an appropriate solution. In support of that, I think one has to understand what really happens when there is an execution of a search warrant; how it is obtained. There can be a number of legal arguments -- and very valid ones -- over the validity of a search warrant, including a review of the documents that are used in obtaining one. The prime document used is an affidavit. These warrants can only be obtained on someone swearing on oath that he has reason to believe that there are documents available that will support the charge. There needs to be sufficient information set out there to satisfy -- it is usually a provincial judge -- the provincial judge that there is reasonable grounds for that belief and for issuing his warrant. There can be a number of cases where people, acting in good faith, with the highest of motives in the execution of their duty, do things that the courts ultimately say should not be done. I think it would be inappropriate in those circumstances to suggest that people who have acted in good faith should be subjected to some kind of a penalty. Even in those areas there can be disagreement among the courts. You frequently will find one court has taken one view and another court has taken another view. Ultimately those issues are, of course, decided by the highest court of appeal. Since they are the highest court of appeal, their view is the right one and it's the last one.

Looking at it from a non-legal sense, and looking at it from a layman's sense, the view of the highest court may not be any more valid, say, than a view of one of the lower courts. The same goes with the execution of it. I think there is a little difficulty in any person sorting out exactly what may be relevant to a charge and what may not be relevant. For example, such things as a telephone number scribbled on a piece of paper may be relevant. It may be a document that would be admissible as evidence and used by the court. So it is not at all an easy task to sort through a group of documents and say, these are relevant, these are not. I would think that to impose penalties when people are acting in that area in good faith would be inappropriate. I think the cure is to ensure that -- and I am fully aware of the problem that the hon. member raises, I think it is a very serious and important one. The law enforcement personnel, no matter who they may be, need to be very careful not to go beyond the bounds they are authorized to go. There is a difficulty in them determining what those bounds are. Having that determined it is very important they don't go beyond them, and I think that's a matter of internal direction, if you like, development of practices as opposed to legislation, with the imposition of penalties.

MR. GRUENWALD:

Supplementary, Mr. Speaker. Is your department satisfied then that the public may rest assured that there is confidentiality of medical records?

MR. LEITCH:

I can't really answer that, Mr. Speaker, without the hon. member elaborating a bit on what he means by confidentiality. As I said in answer to the earlier question, the issue of confidentiality can really be broken into three areas.

The first is whether they are available at all to the court, and as I said earlier, the answer to that is yes, under the laws that exist today.

And then there is the question of confidentiality as they are flowing from the search warrant to the court.

Then there was the further question that I dealt with which is, how do you handle the situation if, in the course of executing the warrant or getting the warrant, you've gone beyond the permitted bounds? So without knowing exactly what the hon. member has in mind, I really can't answer.

MR. GRUENWALD:

It was just the fact that there were 1500 records taken when there seemed to be very few cases in question. I was wondering why 1500 records were taken when it didn't appear necessary that that many be taken.

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MR. LEITCH:

That, Mr. Speaker, is a very valid question, a very valid concern. I should simply point out to the hon. member that when we mention 1500 documents, we are really here speaking of, in terms of a fraud charge, a relatively small amount. But I should draw to the hon. member's attention that that deals; the information that was then being acted on dealt with one day, so it seems to me it's reasonable for the law enforcement personnel to say, we should look at the preceding day. As it happens under the provisions of the Criminal Code, you must charge with a figure and it's a little unfortunate that that is the case because it often results in a misleading impression being created. Having dealt with the one day, it's a very proper thing for them to inquire into the preceding days. Now obviously there are limits on that, and in light of this position of the charge I want to be very careful in saying that they were there acting on information without in any way implying in this House that I accept that information, because the matter has been dealt with by the court and it's disposed of. I think the person who was charged is entitled to have it left there, because he has been cleared by the judiciary.

MR. NOTLEY:

Mr. Speaker, I have a question on the Craig case. Mr. Minister, when I first posed a question on inquiry you said no, but you seem to leave the door open. Now, in view of the widespread concern aroused by the case, both by the public and expressed in the legislature this afternoon, on what basis would the government consider an overall independent inquiry into the Craig case?

MR. LEITCH:

Well, Mr. Speaker, I really wasn't leaving the door open in my earlier answer. What I was simply saying is that from all that we know at the moment, the answer is no. I don't think that I can help the hon. member by speculating as to what future circumstance might alter one's view. On the whole question of judicial inquiries, Mr. Speaker, these are things that one has to deal with, in my judgment, in each individual case. The requests for judicial inquiries are numerous. Over the past year or so there have been a substantial number of such requests made to the provincial government. It seems to be sort of an automatic reaction, generally speaking, and one cannot more than refer to it in a general sense. It seems to me that where there has been a disposition by the judiciary or by some body where evidence is introduced on oath, for example at an inquest and things of that nature, a judicial inquiry is inappropriate.

MR. CLARK:

Mr. Speaker, a supplementary question. I would like to ask the Attorney General what was the disposition of the malpractice charge laid against Dr. Craig?

MR. LEITCH:

Dismissed at the preliminary inquiry.

MR. CLARK:

One more supplementary question. Why was it dismissed? Was it on the basis that the --

SOME HON. MEMBERS:

Ah, sit down.

MR. LEITCH:

Saying why it was dismissed, I suppose is commenting on what might be the thinking of the court. I think it is safe to say that there was one critical piece of evidence, one critical fact, on which the prosecuting attorneys were unable to lead evidence. That was the linking of the deaths with the drug through the autopsy reports. They were unable to trace, from the tissue that was tested and in which they give the report about the drug contents, back to the particular deceased person's named in the charge. That occurred because in the initial instances these were treated as deaths in the usual way, and the tissues are not kept track of in the same way they are when there has been a homicide, when from the very beginning people expect a charge to follow, in which case the pathology report has a sort of a standard procedure. The medical people doing these tests and the scientific people keep track of them so that we can then call witnesses who will be able to say, "I took the tissue and put it

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in a bottle" or something, and the next one can say, "I took that bottle and delivered it to another person", and that person says "I received it, did a test on it, and these are the results of the test". You have to go through that chain of evidence, if you want to show that a particular test on a particular tissue came from the person involved in the proceedings. That chain of evidence wasn't available because they weren't able to trace the steps. They were able to introduce evidence as to what was in the tissue, but not able to go back. That was in my view, without expressing any comments on what may have been in the provincial judge's mind, the defect in the proceedings.

MR. NOTLEY:

I have a supplementary question to the Attorney General. In view of the fact that Mr. Justice Primrose --

MR. SPEAKER:

Is this on the same matter? We have now spent a good deal of the Question Period on this matter; the Chair has allowed latitude well beyond the usual because of the importance of the question, but there are about 10 members waiting to ask questions on other topics. The hon. Member for Edmonton Kingsway followed by the hon. Member for Stettler.

Hearing Aids

DR. PAPROSKI:

Mr. Speaker, I would like to direct this question to the hon. Minister of Health and Social Development. It has been brought to my attention today that the Glenrose Hospital is in fact dispensing and issuing hearing aids, and I would like to know, in your opinion, whether this is government policy or not because the hearing aid dispensers feel that they are being jeopardized or will be.

MR. CRAWFORD:

Mr. Speaker, I will be very glad to look into the matter and provide an answer to the hon. gentleman. To my knowledge the excellent staff of professionals at the Glenrose have gone into the area of counselling people who are on provincial assistance in regard to hearing aids and providing appropriate tests in those cases. Now the actual dispensing of hearing aids to the public at large I would doubt very much. That is a matter that I would be glad to look into in order to answer the hon. member's question.

Mr. Speaker, I wonder if I might have the indulgence of the House, while I am up, to now give the answer to the question asked by the hon. Member for Camrose a few moments ago when I said that I wanted to get some further information, which has now been received.

HON. MEMBERS:

Agreed.

Therapist Shortage (cont.)

MR. CRAWFORD:

Thank you, Mr. Speaker. The answer to the question which related to the level of occupational therapy services available at Rose Haven is that since the time of the report a wood working section has been added and is regarded as very successful. That is the sort of addition, I believe, the report had in mind when it suggested that there was not enough scope for the patients there. The patients do average an age of around 80 years old and that places limitations on exactly the type of occupational therapy that can be provided. But at the present time the program there is regarded as quite a successful one, and indeed improved.

MR. SPEAKER:

The hon. Member for Edmonton Highlands.

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Hearing Aids (cont)

MR. KING:

I am rather confused by the procedure because my supplementary is to the question which was raised by the hon. Member for Edmonton Kingsway, not the hon. Member for Camrose. I wonder if the hon. minister could tell us whether or not he has received any representations either from the Alberta Hearing Aid Dispensers Association, or from those medical doctors who are specialists in audiology asking for a bill to regulate the sale and maintenance of hearing aids in the province, and, if he has received representations from one or from both, whether or not they are being considered by the department?

MR. CRAWFORD:

Mr. Speaker, we have indeed received representations from both of the organizations mentioned by the hon. member. Because some of the representations related to the same sort of question which seemed to be within the scope of the committee of the legislature which is looking into the area of occupational groups, we advised both the organizations involved that, as far as legislation regulation was concerned, we would be holding that in abeyance until the legislative committee had its conclusions made in the report.

MR. HENDERSON:

Mr. Speaker, a supplemental again to the question of the hon. Member for Edmonton Kingsway regarding hearing aids. Would the hon. minister, when he is looking into the matter of the Glenrose Hospital's action in this regard also check back into the files that show that some two years ago the department tested a hearing aid manufactured in Great Britain which had comparable performance characteristics -- items in this country are marketing retail for something around \$300, the one the department tested cost less than \$50 imported from England -- and not arrive at a hasty decision so that the action of the Glenrose may be in the best interests of the public.

MR. CRAWFORD:

Yes, Mr. Speaker, I would certainly be glad to take that matter into consideration as raised by the hon. member. I think I should say in fairness to the original question and the supplementaries in respect to it that the issue is fairly large. It relates to both the established industry that exists in the province in regard to the marketing of hearing aids, and to a feeling, on the part of some people outside the industry but who are, nevertheless, specialists in the field, that changes should be made in the manner of assessing hearing difficulties and dispensing the actual product. These are the matters which we are reviewing in conjunction with the consideration that will have to be given to the report of the legislative committee.

DR. PAPROSKI:

One more supplementary, Mr. Speaker, if you don't mind. It is a quick one. Mr. Minister, I wonder if you would also consider in your deliberation that in fact it is very important to consider the continuing maintenance of these hearing aids on an ongoing basis in the home, and not just in a hospital.

MR. CRAWFORD:

Yes, I can answer affirmatively to that.

MR. SPEAKER:

The hon. Member for Stettler.

Insurance Guarantee

MR. HARLE:

I have a question for the hon. the Attorney General. Has a formal agreement been reached between the creditors of Rocky Mountain Life Insurance Company and others, which will guarantee to the policy holders that they will receive all of the benefits that they are entitled to receive under the terms of their policy?

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MR. LEITCH:

Mr. Speaker, that is a very important and timely question. The House may remember that in the spring I said that we had come to a tentative agreement whereby all of the policy holders of Rocky Mountain Life would be assured by the government of receiving all of those rights that they had contracted for. I said at that time that it was tentative, that I expected the agreement to be reduced to writing, and saw no difficulty about that, and I am pleased to be able to tell the House today that the agreement has been reduced to writing, the government is guaranteeing the policy holders that they will receive all of the benefits they were entitled to receive under their contracts. The insurance policies have been administered by an interim administrator for some months now, and on Tuesday last, the government appointed another administrator and we have been communicating with the policy holders and will continue to do so.

MR. WILSON:

Supplementary Mr. Speaker, to the hon. Attorney General. Is it the government's intention to administer the policies for the entire life of the policies as a government function, or is the government considering turning it over to the private sector for management of the policies?

AN HON. MEMBER:

Weren't you here in the spring?

MR. LEITCH:

Mr. Speaker, we do not have a closed mind on either approach, as time goes by we will assess all of the possible ways of handling this problem. Our prime concern will be the wellbeing of the nearly 11,000 Albertans who have policies with that company. Of course, we're equally concerned with the most efficient way of seeing that their interests are protected and looked after, and we will continue to consider whether we can best look after the policy holders through an administration which we now have, or by making some arrangement with a private industry.

MR. WILSON:

Supplementary Mr. Speaker, where are the policies being administered from? Calgary, Edmonton, or some other location or --

MR. LEITCH:

The company has its headquarters in Calgary, although Mr. McKinnon who is with the insurance department of the provincial government has been the interim administrator, but has spent most of his time in the Calgary office.

ORDERS OF THE DAY

MINISTERIAL ANNOUNCEMENTS

Workmen's Compensation Board Chairman

MR. LOUGHEED:

Mr. Speaker, I would like to make an important announcement to the House today regarding the appointment of a new Chairman for the Workmen's Compensation Board.

As I am sure all members are aware, this is a very important appointment in that the Chairman, together with the other two commissioners, is responsible for the administration of all the activities of the Workmen's Compensation Board and for all of the decisions of the Board relative to compensation, subject only to the general policy guidance established by government under the direction of the Minister of Manpower and Labour and also by authorization from the legislature, relative to charges to employer organizations and to revenue support from the general revenues of the province.

As all hon. Members are aware, there is a Select Standing Committee of the legislature under the chairmanship of the responsible Minister, Dr. Bert Hohol, reviewing the operations of the Workmen's Compensation Board. I am aware that both Dr. Hohol and the members of the committee are in the process of evaluating some needed reforms in the workmen's compensation system in the province.

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We have decided that the portfolio investment of the board's funds would be better managed under the direction of the treasury department of government, one of whose main functions is the investment policies of all government operations and this change will shortly take effect.

It is our view that the Workmen's Compensation Board should direct their efforts to the fair operation of the act and the appropriate handling of compensation cases in the province.

Honourable members will recall that during the course of my remarks in the budget speech of last year that I mentioned -- although we were making significant increases in the amount of compensation for permanently disabled workmen from \$175 to \$225 per month -- we are still not satisfied that there is adequate compensation for our disabled and partly disabled workmen.

In making a decision as to the qualifications of a person to be chairman of the Workmen's Compensation Board, we decided to reject the former custom of a three-member board with one member representing employers, one representing labour and the chairman being independent of either background. We feel such an approach has merit in the field of management-labour relations, but we do not feel that such an approach is valid with a board whose entire thrust is to provide fair compensation to workmen of the province injured during the course of their employment. For this reason, we reached a conclusion that the qualifications for the new chairman appointed by our administration should be firstly, an understanding and awareness of the problems and conditions of the labour people of the province; secondly, a compassionate awareness of the difficulties of disability and handicap; and finally, an Albertan, who, together with the new administration, would bring a fresh new approach to the operations of the Workmen's Compensation Board.

We have spent a considerable time in considering this -- and other -- appointments because we are determined to attempt to select the most effective persons for our appointments to key positions in the province.

In addition, it is the view of our government that the representations made to us by the labour movement in the province a year ago to the effect that they had, to all intents and purposes, been ignored in the past, in terms of any major government appointments, was a situation that was not going to be allowed to continue by our new government. It is our intention to strive, as best we can, for a balanced labour-management relationship within the province and hence, involving organized labour in the province with various key aspects of our administration in a significant manner.

The cabinet therefore decided a week ago on a selection for the new chairman for the Workmen's Compensation Board and I am now in a position to make that announcement.

The new chairman has been the president since 1966 of the Alberta Federation of Labour -- Mr. Roy Jamha.

Mr. Jamha has also served as a member of the Board of Industrial Relations of the province, and as a member of the Senate of the University of Alberta. He has a long and extensive experience of involvement with conditions of workmen in the province. In addition, he has a personal awareness of the problems of disability and handicaps.

Mr. Jamha's appointment is effective immediately and he will be assuming his full-time duties on January 1st, 1973.

I am sure all hon. members will join with me in extending to Mr. Jamha our confidence on this occasion.

MR. STROM:

Mr. Speaker, in rising just to make a few comments concerning the announcement that has just been made. I want to say first of all to the hon. the Premier, through you, that we certainly concur in the appointment which has just been made. I did twit the hon. Premier a few days ago, I believe, that I hoped they were not waiting for some defeated Conservative to be given this position, and as I say, I did it with tongue in cheek. I cannot, in any way, make that kind of a charge today, Mr. Speaker, and I will say that the man who has been chosen is certainly well qualified.

I was very interested in the remarks of the hon. Premier when he suggested that the chairman of the Workmen's Compensation Board needed to be a man with a great deal of understanding and awareness of the situation that was facing those

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who were recipients of compensation at this point in time. I would certainly agree that this is true. He has also pointed out some of the problems that are faced at the present time and the inadequacy of compensation. I think it is only fair to say that the problems of inflation have been more real to these people than maybe to many others in society. For that reason, I am very pleased with the points that you have made.

I think, Mr. Speaker, we would be remiss if we didn't make a comment about the past chairman. I think everybody in the province recognizes that Dr. Macleod was a very dedicated individual with a full understanding and awareness of the job and the responsibilities that he had to fulfill. In my meetings with him, I was always tremendously impressed with his dedication to the job that he had done. I would, at this time, just like to give a passing word of commendation for the work that he has done in the past for us, and to wish the new board all success in fulfilling the very heavy responsibilities that will be placed upon them in the future.

Matthews Report

MR. LEITCH:

Mr. Speaker, if I may now accept your invitation to respond to the question that was asked during the question period about a statement on the Matthews Report. Hon. members will remember that that was a report which was circulated early in this year and there were some inferences drawn from it that amounted to very serious allegations against the judicial system within the Province of Alberta.

One of the statements that was made at that time, which was not part of the report, but which did receive a great deal of publicity in conjunction with the report, referred to the Court of Appeal of Alberta and was a statement that 17 out of 20 cases taken to the Supreme Court of Canada from the Supreme Court of Alberta resulted in the higher court overturning the Alberta court's decision. I think, Mr. Speaker, it would be appropriate for me to say here, in opening these remarks, that that story was quite wrong and bore very little resemblance to the actual facts. It is difficult to tell exactly what year the statement refers to, but for the year 1970-71 there were 22 cases appealed from the Alberta Court of Appeal to the Supreme Court of Canada. Of those 22, two were allowed. Actually, it may well be said that those 22 were actually 33, because one case really involved 11 different cases.

I thought, Mr. Speaker, since this was an opportune time to do so, that I ought to make a comment on that statement. It didn't form part of the report but was very much publicized at the time of the report. As I said, the report and the conclusions that were drawn from it caused me a great deal of concern. They were serious. I thought it appropriate to make some analysis of the validity of the report and get some information about its validity. I think I indicated to the House in the spring that of the things that I knew about from my own personal knowledge that were in the report, I found some of them that were wrong. I said at that time, and repeat again that one can't draw conclusions about the validity of the report from that. It's merely an indication that one should examine it. For that reason, Mr. Speaker, we did have a number of people look at the report, which is a mass of statistical data based on statistical data, and it is not at all an easy thing to examine. We had some people from the university give us some assistance; we had some people from the federal government; we had some people from the Royal Canadian Mounted Police records section give us some help. Really what we found, Mr. Speaker, is that the statistical base on which the report rests is really a very indefinite one. For example, the Province of Quebec, which represents roughly 25 per cent of the nation's population, was excluded from a number of the statistics. We also found other areas which make the statistics extremely difficult to relate one province to the other. For example, in Alberta since, I believe, 1966, all moving traffic offences have fallen within The Vehicles and Highway Traffic Act. In a number of other jurisdictions, those offences fall within municipal bylaws. So you will get entirely different figures if you are comparing, say, charges under provincial statutes from one province to the other, because the report doesn't take into account the differences in the provincial statutes.

We also discovered one rather serious mistake in one of the tables in the report, and it was an important table because it dealt with the percentage changes between 1962 and 1969 in offence rates and rates of persons charged through the Criminal Code of Provincial Statutes for Alberta and Canada. In that table, which is found on page 31 of the report, the Canada percentage is given as 19 per cent, and the Alberta percentage is 49 per cent. The actual figure, I am told, for Canada should have been 63.1 per cent, and the Alberta

figure 49 per cent, which would have made quite a significant difference to the conclusions that could be drawn from that report.

I should also say, Mr. Speaker, that the foreword to the report and the publicity it received really stated these things much more positively than the author does. The author acknowledges the uncertainties and really indicates that they point certain directions. Now, having done that, Mr. Speaker, it raised some questions, I think, of a substantial nature about the validity of the conclusions because of the statistical base that was used, because of the way in which it was used. However, if the matter stopped there, I would think the appropriate course would have been perhaps to have a commission or an inquiry of some sort, because the issue having been raised and raised in the form in which it was raised -- I think if the matter had stopped there, rather than rely on the kind of information we have gotten, it might have been quite appropriate to have a commission or inquiry simply to clear the air and test the validity of the report.

However the report deals with a period in the past and I think the next question was, regardless of its validity for the past, has it got any validity for today? Really, three things have happened, either after the period dealt with by the report, or during the end of the period dealt with by the report, which don't make the figures in any way applicable today. For example, up until recently, we were sending a very, very substantial number of people to correctional institutes for the offence of intoxication. In fact 1968-69 some 6,000 persons were sentenced to the correctional institutes for that offence. In 1971-72 the figure has dropped to 802. Another figure that has changed dramatically over this period is that dealing with the number of persons on probation. In 1968 for the province they were just under 1600; as of March 1, 1971, there were 4,000, so there have been two very dramatic changes in recent years in those figures. That is, the number of people going to correctional institutes for the offence of intoxication and the number of people on probation.

The difference in the intoxication offence figures flows from the change in legislation that occurred about that time. Another very dramatic change has occurred, also in recent years. In 1967, for example, there were 8,000 people committed to the correctional institutes in default of payment of fines. In 1971, that figure had dropped to 4,000.

The net result of this, Mr. Speaker, is that the changes that have occurred just at the end of the period covered by that report have remarkably altered, have substantially altered, the number of people sent to Alberta's correctional institutes. The conclusions reached there, which don't take into account those changes, really aren't valid for today, even though they may have been valid for the period with which the report deals. As I have said earlier, that is a question of interpretation, the quality of the information on which it is based; we have had one analysis of the report that has indicated that, using the same figures, Alberta comes out about where the rest of the western provinces are. But that's a matter of interpretation of various statistical bits of information.

There are two things that the report highlighted, that are important. I referred to one of them at least a little while ago and that is the fact that in my view we are still sending to the correctional institutes, under the offence of intoxication, people that really shouldn't be there. This is a serious social problem within the community; these are people who have been picked up on a number of occasions by the police, retained overnight, then released. After that happens so often, they are charged under the act. at the time of the charge there is normally a sentence of one or two months in a correctional institute. Now these people within the community are a problem, something must be done. They make life very difficult for the other people in the community, but sending them to the correctional institutes, Mr. Speaker, in my view is not the way to deal with that problem. I don't regard it at all as a problem of crime control; I think it is a problem of health, a social problem. I think we have to find other ways of dealing with them. We have to accomplish two objectives; help them in some way and at the same time ensure that they are not making life impossible for the other people in the community.

That is a program we have been working on and are still working on. It's obviously not one that is going to be easily or quickly solved. It's been with us for a long time. No one has as yet really come up with an effective solution. We are working on it and hope that some time in the near future we will be able to make improvements, and help these people with some sort of a program rather than placing them in a correctional institute.

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The other area in which there is, in my view, a serious shortcoming now is that of statistical information. In my view, we do not have at our fingertips the kind of information we should have about the people who are coming into the correctional institutes. That also is something that we have been working on within the department for some little while, and are still working on.

Simply to sum up, Mr. Speaker, it is my feeling that ignoring all the questions about validity, the report simply isn't applicable to the situation as it exists today in Alberta, but there are areas in which we must improve. There are areas in which we must develop a more humane way of dealing with people who are currently running afoul of the law. We are conscious of that, and hope to develop a satisfactory program.

GOVERNMENT BILLS AND ORDERS
(Second Reading)

MR. SPEAKER:

May I draw to the attention of the House a slip in today's Order Paper. Bill Nos. 121 and 123 are shown under Committee of the Whole whereas in fact, they should be under the heading, Second Reading.

MR. LOUGHEED:

Isn't there another correction that should be made? Didn't the hon. Member for Highwood adjourn the debate under motion no. 3?

MR. SPEAKER:

I would like to assure the House that we will check that and make the necessary correction.

Bill No. 121: The Improvement Districts Amendment Act, 1972

MR. PURDY:

Mr. Speaker, I move, seconded by the hon. Member for Athabasca, Mr. Appleby, that The Improvement District Amendment Act, 1972, be read a second time.

Wednesday of last week, in the House, I introduced The Municipal Government Amendment Act, and at that time I outlined the proposed changes in that bill. The proposed changes in the Improvement Districts Act are the same, except for a couple of amendments at the end of the act. I will outline some of these. One is an amendment which will give authority to the minister to provide other charges owing to other than taxes, in the improvement district. Another amendment gives a minister authority to delegate signing authority for routine documents, and another amendment would authorize the department to provide information, through their administration, pertinent to the residents of the improvement district.

[The motion was carried, and Bill No. 121 was read a second time.]

Bill No. 123: The Alberta Lord's Day Amendment Act, 1972

MR. LEITCH:

Mr. Speaker, I move, seconded by the hon. Minister of Manpower and Labour, second reading of Bill 123.

Mr. Speaker, I think this will be one of my shorter speeches of the day. The only purpose of this bill is to clear up some doubts about whether the Attorney General's Department has the authority to continue to issue licences for Sunday bingo. It is something that has been done for some considerable time, and we would like to be able to carry on doing so without any uncertainties about our authority.

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MR. CHAMBERS:

A few comments with regard to Bill 123. It may appear to be a minor amendment, and I will agree it doesn't use up a great volume of paper, but I do think it is a fairly important piece of amending legislation. As the minister is aware, one of the community leagues in my constituency has been in the habit of holding Sunday evening bingos with the money going to finance sports facilities and activities for boys and girls in the community. This particular community is not exactly well off and these bingos have proven to be about the only way in which sufficient funds could be raised to underwrite these sport programs.

In addition, the community hall is located close to a senior citizen's home and many of these senior folk participate in the Sunday evening bingos and look forward to it as an enjoyable evening out with friends which doesn't cost them very much money. I think it is fair to say that when the legality of these bingos became in doubt and no further permits were issued, boys and girls and senior citizens -- in fact the entire community -- were somewhat disappointed. You might ask why the bingos couldn't have been held on another evening, but the fact is that aside from the fact that Sunday was most preferred (as far as revenue that is) -- more people were interested in going Sunday evening; that isn't the main point. The main point was that every other evening in the week was used by adjacent community leagues. There was a kind of unofficial agreement that they don't have conflicting bingos because many of the people in the community like to attend several different bingos. So it was a co-operative effort between the community leagues and Sunday was the only night open for this particular community. I don't want to leave the impression here that this is the only community that would benefit from this amendment I am sure that it is only one isolated example and many communities throughout the province will be so benefited. However, I would like to assure the hon. Attorney General that this particular community is grateful that the minister would assign any priority to this amendment, and I would like to thank him on behalf of the community and myself and urge all members to support it.

[The motion was carried and Bill No. 123 was read a second time.]

GOVERNMENT BILLS AND ORDERS
(Committee of the Whole)

DR. HORNER:

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

[The motion was carried without debate.]

[Mr. Speaker left the Chair at 4:03 p.m.]

* * * * *

COMMITTEE OF THE WHOLE

[Mr. Appleby in the Chair.]

Bill No. 83: The Mental Health Act

MR. CRAWFORD:

I would like to begin and just say to hon. members that the only reason for calling Bill No. 83 at the present time is the thought that it can be disposed of without any difficulty at all. The question in regard to the amendment of The Marriage Act was, according to my notes, the only unresolved item in either the bill or the amendments that were distributed in regard to the bill. The government now proposes that the change that was put forward for The Marriage Act not be proceeded with in this session. Having said that, I thought it would find agreement on both sides of the House and that the matter could be reported as amended. Mr. Chairman, I am ready to move, subject to the deletion of that, that it be reported as amended.

MR. CHAIRMAN:

That takes care of the bill with the exception of the Title and Preamble. Agreed?

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HON. MEMBERS:

Agreed.

MR. CRAWFORD:

Mr. Chairman, I move that Bill 83 be reported as amended.

[The motion was carried without further debate]

Agreed.

Bill No. 1, The Alberta Bill of Rights

MR. LOUGHEED:

Mr. Speaker, I wonder if perhaps I could make a few opening remarks --

MR. LUDWIG:

Mr. Chairman, a question before he commences his major address on this bill. I understand that there were six more briefs presented with regard to this bill, and we haven't received them. I wonder if they are going to be made available to us?

MR. KING:

If the hon. member is referring to 16 briefs which were tabled yesterday as a supplement, the additional copies were delivered to the Clerk's office, and it was suggested that they be distributed exactly as the original tabling had been.

MR. LUDWIG:

If they had, in fact, been distributed yesterday -- I didn't receive mine, that's what I'm concerned about.

MR. KING:

After they were delivered to the Clerk's office, I'll have to find out right now.

MR. LOUGHEED:

Well, after all Mr. Chairman, it is an important bill; if the hon. Members want to hold it over, we're prepared to do that. On the other hand, the difficulty is that I'm not sure what other business we're going to be dealing with.

MR. STROM:

Mr. Chairman, I'm not sure whether this would have been handled in the same manner as the other. I understand that there were six copies that were made available to my office, and I recall that they were tabled the other day, but I'm not sure that we were able to give them to the members who wanted them for consideration, so I would leave it up to them to decide whether or not they would prefer to have. . .

MR. DRAIN:

Mr. Chairman, I would think, in view of the importance of the House conducting its business, and in view of the fact that there have been many briefs received and recognition has been given to many of the things that have been brought up in these briefs, surely Mr. Chairman, it cannot be pursued, the total guidance of this legislature shall be predetermined by briefs in their entirety. I would think that the reasoning should be done by the members themselves, so therefore I humbly suggest that it would be reasonable to proceed with Bill No. 1 at this time.

MR. LOUGHEED:

Mr. Chairman, perhaps one alternative way we could do this is to proceed with the bill through committee and then if we want to hold the Title and Preamble we could hold, and that would give members who haven't perused these additional supplementary briefs an opportunity.

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MR. CHAIRMAN:

Is that agreed?

HON. MEMBERS:

Agreed.

MR. LOUGHEED:

I wasn't going to make a major speech; I just wanted to draw the frame of reference of the bill if I could, and some of the developments that have occurred since we dealt with the matter in second reading stage.

First of all, in terms of submissions, I'm advised there were 94 of them received by my office. I do believe that individual members have, of course, received submissions on their own. Some of them may have been circulated, and some of them may not. But in response to the advertisement we sent out in early August, we received 94 submissions. Most of them were on Bill No. 1 and 2 combined. Some of them were restricted to Bill No. 1, and some restricted to Bill No. 2, but in both cases we asked for their combined views. Sixty were from individuals, and 34 were from organizations. As follows, the organizations were of special interest groups and there were 12 groups. There was one legal bill.

In addition to that, Mr. Speaker, and again I do this with the view that if any member feels that we are in any way rushing an important matter, feel free at the time of title and preamble to raise the question of the correspondence that he has not had an opportunity to see.

I thought that before we started, there was one letter received by my office late yesterday afternoon -- and I provided copies to the hon. Leader of the Opposition -- but I would like to read the letters in their entirety, and then the hon. members can decide, although copies are being made and will be distributed this evening.

It is from the Indian Association of Alberta, and the letters have just come in. They are important letters, they don't bear in terms of the amendment, but they may bear on members' comments that they might want to make at the conclusion of the committee study relative to title and preamble.

So, if I could have the leave of the members of the committee, Mr. Chairman, I would like to read all three letters because I think, the nature of the bill warrants this specific reference to the correspondence with the Indian Association of Alberta, if that is in order.

MR. STROM:

Mr. Chairman, I am just interested in raising a question with the hon. the Premier if I may. I have read the correspondence and I realize the points that they are making, and I am just wondering, is one of the purposes of reading it into the record, so that they may be there as further documentary evidence as to the nonpunitive nature of The Bill of Human Rights?

MR. LOUGHEED:

Yes, Mr. Chairman, in answer to the hon. leader's query, that is a secondary purpose. The first purpose is to acquaint the members of the committee because this is important correspondence. We are talking about a Bill of Rights, and the letters deal with the Indian Association of Alberta.

I might say that we requested from the Metis Association of Alberta, a brief or submission on a number of occasions and have not, as yet, received one. But we have had this exchange of correspondence and I think it is important that the letters be on the record in total, because they have some considerable bearing on a bill as important as this and, I think, Hansard should be reflecting this. So if I could proceed.

The first letter was a letter that I wrote to Mr. Harold Cardinal, the president of the Indian Association on October 30th, of this year.

Dear Mr. Cardinal:

I have discussed with Mr. David King, M.L.A., his recent meeting with you and other representatives of the Indian Association of Alberta, the topic of Bill No. 1. He understood your specific interest be a reference to the

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protection of treaty rights and suggested that this could most easily be done by amending Section 3(1), with the addition of the words as follows: "nothing in this act should be construed to abrogate or abridge any human rights or fundamental freedoms, and in the case of Indians, treaty rights, not enumerated herein that may have existed in Alberta at the commencement of this act."

Following further consultation, we find that we cannot agree to this amendment for a number of reasons. The administration of treaties and of the rights involved is solely a federal responsibility. The treaties were signed by the federal government prior to the existence of the province. The B.N.A. Act, and amendments to it may confirm that the relationship with Treaty Indians is federal responsibility. Any citizenship-plus the Indians enjoy, in terms of the provincial government, is not the result of any mutual agreement; it is the result of an agreement between the federal and provincial governments, with the federal government acting to maintain its treaty obligations. Such agreements are beyond the power of the provincial government to change unilaterally, and let me assure you that even if we had the power, we do not have any desire to act without your approval.

The Alberta Bill of Rights is designed to prevent government from restricting universal human rights simply on the basis of race, national origin, colour, religion, or sex. One of the major groups to suffer this kind of discrimination is the Indian people, and we would like to see an end to such treatment. It is not designed to protect any additional special position which is the result of one of the attributes. It cannot provide any such protection, because no such special position is the result of provincial legislation or regulation. This bill has reference only to provincial legislation.

Let me conclude by saying that Mr. King also discussed your concern about implementing future programs and actions of the IAA.

That is not particularly relevant to the bill at hand.

Then there were further discussions. In a later letter of November 3rd to Mr. Cardinal as follows:

I would like to thank you and the other representatives of the Indian Association of Alberta for the very fruitful discussions which have taken place with members of the provincial government on the topic of The Alberta Bill of Rights. Our position, with respect to any explicit reference to the treaty rights, has been outlined in my letter to you of October 30th, 1972. At the same time the concern of the Indian people has been well expressed, and as a result of our conversations, I would like to confirm the following:

(1) It is the view of the government and the law officers of the Crown that Bill No. 1 does not prevent the provision of special benefits, either presently existing or proposed.

(2) The government stands willing to insert a "notwithstanding" clause in any provincial legislation recognizing the treaty rights of Indians, and which appears to be in real danger of being held inoperative because of The Bill of Rights. Also, it is my intention to write to the Right Honourable John G. Diefenbaker outlining some of the problems which Indians experience relative to The Canadian Bill of Rights. We both, I know, have reason to believe that he will react positively to such a suggested method.

Finally, the hon. Al Adair will co-ordinate consultations between the government and the Indian Association of Alberta aimed at making a joint proposal to the federal government for changes in federal legislation which are at variance with Treaty rights or The Indian Act.

I look forward to hearing from you in regard to the above. Subject to your concurrence, I will table your reply in the legislature with this letter and my letter of October 30th, in order that the nature and conclusion of our discussions may be clear and public."

Yesterday evening I received a letter from Mr. Cardinal:

Dear Mr. Premier:

I would like to thank you and members of your Cabinet for the fruitful discussions that took place on the topic of The Alberta Bill of Rights. We outlined our concerns on the possible implications and effect of Bill No. 1

on our Treaty rights. As you may have noted from our discussion, we expressed fear that our rights may be threatened by your bill. In the Atlantic Charter during World War II, a provision was included assuring freedom from fear for the members of the signing nations. It is perhaps this freedom we seek, freedom from fear that our rights will be lost.

The desire of your Government to guarantee fundamental rights in Alberta is welcomed by Alberta Indians with much greater enthusiasm than the other people in Alberta whose rights have seldom, if ever, been threatened. Our rights have never ceased to be threatened. We are satisfied, however, that your position, outlined at that meeting and subsequently confirmed in writing, will alleviate many of the fears that we have.

The Canadian Bill of Rights presently threatens in a very serious and fundamental way the status and position of the Treaty Indians. In this instance your leadership and your Government has demonstrated its foresight, its sincerity, and its concern by outlining the following points:

(1) That your Government does not view Bill No. 1 as legislation which would prevent the provision of special benefits, either presently existing or proposed.

The Federal Government White Paper of 1969 takes the view that the provision of special benefits for Indians is discriminatory. In view of the Federal Government's position, we are concerned that the present problems with the Canadian Bill of Rights will be used to accomplish legally what could not be done politically through the Federal White Paper of 1969.

We thank your Government for recognizing the fact that a Bill of Rights can be complementary, to, rather than in opposition of, our status.

2. We are hopeful that the use of the 'notwithstanding' clause will be minimal, so that the spirit and intent of your bill can be fully realized. We are, however, grateful for your Government's willingness to use this Clause for the protection of our rights when and where necessary.

3. We appreciate and welcome your intentions to write to the Right Honourable John G. Deifenbaker with respect to the problems that we are encountering relative to the Canadian Bill of Rights. Your assistance and his understanding of our situation and the Canadian Bill of Rights should be of real benefit to our people.

4. Finally, we welcome your Government's response with respect to a joint proposal to the Federal Government for changes in federal legislation which are at variance with our Treaty rights or The Indian Act.

The Provincial Government, under your leadership, has taken a strong and positive position on problems confronting the Alberta Indians. Your response is not only encouraging for our people, but provides leadership (by example) to your counterparts in other areas of the country.

We welcome and fully support the spirit and intent of The Alberta Bill of Rights proposed by your Government. On behalf of our organization and our people we extend not only our congratulations to you, but also our full support for Bill No. 1.

(Signed) Harold Cardinal

Mr. Chairman, I raised that so that hon. members can know and understand that there are a number of difficulties I'm sure hon. members want to speak about regarding this bill at committee stage. However, it seems to me that to proceed without having the Indian people of the province in consultation with us in a bill of this nature and magnitude would be clearly wrong. As Mr. Cardinal has, I think, very well expressed it -- I think his phrase was that "the Alberta Indians would greet the bill with greater enthusiasm than the other people of Alberta whose rights have seldom, if ever, been threatened. Our rights have never ceased to be threatened." They do have, as they explained to the Attorney General, Mr. Adair, Mr. King and myself, some problems that have developed as a result of the way the Canadian Bill of Rights has been interpreted, I presume in part by the federal department. So they had some alarm about our bill, and they wanted these assurances. I think they are reasonable assurances. What we are saying is, that we think the bill should proceed in the way that it is prepared at the moment; but that if, at some occasion in the future some dispute arises say with regard to The Wildlife Act, or an act of that nature where the fishing

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and trapping rights that were there before anybody in this room had them, are in conflict with some provincial statute, we will confer what is described as "a recognition" of that prior right rather than put in a qualification in the bill with regard, particularly, to the Indian Treaty rights.

We thought long and hard about the inclusion of an amendment, such as including Treaty rights under Section 3(1), but we felt that if we did that, we also could be getting into a dangerous situation that really those rights stem from the federal government, and not from the provincial government. That might have pretty extensive implications and consequences.

Generally, that is the only specific matter, Mr. Chairman, I wanted to raise with the hon. members. We have read all the briefs. We have merely one amendment to propose, and that amendment we will deal with when we reach that particular section. The briefs have been considered; I would welcome proceeding with the bill, perhaps having regard to either my general remarks or any paragraph of the bill. We should maybe go over the bill at the committee stage by paragraphs.

MR. NOTLEY:

Could we, at this point, pose some specific questions? I'm just wondering, Mr. Premier, if you could tell us how many of the groups that made submissions to the cabinet were in a position to make an oral presentation? I understand that you did have discussions through Mr. King with the Indian Association of Alberta, and I applaud that, but how many of the other groups that made submissions were able to make oral representation?

MR. LOUGHEED:

I don't think there were any that I can recall. There may have been some that may have happened in terms of other discussions that occurred. I think there were some discussions the Minister of Municipal Affairs held with the Urban Municipal group and the Rural Municipal group. But I don't think it was the general rule. As I mentioned in the House in the spring, it was not our intention to hold a public hearing on the matter; we wanted to get the submissions. I don't recall -- perhaps Mr. King can correct me -- that there was any request by any group to have a discussion, and present their views orally, that we didn't accede to.

MR. KING:

That is correct, Mr. Chairman. As someone who was handling these submissions through the summer, I would certainly have been happy to have met with anyone who requested the opportunity. The Indian Association of Alberta was the only group which so requested, at the time of making a submission or subsequent at least to the appearance of the ad in the paper, which actually requested the opportunity for meetings.

MR. STROM:

Mr. Chairman, I was going to raise a question here as to whether or not we would be permitted to make some comments in regard to the points that have been raised now, or shall we wait to deal with it the Title and Preamble? May I say that I would like to do it now, because it may help us to deal with some of the sections of the act as we come to them.

MR. CHAIRMAN:

Go ahead.

MR. STROM:

Thank you, Mr. Chairman. First of all, I appreciate that the hon. the Premier sent me the correspondence from himself to the Indian Association and their reply prior to this afternoon so that I might have a look at it. I appreciate too the remarks that he has made in regard to the correspondence and also the reply he gave to a question I raised prior to his reading the letters into the record.

One of the questions that I would like to raise for the hon. the Premier's consideration is the matter of the purpose of reading it into the record. In raising the question, my point that I tried to bring to you was, does this in fact then add something to the bill itself, so that in fact we are not looking at only bill 1 but we are looking at Bill 1, plus an explanation that can be found somewhere within Hansard? I gathered from the reply that was given that

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it has been read into the record so that there will be no misunderstanding on the part of the Indian Association as to what it means. It seems to me that we can understand it very clearly to date and I can't help but think of other occasions and other situations where we have reached these understandings and we find ourselves in a position where had it been considered later -- and let us assume for a moment that this is a matter that will come before the courts -- then the question that I raise is this: have we now placed ourselves in a position where the decision is going to be made on the basis of the bill itself, or of something that is written in the record?

Now, if it was on the basis of something that was written into the record, and we find that an unknown factor arises and it's not covered by an exclusion in the Hansard, then what position do we find ourselves in? It bothers me a little bit because it seems to me that then we place ourselves in the position which maybe we ought to consider, of placing it in the bill and making it part of the bill rather than having it somewhere else.

I go to a second point that I think has been raised by Dean Bowker I didn't personally read it but I want to raise it at this point in time. If this bill becomes the framework for determining whether other legislation affecting rights is legal or not, we then place ourselves in the position where the courts may well determine what is acceptable legislation rather than this legislature. It seems to me that this is a precedent, if it ever happens we would want to watch it very carefully. I would like to think that the legislature is supreme, that we are the ones that determine what legislation shall be, and the courts merely interpret the legislation -- not in any way trying to rule what is acceptable or not, but simply interpreting the legislation.

Now I understand, of course, that there can be areas we can get into in which we can be ultra vires if it appears that federal jurisdiction points it out. Here I would like to raise the point, are we in fact presenting a bill that becomes a controller of future legislation that this legislature may want to pass. It seems to me it is important enough that we ought to have some consideration of it at this point in time.

MR. LOUGHEED:

Mr. Chairman, I would like to respond to both those items, and they are both important ones. First of all with regard to the correspondence from the Indian Association. There is absolutely no way that the reading of that letter into the record in any way affects the bill or any judicial interpretation of the bill.

Further than that, in my opinion, it in no way obligates any member of this legislature; what it might obligate, or the person it might obligate is me, reading the letter in; the reason I read the letter into the record is that I wanted to communicate in that way to the Indian people of Alberta, that the intention behind the letter, and behind my correspondence, was something I wanted to back up in terms of its presentation to the House. I felt that if it was not presented to the House it wasn't fully assuring the Indian people of Alberta that we meant the intentions that were expressed in our letter of November 3rd. But insofar as --

MR. STROM:

I would like to just raise another point right here. There is no misconception on their part that they are getting protection here, other than just for the time being.

MR. LOUGHEED:

No, Mr. Speaker, they definitely are not. They are prepared to rely on the judgment of future legislatures relative to the question of any special benefits of the utilization of a 'notwithstanding' clause. From that point of view, no member of the legislature should feel that the reading of that letter into the record, in any way affects him in terms of any vote on the bill. Any interpretation of the judicial interpretation of the bill would ignore completely that letter and that correspondence. But I felt that, having been involved in the correspondence, I had an obligation to make that communication.

Now the second question concerns the views expressed by Professor Bowker, who presented his learned brief. Frankly, I don't agree with him; I never have; I argued with him as a student. I had one of those interesting occasions, I guess it was in May of this year, I was involved in presenting to him an honorary doctorate of law, and the guest speaker was Mr. Justice Bora Laskin. We sat beside each other and agreed to disagree. As you will note if you look

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at Hansard for second reading on Monday, May 15, 1972 page 50-19, I quoted from Mr. Justice Bora Laskin. I don't want to repeat the quotation completely, but the statement made there was a statement by Mr. Justice Bora Laskin of the Supreme Court of Canada to the effect that "the Canadian Bill of Rights, operative on the federal level has given special sanctity to these values short of constitutional entrenchment". I accept the position that Mr. Justice Bora Laskin made, that it is a forward step for legislatures both at the Canadian and at the provincial level, to move forward with the Bill of Rights and to give it a special sanctity, again short of constitutional entrenchment. And rather than repeat something, I just wanted to make sure, because there was some misunderstanding, as I reread the record, at second reading when I thought we made it clear -- that our preference would be that it was done by constitution rather than by a Bill of Rights. I think this was in answer to the remarks made by the member for Hanna-Oyen -- that would be our preference -- and the remarks made by the Member for Spirit River-Fairview. But, at least for the foreseeable future, I don't foresee that we are going to be close to that sort of constitutional agreement on matters of this nature. And so we have picked the Bill of Rights at a provincial level -- the reason being that even though it might be valid at the provincial level, there are a number of overlapping areas that still won't be covered, either by an Alberta Bill of Rights or by a Canadian Bill of Rights.

MR. LUDWIG:

Mr. Chairman, I am rather surprised at the hon. the Premier's remarks on Dean Bowker's brief. I believe that Dr. Bowker has figured prominently in this area for many years, way back to the Canadian Bill of Rights and also when the hon. member, Mr. Watkins, presented his Bill of Rights which is almost identical to the one the Premier is presenting now, which is short of two or three minor amendments. I wish to personally extend thanks to Mr. Watkins for having brought this issue before the House away back, I think, as far as 1962. That is before we heard of our present Premier. But, the one mistake that the hon. the Premier has made today, is that he has really contradicted himself in the last two days. He disagrees with Dean Bowker; then why didn't he wait for the courts to interpret the Communal Property Act? He stated that it is against the Bill of Rights. But everything else, let the courts interpret whether the hundreds of acts that we have violate The Bill of Rights -- leave that to the courts. But The Communal Property Act, he made an exception. Perhaps he can best explain why this is so. But I think that, whatever you can say about Dean Bowker, he is certainly one of the most recognized people in his field and I believe that we cannot discount the fact that he makes an extremely strong point that we legislate here to determine what the law is, what violates The Bill of Rights or what does not, or shall we leave it to the courts interpret what does.

While I am making these remarks, I have a lot of regard for Dean Bowker, always did, and more so as time went by. He does have the courage of his convictions. Although the hon. Premier quoted Bora Laskin I don't think he read the remarks he made with regard to The Canadian Bill of Rights many years ago when they held commission hearings as to the stand he took then.

But what I would like to ask the hon. Premier is; in view of his stand against Dean Bowker's brief, could he tell us whether there has been an exhaustive review made by the government -- anybody, the Attorney General or himself or his people working on this bill -- as to whether there is in fact today any legislation whatsoever, with the exception of The Communal Property Act, that either is in contradiction to the spirit of The Bill of Rights, or even remotely so. If there is, then why don't we proceed to repeal this legislation if it isn't in the spirit of The Bill of Rights or the letter of The Bill of Rights instead of waiting years and years for someone to get caught in the situation and perhaps have to go all the way to the Supreme Court of Canada to get a ruling?

We have a responsibility here and I completely agree with Dr. Bowker that this would be the practical, sensible way to proceed. For instance the Drybones case, it would not have required much intelligence in the House of Commons to have repealed the legislation that gave rise to the injustice that was inflicted upon the Indians. But they waited 10 years and a tremendous amount of court proceedings, expensive delaying and perhaps a lot of emotional concern to a great number of people, when Parliament could have very quickly abolished the legislation that had, in fact, discriminated against the Indian. Certainly they did not need to wait until the judge -- and even then the judges divided on this issue. They might have gone the other way, so that the act still would have been inoperative, but for the fact that we had a tremendous judge from Edmonton, Mr. Justice Morrow, that took the issue into his own hands, and finally it was Mr. Justice Morrow who gave The Bill of Rights some claim for recognition. It

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wasn't anybody else but Mr. Justice Morrow, and finally he received the blessings of Parliament.

So I submit, Mr. Chairman, that we should look carefully, and with all the number of legal people on the other side, perhaps we should have a list of that legislation that exists today that, in fact, is not in keeping with The Bill of Rights. Now I suppose if there isn't any then it is certainly a credit to the previous government. But if there is some, let's find it and let's look at it to see if we have to repeal it. If this is important let's do the job properly.

MR. LOUGHEED:

Mr. Chairman, in responding to the hon. member's question, I have three observations to make. Certainly, any hon. member of this House has the proper right, if he would like to, to vote against Bill No. 1. If he agrees with the view expressed by Dean Bowker, then let him or her register his vote against Bill No. 1 and that is certainly his or her privilege to do so. I take issue with Dean Bowker, I have the highest respect for him, and on the other hand I agree with the views expressed by Mr. Diefenbaker as to the need of The Canadian Bill of Rights and we are here today because we feel that a bill is needed at the provincial level because of the important provincial responsibilities of property and civil rights.

I also would have to respond to the hon. Member for Calgary Mountain View that his argument is, I think, very tenuous when he first starts off and suggests that we should not be repealing The Communal Property Act because that is making a presumption and then he is asking us to give a list of the ones that we should, in fact, repeal. It seems to me a pretty illogical response. But the question that he has raised, which is the third question, is, I think, a valid one when there are obvious ones within our existing legislation that are contrary to Bill No. 1. Then I think we, as a government, have a responsibility to bring forth an act for repeal. We did that in the last session of the House with regard to The Sexual Sterilization Act, and we were in the process of presenting to the House a bill with regard to The Communal Property Act. We feel that both those bills clearly are contrary to the spirit and intent of The Bill of Rights. Beyond that, as far as total bills are concerned, and I've studied the correction by the Attorney General, I don't believe we have any specific bills that are at odds with the spirit and intent of The Bill of Rights. Now the Attorney General may want to supplement my remarks because he has headed up a study in the last few months of evaluating this whole area, but there are a number of areas in which, if amendments of this bill become law, in the spring session of 1973 we might come forth by way of amendments, after further consideration which might be at odds with the Bill of Rights -- but they are amendments.

Having said that, I want to make it absolutely clear that we have no intention whatsoever to have that statement misinterpreted in any way, as implying that the courts may not on some future occasion reach a different conclusion than the Attorney General and myself have concluded as of this date, and consider that other provisions of other acts are, in fact, inoperative. If that happens then the government would, in fact, have to look at Section 2 and make a decision as to whether or not to bring in an amendment and decide that that bill will apply, notwithstanding The Alberta Bill of Rights, and that would be our plan and our course of action. Perhaps the Attorney General would like to supplement my remarks.

MR. CHAIRMAN:

Mr. Attorney General.

MR. LEITCH:

Thank you Mr. Chairman. There are a number of provisions in various bills about which people have raised questions as to whether they might be in breach of one or more provisions of The Bill of Rights. I agree with the hon. Premier that there's no act of which I am currently aware, such as The Sexual Sterilization Act, or The Communal Property Act, which we might say that in total is contrary to the expressed wording or the spirit or the intent of that act. But there are a number of provisions in various acts, and a great number of them which we want to take a close look at. That look is not nearly so easy as one might suppose. The Bill of Rights, as all such legislation, uses words that people can give very, very wide meanings to. They use such phrases as 'freedom of religion', and 'freedom of speech'; these words are almost limitless in their meaning. I think I can quickly call to mind two extreme examples in the United States where in one case an accused, charged with smoking marijuana, argued that smoking marijuana was part of his religion and therefore the law

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prohibiting him from doing that was a breach of his right to freedom of religion.

Another case where the person who advanced the argument was more successful, but nearly as extreme deals with the freedom of speech argument. This one I haven't read but have heard about and, and there a topless dancer who was charged said that the law was inoperative because it infringed her freedom of speech, and her argument ran that the word 'speech' includes communication. Communication is not limited to the spoken or written word, that historically it has included body signs, and she cited the language of the deaf and so on, and said that she was really communicating. But this was an interference with the freedom of speech. As a matter of fact, that court agreed with her, I am told.

So this is not an easy review to make, to take the legislation of the province and say, what provisions are there in it, that might be in breach of one of these items referred to in The Bill of Rights? That is going to be cleared down the years as the courts deal with those various items, and define them for us. They are incapable, really, of definition within a statute. No one has done it; it is from a practical point of view, impossible.

We have reviewed the legislation. There are areas in which we feel amendments may be required in order to bring those acts into conformity with The Bill of Rights. I expect, though, that that is going to be an ongoing review. I am satisfied it is not something that can be completed in a short time. It is just something that needs to be done, and needs to be done on a continuing basis.

MR. LUDWIG:

Mr. Chairman, I would just like to comment that the hon. Attorney General's remarks concerning a man's religion and the smoking of marijuana may not be as remote as we think, because the Drybones Case apparently had to deal with an Indian worshipping Bacchus outside the reservation. So this isn't all that remote.

But the hon. Attorney General cleared a point for me. I get the impression now that if we came across any legislation, and I haven't reviewed it myself because it is of a tremendous volume, but if we came across legislation that was contrary to the letter, spirit, and intent of The Bill of Rights, I would much prefer to see us go by way of repealing it, like we did in The Communal Property Act. I'm sorry I created a misunderstanding in the hon. the Premier's mind, but I did not quarrel with that procedure. I am saying that that is perhaps what Dean Bowker was advocating, instead of waiting for the Hutterites who have taken this thing all the way to the courts, and made a tremendous amount of legal work and concern. I'm not discussing the merits of The Communal Property Act, but that is what I support -- instead of keeping this in the realm of speculation and hope and perhaps frustration for many people, if the hon. Attorney General or any member finds a section that he says violates The Bill of Rights, let's look at it, and let's not wait for some judge to determine whether he favours it or not, or goes along with the views. But let us take it out. I think then we will be giving the people a proper service, rather than letting the judges decide whether that act is in force or not. That is the legislators power, and responsibility. That is where I agree with Dean Bowker, and that is why I support him. Thank you.

MR. LOUGHEED:

Mr. Chairman, there is an important point there that the hon. member has raised. There are a number of purposes for Section 4(1), and that is the notice to the hon. Attorney General. One of the things we had in mind is that when any action is started, and they raise The Bill of Rights with regard to it, then there is a notice requirement to be given to the Attorney General. We would be in the position as the legislature -- and certainly we would be quite prepared to make sure that all hon. members are aware of this -- to assess something that we may have completely missed. There may be a very valid case on a public policy as distinguished from a legal basis, and it is not going to be our view that if actions are started and notice is given, that we would necessarily wait the whole legal process out. It may be something that none of us in this chamber today are fully aware of, and it may be a very valid bill, which, as the hon. member suggested, is contrary to the spirit and intent of The Bill of Rights, that we have missed. And if that is so, I see no reason why we would have to wait for the judicial process to go by, and I think, then, the hon. Attorney General, having received notice, certainly can bring that notice to the attention of members, and if members want to propose an amendment, that is certainly the purpose of the legislature.

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MR. BENOIT:

Mr. Chairman, my question has to do with the administration of the bill. Each bill is administered by certain departments, and I realize there are no penalties attached to this one. Would it be the Executive Council who would be responsible for the administration?

MR. LOUGHEED:

I don't know whether I have notified the appropriate minister yet, but I take it, having regard to Section 4, that the Attorney General will have this pleasant and demanding task.

MR. BARTON:

Yes, Mr. Chairman. Two questions to the hon. the Premier. On his reading of the letter to the Indian Association of Alberta. In his own mind, was it done with the total board -- your conversation on Bill No. 1 -- or just with Harold Cardinal? Do you feel that Harold is representing the total native population?

MR. LOUGHEED:

Mr. Chairman, perhaps I could ask the hon. member, Mr. King, to -- there were a number of people there and he may recall the rest of the people who were with Mr. Cardinal on the occasion.

MR. KING:

These letters, Mr. Chairman, are actually the result of a number of meetings that were held. First of all, I met with one of the vice-presidents of the association who is also responsible for doing research into treaty rights and one of the staff people. Subsequently I met with, not all, but nearly all, of the board of directors of the Indian Association of Alberta, as well as their legal counsel and a special consultant that they are retaining to do work for them. A third meeting was held here, with not all the members of the board, but nearly all of the executive officers of the board. The third meeting included the president, the northern vice-president, the secretary, the treasurer, and I believe one of the directors, as well as the legal counsel for the Indian Association of Alberta. So I think that it was certainly representative of the organization rather than of one individual, and I can only reiterate the comments that the hon. Premier made here earlier, the concern with respect to this bill was that on a similar occasion, in 1960, at the federal level, the Federal Bill of Rights had been implemented not in disregard of the Indians' position in Canada, but really in neglect of a consideration of it. People just had not thought about the implications of the bill on the particular status that Indians have in Canada. These meetings and the exchange of correspondence which has been referred to here today, is simply the result of a desire on the part of the government and the Indian Association of Alberta to make it perfectly obvious that what is happening at this point is the result of long consultations between both groups, and is done in the knowledge of possible implications down the road and in some ability to deal with these in the future if they arise.

MR. FRENCH:

Mr. Chairman, the remarks of the hon. Attorney General indicate, in his view, that The Bill of Rights has got a very broad meeting. One of the areas has given me a great deal of concern. I think you remember, in seconding reading, I raised the problem which has given me a great deal of concern; that is whether we're abdicating our responsibility to the courts.

I agree with the hon. Member for Calgary Mountain View that we're elected here to represent the people. It is our duty to make the decision here and not to abdicate this responsibility to the courts. I went into it in some detail and I was very pleased today to hear the hon. Premier say that they're well aware of the fact -- and I believe the hon. Attorney General also indicated that a study has been made -- of existing legislation. It prompts me to ask the question, sort of in a chicken and egg situation. Do we pass The Bill of Rights, or do we pass The Bill of Rights in principle and hold it in committee or in third reading, until such time as we can have a review made of the existing legislation? I have been doing some reading this summer and I agree that it is a terrific task. I certainly welcome and support The Bill of Rights. I do not want any misunderstanding, except that I can visualize some problems. If we pass the Bill of Rights as is and proclaim the bill, then it becomes the law of the land. If we pass it in principle and then hold it and study it

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further, going back into the Canadian Bill of Rights (if my memory is right), It seems to me that it was before the House of Commons for a period of two years, or maybe even three years. During that time there was a great deal of work by many people who were well versed in the topic. But I think it would certainly be a grave miscarriage of our judgment here, if we abdicated our responsibility to the courts. In other words, if we are going to make mistakes, let's make them here. Let's stand up and be counted on any of these issues. If we make mistakes, our electors will take care of these mistakes in another election. Now as far as the judges are concerned, I think we recognize these people are appointed, and we are in an entirely different situation.

With respect to current legislation, I might say that I was tempted, in Committee reading of Bill No. 49, The Meat Inspection Act, to draw to the attention of the legislature Section 8. It was Section 8 which states "... with or without a warrant, enter any premises or building at any reasonable hour and may inspect the premises or building," etc. I was tempted to raise this matter in Committee when Bill No. 49 was going through the Committee stage, but I wasn't sure whether the Chairman would say to me that Bill No. 1 has not been proclaimed; it's not law. Yet, in my own opinion, this particular section is in contravention of Bill No. 1. Now I recognize that Bill No. 1 has very broad meanings, and possibly it would be necessary to have an opinion by the courts to decide if Section 8 is in contravention of Section 1 of the Bill of Rights. So this is what I wanted to draw to the attention of the members this afternoon. I certainly support the legislation, but I'm wondering what route we should take. As I see it, we have two routes -- either pass the Bill of Rights, maybe hold it and review the other bills, or take the other route and say, pass the Bill of Rights and then let the courts decide which sections may be in contravention of the Bill of Rights. I, personally, would prefer to see the existing legislation brought to this legislature and amended. Let's make the decisions here. Let's not leave them to the courts to make these decisions.

While I'm on my feet, I would also draw to the attention of the members that I did raise the matter of the Alberta Liquor Control Act -- I believe it was Section 109 that, in my opinion, may contravene the Bill of Rights. I would also say that The Wildlife Act -- and I don't know how many more acts we have that could be in contravention of the Bill of Rights. But the point I am trying to make is simply this, Mr. Chairman, that we are elected by the people to represent the people, to make the decisions for these people. We respect the authority of the courts; in my opinion the courts are to interpret our legislation. This is their function, and I don't think we have any right to interfere with the duties of the courts. When it comes to making legislation, that is our responsibility right here. And whether it takes a year, or whether it takes six months -- I don't know how long it will take to do that -- I think we are on more solid ground, more responsible ground, and let's make the decisions here; let's not leave these things to the courts.

In saying this, I hope there is no misunderstanding. I agree with the Bill of Rights, I support the Bill of Rights, and I welcome the opportunity -- and as I listened to the Premier this afternoon, I think it is the intention of the government to proceed with the bill at this fall session. I completely agree with it, but I do bring to the attention of the members of this committee that this is the problem that has given me some concern. If we are going to make decisions -- I'm not trying to repeat myself -- let's make them here and let's not leave it to the courts to make decisions. Let's take Bill No. 49 as an example. I can see that possibly somebody at some time may be brought before a judge for a violation of Bill No. 49, and I can see a lawyer in his defense, knowing that he has possibly a fairly weak case, standing up and waving the Bill of Rights before the judge. I can just see these things. Surely, when we are going to have an opinion from a judge, it should be on the merits of the bill or the act, and not the Bill of Rights. This is the point I am trying to make, Mr. Chairman, and I hope I have made it.

MR. LOUGHEED:

I respect the views that the hon. member has presented, and it is certainly a matter that has given us some concern. It was one of the reasons we felt that we just simply couldn't bring the bill in in the spring session and have it go through the legislature.

For two reasons, we felt it should be held over the summer recess. The first reason, as mentioned, was to give the public an opportunity to make submissions as they have not. But the second reason was to meet the concern that the hon. member is expressing, to do at least a preliminary review of all of the statute laws of the province, so that if there are obvious cases, such as in our view The Communal Properties Act and The Sexual Sterilization Act, that we, while we were passing The Bill of Rights, for the reasons that the hon.

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member expresses, have the responsibility to come forth here and repeal those acts.

Other than those two, as the Attorney General has mentioned, the other ones are to a very large degree in the nature of the obvious ones, are in the nature of amendment. We want to continue an ongoing situation, and it will be ongoing, I don't think it will, frankly, ever stop. Now the alternative that the hon. member referred to and some of his specifics, perhaps the Attorney General might respond on the question of The Meat Inspection Act and The Wildlife and Liquor Control Act because it deals with the interpretation of the due process provision within the bill.

I just would have to say that we are in this position; we could never stop, really, if you followed that approach. We would never get to pass the bill because you would always be at the stage that there was always something more that one had to review. I am concerned that the public of Alberta know that this legislature, in terms of the spirit and the intent of The Bill of Rights, is prepared to support it, and that it become the law of the province.

But I fully concur with the hon. member that we can't stop there. It has got to be an ongoing review, and if at any time we run into a situation where it becomes apparent to us -- in a number of different ways, either because of the notice that I mentioned to the hon. Member for Calgary Mountain View that somebody started a case and there is something we've missed, or because of the ongoing review of the Attorney General -- it is incumbent upon us as a government to bring forth to this legislature those provisions that should be amended if they violate the spirit of the act.

That's what our intention is, and we'll miss some, there is no question we'll miss some. But I have to say to the hon. member, there is no way that you can accept the fact that we abrogate responsibility here because the judicial process is always with us in our parliamentary system. There are many acts that we pass here that one just has to walk into the court houses in this province and hear what we discussed here, and we thought was just as clear as can be, and we hear two arguments on either side, that if you listen to this you'll say: "Gee, I didn't think that was anything other than clear when I voted on it in the legislature." And that's part of the judicial process.

Now I am not trying to minimize the difficulty of The Bill of Rights. Its a much more difficult process there. The Bill of Rights, let's face it, is different from other legislation and in tandem has to be the legislative process and the judicial process to make it work. But we don't intend, having passed the bill, to merely drop the matter that the hon. member is concerned about, we always will have a responsibility.

We have one further responsibility; if at any time the courts in this province, the higher courts if it goes that far, should determine that a particular provision in any act is contrary to The Alberta Bill of Rights, then I am sure there is no possibility in my mind that one of the 75 members in this Chamber won't at the very next ensuing session raise that particular provision, regardless of what side of the House they sit on. With the point being, that when they present that, they have to come back to section 3(1) and then we're back, we haven't abdicated any legislative responsibility, we are back, front and centre. Do we put in a notwithstanding clause or don't we? I think perhaps the hon. the Attorney General could supplement my remarks in regard to the specifics the hon. member raised regarding 'due process'. Mr. Leitch.

MR. LEITCH:

The hon. member has raised an important, and, I may say, a very difficult area. It turns on what is meant by the phrase 'due process' in clause 1 of the bill.

At the outset, I would like to call to the hon. member's attention that there are some significant differences between the Alberta Bill of Rights and the federal bill of Rights. In the federal Bill of Rights they go on to deal in quite some particularity in this area. For example, they say that no act of Canada shall be interpreted to authorize court, tribunal, commission, board, or other authority to tell a person to give evidence if he is denied counsel, protection against self-incrimination, or other constitutional safeguards. So they have dealt in this area -- and I just read one subsection of the section in their act dealing with this area -- they have dealt with it in much wider detail than we have.

We really return to the section of "due process", and the issue there really is, is there a body of law that says "due process means this"? To really

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understand that question you have to go back -- and the Canadian constitutional system is much different for example, than the United States -- you have to go back and start with the assumption that there was, in the absence of a Bill of Rights, no legislative limitation, no limitation on the legislative authority of the federal government, or the provincial government, within their respective fields. So, each of those governments, within their respective fields, could pass any provision they wanted, harsh though it may be.

That was somewhat different from the United States which has a constitution which does limit the authority. As a result of those different systems there is some confusion that has grown up over the meaning of the word "due process".

Now, to come precisely to the point, the section the hon. member has raised in The Meat Inspection Act, to take one example, provides for going into a property without a warrant. The question is; is there some fundamental law that says "due process" always means you have to have a warrant? Now, in my view, in the Canadian system, that doesn't exist. But I make that statement with some significant qualifications. I appreciate that some time, a court may conclude the words "due process", in this bill, really mean that you have to, particularly, in the criminal field, follow a certain set of steps or it isn't due process. I don't believe that is the position today, I don't believe that has been settled in Canada today. So that, if you pass an act saying these things can be done, and they are done in accordance with that act, which is then the law, the argument is that they are done by due process of law.

The other argument says, you see, well, there is a process here. There is some sort of law that says no legislature can pass legislation providing for entering the premises without a warrant. The only place a court could find that now, is to interpret the words "due processes" meaning that. I can see that possibility, but don't believe that it is the situation today in Canada.

We have in the civil side a somewhat similar situation dealing with administrative tribunals. There was a common law rule that they must follow what were called loosely, the rules of natural justice. And those were worked out by the courts over the years, they included the opportunity to make full answer in defence and things of that nature. That was the procedure the administrative tribunal was to follow if no alternative procedure was specified in the legislation. I think that may even be applicable to the criminal field, that when the legislation specifies a particular procedure to follow the short issue is whether you follow that procedure you are doing it by due process of law, or if there is some overriding law that says the legislature just hasn't got that authority. In a word

In a word, the present interpretation that I put on the bill would not prohibit the provincial government from passing act containing a provision such as The Meat Inspection Act. There is, of course, the additional question -- which the hon. members properly raised -- should we pass it? Let's ignore The Bill of Rights for a moment; that's a proper question for the legislature; should we in these circumstances pass that kind of legislation? But I'm not sure that question is answered by The Bill of Rights or dealt with by The Bill of Rights.

MR. FRENCH:

Mr. Chairman, I just want to make a supplementary remark. I might say that I consulted Section 8 of The Meat Inspection Act with a friend of mine who is a lawyer. His opinion -- and, as I say, this is the thing that is bothering me because you can take these things to a dozen lawyers and I won't say you'll get a dozen different answers but I'm sure you'll get a number of answers that maybe are not consistent, but I suppose that is the prerogative of lawyers. What I'm trying to say is that I did get an opinion and his opinion was that in view of the fact that The Bill of Rights is a very broad meaningful act; in order to establish whether or not this section is consistent with The Bill of Rights, it would then be necessary to take it to the courts and get an interpretation. This is the thing that is bothering me with The Bill of Rights as to what our position is and what direction we should take.

I am not going to repeat those statements, Mr. Chairman, except to re-emphasize that when we make decisions let's make them here. If there is some doubt about decisions in the courts maybe we should keep this in mind and try and keep it within the confinements, at least, of The Bill of Rights and be consistent with The Bill of Rights and so not put us in the position of going to courts. This is all I want to say Mr. Chairman.

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MR. LEITCH:

Mr. Chairman, really the difficulty with the proposition the hon. member puts has been dealt with by the hon. Premier when he says this is a continuing on-going process and we could never be sure. I could easily gather precedents for the hon. member which would interpret words used in The Bill of Rights so wide that you could make an argument against almost any piece of legislation. Undoubtedly, someday, someone will make that argument, and why not? If he has lost on our other areas why not make the argument there? We will all do that. If you are going to go to jail you had better get all the arguments that will keep you out. So he is going to make it and we can't conceivably change all of the Alberta legislation to remove all of the possible grounds for arguing that that legislation is inoperative because it is a breach of The Bill of Rights. It just can't be done.

MR. HENDERSON:

Mr. Chairman, along the same line and in light of the statement that was made that a preliminary review was underway. I presume the fact that it is preliminary the government has some terminal date in mind as to when the review will be finished.

I can't get too upset about somebody arguing his legal rights because an inspector is in looking at his meat shop. I think that is quite normal. I do wonder, though, about possible conflicts regarding something which I think is a question of human rights. I use the example, which we discussed at some length under The Mental Act and The Marriage Act about the legal right of a person who is mentally defective to marry and accept the legal and contractual obligations that could go with such a commitment. I am really more concerned, Mr. Chairman, that in the preliminary survey some of these areas should be critically examined with a view to arriving at an early conclusion. I pointed out the The Age Majority Act comes into the same thing. It abrogates certain rights that people over 18 have and people under 18 don't have. I feel quite strongly in some cases to have it otherwise would be actually abandoning responsibility in spite of all the moral arguments about human rights in legislation. So I'm wondering

So I'm wondering, before the act is proclaimed, whether any of the legislation of that type where there probably is a pretty clear-cut public opinion which prevails as to what the law should read in the matter, whether it will entail amendments to put the 'notwithstanding' clauses in the act. So I guess it boils down to, have they singled out any of this type of legislation yet where they are of the opinion at this point in time the 'notwithstanding' clause should be applied, and will they be proclaiming the act at least before they have finished their preliminary study to examine whether there may or may not be some very real merit of applying the 'notwithstanding' clause? I assume this review will be done some time between now and the next session, or something like this.

MR. LOUGHEED:

Mr. Chairman, if I could respond to that. Our present intention was to look at proclaiming the act by January 1, 1973. We felt that in our preliminary review -- and I am trying to emphasize that word -- of the areas that were obvious that we would have to amend, I think I've dealt with those acts that are, in total, contrary to the spirit and intent of the Bill of Rights, that we'd be in a position to know about them. And in that case it would be our intention to bring into the legislature in the February, March, April period of 1973 any amendments which might fit with what the hon. Member was describing.

One concern we had is, of course, that there is a short interval of time period there which might cause us some difficulty. But we felt that because of the notice provision in Section 4 of the act to the Attorney General we essentially could stay proceedings, if you like, until such time as that amendment was dealt with.

The other thing, the larger question I think that the hon. member raises, is back to the point of the Member for Hanna-Oyen; there's no abrogation of responsibility here or in the future, because we're going to have to face up to these notwithstanding questions under Section 3-1, and we're going to have them here before this House. But we're going to be faced with a question, looking it squarely in the eye, should we in fact, do something that is contrary to the spirit and intent of the Bill of Rights? We may say yes, but at least we'll do it with our eyes open and that is one of the positive features of the bill.

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MR. BUCKWELL:

Mr. Chairman, I would like to make a statement on the opening paragraph of The Bill of Rights, and I might say that I agree in principle wholeheartedly with The Bill of Rights, but I am very disappointed, Mr. Premier, that there's no mention made in this opening statement that we believe in a Higher Being, that our society is based on a Higher Being. Our society, the democratic society, and our relationship to one another, is based upon the Judaeo-Christian ethic.

Now when I became a member of this legislature, I swore an oath of office on the Bible. I believe, Mr. Premier, that you have an oath of office, that you are the Premier of this province, serving under Elizabeth, by the Grace of God. We swear or affirm, or most of us do if we have to go to court; we also swear on the Bible. And I believe that we are not, in a sense, true to our calling, and I am not personally true to my own belief. I feel in this Bill of Rights that we should have in that opening paragraph that we recognize a Higher Being. And I would like to have that, if you would consider putting that in.

I'm in the same position today as I was at the opening of this legislature last spring. I feel like a Peter -- and I'm not referring to you -- but I feel like a Peter, because when we opened this legislature, we dropped the Lord's Prayer for the first time maybe since the legislature came into being. Why? Because we might offend some who may be sitting in this legislature. And as a Christian I have to say that I am not ashamed to acknowledge Christ; I'm not ashamed to acknowledge God, and I think this is one of the things I let slip then as a Peter, but Peter slipped twice, and I don't want to slip the second time. So in saying this, I think we owe something in The Bill of Rights; that we acknowledge, as legislators, a Higher Being.

The second thing I would like to ask you, and it really is more in the form of a question. In the preparation of bills, does legal counsel -- is he responsible for The Bill of Rights, or does he read only, say, formed legislation in legal terminology? Maybe I am not using the proper words, but, say, legal counsel is preparing a bill, could he get information from the Attorney General whether this was in conflict to The Bill of Rights? I would sooner see it done that way, that the Attorney General had passed on any sore spots, so that as far as we know, as far as the legislature knows, the government on both sides of the House, when legislation comes in, it is passed by the Attorney General as far as we can humanly know at that moment, that it is not in direct violation of The Bill of Rights, so that the courts are not going to be put in the position of telling the legislature what they should do.

MR. LOUGHEED:

Yes, Mr. Chairman, I am responding to the first and very appropriate remark by the hon. member. That is a very difficult question. We considered it, but it wasn't something that was ignored. It is contained in the preamble to The Canadian Bill of Rights. Our thought on this one, and I am prepared to give it further thought in terms of holding it over and seeing what hon. members feel.

There are two sides to that, and the first one, I think, is well expressed by the hon. member, and I am inclined to agree with him. But I think one has to balance that agreement with the situation you referred to where an individual, in taking an oath, is swearing on the Bible. But we have procedures within our society, within our courts and within our institutions, where that does not have to occur, and where one can say, no, I won't do that. I will merely affirm -- I think I have the right word there. It was for the reason that when we were dealing with an act that talked about freedom of religion, we felt we had a preamble that, even though I fully endorse the hon. member's views, might by its implication in the preamble imply that we were imposing somebody else's view. This is something that led us to the conclusion in reaching the preamble that we have today. But it is a very important and valuable contribution. I'd like to rest on it for a day or so, and give further thought to the hon. member's question.

On the hon. member's question -- there is no question that that is what we are going to do. The Legislative Counsel, from now on, on all bills, is instructed to prepare those bills with the consciousness of The Alberta Bill of Rights. And the Attorney General and his department are reviewing it on that basis. I would tend to think, although we will probably make mistakes, that is the easy part of our task. The hard part of our task is what is contained in those green books behind you. Because there is just simply so much material there that we can miss it, and although we have gone through the preliminary review, we know we have missed things. And the answer, as far as future legislation, we hope we are not bringing in draft or legislation and introducing

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in this House from either side that in any way will be contrary to The Bill of Rights on the face of it with any sort of intention to do so. It may be that we do it by inadvertence.

MR. BENOIT:

Mr. Chairman, supplementary to that. Just one further thought to the very well expressed words of the hon Member for Macleod. That has to do with the nature of the country which we are in. If we were in India, or China, or somewhere like that, we would expect something that had to do with their deities, but we in Canada, and the United States to the south of us, are considered to be Christian countries in the main, and I think in that light I would like to have that considered also.

MR. FARRAN:

Mr. Chairman, I wonder if the difficulty mentioned by the hon. Member for Macleod couldn't be overcome to everybody's satisfaction by adding the words, after fundamental freedom, 'by the grace of God' which are well known in most assemblies and wouldn't offend anybody of any faith.

MR. CHAIRMAN:

I think, Mr. Farran, the hon. Premier has indicated that he is going to take this into consideration anyway.

MR. HENDERSON:

Mr. Chairman, considering this business of imposing a view on somebody, I have to point out that, of course, every law that goes through this House imposes a lot of views on a lot of people. So I really shouldn't think this argument should weigh too heavily on anybody's shoulders.

MR. LOUGHEED:

Mr. Chairman, I'm not trying to respond in an argumentative fashion. I do think that we still have to be conscious of the fact that we're presenting a law which talks about "freedom of religion". And that freedom of religion means the freedom not to have religion.

MR. CLARK:

Mr. Chairman, there are just four points that I would like to make rather quickly. I find myself in the same situation as I'm sure almost every member of the assembly, I plan to support the bill.

Secondly, I was pleased to hear the hon. Premier's comment when he said that he felt, in the long run, looking down the road, that this legislation could better be handled in a constitutional amendment, as far as the country is concerned. I support that and I think that's right.

The third point that I would like to make is this; since the spring session, I have done a bit of reading as far as bills of rights are concerned. I have come to the conclusion that most of the new countries, since about 1945, who have been involved in new bills of rights have included in that bill of rights, some sort of a statement of objectives as to where that country is going and what its government is aiming for. I believe the hon. Premier touched on this when he talked on the bill as far as second reading is concerned.

I had hoped that the government would have seen fit to set out, in the bill, some sort of objectives that, as a government and as the people in this province, we could look at as indications of the direction that the society in this province is going. I suppose a good example as any that I can cite would be something comparable to what the United Nations has. I'm not suggesting that we go that far, but I would have felt better about the bill had we included a general objective or statement as to where government and the people of the province can see themselves going.

The fourth point that I want to make -- and I make this in a non-political sense as much as possible, considering the surroundings here -- and that is this: we have just finished (we haven't), but we've just finished the presidential election in the United States and we've just finished the national election here in this country. All of us are politicians, and there are more than passing occasions when I think we give people the idea that we, in fact, mean everything to everyone.

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I think the point can be made that a lot of people have arrived at the feeling that perhaps governments, and politicians in general, are rather losing their ability to come to grips with some of the pressing problems that society faces. I raise this at this time, Mr. Speaker, because when the people who I have talked to, as far as The Bill of Rights is concerned, people who have serious problems as far as poverty is concerned, as far as problems in their homes, some of these people, I think, look to the Bill of Rights as some kind of solution. I think in terms of a person who lives on Jasper Avenue in one of those shabby apartments, and pays something like \$9 or \$10 per square foot for rent. I think in terms of some of the people we had lunch with this afternoon, and certainly some of the very real and very legitimate problems that they have.

I'm making a plea, on behalf of all the hon. members of this legislature, not to give the impression to people that this Bill of Rights is going to solve the problems that that society faces. I think that this is very important, that we don't give the impression to people of this province that this is going to be the answer to all the problems that people face.

The last point I make is simply this, I would hope that as a result of this bill and of Bill No. 2, that we would see a sizable increase in the allocation for legal aid in the budget which comes down next year.

MR. LOUGHEED:

Mr. Chairman, could I take just a minute to respond to the items raised? First of all, to deal with the last matter, first, the hon. member has raised that point before, and I think it's a valid point about the question of legal aid. One of the undertakings that I gave at second reading of the bill was to assure that never at any time did the operation of legal aid in this province reject a person who intended to rely on the Bill of Rights as the basis of his case, without having an opportunity to have it checked and reviewed by the Attorney General of the province.

Secondly, I will certainly give full consideration to the point with regard to legal aid.

My difficulty on the other matter is, and I don't mean to be argumentative, but in a sense, in my own mind, there is a conflict between the two matters that the hon. member raises. On one hand, if you go to the point of objectives; if you go to the point of the Universal Declaration of Human Rights and you go to provisions such as everyone has the right to work, it strikes me that that's just doing exactly the kind of thing the hon. member was worried about -- giving the impression by government that we can solve all these problems; giving the impression that we are everything to everyone. I think it is the worst sort of hypocrisy for us in a legislature to pass a provision which we, in our own hearts know -- we might get the unemployment figure down from 3.6 to 2.8 or 1.7 -- but there is just nobody here that knows we are going to get it all the way down, much as we might try. The point about objectives is valid, and it's troubled me, but I don't think it fits within this bill. I think it is more in the appropriate area of a Speech from the Throne, or in some other way to project across the views of the people with regard to objectives. I'm afraid if you get into objectives, you get into the question of the Universal Declaration of Human Rights by the United Nations, and then you get into the sort of hypocrisy which I find difficult to deal with.

But the one warning, and I think it is a valid warning the hon. member raises, also that it makes it incumbent upon us to not communicate the bill as a bill that solves all problems. That is a very valid qualification and certainly acceptable.

MR. HYNDMAN:

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

[The motion was carried without dissent]

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[Mr. Speaker resumed the Chair]

MR. APPLEBY:

Mr. Speaker, the Committee of the Whole Assembly has had under consideration Bill No. 83, and begs to report same with some amendments. The

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ALBERTA HANSARD

November 8th 1972

Committee of the Whole Assembly has also had under consideration Bill No. 1, begs to report progress on same, and begs leave to sit again.

MR. SPEAKER:

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

HON. MEMBERS:

Agreed.

MR. HYNDMAN:

Mr. Speaker, I move the amendments be read a second time.

[The motion was carried, the amendments were read a second time]

MR. SPEAKER:

The House stands adjourned until tomorrow afternoon at 2:30 o'clock.

[The House rose at 5:35 p.m.]

